

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. 427 (Betzold); H.F. 2092 (Smith); Repeal of Elective State Officers Retirement Plan Provisions

DATE: March 28, 2005

#### Summary of S.F. 427 (Betzold); H.F. 2092 (Smith)

S.F. 427 (Betzold); H.F. 2092 (Smith) amends or repeals portions of Minnesota Statutes 2004, Chapter 352C, the law governing retirement coverage for constitutional officers who were first elected before July 1, 1997, by retaining the applicable benefit plan provisions of the chapter in effect when the former constitutional officer terminated active service as such, by specifying that the general chapter repeal is not intended to reduce a former constitutional officer's benefits or adversely modify a former constitutional officer's benefit eligibility, and by repealing most of the chapter as being obsolete.

#### Background Information on the Constitutional Officers Retirement Plan

The Elective State Officers Retirement Plan, governed by Minnesota Statutes, Chapter 352C, was enacted in 1967. The Elective State Officers Retirement Plan is the successor, in part, to the Attorney General Retirement Plan, established in 1953, and to the State Auditor Retirement Plan, established in 1955. The Attorney General Retirement Plan (Laws 1953, Chapter 455, Section 1) was a defined benefit plan, providing an age and service retirement annuity of one-half of the 1949-1950 salary for the office at the normal retirement age of 70 and with more than 25 years of total elective state officer service, including as a member of the legislature, and with at least 15 continuous years of service as the attorney general. The State Auditor Retirement Plan (Laws 1955, Chapter 648, Section 1) was also a defined benefit plan, providing an age and service retirement annuity of the 1955 salary for the office at the normal retirement age of 65 and with at least 25 years of total elective state office and election for seven consecutive terms as State Auditor.

In 1967, the Legislature created a retirement plan for the various elective state officers, including the elected members of the public service commission. The plan largely duplicated the Legislator's Retirement Plan and undoubtedly was motivated by the establishment of that plan. The Elective State Officers Retirement Plan, originally named the Constitutional Officers Retirement Plan, contained a policy and intent provision, which noted that service as a constitutional officer is a unique contribution to the State and is dissimilar to any other public employment and further indicated that constitutional officer service equal to or longer than the vesting period of the plan, disrupts any opportunity for a constitutional officer to follow a more usual vocational pursuit and gain the accompanying retirement benefits. The 1967 Elective State Officers Retirement Plan was a defined benefit plan, with a ten year vesting period and an age 65 normal retirement age for an age and service retirement annuity of one half of salary after ten years of service, plus one percent for each year of subsequent service, to a maximum of 75 percent of covered salary. The retirement or surviving widow benefit received from the Elected State Officers Retirement Plan was to be reduced by any annuity received from another Minnesota public plan. Benefits from the Elected State Officers Retirement Plan were exempt from state taxes. No optional annuities were provided by the Elective State Officers Retirement Plan.

In 1969, vesting for the age and service retirement annuity was reduced to eight years, the benefit formula was changed by basing the annuity on average salary since January 1, 1965, rather than upon final salary, the individual would receive 40 percent of this average salary for the first eight years, and an additional two percent per year for each additional year, and for elected state officers who also had legislative service, service in both plans could be used for vesting and benefit computation purposes. In 1971, post-retirement survivor benefits were extended to dependent children similar to that for the Legislator's Plan, with the eldest dependent child to receive 25 percent of the primary annuity amount, and each additional child to receive 12.5 percent, up to a family maximum of 100 percent when the surviving spouse benefit is included.

In 1978, the two part retirement annuity benefit accrual rate was eliminated and replaced by a flat 2.5 percent accrual rate for all years of constitutional officer service, computed on the five highest successive years average salary, and the normal retirement age was reduced from age 65 to age 62, with a reduced retirement annuity permitted at age 60. In 1978, deferred annuities augmentation also was added to the plan, the vesting for pre-retirement survivor benefits was made immediate, and the required reduction of Elective State Officers Retirement Plan benefits by any other Minnesota public pension plan benefits was eliminated. In 1983, the exemption of Elective State Officers Retirement Plan benefits from State taxation was

eliminated. In 1986, the surviving widow benefits were converted to surviving spouse benefits. In 1990, the practice of discontinuing surviving spouse benefits upon remarriage was eliminated and the interest rate on member contribution refunds was increased to six percent. In 1992, the interest rate charged on a repayment of previously taken member contribution refunds was increased to 8.5 percent. In 1996, a designated beneficiary death refund was authorized for Elective State Officers Retirement Plan participants who die without a surviving spouse or surviving child.

In 1997, the annual benefit accrual rate was increased from 2.5 percent to that annual individually calculated benefit accrual rate that has the same actuarial value as the one percent annual post-retirement adjustment benefit reduction imposed by Laws 1997, Chapter 233, Article 1, Section 5. For new constitutional officers first serving in office after July 1, 1997, retirement coverage will be by the Unclassified Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution pension plan. An individual Social Security coverage election referendum was held and all incumbent constitutional officers on July 1, 1998, elected MSRS-Unclassified coverage.

Discussion

S.F. 427 (Betzold); H.F. 2092 (Smith) repeals most of the current contents of Minnesota Statutes, Chapter 352C, as obsolete, specifying that current former constitutional officers retain their benefit eligibility and rights despite the repeal.

The proposed legislation raises various public pension and related policy issues that may merit Commission consideration and discussion, as follows:

1. Current Actuarial Condition of the Elective State Officers Retirement Plan. The policy issue is the current actuarial condition of the Elective State Officers Retirement Plan and the adequacy of its funding. The following compares the July 1, 2004 (the most recent valuation), and the July 1, 2002 (the most recent prior valuation), actuarial valuation results:

|                               | 2004        | 2002         |
|-------------------------------|-------------|--------------|
| <u>Membership</u>             |             |              |
| Active Members                | 0           | 0            |
| Service Retirees              | 8           | 8            |
| Disabilitants                 | 0           | 0            |
| Survivors                     | 5           | 5            |
| Deferred Retirees             | 3           | 4            |
| Nonvested Former Members      | 0           | 0            |
| Total Membership              | 16          | 17           |
| <u>Funded Status</u>          |             |              |
| Accrued Liability             | \$4,001,787 | \$4,075,000  |
| Current Assets                | \$203,566*  | \$201,000*   |
| Unfunded Accrued Liability    | \$3,798,221 | \$3,874,000  |
| Funding Ratio                 | 5.09%       | 4.93%        |
| <u>Financing Requirements</u> |             |              |
| Covered Payroll               | \$0         | \$0          |
| Benefits Payable              | \$380,763   | \$353,000    |
| Normal Cost                   | \$0         | \$0          |
| Administrative Expenses       | \$1,000     | \$1,000      |
| Normal Cost & Expense         | \$1,000     | \$1,000      |
| Normal Cost & Expense         | \$1,000     | \$1,000      |
| Amortization                  | \$435,594   | \$411,000    |
| Total Requirements            | \$436,594   | \$412,000    |
| Employee Contributions        | \$0         | \$0          |
| Employer Contributions        | \$0**       | \$0**        |
| Employer Add'l Cont.          | \$0         | \$0          |
| Direct State Funding          | \$0         | \$0          |
| Other Govt. Funding           | \$0         | \$0          |
| Administrative Assessment     | \$0         | \$0          |
| Total Contributions           | \$0         | \$0          |
| Total Requirements            | \$436,594   | \$412,000    |
| Total Contributions           | \$0         | \$0          |
| Deficiency (Surplus)          | \$436,594   | \$412,000    |
| Amortization Target Date      | 2017        | 2020         |
| Actuary                       | Segal       | Milliman USA |

\* Assets equal the amount of accumulated member contributions in the State General Fund  
\*\* Pay-as-you-go Funding

The plan has always been funded on a current disbursements or “pay-as-you-go” basis and has never had financial support that equaled or exceeded its actuarial requirements. As the remaining deferred retirees begin to receive benefits, the current disbursements funding requirement can be expected to increase in amount in the short- and middle-term and can be expected to decline in the long-term.

2. Extent of the Applicability of Minnesota Statutes, Chapter 352C. The policy issue is the extent of the applicability of Minnesota Statutes, Chapter 352C, to public pension plan members and the appropriateness of removing the plan provisions from the ongoing State statutory code. In 2002, there were eight retirees, ranging in age from age 65 to age 74, five survivors, ranging in age from age 60 to over age 85, and four deferred retirees, for whom there is no demographic information breakdown. Thus, there are between 17 and 29 individuals who are receiving benefits from the plan or who may receive benefits from the plan, depending on how many retirees and deferred members have spouses who would qualify for the plan’s automatic survivor benefits. Because the proposed legislation retains Minnesota Statutes, Section 352C.10, governing the manner in which plan post-retirement adjustments are handled, and continues current benefit eligibility and amounts in proposed Minnesota Statutes, Section 352C.001, the proposed legislation will not adversely affect the remaining membership of the plan, while avoiding potential misunderstanding about the applicability of Minnesota Statutes, Chapter 352C, to post-1987 constitutional officers.
3. Future Clarity of the Plan Governing Law. The policy issue is the appropriateness of attempting to simplify the existing body of codified pension law and to clarify the current governing laws by repealing an essentially obsolete pension law. The Elective State Officers Retirement Plan was closed to new entrants in 1997 and, because of its small number of potential active members and because of electoral changes, the active membership of the plan was eliminated soon after 1997. Since the plan has a narrow and declining total membership base, so long as benefit eligibility and levels are protected, most of the statutory provisions could be eliminated as proposed without adverse effect to the participants and several provisions with limited application or no application could be dropped from the statutes.