

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. 428 (Betzold); H.F. 2091 (Smith); Recodification of the Legislators Retirement Plan

DATE: March 28, 2005

Summary of S.F. 428 (Betzold); H.F. 2091 (Smith)

S.F. 428 (Betzold); H.F. 2091 (Smith) revises and recodifies Minnesota Statutes, Chapter 3A, the law governing retirement coverage for most legislators who were first elected before July 1, 1997.

Section-By-Section Summary

A section-by-section summary of S.F. 428 (Betzold); H.F. 2091 (Smith) is attached.

Background Information on the Legislators Retirement Plan

The Legislators Retirement Plan, governed by Minnesota Statutes, Chapter 3A, was enacted in 1965. It is the successor to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) as the retirement coverage for members of the Legislature. At that time, PERA-General was a basic plan and no contributions were made into the federal Social Security program for the covered service. PERA-General in 1965 used a career average salary and had back-loaded accrual rates, heavily favoring long time employees.

In 1965, when the Legislature created a separate Legislative Plan, current members and new members with prior PERA-General coverage had an option to retain PERA-General coverage. The motivation for establishing a separate Legislator's Plan probably came from a growing recognition that the back-loaded PERA-General Plan was not well suited to provide legislative retirement coverage, since the typical legislator would not be providing many decades of service. Prior to 1977, the Legislator's Plan provided a retirement benefit of 40 percent of the average monthly salary received during the final term of office for the first eight years of service, and an additional 2.5 percent per year for each year beyond eight.

Beginning with the 1979 session, the maximum benefit accrual rate for any new legislative service was set at 2.5 percent. This lower accrual rate was adopted in recognition of the changing nature of legislative work. Until the early 1970's, legislative salaries were minimal. In order to provide any meaningful retirement benefit, a high benefit accrual rate was used. As legislative salaries increased in recognition that legislative work was becoming more like a full-time occupation, the Legislature recognized that it needed to revise the benefit accrual rates downward. The legislative salary for pension purposes was redefined to exclude an additional compensation for leadership positions. A twenty-year cap on creditable service was also imposed. The Legislator's Plan was revised in 1978 and 1979 to use the high-five average salary rather than the average salary in the final term in office and the normal retirement age was increased from age 60 to age 62, with age 60 becoming the earliest age for retirement with a reduced annuity. Vesting for a retirement annuity was reduced from eight years to six years. In 1989, the definition of salary was changed to include regular and special session per diem payments, the deferred annuity augmentation rates were revised to three percent per year up to the year in which the ex-legislator becomes age 55, and five percent per year thereafter, the reduction factors for early retirement were revised to require a more substantial penalty, and the twenty-year cap on service credit was removed. Members who were no longer accruing service credit because their service exceeded 20 years were authorized to again begin accruing service credit. The 1989 removal of the Legislative Plan service credit cap was made retroactive in 1992. Long-term legislators, including those in deferred status, with uncredited service prior to June 2, 1989, were authorized to purchase service credit for the uncredited period and the affected legislators were required to contribute nine percent of salary received during the uncredited period plus six percent interest from the midpoint of the period of uncredited service to the date of payment. Payment had to be received prior to retirement or by January 1, 1994, whichever was earlier.

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uncredited period plus six percent interest from the midpoint of the period of uncredited service to the date of payment. Payment had to be received prior to retirement or by January 1, 1994, whichever was earlier.

In 1997, the annual benefit accrual rates for the Legislators Retirement Plan were increased from 5.00 percent (pre-1997 service) or 2.5 percent (post-1978 service) to that annual individual benefit accrual rate that has the same actuarial value as the one percent annual post-retirement adjustment benefit reduction imposed by the same legislation. For new legislators 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 an opportunity to elect MSRS Unclassified coverage by pre-July 1, 1997 legislators was made available on July 1, 1998.

Discussion

S.F. 428 (Betzold); H.F. 2091 (Smith) revises and recodifies the provisions of the Legislators Retirement Plan, Minnesota Statutes, Chapter 3A.

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

	2004		2002	
<u>Membership</u>				
Active Members		87		134
Service Retirees		251		230
Disabilitants		0		0
Survivors		64		67
Deferred Retirees		114		97
Nonvested Former Members		<u>4</u>		<u>5</u>
Total Membership		520		533
<u>Funded Status</u>				
Accrued Liability		\$83,197,221		\$78,070,000
Current Assets		<u>\$46,155,159</u>		<u>\$45,501,000*</u>
Unfunded Accrued Liability		\$37,042,062		\$32,569,000
Funding Ratio	55.48%		58.28%	
<u>Financing Requirements</u>				
Covered Payroll		\$3,343,323		\$5,284,000
Benefits Payable		\$5,766,150		\$5,243,000
Normal Cost	16.89%	\$565,086	17.80%	\$941,000
Administrative Expenses	<u>0.43%</u>	<u>\$14,376</u>	<u>0.51%</u>	<u>\$27,000</u>
Normal Cost & Expense	17.32%	\$579,462	18.31%	\$968,000
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Amortization	<u>87.40%</u>	<u>\$2,922,064</u>	<u>44.81%</u>	<u>\$2,368,000</u>
Total Requirements	104.72%	\$3,501,526	63.12%	\$3,336,000
Employee Contributions	9.00%	\$300,899	9.00%	\$476,000
Employer Contributions	0.00%	\$0	0.00%	\$0**
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>	<u>0.00%</u>	<u>\$0</u>
Total Contributions	9.00%	\$300,899	9.00%	\$476,000
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Deficiency (Surplus)	95.72%	\$3,200,627	54.12%	\$2,860,000

* Assets equal the required reserves for retirement allowances that began before July 1, 2003, deposited in the Minnesota Post Retirement Investment Fund and the accumulated member contributions in the State General Fund.

** Terminal funding before July 1, 2003; Pay-as-you-go funding after July 1, 2003.

The plan was funded on a “terminal funding” basis from 1969 to 2003, where the full actuarial required reserves were appropriated from the State General Fund upon the retirement of a legislator and deposited in the Minnesota Post Retirement Investment Fund. In 2003, the Legislature approved

a Department of Finance request to convert from the prior terminal funding basis to a current disbursements or “pay-as-you-go” funding basis in order to reduce near-term financial outlays for the plan. With the shift to pay-as-you-go funding, the funded ratio of the plan will diminish, the total actuarial requirements of the plan will increase, and the actual employer contribution outlay to the plan can be expected to increase in amount.

2. Appropriateness and Advisability of a Recodification. The policy issue is the appropriateness and the advisability of proposing a recodification of the Legislators Retirement Plan when the active membership of the plan is smaller than half of the Legislature and will be declining markedly in the next few years, so a relative small number of legislators will benefit from any statutory clarity achieved. While the active membership coverage of the plan is declining, the plan will be in operation for several years or even decades into the future and the plan membership, active and retired, would benefit from a clearer law rather than a growing obsolete law.
3. Lack of Repeal Upon Active Member Decline. The policy issue is the advisability of providing for a repeal of most of Minnesota Statutes, Chapter 3A, upon the termination or retirement of all current active members of the Legislators Retirement Plan. Because that date is likely to be several years ahead and that date is uncertain, provision for an eventual repeal at this time will not benefit the plan membership or the public, will require additional work by the Office of the Revisor of Statutes to monitor the trigger factual event, will result in a longstanding editorial note in the statute books, and probably could be better accomplished by future work by an attentive Commission staff.
4. Potential Reopening of the Legislators Retirement Plan to Post-1997 Legislators. The policy issue is the appropriateness of considering reversing the 1997 Legislative Session to close the Legislators Retirement Plan to new entrants and mandating defined contribution plan coverage (the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified)) for legislators newly elected after July 1, 1997, rather than defined benefit plan coverage under the Legislators Retirement Plan. The question of the closure of the plan was reviewed by the Commission as a mandated interim study in 1997-1998, and the Commission did not act to recommend a modification in the 1997 legislation closing the plan. Since 1998, there have been concerns raised by legislators about future and past Social Security coverage, but few complaints about the defined contribution plan coverage that was mandated for post-1997 legislators have been forwarded to the Commission.

Section-By-Section Summary of S.F. 428 (Betzold); H.F. 2091 (Smith)

<u>Section</u>	<u>Page & Line</u>	<u>Plan</u>	<u>Provision</u>	<u>Summary</u>
1	Page 1, Lines 13-17	Legislators	3A.01, Subd. 1	Updates the grammatical style of the definitions purpose subdivision.
2	Page 1, Lines 18-28	Legislators	3A.01, New Subd. 1a	Adds actuarial equivalent definition.
3	Page 2, Lines 1-11	Legislators	3A.01, New Subd. 1b	Moves “average monthly salary” definition from former Subdivision 7.
4	Page 2, Lines 12-18	Legislators	3A.01, New Subd. 1c	Adds definition of “constitutional officer.”
5	Page 2, Lines 19-34	Legislators	3A.01, Subd. 2	Eliminates obsolete date and updates style and language usage of definition of “dependent child.”
6	Page 2, Lines 35-36 Page 3, Lines 1-3	Legislators	3A.01, Subd. 6	Clarifies reference in “director” definition.
7	Page 3, Lines 4-10	Legislators	3A.01, New Subd. 6b	Defines “former legislator.”
8	Page 3, Lines 11-19	Legislators	3A.01, New Subd. 6c	Defines “member of the legislature.”
9	Page 3, Lines 20-27	Legislators	3A.01, Subd. 8	Eliminates obsolete pre-1982 provision from “normal retirement age” definition.
10	Page 3, Lines 28-32	Legislators	3A.01, New Subd. 9	Adds definition of “retirement.”
11	Page 3, Lines 33-36 Page 4, Lines 1-10	Legislators	3A.01, Subd. 10	Adds definition of “salary.”
12	Page 4, Lines 11-17	Legislators	3A.011	Clarifies plan administration duties.
13	Page 4, Lines 18-36 Page 5, Lines 1-36 Page 6, Lines 1-12	Legislators	3A.02, Subd. 1	Eliminates various obsolete date references in retirement annuity calculation provision.
14	Page 6, Lines 13-36 Page 7, Lines 1-7	Legislators	3A.02, Subd. 1b	Clarifies references and upgrades the style and usage of the provision.
15	Page 7, Lines 8-16	Legislators	3A.02, Subd. 3	Upgrades the language style and usage in the appropriation provision.
16	Page 7, Lines 17-36 Page 8, Lines 1-22	Legislators	3A.02, Subd. 4	Eliminates obsolete dates and clarifies the language style of the deferred annuities augmentation provision.
17	Page 8, Lines 23-36 Page 9, Lines 1-12	Legislators	3A.02, Subd. 5	Clarifies the language style and usage of the optional annuities provision.
18	Page 9, Lines 13-22	Legislators	3A.03, Subd. 1	Clarifies the language style and usage of the member contribution provision.
19	Page 9, Lines 23-36 Page 10, Lines 1-10	Legislators	3A.03, Subd. 2	Clarifies the status of a former legislator returning to legislative service after taking a refund.
20	Page 10, Lines 11-34	Legislators	3A.04, Subd. 1	Clarifies the language style and usage of the surviving spouse provision.
21	Page 10, Lines 35-36 Page 11, Lines 1-36 Page 12, Lines 1-7	Legislators	3A.04, Subd. 2	Clarifies the language style and usage of the surviving child provision.
22	Page 12, Lines 8-14	Legislators	3A.04, Subd. 3	Clarifies the language style and usage of the survivor benefit payment provision.
23	Page 12, Lines 15-27	Legislators	3A.04, Subd. 4	Clarifies the language style and usage of the death refund provision.
24	Page 12, Lines 28-32	Legislators	3A.04, New Subd. 5	Adds current disbursements survivor benefit appropriation provision.
25	Page 12, Lines 33-36 Page 13, Lines 1-13	Legislators	3A.05	Clarifies the language and style of the survivor benefit application provision.
26	Page 13, Lines 14-30	Legislators	3A.07	Clarifies that the second chance Social Security referendum election in 2002 was irrevocable.
27	Page 13, Lines 31-36	Legislators	3A.10, Subd. 1	Clarifies the language usage and style of the special legislative service credit provision.

28	Page 14, Lines 9-36 Page 15, Lines 1-25	Legislators	3A.12	Clarifies the language style and usage of the service in more than one retirement plan provision.
29	Page 15, Lines 26-36 Page 16, Line 1	Legislators	3A.13	Divides the legal process exemption provision into paragraphs.
30	Page 16, Lines 2-5	Legislators	Repealer	Repeals various obsolete provisions.
31	Page 16, Lines 6-7	Legislators	Effective Date	July 1, 2005, effective date.