

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. 437 (Betzold); H.F. 2095 (Smith): First Class City Teachers Retirement Fund Associations; Requiring Periodic Publication of Articles of Incorporation and Bylaws

DATE: March 28, 2005

Summary of S.F. 437 (Betzold); H.F. 2095 (Smith)

S.F. 437 (Betzold); H.F. 2095 (Smith) amends Minnesota Statutes, Section 354A.021, the first class city teachers retirement association authorization and governance provisions, by adding a new subdivision 9, which requires the chief administrative officer of each first class city teachers retirement fund association to prepare and publish an updated compilation of its articles of incorporation and bylaws every two years and file a copy of the document with the Legislative Commission on Pensions and Retirement and other state and local officials.

Background Information on the Governing Documents of the First Class City Teachers Retirement Fund Associations

The Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), and the St. Paul Teachers Retirement Fund Association (SPTRFA) were created in 1910 under Laws 1909, Chapter 343. That law, reformulated and now codified as Minnesota Statutes, Sections 354A.021, 354A.05, 354A.08, and 354A.09, permitted in any city with a population greater than 10,000 inhabitants, the teaching body to establish a teachers retirement fund association if the city council of that city approves the action. The teachers retirement fund association plan formulated by the teachers, approved by the city council and by a majority of the teachers employed by the city board of education, resulted in the incorporation of the teachers retirement fund association. The teachers retirement fund association, as a nonprofit corporation, is governed by the 1909 legislation, as amended, the corporation's articles of incorporation, and the corporation's bylaws.

From 1910 to 1975, the first class city teachers retirement fund associations were governed primarily by amendments to their articles of incorporation and bylaws, subject to local city council and, after the 1950s, school board, approval, with limited general and special legislation, generally relating to the amount and timing of city or school district contributions to the teacher retirement fund association. In 1975 (Laws 1975, Chapter 306, Section 30), future articles of incorporation amendments and bylaw amendments were disallowed. In 1976 (Laws 1976, Chapter 238, Section 1), future bylaw and articles of incorporation amendments relating to benefits or contributions were permitted only with legislative approval, without any additional local approval requirement.

In 1976 (Laws 1976, Chapter 238), the Minneapolis Teachers Retirement Fund Association (MTRFA) was required to coordinate with the federal Social Security program and an MTRFA coordinated program for newly hired teachers after July 1, 1977, and for pre-1977 MTRFA members who elected Social Security coverage during the referendum was enacted based on the applicable Teachers Retirement Association (TRA) coordinated program provisions of Minnesota Statutes, Chapter 354. In 1977 (Laws 1977, Chapter 429, Sections 38 to 46, 54, 59, 60, and 61), the St. Paul Teachers Retirement Fund Association (SPTRFA) was required to coordinate with the federal Social Security program, with the creation of a SPTRFA coordinated program for newly hired teachers after July 1, 1978, and for pre-1978 SPTRFA members who elected Social Security coverage during a mandated referendum, based on the applicable Teachers Retirement Association coordinated program provisions of Minnesota Statutes, Chapter 354. The MTRFA coordination with Social Security also was delayed to July 1, 1978 in the 1977 legislation. The Duluth Teachers Retirement Fund Association (DTRFA) voluntarily coordinated with Social Security in 1957.

In 1979 (Laws 1979, Chapter 217), the benefit-related provisions of Minnesota Statutes, Chapter 354A, were added, replicating the TRA coordinated program provisions, and replacing the prior TRA law cross-reference process. The limitation on certain articles of incorporation or bylaw amendments of Minnesota Statutes, Section 354A.12, Subdivision 4, was also modified, setting forth a procedure for the legislative consideration and approval of proposed articles of incorporation or bylaw amendments.

As a consequence of the 1909-1979 legislation, the benefit plans and related provisions of the three first class city teachers retirement fund associations is found in a combination of statutes (Minnesota Statutes, Chapters 354A and 356), articles of incorporation provisions, corporate bylaw provisions, and accumulated board of trustees decisions and actions. The provisions of the MTRFA and SPTRFA basic programs and the provisions of the DTRFA old law coordinated program are found solely in the articles of incorporation and bylaws. Since only the statutory provisions are codified and periodically revised, first class city teachers retirement fund association members are at a disadvantage in attempting to gain access to a usable version of their governing plan documents.

Discussion and Analysis

S.F. 437 (Betzold); H.F. 2095 (Smith) adds a requirement to Minnesota Statutes, Section 354A.12, for the three first class city teachers retirement fund associations to compile and publish a current version of their articles of incorporation and bylaws every two years, with copies of the compilation filed with the Legislative Commission on Pensions and Retirement and with other relevant state and local officials.

The proposed legislation raises several pension and related public policy issues that the Commission may wish to consider and discuss, as follows:

1. Need for Updated First Class City Teachers Retirement Fund Association Benefit Plan Documents. The policy issue is whether or not there is any need to provide state officials, local officials, and teacher retirement fund association members with updated benefit plan and related documents. Along with the four remaining local police and paid fire relief associations (the Fairmont Police Relief Association, the Minneapolis Firefighters Relief Association, the Minneapolis Police Relief Association, and the Virginia Fire Department Relief Association), the three first class city teachers retirement fund associations are the only Minnesota public pension plans for full-time public employees which are governed to any extent by non-statutory documents or instruments. Virtually the entirety of the DTRFA Old Law Coordinated Program, the MTRFA Basic Program, and the SPTRFA Basic Program benefit and administrative provisions are contained in these documents. Although these membership groups are phasing out (in 2003, 259 DTRFA Old Law Program active members; 403 MTRFA Basic Program active members; and 430 SPTRFA Basic Program active members), enough active members still exist and are readily approaching their retirement age to merit from the proposed benefit plan provision updating and publication requirement.
2. Appropriateness of the Biennial Update and Publication Frequency Requirement. The policy issue is the appropriateness of requiring the first class city teachers retirement fund associations to update and publish their articles of incorporation and bylaws biennially. Although a case could be made for annual updates and publication, because the changes in the articles of incorporation and bylaws have not been that frequent recently, matching the frequency of the publication of Minnesota Statutes appears to be appropriate. If a two-year period goes by without any change in the articles of incorporation and bylaws, the update and publication requirement can be met with virtually no effort. If there are several changes in the articles of incorporation and bylaws that occur during the period, the need for their update and publication is clear.
3. Appropriateness of the Administrative Expense of Update and Publication. The policy issue is the appropriateness of compelling the first class city teachers retirement fund associations to bear the administrative expense of updating and publishing their articles of incorporation and bylaws. Although the DTRFA administrative expense remains very high (equal to almost nine-tenths of one percent of payroll in 2003), MTRFA and SPTRFA have reduced their administrative expenses recently (equal to three-tenths of one percent of payroll in 2003 for MTRFA and just over two-tenths of one percent of payroll in 2003 for SPTRFA). Adding a requirement to update and publish their articles of incorporation and bylaws could add to their expense. However, with modern word processing software and desktop publishing capabilities, the process should consume only a very modest amount of staff time and resources. If the teacher retirement fund associations utilize the option to make the updated documents available on the Internet, the fund associations will eliminate the bulk of the potential filing requirements.
4. Appropriateness of Required Free Filing of Documents with State and Local Officials. The policy issue is the appropriateness of requiring the first class city teachers retirement fund associations to file their biennial articles of incorporation and bylaws with the Legislative Commission on Pensions and Retirement and other state and local officials without charge. The applicable state and local officials are those connected with teachers retirement plans, namely the State Auditor, the Education Commissioner, the Minnesota State Colleges and Universities System Chancellor, and the school superintendent of the applicable school district as well as the repository of most filings of general information, the Legislative Reference Library. These officials have a potential need for current information on the three local teacher retirement plans and should have ready access to the information.
5. Lack of Ending Date for the Filing Requirement. The policy issue is the appropriateness of not sunseting the filing requirement. While the articles of incorporation and bylaws principally related to the benefit programs that are being phased out and these documents will be of less importance once those programs no longer have active members in the next decade or so, that is a relatively far off and uncertain date which can be handled on an ad hoc basis in the future. Also, the articles of incorporation and the bylaws govern the composition and operation of the boards of trustees of the associations, the manner for crediting service, and other plan aspects that relate to Coordinated Program active members, making the provisions broader and long-lasting.