



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LA Martin*
RE: H.F. xxxx; S.F. 424 (Betzold): MTRFA; Obsolete References Corrections
DATE: March 1, 2007

General Summary of H.F. xxxx; S.F. 424 (Betzold)

H.F. xxxx; S.F. 424 (Betzold) amends various provisions in Minnesota Statutes, Chapter 13, the data privacy statutes; Chapter 126C, the education funding statutes; Chapter 353, the Public Employees Retirement Association statutes; Chapter 354A, the first class city teacher retirement fund associations' statutes; Chapter 354B, the Individual Retirement Account Plan of the Minnesota State Colleges and Universities System (MnSCU) provisions; Chapter 355, the public employee Social Security coverage provisions; and Chapter 423A, the local police and paid firefighter relief association state aid and benefit provisions, by eliminating references to the former Minneapolis Teachers Retirement Fund Association (MTRFA) and by correcting other provisions previously applicable to the former MTRFA.

A section-by-section summary of H.F. xxxx; S.F. 424 (Betzold) is attached as Attachment A.

Background Information

1. MTRFA/TRA Consolidation. Background information on the consolidation of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA) enacted in 2006 and the consolidation impact on the TRA funded condition and funding costs is set forth in Attachment B.
2. MTRFA Liquidating Trust. Background information on the liquidating trust established by the Minneapolis Teachers Retirement Fund Association (MTRFA) and its transfer of assets to the liquidating trust in advance of the consolidation is set forth in Attachment C.

Discussion and Analysis

H.F. xxxx; S.F. 424 (Betzold) eliminates or clarifies references to the former Minneapolis Teachers Retirement Fund Association (MTRFA), following its 2006 consolidation into the Teachers Retirement Association (TRA), and corrects a typographical error regarding the amount of the local property tax levy that the City of Minneapolis and Special School District No. 1 must implement and pay to TRA as the successor to MTRFA.

The proposed legislation raises or presents an opportunity to raise several pension and related public policy issues that may merit Commission consider and discussion, as follows:

1. Appropriateness of the Proposed MTRFA Reference Corrections. The policy issue is the appropriateness of the proposed correction of remaining references to the former Minneapolis Teachers Retirement Fund Association (MTRFA) proposed in sections 1, 2, 3, 5, 6, 7, and 8. The corrections are either the elimination of the MTRFA reference where the statutory provision applies to the MTRFA as an entity (sections 1, 3, and 8) or the replacement of the MTRFA reference with a reference to the Teachers Retirement Association (TRA) in its capacity as the replacement of the former MTRFA (sections 2, 5, 6, and 7). An opportunity should be afforded to a TRA representative or any other interested party to address the issue of appropriateness.
2. Appropriateness of the Proposed Correction of the Minneapolis City and Special School District No. 1 Mandatory Levies (Section 4). The policy issue is the appropriateness of the proposed correction of the mandatory local levies from the City of Minneapolis and from Special School District No. 1 to be matched by special direct state aid to the Teachers Retirement Association (TRA) in Section 4. As part of the 2006 legislation that consolidated the former Minneapolis Teachers Retirement Fund Association (MTRFA) into TRA, the matching local tax levy amounts associated with the \$2.5 million direct state aid redirected to TRA was recast as \$1,125,000 from each, rather than the actual full matching amount of \$1,250,000 from each. The pre-2006 provision was a voluntary provision for the City of Minneapolis and Special School District No. 1, with each \$1,000 of local contribution matched by the state up to a maximum of \$2.5 million. In recasting the provision in 2006 as a mandatory contribution at the full state direct aid matching amount, a typographical error appears to have occurred somewhere in the development of S.F. xxxx; H.F. 2847 (Ozment). It is the understanding of the Commission staff that the Department of

Education has interpreted this portion of the 2006 MTRFA/TRA consolidation legislation as an error and has mandated a full \$1.25 million local contribution for each local government entity in Fiscal Year 2007. Representatives of the City of Minneapolis and of Special School District No. 1 should be afforded an opportunity to dispute the contention that the reduced local levy amount for each in the 2006 consolidation legislation was a typographical error and to suggest why the amount should not be increased.

3. Appropriate Legislative Response to the MTRFA Liquidating Trust. The policy issue is the appropriate response by the Commission and the Legislature to the Minneapolis Teachers Retirement Fund Association (MTRFA) liquidating trust. Although there have been more than 50 public pension plan consolidations in Minnesota before 2006, the 2006 MTRFA/Teachers Retirement Association (TRA) consolidation is the first time that the device of a liquidating trust was used in a consolidation. The MTRFA liquidating trust was not contemplated by the 2006 consolidation legislation and the State Auditor's Office concluded in its special review that the creation of the MTRFA liquidating trust was "concocted . . . in a unilateral attempt to manage the consolidation according to the preferences of the former MTRFA Board and Executive Director, in defiance of the Legislature's mandated consolidation process," was an "attempt to coerce [a] release of claims and bad faith indemnification from the state," and was "in effect holding the \$1.5 million hostage until the former MTRFA's ransom demands are met." If the Commission and the Legislature are concerned about the MTRFA liquidating trust and seek to resolve the issue, few options exist since the issue was initially litigated and then settled in Hennepin County District Court and the MTRFA liquidating trust has ended after paying considerable attorney fees and some trustee fees. An additional consideration is whether it is appropriate or not either to curb the use of liquidating trusts as part of any future public pension plan consolidations in Minnesota or to regulate their use.
 - Amendment S0424-1A explicitly prohibits the creation of a liquidating trust by any Minnesota public pension plan as part of any consolidation or otherwise. Since liquidating trusts are generally utilized for federal and state tax considerations by failing businesses, the loss of this potential tool does not appear to threaten to impair future Minnesota public pension plan consolidations or operations.
 - Amendment S0424-2A permits Minnesota public pension plans to create liquidating trusts, but limits the purposes for which liquidating trusts can be established, limits the amount of assets that can be transferred to a liquidating trust, and requires that the Commissioner of Finance or the commissioner's designee be the liquidating trust trustee for any liquidating trust. Regulating future liquidating trusts created by Minnesota public pension plans provides the Legislature with the opportunity to eliminate some of the perceived abuses that arose in connection with the recent MTRFA liquidating trust.
4. Appropriate Legislative Response to the Failure of the Hennepin County District Court to Observe the TRA Venue Provision. The policy issue is the appropriate response of the Commission or the Legislature to the failure of the Hennepin County District Court to transfer venue of the Minneapolis Teachers Retirement Fund Association (MTRFA) liquidating trust litigation to the Ramsey County District Court as required by Minnesota Statutes, Section 354.07, Subdivision 3. The Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA) all have provisions that specify that the venue for all legal actions involving the respective retirement system are in the Ramsey County District Court. The venue provisions are of relatively recent origin, with the venue provision applicable to MSRS having first been added in 1975 (Laws 1975, Chapter 368, Section 16) and extended to the two other systems shortly thereafter. The venue provisions came at the request of the retirement plans and not at the request of the practicing bar or of the Ramsey County District Court. The venue provisions also were not opposed by the practicing bar, the Attorney General's Office, the Ramsey County District Court, or any other interested party to the best understanding of the Commission staff. Concentrating pension litigation in one district court provides convenience to the retirement system involved and provides greater potential institutional understanding of and capability in resolving these specialized and complicated issues. The venue provisions, however, do cause some potential inconvenience to some potential petitioners located in greater Minnesota. With internal appeals processes in each system and the availability of special legislation to resolve pension member complaints, there is relatively little pension plan litigation.
 - Amendment S0424-3A. If the Commission wishes to further buttress its view about the proper venue for pension litigation, potential amendment S0424-3A adds a venue provision to Minnesota Statutes, Chapter 356A, the public pension plan fiduciary responsibility law, with a clear specification of venue in litigation involving a statewide retirement plan in the Ramsey County District Court and a clear specification of venue for all local retirement plans, which is an extension of the logic behind the three current venue provisions.

Attachment A
Section-by-Section Summary

<u>Sec.</u>	<u>Pg.Ln – Pg.Ln</u>	<u>Retirement Plan</u>	<u>Stat. Provision</u>	<u>Summary</u>
1	1.7 – 1.12	MTRFA	13.632, Subd. 1	The specific first class city teacher retirement fund association data privacy provision is amended to eliminate a reference to the former MTRFA.
2	1.13 – 2.17	MTRFA	126C.41, Subd. 4	The Special School District No. 1, Minneapolis, additional property tax levy provision related to health insurance subsidies for certain Medicare-ineligible former Minneapolis teachers is amended to update a reference to the former MTRFA.
3	2.18 – 5.26	PERA-General/ MTRFA	353.01, Subd. 2b	The membership eligibility provision of the defined benefit retirement plans administered by PERA is amended to eliminate a reference to the former MTRFA in the exclusion for individuals covered by another Minnesota public pension plan.
4	5.27 – 6.16	TRA/MTRFA	354A.12, Subd. 3b	The City of Minneapolis and the Special School District No. 1 mandatory employer contribution transferred from the former MTRFA to the TRA is corrected from \$1.125 million each annually to \$1.25 million each annually to match the \$2.5 million annual state contribution.
5	6.17 – 7.7	IRAP/MTRFA	354B.21, Subd. 3	The defined benefit plan coverage option for Minnesota State Colleges and Universities System (MnSCU) technical college faculty members is corrected to eliminate a reference to the former MTRFA.
6	7.8 – 7.12	Social Security/ MTRFA	355.01, Subd. 3h	The definition of “Minneapolis teacher” for purposes of Social Security coverage is corrected to eliminate a reference to the former MTRFA and replace it with a TRA reference.
7	7.13 – 8.35	TRA/MTRFA	423A.02, Subd. 3	The portion of local police and paid fire relief association amortization aid previously redirected to the former MTRFA is reassigned to the TRA and the St. Paul Teachers Retirement Fund Association (SPTRFA) eligibility termination provision is appropriately revised.
8	8.36 – 9.5	TRA/MTRFA	423A.02, Subd. 5	The amortization state aid termination provision is revised to eliminate a reference to the former MTRFA.
9	9.6 – 9.8	--	Effective date	Most provisions are effective upon final enactment. The former MTRFA state aid and amortization state aid revisions are made effective retroactive to the effective date of the MTRFA consolidation into TRA.

