



H.F. 3743
(Nelson)

S.F. 3375
(Dahle)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Tax-Sheltered Annuities
Relevant Provisions of Law: Minnesota Statutes, Section 123B.02, Subdivision 15
General Nature of Proposal: Collective bargaining over individual retirement savings
Date of Summary: April 4, 2008

Specific Proposed Changes

The proposed legislation makes the number of and the identity of tax-sheltered annuity vendors an item subject to mandatory bargaining between school districts and school employee unions under PELRA.

Policy Issues Raised by the Proposed Legislation

1. Fundamental issue is PELRA issue.
2. Appropriate means to address a specific dispute; overturning result of litigation.
3. Appropriate recognition of payroll administrative difficulties in individual retirement savings arrangements.

Potential Amendments

No Commission staff-prepared amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *LAM*
RE: H.F. 3743 (Nelson); S.F. 3375 (Dahle): Teacher Retirement Savings
DATE: April 4, 2008

Summary of H.F. 3743 (Nelson); S.F. 3375 (Dahle)

H.F. 3743 (Nelson); S.F. 3375 (Dahle) amends Minnesota Statutes, Section 123B.02, Subdivision 15, authorizing school districts to purchase individual annuity contracts on behalf of school district employees, by making the number of tax-sheltered annuity vendors and which tax-sheltered annuity vendors will be utilized as items subject to mandatory collective bargaining under Minnesota Statutes, Chapter 179A, the Public Employees Labor Relations Act.

Discussion and Analysis

H.F. 3743 (Nelson); S.F. 3375 (Dahle) requires collective bargaining between teacher and school district employee unions and school districts over the number of tax-sheltered annuity vendors that may be utilized and which tax-sheltered annuity vendors may be utilized.

The proposed legislation raises a number of pension and related public policy issues for Commission consideration and potential discussion, as follows:

1. Fundamental Issue is PELRA Issue. The policy issue arises from the intersection of the Public Employee Labor Relations Act (PELRA) (Minnesota Statutes, Chapter 179A) issues and public pension coverage issues and if whether the fundamental and determinative issue or issues with the proposed legislation are PELRA issues or public pension issues. While the proposed legislation deals with savings opportunities for retirement, the change in the proposed legislation is to shift the topics of the number of and the identity of tax-sheltered annuity vendors from unclear as mandatorily bargainable items under PELRA to specifically mandatorily bargainable items under PELRA. The Commission staff has limited familiarity with PELRA and no specific insight as to the issues in and implications of proposed PELRA legislation. The Commission may wish to seek additional testimony from other sources more familiar with PELRA issues to gain some comfort level that the proposed change is appropriate.
2. Appropriate Means to Address a Specific Dispute; Overturning Result of Litigation. The policy issue is the appropriateness of the proposed legislation to the extent that it is a mechanism to revisit a specific dispute and overturns the result of litigation arising out of that dispute. The dispute apparently relates to a unilateral action of the Osseo School District, which apparently limited the number of tax-sheltered annuity vendors that its teachers could designate and approved only certain vendors for use. The school district was subsequently sued by Education Minnesota, but reportedly the trial court found for the school district. Before the Commission approves a different result in resolving a dispute in general legislation, the Commission may wish to gain a better appreciation of the issues in the Osseo School District dispute and in the resulting litigation.
3. Appropriate Recognition of Payroll Administrative Difficulties in Individual Retirement Savings Arrangements. The policy issue is whether or not the proposed legislation shows sufficient appreciation for the administrative difficulties that may exist in school district payroll systems with respect to the number of tax-sheltered annuity vendors. There are a large number of potential vendors of tax-sheltered annuities and, if a large number of vendors have some customers within a school district, the volume of vendors may exceed the district's payroll capacity. The proposed legislation allows no limits on the number unless both collective bargainers agree to a limit. The Commission may wish to take additional testimony from the School Boards Association or from other interested parties to ascertain whether some upper-end accommodations to possible payroll system problems would be an appropriate addition to or constraint on the proposed change.

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **3743**

March 3, 2008

Authored by Nelson; Peterson, S.; Bigham; Davnie and Dittrich

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

A bill for an act

relating to teacher retirement savings; requiring collective bargaining over the number of tax-sheltered annuity vendors a school district permits for payroll deduction; amending Minnesota Statutes 2006, section 123B.02, subdivision 15.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2006, section 123B.02, subdivision 15, is amended to read:

Subd. 15. **Annuity contract; payroll allocation.** At the request of an employee and as part of the employee's compensation arrangement, the board may purchase an individual annuity contract for an employee for retirement or other purposes and may make payroll allocations in accordance with such arrangement for the purpose of paying the entire premium due and to become due under such contract. The allocation must be made in a manner which will qualify the annuity premiums, or a portion thereof, for the benefit afforded under section 403(b) of the current Federal Internal Revenue Code or any equivalent provision of subsequent federal income tax law. The employee shall own such contract and the employee's rights under the contract shall be nonforfeitable except for failure to pay premiums. Section 122A.40 shall not be applicable hereto and the board shall have no liability thereunder because of its purchase of any individual annuity contracts. This statute shall be applied in a nondiscriminatory manner to employees of the school district. The identity and number of the available vendors under federal Internal Revenue Code section 403(b) is a term and condition of employment under section 179A.03.