H.F. 3799
(Murphy, M., by req.)

S.F. 2998
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s):	MSRS, PERA, MERF
Relevant Provisions of Law:	Minnesota Statutes, Chapter 356
General Nature of Proposal:	Voluntary Membership Dues Deduction
Date of Summary:	March 20, 2008

Specific Proposed Changes

- Permits annuitants from a Minnesota State Retirement System (MSRS) plan, a Public Employees Retirement Association (PERA) plan, or the Minneapolis Employees Retirement Fund (MERF) to have the applicable pension plan administration deduct and transmit dues to any organization or voluntary association of public employees or retired public employees of which the annuitant is a member. The pension plan administration is not liable for any error in deducting or transmitting these dues.

Policy Issues Raised by the Proposed Legislation

1. Need for legislation.
2. Vague definition of eligible benefit group.
3. Vague definition of recipient groups.
4. Expanding size and funding of recipient groups.
5. Possible problem due to small size of deduction.
6. Appropriate activity for pension plan.
7. Cost.
8. Scope.
9. Requests for similar treatment for other organizations and purposes.
10. Additional drafting issue, topic headings in Chapter 356.

Potential Amendments

H3799-1A is a technical amendment adding a headnote, adding an effective date, and specifying that eligible annuitants are retirees, survivors, or disabilitants.

H3799-2A clarifies the organizations eligible to receive these dues by specifying that the organization must be a labor union that is an exclusive bargaining agent representing Minnesota public employees or an organization representing retired Minnesota public employees. The Commission may choose to consider whether this amendment is sufficiently restrictive, particularly for retiree organizations.

H3799-3A limits the number of times per year the dues are to be withheld, and the minimum dollar amounts. The amendment includes blanks to be filled in by the Commission or Legislature. The Commission may wish to consider withholding these amounts once per year, or quarterly, and the Commission could also set a minimum dollar amount.

H3799-4A revises the fund systems included in this withholding to include all Minnesota public pension funds, other than volunteer fire plans, rather than just the MSRS, PERA, and MERF systems.

H3799-5A is an alternative to Amendment H3799-4A and can be used to specify specific plans or systems by filling in the blank in the amendment.

State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director EB

RE: H.F. 3799 (Murphy, M., by request); S.F. 2998 (Betzold): MSRS, PERA, MERF; Voluntary Membership Dues Deduction

DATE: March 19, 2008

General Summary

H.F. 3799 (Murphy, M., by request); S.F. 2998 (Betzold) permits annuitants from a Minnesota State Retirement System (MSRS) plan, a Public Employees Retirement Association (PERA) plan, or the Minneapolis Employees Retirement Fund (MERF) to have the applicable pension plan administration deduct and transmit dues to any organization or voluntary association of public employees or retired public employees of which the annuitant is a member. The pension plan administration is not liable for any error in deducting or transmitting these dues.

Background Information

In recent decades, when the Legislature has permitted withholding from pension benefits (other than tax withholding), it has been for insurance premiums. Minnesota Statutes, Section 356.87, deals with health insurance withholding from retiree benefits for the Public Employees Insurance Program (PEIP). Under that provision, first enacted in 1990, a retiree or benefit recipient from nearly any Minnesota public pension plan is authorized to direct the plan's executive director to withhold PEIP premiums from the annuity and to transmit those premiums to PEIP. PEIP is required by that law to reimburse the pension plan for the cost of this service and to assume any liability for any error or failure by the pension plan to withhold and properly transmit the insurance amounts.

Last year, H.F. 31 (Mullery); S.F. 31(Metzen), revised Minnesota Statutes, Section 356.87, the PEIP withholding provision, by adding subdivisions to allow certain public safety plan disabilitants and retirees to take advantage of a recently enacted federal law. That federal law allows these individuals an exclusion from income for tax purposes of up to $3,000 annually for amounts paid to health, accident, and long-term care insurance providers. To get this exclusion, the federal law requires that the insurance amount be withheld from the person's annuity check and transmitted directly to the insurance provider. The Minnesota Legislature, therefore, revised Minnesota Statues, Section 356.87, to allow the pension plan administrators to withhold these amounts and transmit them to insurance providers. When this language was discussed in the Commission, the issue was raised of whether the pension plan should be reimbursed for this service, either by a further deduction from the annuitant's monthly benefit, or by charging the insurance company that receives premium payments for the cost of this collection, transmittal service. Pension plan administrators did not want language permitting them to be reimbursed for this service, so the provision passed without that language. The pension plan administrators may have believed the administrative cost would be immaterial; or they may have been concerned that any effort to cover the cost by a charge to the insurance company would cause the company to refuse to accept the premium payment, possibly causing the retiree to lose coverage, and they may have been reluctant to charge the annuitant for this service. H.F. 31 (Mullery); S.F. 31(Metzen) did, however, include language stating that the plan and plan administration could not be held liable of any errors in withholding or transmission.

The bill currently under consideration, H.F. 3799 (Murphy, M., by request); S.F. 2998 (Betzold) has an eligible group of all annuity recipients from MSRS, PERA, and MERF plans, if the individual is a member of a public employee or retired employee organization. This is a much broader group than the limited public safety group to which last year's legislation applied. This would increase the administrative cost compared to last year's situation.

Pension Policy Issues

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

1. Need for Legislation. The policy issue is whether there is any need for this bill given that the bill would require pension plans to provide a service that is readily available from banks or other savings institutions. The pension plans currently permit direct deposit of annuity checks to the annuitant's bank. Savings institutions commonly offer a service permitting the client to direct the savings institution to automatically pay bills when due, with the amounts deducted from the individual's checking account. Thus, the type of service this bill attempts to accomplish can be arranged currently by the annuitant, without any need to revise law.

2. Vague Definition of Eligible Benefit Group. The policy issue is the vague, confusing definition of the eligible annuitant recipient group. An eligible individual is "a person eligible to receive a retirement annuity" (page 1.7) rather than actually receiving an annuity. However, later in the paragraph the term "annuitant" is used (page 1.13) so presumably the intended group is individuals actually receiving an annuity, rather than individuals of a sufficient age and status (such as a deferred annuitant age 55 or older) entitled to an annuity if the individual files a valid application. But it remains unclear whether surviving spouses are to be included, and it appears that disabilitants are not included, since the coverage group as worded is limited to those receiving a "retirement annuity." The Commission may wish to consider an amendment to clarify the eligible group.

3. Vague Definition of Recipient Groups. The Commission may wish to consider whether the recipient group is adequately defined. As drafted, the eligible recipients are "any organization or voluntary association of public employees or retired public employees of which the annuitant is a member" (page 1.11 to 1.13). This is sufficiently vague that inconsistencies may arise between plan systems regarding organizations eligible to receive direct transmission of dues. There is no statement of the purpose of these organizations, or that the organization be limited to public employees or public retirees in their scope or purpose, or that the organization be restricted to Minnesota public employees. As drafted, an argument can be made that dues to the American Association of Retired Persons (AARP) can be withheld and transmitted. This may be a very worthwhile organization, but it is unclear why a Minnesota public pension plan should provide a free service to that organization. Organizations representing certain portions of a plan's membership, such as the group seeking enhanced benefits for certain pre-1969 teachers, may also be eligible for the proposed treatment. It may be difficult to draw a clear distinction between organizations eligible for this subsidized treatment and those that are not.

4. Expanding Size and Funding of Recipient Groups. The bill may lead to an expansion of size, funding, and influence of the groups that receive the money. Individuals may be more likely to join organizations and pay dues if the deduction is automatic. The Commission may wish to consider whether it wishes to expand the influence of organizations which would receive dues under this bill.

5. Possible Problem Due to Small Size of Deduction. The Commission may wish to consider that the dues being deducted are likely to be for much smaller amounts than deductions for healthcare insurance coverage. The administrative cost per dollar withheld will be much higher than with insurance withholding.

6. Appropriate Activity for Pension Plan. The policy issue is whether the withholding/transmittal requirements in this bill are appropriate activities for a public pension plan. This activity has nothing to do with the core mission of public pension plans. The bill can be viewed as diverting attention and resources from the requirements to properly administer the finances of the plan, counsel members, and pay benefits specified in law.

7. Cost. The policy issue is the cost imposed on the pension plan administration by the requirements of this bill, and the lack of a requirement in the bill to have the recipient member or retiree organizations reimburse the plan for this cost.

8. Scope. The policy issue is scope of included plans. As drafted, the bill applies to retirees from MSRS, PERA, and MERF. The Commission may receive requests for similar treatment from retirees from other systems or from lobbying organizations and other retiree organizations covering retirees in other systems. As drafted, the bill includes none of the teacher plans or local plans, other than MERF.

9. Requests for Similar Treatment for Other Organizations and Purposes. The Commission may wish to consider that this legislation expands the scope of permitted deductions beyond taxes and certain types of insurance. If enacted, the Legislature may receive other requests to permit deductions from retiree annuities for (1) other insurance; (2) for other organizations; or (3) to directly pay property taxes, rent, mortgage payments, or utility payments.

10. Additional Drafting Issue, Topic Headings in Chapter 356. Minnesota Statutes, Chapter 356, was recodified a few years ago and the sections in that chapter where regrouped under common topic headings. "Membership Dues Withholding" is a new topic area and a topic heading is needed.

Amendments for Consideration

Amendment H3799-1A is a technical amendment adding a headnote, adding an effective date, and specifying that eligible annuitants are retirees, survivors, or disabilitants.

Amendment H3799-2A clarifies the organizations eligible to receive these dues by specifying that the organization must be a labor union that is an exclusive bargaining agent representing Minnesota public employees or an organization representing retired Minnesota public employees. The Commission may choose to consider whether this amendment is sufficiently restrictive, particularly for retiree organizations.

Amendment H3799-3A limits the number of times per year the dues are to be withheld, and the minimum dollar amounts. The amendment includes blanks to be filled in by the Commission or Legislature. The Commission may wish to consider withholding these amounts once per year, or quarterly, and the Commission could also set a minimum dollar amount.

Amendment H3799-4A revises the fund systems included in this withholding to include all Minnesota public pension funds, other than volunteer fire plans, rather than just the MSRS, PERA, and MERF systems.

Amendment H3799-5A is an alternative to Amendment H3799-4A and can be used to specify specific plans or systems by filling in the blank in the amendment.

.... moves to amend H.F. No. 3799; S.F. No. 2998, as follows:

Page 1, after line 5, insert:

"MEMBERSHIP DUES WITHHOLDING"

Page 1, line 7, delete "entitled to receive a retirement" and insert "receiving an"

Page 1, after line 17, insert:

"**EFFECTIVE DATE.** This section is effective the day following final enactment."

.... moves to amend H.F. No. 3799; S.F. No. 2998, as follows:

Page 1, line 11, delete "organization"

Page 1, line 12, delete "or voluntary association of" and insert "labor organization that is an exclusive bargaining agent representing" and after "or" insert "an organization representing"

Page 1, line 13, delete "or voluntary"

Page 1, line 14, delete "association"

.... moves to amend H.F. No. 3799; S.F. No. 2998, as follows:

Page 1, after line 17, insert:

"(c) The deductions under paragraph (a) may occur no more frequently than .... per year and no deduction is authorized for amounts below ...."

.... moves to amend H.F. No. 3799; S.F. No. 2998, as follows:

Page 1, line 8, delete everything after "fund"

Page 1, delete line 9

Page 1, line 10, delete "Fund" and insert "specified in paragraph (c)"

Page 1, after line 17, insert:

"(c) This section applies to all pension plans specified in section 356.20, including any annuity payable by the Minnesota Postretirement Investment Fund under section 11A.18, or indexed to that fund."

.... moves to amend H.F. No. 3799; S.F. No. 2998, as follows:

Page 1, line 8, delete everything after "fund"

Page 1, delete line 9

Page 1, line 10, delete "Fund" and insert "specified in paragraph (c)"

Page 1, after line 17, insert:

"(c) This section applies to ...."

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE NO. 3799

March 4, 2008
Authored by Murphy, M., by request,
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 retirement; authorizing certain voluntary deductions from persons entitled to receive an annuity from certain public pension funds; proposing coding for new law in Minnesota Statutes, chapter 356.

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

Section 1. **[356.91] VOLUNTARY MEMBERSHIP DUES DEDUCTION.**

(a) Upon written authorization of a person entitled to receive a retirement annuity from a public pension fund administered by the Minnesota State Retirement System, the Public Employees Retirement Association, or the Minneapolis Employees Retirement Fund, the executive director of the public pension fund shall deduct from the retirement annuity an amount requested by the annuitant to be paid as dues to any organization or voluntary association of public employees or retired public employees of which the annuitant is a member and shall pay the amount to the organization or voluntary association so designated by the annuitant.

(b) A pension fund and the plan fiduciaries which authorize or administer deductions of dues payments under paragraph (a) is not liable for failure to properly deduct or transmit the dues amounts.