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HOUSE FILE No. 163

FIRST COMMITTEE ENGROSSMENT

January 16, 2007

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

January 29, 2007

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Local Government and Metropolitan Affairs

February 8, 2007

Committee Recommendation and Adoption of Report:
To Pass as Amended and re-referred to the Committee on Finance

Referred by Chair to State Government Finance Division.

February 22, 2007

Returned to the Committee on Finance as Amended.

1.1 A bill for an act
1.2 relating to local government; authorizing the city of Duluth to establish accounts
1.3 to pay for postemployment benefits owed to retired employees and to generate
1.4 revenue dedicated to meet certain city obligations; requiring an analysis and
1.5 report; appropriating money; proposing coding for new law in Minnesota
1.6 Statutes, chapters 11A; 353.

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

1.8 Section 1. **[11A.235] ACCOUNT FOR INVESTMENT OF CERTAIN DULUTH**
1.9 **FUNDS OR ASSETS.**

1.10 Subdivision 1. **Establishment.** The State Board of Investment, when requested by
1.11 the city of Duluth, may invest the funds or assets of the city's community investment trust
1.12 fund in a special account for that purpose in the combined investment funds established
1.13 in section 11A.14, subject to the policies and procedures established by the State Board
1.14 of Investment. Use of the funds in the account is restricted to debt service payments for
1.15 the city's street improvement program or to any other use approved in accordance with
1.16 Section 54(E) of the home rule charter of the city of Duluth.

1.17 Subd. 2. **Account maintenance and investment.** The city may deposit money in
1.18 the account and may withdraw money from the account for purposes approved by the
1.19 Duluth City Council in accordance with Section 54(E) of the home rule charter of the city
1.20 of Duluth. Such transactions must be at a time and in a manner required by the executive
1.21 director of the State Board of Investment. Investment earnings must be credited to the
1.22 account of the city. The account may be terminated by the city at any time.

1.23 **EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day
1.24 following the day on which the chief clerical officer of the city of Duluth timely completes
1.25 its compliance with Minnesota Statutes, section 645.021, subdivision 3, following

2.1 approval by the Duluth City Council in compliance with Minnesota Statutes, section
2.2 645.021, subdivision 2.

2.3 **Sec. 2. [353.95] ACCOUNT FOR DULUTH POSTEMPLOYMENT BENEFITS.**

2.4 **Subdivision 1. Establishment.** The Public Employees Retirement Association may
2.5 administer an account representing the irrevocable trust fund established by the city of
2.6 Duluth to be used only to fund and pay for the postemployment benefits owed to retired
2.7 employees in accordance with language contained in labor agreements between the city
2.8 and its employee bargaining units, or between participating subgroups in the city's health
2.9 plan and their retirees. The city of Duluth investment committee shall serve as trustee
2.10 of the irrevocable trust.

2.11 **Subd. 2. Definition.** For purposes of this section, "postemployment benefit" means
2.12 a benefit giving rise to a liability under Statement 45 of the Governmental Accounting
2.13 Standards Board, and therefore does not include benefits to be paid by a Minnesota public
2.14 pension plan listed in section 356.20, subdivision 2, or 356.30, subdivision 3, and benefits
2.15 provided on a defined contribution individual account basis.

2.16 **Subd. 3. Account maintenance and investment.** (a) The Public Employees
2.17 Retirement Association may charge the city fees for reasonable administrative costs,
2.18 and the amount of those fees is appropriated to the association from the account. The
2.19 Public Employees Retirement Association may establish other terms and conditions for
2.20 participation in the account.

2.21 (b) The Public Employees Retirement Association must certify all money in the
2.22 account to the State Board of Investment for investment in the combined investment funds
2.23 established in section 11A.14, subject to the policies and procedures established by the
2.24 State Board of Investment. Investment earnings must be credited to the account of the city.

2.25 **Subd. 4. Management and termination of account.** The city may deposit money
2.26 in the account and may withdraw money from the account as needed for postemployment
2.27 benefits owed on behalf of retired employees of the city or its subgroups. Such transactions
2.28 must be at a time and in a manner required by the executive director of the Public
2.29 Employees Retirement Association. The city of Duluth must ensure that the investment
2.30 and management of the assets complies with the prudent investor rule in section 501B.151
2.31 and that withdrawals comply with the requirements of this section. The account may
2.32 be terminated only to the extent the city's postemployment benefit actuarial liability is
2.33 satisfied or otherwise defeased.

2.34 **Subd. 5. Status of irrevocable fund.** (a) All money in the account representing the
2.35 irrevocable fund created in this section is held in trust for the exclusive benefit of retired

3.1 employees of the city and of subgroups participating in the city's health plan, and is not
3.2 subject to claims by creditors of the state, the city, the city's subgroups, or the current and
3.3 former employees of the city or its subgroups.

3.4 (b) The irrevocable trust fund underlying the account created in this section must be
3.5 deemed an arrangement equivalent to a trust for all legal purposes.

3.6 **EFFECTIVE DATE; LOCAL APPROVAL.** This section is effective the day
3.7 following the day on which the chief clerical officer of the city of Duluth timely completes
3.8 its compliance with Minnesota Statutes, section 645.021, subdivision 3, following
3.9 approval by the Duluth City Council in compliance with Minnesota Statutes, section
3.10 645.021, subdivision 2.

3.11 **Sec. 3. INTENT AND PURPOSE; NO PRECEDENT.**

3.12 (a) Sections 1 and 2 are intended to resolve specific expenditure and funding issues
3.13 that have arisen in the city of Duluth.

3.14 (b) Nothing in sections 1 and 2 may be interpreted as establishing a precedent for
3.15 potential solutions to postemployment benefit expenditure and funding problems in other
3.16 jurisdictions that may be fashioned by the 2007 legislature.

3.17 **Sec. 4. ADDITIONAL RATE OF RETURN ANALYSIS; ANNUAL REPORT**
3.18 **BY STATE BOARD OF INVESTMENT.**

3.19 (a) The State Board of Investment shall annually perform an additional analysis of
3.20 the rate of investment return using a value-added analysis for the investment fund into
3.21 which the irrevocable trust fund assets have been deposited under section 2.

3.22 (b) In making its value-added investment performance analysis, the board shall
3.23 compare its rate of return with the rates of return that it could have achieved in treasury bill
3.24 investments and with the rates of return that it could have achieved in investments in the
3.25 applicable indices combined, in a manner that adjusts for the board's actual portfolio mix.

3.26 (c) The board shall annually file a report on the additional rate of return analysis
3.27 with the Legislative Reference Library on or before November 1.

3.28 **EFFECTIVE DATE.** This section is effective June 30, 2007.