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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 3221

February 19, 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

1.1 relating to retirement; amending the Minnesota State Retirement System deferred
1.2 compensation plan; amending Minnesota Statutes 2006, sections 352.03,
1.3 subdivision 4; 352.97; 353D.12, subdivision 4; 356.24, subdivision 1; 356B.10,
1.4 subdivision 3; 363A.36, subdivision 1; 383B.914, subdivision 7; 518.003,
1.5 subdivision 8; Minnesota Statutes 2007 Supplement, section 356.96, subdivision
1.6 1; proposing coding for new law in Minnesota Statutes, chapter 352; repealing
1.7 Minnesota Statutes 2006, section 352.96; Minnesota Rules, parts 7905.0100;
1.8 7905.0200; 7905.0300; 7905.0400; 7905.0500; 7905.0600; 7905.0700;
1.9 7905.0800; 7905.0900; 7905.1000; 7905.1100; 7905.1200; 7905.1300;
1.10 7905.1400; 7905.1500; 7905.1600; 7905.1700; 7905.1800; 7905.1900;
1.11 7905.2000; 7905.2100; 7905.2200; 7905.2300; 7905.2400; 7905.2450;
1.12 7905.2500; 7905.2560; 7905.2600; 7905.2700; 7905.2800; 7905.2900.
1.13

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

1.15 Section 1. Minnesota Statutes 2006, section 352.03, subdivision 4, is amended to read:

1.16 Subd. 4. **Duties and powers of board of directors.** The board shall:

1.17 (1) elect a chair;

1.18 (2) appoint an executive director;

1.19 (3) establish rules to administer this chapter and chapters 3A, 352B, 352C, 352D,
1.20 and 490 and transact the business of the system, subject to the limitations of law;

1.21 (4) consider and dispose of, or take any other action the board of directors deems
1.22 appropriate concerning denials of applications for annuities or disability benefits under
1.23 this chapter, and complaints of employees and others pertaining to the retirement of
1.24 employees and the operation of the system;

1.25 (5) advise the director on any matters relating to the system and carrying out
1.26 functions and purposes of this chapter. The board's advice shall control; and

1.27 (6) oversee the administration of the state deferred compensation plan established in
1.28 section ~~352.96~~ 352.965.

2.1 The director and assistant director must be in the unclassified service but appointees
2.2 may be selected from civil service lists if desired. The salary of the executive director
2.3 must be as provided by section 15A.0815. The salary of the assistant director must be set
2.4 in accordance with section 43A.18, subdivision 3.

2.5 **Sec. 2. [352.965] MINNESOTA STATE DEFERRED COMPENSATION PLAN.**

2.6 Subdivision 1. **Establishment.** (a) The Minnesota state deferred compensation plan
2.7 is established. For purposes of this section, "plan" means the Minnesota state deferred
2.8 compensation plan, unless the context clearly indicates otherwise. The Minnesota State
2.9 Retirement System shall administer the plan.

2.10 (b) The purpose of the plan is to provide a means for a public employee to contribute
2.11 a portion of the employee's compensation to a tax-deferred investment account. The plan
2.12 is an eligible tax-deferred compensation plan under section 457(b) of the Internal Revenue
2.13 Code, United States Code, title 26, section 457(b), and the applicable regulations under
2.14 Code of Federal Regulations, title 26, parts 1.457-3 to 1.457-10.

2.15 (c) The Board of Directors of the Minnesota State Retirement System is the plan
2.16 trustee and the board's executive director is the plan administrator. Fiduciary activities of
2.17 the plan must be undertaken in a manner consistent with chapter 356A.

2.18 (d) The executive director with the approval of the board of directors shall adopt and
2.19 amend, as required to maintain tax-qualified status, a written plan document specifying the
2.20 material terms and conditions for eligibility, benefits, applicable limitations, and the time
2.21 and form under which benefit distributions can be made. With the approval of the board
2.22 of directors, the executive director may also establish policies and procedures necessary
2.23 for the administration of the deferred compensation plan.

2.24 (e) The plan document shall include provisions that are necessary to cause the plan
2.25 to be an eligible deferred compensation plan within the meaning of section 457(b).
2.26 The plan document may provide additional administrative and substantive provisions
2.27 consistent with state law, provided those provisions will not cause the plan to fail to be an
2.28 eligible deferred compensation plan within the meaning of section 457(b) and may include
2.29 provisions for certain optional features and services.

2.30 (f) The board of directors may authorize the executive director to establish and
2.31 administer an after tax deferred compensation plan or individual retirement account as
2.32 defined under section 408A of the Internal Revenue Code.

2.33 (g) All amounts contributed to the deferred compensation plan and all earnings
2.34 on those amounts must be held in trust, in custodial accounts, or in qualifying annuity
2.35 contracts for the exclusive benefit of the plan participants and beneficiaries, as required by

3.1 section 457(g) of the Internal Revenue Code and in accordance with sections 356.001 and
3.2 356A.06, subdivision 1.

3.3 (h) The information and data maintained in the accounts of the participants and
3.4 beneficiaries are private data and shall not be disclosed to anyone other than the participant
3.5 or beneficiary pursuant to a court order or pursuant to section 356.49.

3.6 (i) The plan document is not subject to the rule adoption process under the
3.7 Administrative Procedures Act, including section 14.386, but must conform with
3.8 applicable federal and state law.

3.9 Subd. 2. **Right to participate in the deferred compensation plan.** At the request
3.10 of an officer or employee of the state, an officer or employee of a political subdivision, or
3.11 an employee covered by a retirement fund in section 356.20, subdivision 2, the appointing
3.12 authority shall defer the payment of part of the compensation of the public officer or
3.13 employee through payroll deduction. The amount to be deferred must be as provided
3.14 in a written agreement between the officer or employee and the public employer. The
3.15 agreement must be in a form specified by the executive director of the Minnesota State
3.16 Retirement System and must be consistent with the requirements for an eligible plan under
3.17 federal and state tax laws, regulations, and rulings.

3.18 Subd. 3. **Failure to implement plan.** The public employer must complete
3.19 implementation of the deferred compensation plan within 60 days of the request as
3.20 provided in subdivision 2. If the public employer fails to implement the deferred
3.21 compensation plan, the public employer may not defer compensation under any existing
3.22 or new deferred compensation plan from the date of the request until the date on which the
3.23 deferred compensation plan provided for in this section is implemented. Upon the petition
3.24 of a public officer or employee, the executive director of the Minnesota State Retirement
3.25 System may order the public officer's or employee's public employer to implement the
3.26 deferred compensation plan provided for in this section and may enforce that order
3.27 in appropriate legal proceedings.

3.28 Subd. 4. **Plan investments.** (a) Investments under the plan may include:

3.29 (1) shares in the Minnesota supplemental investment fund established in section
3.30 11A.17 that are selected to be offered under the plan by the State Board of Investment;

3.31 (2) saving accounts in federally insured financial institutions;

3.32 (3) life insurance contracts, fixed annuity and variable annuity contracts from
3.33 companies that are subject to regulation by the commissioner of commerce;

3.34 (4) investment options from open-end investment companies registered under the
3.35 federal Investment Company Act of 1940, United States Code, title 15, sections 80a-1
3.36 to 80a-64;

4.1 (5) investment options from a firm that is a registered investment advisor under the
4.2 Investment Advisers Act of 1940, United States Code, title 15, sections 80b-1 to 80b-21;

4.3 (6) investment options of a bank as defined in United States Code, title 15, section
4.4 80b-2, subsection (a), paragraph (2), or a bank holding company as defined in the Bank
4.5 Holding Company Act of 1956, United States Code, title 12, section 1841, subsection
4.6 (a), paragraph (1); or

4.7 (7) a combination of clause (1), (2), (3), (4), (5), or (6), as provided by the plan as
4.8 specified by the participant.

4.9 (b) All amounts contributed to the deferred compensation plan and all earnings
4.10 on those amounts must be held for the exclusive benefit of the plan participants and
4.11 beneficiaries. These amounts must be held in trust, in custodial accounts, or in qualifying
4.12 annuity contracts as required by federal law in accordance with section 356A.06,
4.13 subdivision 1. This subdivision does not authorize an employer contribution, except as
4.14 authorized in section 356.24, subdivision 1, paragraph (a), clause (5). The state, political
4.15 subdivision, or other employing unit is not responsible for any loss that may result from
4.16 investment of the deferred compensation.

4.17 Subd. 5. **State Board of Investment to determine investments.** (a) The State
4.18 Board of Investment shall determine the investment products to be made available under
4.19 the plan and may retain appropriate consulting services to assist in making the selections.
4.20 At a minimum, when selecting consultants, the State Board of Investment shall consider
4.21 the following:

4.22 (1) the experience and ability of the financial institution to provide benefits and
4.23 products that are suited to meet the needs of plan participants;

4.24 (2) the relationship of those benefits and products provided by the financial
4.25 institution to their cost;

4.26 (3) the financial strength and stability of the financial institution; and

4.27 (4) the fees and expenses associated with the investment products in comparison to
4.28 other products of similar risk and rates of return.

4.29 (b) If the State Board of Investment so elects, it may solicit bids for options under
4.30 subdivision 4, clauses (2), (3), (4), (5), and (6). The State Board of Investment may retain
4.31 consulting services to assist in soliciting and evaluating bids and in the periodic review of
4.32 companies offering options under subdivision 4, clauses (3), (4), (5), and (6). The periodic
4.33 review must occur at least every two years. The State Board of Investment may annually
4.34 establish a budget for its costs in soliciting, evaluation, and periodic review processes. All
4.35 options in subdivision 4 must be presented in an unbiased manner and in a manner that
4.36 conforms to rules adopted by the executive director, be reported on a periodic basis to all

5.1 participants in the deferred compensation plan, and not be the subject of unreasonable
5.2 solicitation of participants in the plan.

5.3 (c) Under the procedures set forth in the plan document, participants may select the
5.4 funds or combination of funds within which to invest and may reallocate those investments
5.5 as provided in the plan document and procedures established by the executive director.

5.6 (d) This section does not authorize an employer contribution, except as authorized in
5.7 section 356.24, subdivision 1, paragraph (a), clause (5).

5.8 (e) The state, the Minnesota State Retirement System, the executive director and
5.9 board of directors of the system, and participating public employers are not liable and not
5.10 responsible for any loss that may result from investment of the deferred compensation or
5.11 the investment choices made by the participants.

5.12 Subd. 6. **Plan administrative expenses.** (a) The reasonable and necessary
5.13 administrative expenses of the deferred compensation plan may be charged to plan
5.14 participants in the form of an annual fee, an asset-based fee, a percentage of the
5.15 contributions to the plan, or a combination thereof, as set forth in the plan document. The
5.16 executive director of the system at the direction of the board of directors shall establish
5.17 procedures to carry out this section including allocation of administrative costs of the plan
5.18 to participants. Processes and procedures shall be set forth in the plan document. Fees
5.19 cannot be charged on contributions and investment returns attributable to contributions
5.20 made to the Minnesota supplemental investment funds before July 1, 1992.

5.21 (b) The plan document must conform to federal and state tax laws, regulations, and
5.22 rulings, and is not subject to the Administrative Procedure Act.

5.23 (c) The executive director may contract with a third party to perform administrative
5.24 and record keeping functions. The executive director may solicit bids and negotiate such
5.25 contracts.

5.26 (d) The board of directors may authorize a third-party investment consultant to
5.27 provide investment information and advice, provided that the offering of such information
5.28 and advice is consistent with the investment advice requirements applicable to private
5.29 plans under Title VI, subtitle A, of the Pension Protection Act of 2006, Public Law
5.30 109-280, section 601.

5.31 Subd. 7. **Other laws not applicable.** Except as provided in this section, no
5.32 provisions of this chapter or other law specifically referring to this chapter applies to this
5.33 section unless the Minnesota deferred compensation plan is specifically referenced.

5.34 Subd. 8. **Exemption from process.** No amount of deferred compensation is
5.35 assignable or subject to execution, levy, attachment, garnishment, or other legal process,
5.36 except as provided in section 518.58, 518.581, or 518A.53.

6.1 Subd. 9. **Missing participants.** The plan document shall establish procedures to
6.2 assist in locating participants. If a participant cannot be located the participant's benefits
6.3 shall be deemed abandoned and the provisions of section 356.65 shall apply to their
6.4 disposition.

6.5 Sec. 3. Minnesota Statutes 2006, section 352.97, is amended to read:

6.6 **352.97 PRIOR DEFERRED COMPENSATION PLANS; CONSTRUCTION.**

6.7 Sections ~~352.96~~ 352.965 and 352.97 do not preempt, prohibit, ratify, or approve any
6.8 other deferred compensation plan established before or after June 3, 1975.

6.9 Sec. 4. Minnesota Statutes 2006, section 353D.12, subdivision 4, is amended to read:

6.10 **Subd. 4. Authorized rollovers.** To the extent allowed by federal law, the employee
6.11 purchase amount may be made with funds distributed from: (1) a plan qualified under
6.12 section 401(a) of the federal Internal Revenue Code, as amended; (2) an annuity qualified
6.13 under section 403(a) of the federal Internal Revenue Code, as amended; (3) an individual
6.14 retirement account used solely to receive a nontaxable rollover from that type of plan or
6.15 annuity; (4) the state deferred compensation plan authorized under section ~~352.96~~ 352.965
6.16 and qualified under section 457 of the federal Internal Revenue Code, as amended; or (5)
6.17 another tax qualified plan or annuity that authorizes rollovers. The participating elected
6.18 local government official shall supply sufficient written documentation that the transfer
6.19 amounts are eligible for tax-free rollover treatment. An authorized tax-free rollover, plus
6.20 any other purchase amount payments under this section, including subdivision 6, may not
6.21 exceed the limitation in subdivision 2, paragraph (a). Notwithstanding any provision of
6.22 state law or rule to the contrary, to the extent permitted under federal law, the employee
6.23 purchase amount may be transferred from the state deferred compensation plan before the
6.24 employee terminates public employment.

6.25 Sec. 5. Minnesota Statutes 2006, section 356.24, subdivision 1, is amended to read:

6.26 **Subdivision 1. Restriction; exceptions.** (a) It is unlawful for a school district
6.27 or other governmental subdivision or state agency to levy taxes for, or to contribute
6.28 public funds to a supplemental pension or deferred compensation plan that is established,
6.29 maintained, and operated in addition to a primary pension program for the benefit of the
6.30 governmental subdivision employees other than:

6.31 (1) to a supplemental pension plan that was established, maintained, and operated
6.32 before May 6, 1971;

7.1 (2) to a plan that provides solely for group health, hospital, disability, or death
7.2 benefits;

7.3 (3) to the individual retirement account plan established by chapter 354B;

7.4 (4) to a plan that provides solely for severance pay under section 465.72 to a retiring
7.5 or terminating employee;

7.6 (5) for employees other than personnel employed by the Board of Trustees of the
7.7 Minnesota State Colleges and Universities and covered under the Higher Education
7.8 Supplemental Retirement Plan under chapter 354C, but including city managers covered
7.9 by an alternative retirement arrangement under section 353.028, subdivision 3, paragraph
7.10 (a), or by the defined contribution plan of the Public Employees Retirement Association
7.11 under section 353.028, subdivision 3, paragraph (b), if the supplemental plan coverage is
7.12 provided for in a personnel policy of the public employer or in the collective bargaining
7.13 agreement between the public employer and the exclusive representative of public
7.14 employees in an appropriate unit or in the individual employment contract between a city
7.15 and a city manager, in an amount matching employee contributions on a dollar for dollar
7.16 basis, but not to exceed an employer contribution of \$2,000 a year per employee:

7.17 (i) to the state of Minnesota deferred compensation plan under section ~~352.96~~
7.18 352.965; or

7.19 (ii) in payment of the applicable portion of the contribution made to any investment
7.20 eligible under section 403(b) of the Internal Revenue Code, if the employing unit has
7.21 complied with any applicable pension plan provisions of the Internal Revenue Code with
7.22 respect to the tax-sheltered annuity program during the preceding calendar year;

7.23 (6) for personnel employed by the Board of Trustees of the Minnesota State Colleges
7.24 and Universities and not covered by clause (5), to the supplemental retirement plan under
7.25 chapter 354C, if the supplemental plan coverage is provided for in a personnel policy
7.26 or in the collective bargaining agreement of the public employer with the exclusive
7.27 representative of the covered employees in an appropriate unit, in an amount matching
7.28 employee contributions on a dollar for dollar basis, but not to exceed an employer
7.29 contribution of \$2,700 a year for each employee;

7.30 (7) to a supplemental plan or to a governmental trust to save for postretirement
7.31 health care expenses qualified for tax-preferred treatment under the Internal Revenue
7.32 Code, if the supplemental plan coverage is provided for in a personnel policy or in the
7.33 collective bargaining agreement of a public employer with the exclusive representative of
7.34 the covered employees in an appropriate unit;

7.35 (8) to the laborers national industrial pension fund or to a laborers local pension
7.36 fund for the employees of a governmental subdivision who are covered by a collective

8.1 bargaining agreement that provides for coverage by that fund and that sets forth a fund
8.2 contribution rate, but not to exceed an employer contribution of \$5,000 per year per
8.3 employee;

8.4 (9) to the plumbers and pipefitters national pension fund or to a plumbers and
8.5 pipefitters local pension fund for the employees of a governmental subdivision who are
8.6 covered by a collective bargaining agreement that provides for coverage by that fund and
8.7 that sets forth a fund contribution rate, but not to exceed an employer contribution of
8.8 \$5,000 per year per employee;

8.9 (10) to the international union of operating engineers pension fund for the employees
8.10 of a governmental subdivision who are covered by a collective bargaining agreement that
8.11 provides for coverage by that fund and that sets forth a fund contribution rate, but not to
8.12 exceed an employer contribution of \$5,000 per year per employee;

8.13 (11) to a supplemental plan organized and operated under the federal Internal
8.14 Revenue Code, as amended, that is wholly and solely funded by the employee's
8.15 accumulated sick leave, accumulated vacation leave, and accumulated severance pay; or

8.16 (12) to the International Association of Machinists national pension fund for the
8.17 employees of a governmental subdivision who are covered by a collective bargaining
8.18 agreement that provides for coverage by that fund and that sets forth a fund contribution
8.19 rate, but not to exceed an employer contribution of \$5,000 per year per employee.

8.20 (b) No governmental subdivision may make a contribution to a deferred
8.21 compensation plan operating under section 457 of the Internal Revenue Code for volunteer
8.22 or emergency on-call firefighters in lieu of providing retirement coverage under the federal
8.23 old age, survivors, and disability insurance program.

8.24 Sec. 6. Minnesota Statutes 2007 Supplement, section 356.96, subdivision 1, is
8.25 amended to read:

8.26 Subdivision 1. **Definitions.** (a) Unless the language or context clearly indicates that
8.27 a different meaning is intended, for the purpose of this section, the terms in paragraphs
8.28 (b) to (e) have the meanings given them.

8.29 (b) "Chief administrative officer" means the executive director of a covered pension
8.30 plan or the executive director's designee or representative.

8.31 (c) "Covered pension plan" means a plan enumerated in section 356.20, subdivision
8.32 2, clauses (1) to (4), (10), and (12) to (14), but does not mean the deferred compensation
8.33 plan administered under sections ~~352.96~~ 352.965 and 352.97 or to the postretirement
8.34 health care savings plan administered under section 352.98.

9.1 (d) "Governing board" means the Board of Trustees of the Public Employees
9.2 Retirement Association, the Board of Trustees of the Teachers Retirement Association, or
9.3 the Board of Directors of the Minnesota State Retirement System.

9.4 (e) "Person" includes an active, retired, deferred, or nonvested inactive participant in
9.5 a covered pension plan or a beneficiary of a participant, or an individual who has applied
9.6 to be a participant or who is or may be a survivor of a participant, or a state agency or
9.7 other governmental unit that employs active participants in a covered pension plan.

9.8 Sec. 7. Minnesota Statutes 2006, section 356B.10, subdivision 3, is amended to read:

9.9 Subd. 3. **Contracting procedures.** (a) The commissioner may enter into a contract
9.10 for facilities with a contractor to furnish the architectural, engineering, and related services
9.11 as well as the labor, materials, supplies, equipment, and related construction services on
9.12 the basis of a request for qualifications and competitive responses received through a
9.13 request for proposals process that must include the items listed in paragraphs (b) to (i).

9.14 (b) Before issuing a request for qualifications and a request for proposals, the
9.15 commissioner, with the assistance of the boards, shall prepare performance criteria and
9.16 specifications that include:

9.17 (1) a general floor plan or layout indicating the general dimensions of the public
9.18 building and space requirements;

9.19 (2) design criteria for the exterior and site area;

9.20 (3) performance specifications for all building systems and components to ensure
9.21 quality and cost efficiencies;

9.22 (4) conceptual floor plans for systems space;

9.23 (5) preferred types of interior finishes, styles of windows, lighting and outlets, doors,
9.24 and features such as built-in counters and telephone wiring;

9.25 (6) mechanical and electrical requirements;

9.26 (7) special interior features required; and

9.27 (8) a completion schedule.

9.28 (c) The commissioner shall first solicit statements of qualifications from eligible
9.29 contractors and select more than one qualified contractor based upon experience, technical
9.30 competence, past performance, capability to perform, and other appropriate facts.

9.31 Contractors selected under this process must be, employ, or have as a partner, member,
9.32 coventurer, or subcontractor, persons licensed and registered under chapter 326 to provide
9.33 the services required to design and complete the project. The commissioner does not
9.34 have to select any of the respondents if none reasonably fulfill the criteria set forth in
9.35 this paragraph.

10.1 (d) The contractors selected shall be asked to respond to a request for proposals.
10.2 Responses must include site plans, design concept, elevation, statement of material to
10.3 be used, floor layouts, a detailed development budget, and a total cost to complete the
10.4 project. The proposal must indicate that the contractor obtained at least two proposals
10.5 from subcontractors for each item of work and must set forth how the subcontractors
10.6 were selected. The commissioner, with the assistance of the boards, shall evaluate the
10.7 proposals based upon design, cost, quality, aesthetics, and the best overall value to the
10.8 state pension funds. The commissioner need not select any of the proposals submitted
10.9 and reserves the right to reject any and all proposals, and may terminate the process or
10.10 revise the request for proposals and solicit new proposals if the commissioner determines
10.11 that the best interests of the pension funds would be better served by doing so. Proposals
10.12 submitted are nonpublic data until the contract is awarded.

10.13 (e) The contractor selected must comply with sections 574.26 to 574.261. Before
10.14 executing a final contract, the contractor selected shall certify a firm construction price
10.15 and completion date.

10.16 (f) The commissioner may consider building sites in the city of St. Paul and
10.17 surrounding suburbs.

10.18 (g) Any land, building, or facility leased, constructed, or acquired and any leasehold
10.19 interest acquired under this section must be held by the state in trust for the three retirement
10.20 systems as tenants in common. Each retirement system fund must consider its interest as a
10.21 fixed asset of its pension fund in accordance with governmental accounting standards.

10.22 (h) The commissioner may lease to another governmental subdivision, to a private
10.23 company under contract with the State Board of Investment, or with the Board of Directors
10.24 of the Minnesota State Retirement System, whichever applies, to provide deferred
10.25 compensation services under section ~~352.96~~ 352.965, any portion of the funds' building
10.26 and lands that is not required for their direct use upon terms and conditions they deem to
10.27 be in the best interest of the pension funds. Any income accruing from the rentals must
10.28 be separately accounted for and utilized to offset ongoing administrative expenses and
10.29 any excess must be carried forward for future administrative expenses. The commissioner
10.30 may also enter into lease agreements for the establishment of satellite offices should the
10.31 boards find them to be necessary in order to assure their members reasonable access to
10.32 their services. The commissioner may lease under section 16B.24 any portion of the
10.33 facilities not required for the direct use of the boards.

10.34 (i) The boards shall formulate and adopt a written working agreement that sets forth
10.35 the nature of each retirement system's ownership interest, the duties and obligations of
10.36 each system toward the construction, operation, and maintenance costs of its facilities, and

11.1 identifies one retirement fund to serve as manager for operating and maintenance purposes.
11.2 The boards may contract with independent third parties for maintenance-related activities,
11.3 services, and supplies, and may use the services of the Department of Administration
11.4 where economically feasible to do so. If the boards cannot agree or resolve a dispute
11.5 about operations or maintenance of the facilities, they may request the commissioner of
11.6 administration to appoint a representative from the department's real estate management
11.7 division to serve as arbitrator of the dispute with authority to issue a written resolution
11.8 of the dispute.

11.9 Sec. 8. Minnesota Statutes 2006, section 363A.36, subdivision 1, is amended to read:

11.10 Subdivision 1. **Scope of application.** (a) For all contracts for goods and services in
11.11 excess of \$100,000, no department or agency of the state shall accept any bid or proposal
11.12 for a contract or agreement from any business having more than 40 full-time employees
11.13 within this state on a single working day during the previous 12 months, unless the
11.14 commissioner is in receipt of the business' affirmative action plan for the employment of
11.15 minority persons, women, and qualified disabled individuals. No department or agency of
11.16 the state shall execute any such contract or agreement until the affirmative action plan
11.17 has been approved by the commissioner. Receipt of a certificate of compliance issued by
11.18 the commissioner shall signify that a firm or business has an affirmative action plan that
11.19 has been approved by the commissioner. A certificate shall be valid for a period of two
11.20 years. A municipality as defined in section 466.01, subdivision 1, that receives state
11.21 money for any reason is encouraged to prepare and implement an affirmative action plan
11.22 for the employment of minority persons, women, and the qualified disabled and submit the
11.23 plan to the commissioner.

11.24 (b) This paragraph applies to a contract for goods or services in excess of \$100,000
11.25 to be entered into between a department or agency of the state and a business that is
11.26 not subject to paragraph (a), but that has more than 40 full-time employees on a single
11.27 working day during the previous 12 months in the state where the business has its primary
11.28 place of business. A department or agency of the state may not execute a contract or
11.29 agreement with a business covered by this paragraph unless the business has a certificate
11.30 of compliance issued by the commissioner under paragraph (a) or the business certifies
11.31 that it is in compliance with federal affirmative action requirements.

11.32 (c) This section does not apply to contracts entered into by the State Board of
11.33 Investment for investment options under section ~~352.96~~ 352.965, subdivision 4.

11.34 Sec. 9. Minnesota Statutes 2006, section 383B.914, subdivision 7, is amended to read:

12.1 Subd. 7. **Participation in state deferred compensation plan.** (a) Existing
 12.2 employees of the corporation, at the election of the corporation, if otherwise qualified,
 12.3 are eligible to participate in the Hennepin County supplemental retirement plan under
 12.4 sections 383B.46 and 383B.52.

12.5 (b) Existing and future employees of the corporation, at the election of the
 12.6 corporation, are eligible to participate in the Minnesota state deferred compensation
 12.7 plan under section ~~352.96~~ 352.965, the postretirement health care savings plan under
 12.8 section 352.98, and all other deferred compensation arrangements for which all persons
 12.9 employed by the county whose employment is accounted for in the county enterprise fund
 12.10 for HCMC were eligible.

12.11 Sec. 10. Minnesota Statutes 2006, section 518.003, subdivision 8, is amended to read:

12.12 Subd. 8. **Public pension plan.** "Public pension plan" means a pension plan or
 12.13 fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, the deferred
 12.14 compensation plan specified in section ~~352.96~~ 352.965, or any retirement or pension plan
 12.15 or fund, including a supplemental retirement plan or fund, established, maintained, or
 12.16 supported by a governmental subdivision or public body whose revenues are derived from
 12.17 taxation, fees, assessments, or from other public sources.

12.18 Sec. 11. **REPEALER.**

12.19 Minnesota Statutes 2006, section 352.96; and Minnesota Rules, parts 7905.0100;
 12.20 7905.0200; 7905.0300; 7905.0400; 7905.0500; 7905.0600; 7905.0700; 7905.0800;
 12.21 7905.0900; 7905.1000; 7905.1100; 7905.1200; 7905.1300; 7905.1400; 7905.1500;
 12.22 7905.1600; 7905.1700; 7905.1800; 7905.1900; 7905.2000; 7905.2100; 7905.2200;
 12.23 7905.2300; 7905.2400; 7905.2450; 7905.2500; 7905.2560; 7905.2600; 7905.2700;
 12.24 7905.2800; and 7905.2900, are repealed.