**S.F. 439**
(Saxhaug)

**H.F. 539**
(Nelson)

## Executive Summary of Commission Staff Materials

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|---|---|
| *Affected Pension Plan(s):* | Various plans |
| *Relevant Provisions of Law:* | Minnesota Statutes, Section 356.91 |
| *General Nature of Proposal:* | Mandate labor organization dues deductions; permit blind mailings |
| *Date of Summary:* | March 11, 2013 |

## Specific Proposed Changes

- The deduction of retirement annuity amounts by MSRS or PERA is made mandatory rather than permissive the dues deduction is clarified as membership dues and is expanded to include "other payments," the dues deduction frequency is expanded from twice annually to monthly, and the restriction against retirement annuity deductions for political purposes is eliminated.
- Labor organizations and retired public employee associations are permitted to have a public retirement system twice per year either mail directly voluntary membership information and dues deduction authorization cards to annuitants if the mailing does not have explicit political content, and if the organization pays the mailing costs or conducts the mailing through a mail center with a secure date share agreement in force where neither the organization or any other entity has access to the data.

## Policy Issues Raised by the Proposed Legislation

1. Appropriateness of making dues deduction a mandatory pension system duty.
2. Appropriateness of expanding deductions beyond dues to other payments.
3. Appropriateness of increased frequency of deductions.
4. Appropriateness of allowing retirement plan deducted dues for political purposes.
5. Appropriateness of authorizing blind mailings on behalf of labor organizations.

## Potential Amendments

No suggested amendments by Commission staff.

State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director LAM

RE: S.F. 439 (Saxhaug); H.F. 539 (Nelson): Various Plans; Mandating Certain Labor Organization Dues Deductions and Authorizing Blind Mailings to Annuitants

DATE: March 7, 2013

Summary of S.F. 439 (Saxhaug); H.F. 539 (Nelson)

S.F. 439 (Saxhaug); H.F. 539 (Nelson) amends Minnesota Statutes, Section 356.91, the authorization for the Minnesota State Retirement System (MSRS) or the Public Employees Retirement Association (PERA) to make voluntary membership dues deductions from retirees' retirement annuities, by making the following changes:

1. Mandatory Rather Than Permissive. The deduction of retirement annuity amounts by MSRS or PERA is made mandatory rather than permissive (line 1.11);

2. Expansion Beyond Dues. The dues deduction is clarified as membership dues and is expanded to include "other payments" (line 1.12);

3. Increased Frequency. The dues deduction frequency is expanded from twice annually to monthly (lines 1.14 and 1.19-1.20);

4. Political Purposes Permitted. The restriction against retirement annuity deductions for political purposes is eliminated (line 1.20); and

5. Authorized Blind Mailings. Labor organizations and retired public employee associations are permitted to have a public retirement system twice per year either mail directly voluntary membership information and dues deduction authorization cards to annuitants if the mailing does not have explicit political content, and if the organization pays the mailing costs or conducts the mailing through a mail center with a secure date share agreement in force where neither the organization or any other entity has access to the data (lines 1.20-2.12)

Discussion and Analysis

S.F. 439 (Saxhaug); H.F. 539 (Nelson) modifies the MSRS and PERA retiree dues deduction authority by making the deduction action mandatory for the retirement plan, by expanding the authority to payments beyond dues, by increasing the frequency of deductions to monthly, by eliminating the restriction on political purpose expenditures for dedicated dues, and by authorizing twice annual blind mailings to retirees.

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

1. Appropriateness of Making Dues Deduction a Mandatory Pension System Duty. The policy issue is whether or not it is appropriate to shift from permissive to mandatory the undertaking of making dues deductions. The 2008 enactment that first permitted dues deductions from retirement annuities by retirement systems made the decision to make deductions permissive by the pension plan's administrator. That permissive authorization presumably recognizes the fiduciary relationship between the retirement system and the retirees and provides the retirement system with leverage to insure that the deductions would be fully in accord with legal requirements. The Commission may wish to take testimony from the MSRS and PERA executive directors about making dues deductions an obligation for the retirement system.

2. Appropriateness of Expanding Deductions Beyond Dues to Other Payments. The policy issue is whether or not it is appropriate to expand the retirement annuity deduction authority beyond only dues deductions to the more nebulous "other payments." If "other payments" are amounts only tangentially related to the labor organization and the labor organization is intending to function as a pass-through agency for other goods, services, or expenditures, the expanded authority may represent an intrusion

into financial services more appropriately or more commonly undertaken by banks and savings institutions. The Commission should consider requesting from the labor organization or organizations that are sponsoring the proposed legislation as to what they intend by the authorization of "other payments."

3. Appropriateness of Increased Frequency of Deductions. The policy issue is whether or not increasing the frequency of the authorized deductions from twice annually to monthly is appropriate. The limit of deductions twice annually was an amendment added to the authorization by the Commission in 2008. The Commission declined in 2008 to set a minimum deduction amount as part of its consideration of the proposed authority. The Commission was obviously concerned about the potential burden it was placing on retirement systems in authorizing deductions. Now that the retirement systems have experience with making dues deductions, the MSRS and PERA executive directors may be able to better apprise the Commission of the difficulties and burdens that the expanded frequency of deduction may hold for them.

4. Appropriateness of Allowing Retirement Plan Deducted Dues for Political Purposes. The policy issue is whether or not it is appropriate to drop the restriction on using dues deducted by retirement systems for political purposes. Since labor organizations function in a political environment and since money is fungible, it may be that the restriction is unworkable in fact and the elimination of the restriction is simply a reflection of that circumstance. If the restriction is clear and capable of implementation and enforcement, then the proposed change may reflect an actual policy change that merits considerable scrutiny. The Commission may wish to request testimony from labor organizations about the expenditures supported by dues and the ability of those organizations to accommodate the restriction.

5. Appropriateness of Authorizing Blind Mailings on Behalf of Labor Organizations. The policy issue is whether or not authorizing blind mailings, done in-house or through a mail center, on behalf of a labor organization is appropriate. The new authorization references labor organizations "requesting" the retirement system to conduct the blind mailings, but does not clearly provide for the retirement system to decline to conduct the blind mailing. Although using permissive language, the new authorization may actually be another mandated retirement system duty. Retirement systems exist to perform the functions of record keeping for active members, benefit counseling for retiring members, and annuity payment for retired members. Adding the function of being a recruiting or communication tool for another entity, at best, could blur its primary function and, at worst, could conflict with its primary functions.

# SENATE
## STATE OF MINNESOTA
## EIGHTY-EIGHTH LEGISLATURE

**S.F. No. 439**

**(SENATE AUTHORS: SAXHAUG, Pappas, Hayden and Goodwin)**

| DATE | D-PG | OFFICIAL STATUS |
|---|---|---|
| 02/13/2013 | 218 | Introduction and first reading<br>Referred to State and Local Government |

A bill for an act

relating to retirement; modifying laws governing voluntary membership dues deductions from retirement annuities; amending Minnesota Statutes 2012, section 356.91.

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

Section 1. Minnesota Statutes 2012, section 356.91, is amended to read:

**356.91 VOLUNTARY MEMBERSHIP DUES DEDUCTION.**

(a) Upon written authorization of a person receiving an annuity from a public pension fund administered by the Minnesota State Retirement System or the Public Employees Retirement Association, the executive director of the public pension fund ~~may~~ shall deduct from the retirement annuity an amount requested by the annuitant to be paid as membership dues or other payments to any labor organization that is an exclusive bargaining agent representing public employees or an organization representing retired public employees of which the annuitant is a member and shall, on a monthly basis, pay the amount to the organization so designated by the annuitant.

(b) A pension fund and the plan fiduciaries which authorize or administer deductions of dues payments under paragraph (a) are not liable for failure to properly deduct or transmit the dues amounts, provided that the fund and the fiduciaries have acted in good faith.

(c) ~~The deductions under paragraph (a) may occur no more frequently than two times per year and may not be used for political purposes.~~ Any labor organization that is an exclusive bargaining agent representing public employees or an organization representing retired public employees may conduct blind mailings to the annuitants of a retirement system specified in paragraph (a) by requesting that the retirement system mail voluntary membership information and dues deduction cards to annuitants. Such mailings shall not be for the purpose of supporting or opposing any candidate, political party, or ballot measure. The organization requesting the blind mailing shall pay all costs associated with these mailings, including but not limited to copying, labeling, mailing, postage, and record keeping. In lieu of administering a blind mailing in-house, a retirement system may transmit annuitant data necessary for conducting a blind mailing to a mail center pursuant to a secure data share agreement with the mail center which provides that neither the organization nor any other entity shall have direct access to the data transmitted by the retirement system. The retirement system shall have no obligation to approve or disapprove, or otherwise be responsible for, the content of the mailings. No organization shall conduct more than two blind mailings per calendar year.

~~(d) Any labor organization specified in paragraph (a) shall reimburse the public pension fund for the administrative expense of withholding premium amounts.~~