



**S.F. 983**  
(Cohen)

**H.F. 953**  
(Hilstrom)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* Judges Retirement Plan  
*Relevant Provisions of Law:* Minnesota Statutes, Chapters 356 and 490  
*General Nature of Proposal:* Financial sustainability plan provisions and contribution revisions.  
*Date of Summary:* March 2, 2013

**Specific Proposed Changes**

- Reduces the benefit accrual rate; creation of Tier I and Tier II.
- Reduces the annual post-retirement adjustment rate for current retired judges.
- Increases the normal retirement age for Tier II benefit program.
- Eliminates the service credit maximum for Tier II benefit program.
- Increases member and employer contribution rates.

**Policy Issues Raised by the Proposed Legislation**

1. Appropriateness of reducing the post-retirement adjustment rate for current retired judges.
2. Appropriateness of the creation of another post-retirement adjustment mechanism.
3. Appropriateness of intended benefit diminutions.
4. Appropriateness of the funding trigger for restoration of full post-retirement adjustments.
5. Appropriateness of conditioning a member contribution rate increase on a judicial salary increase.
6. Uncertain positive actuarial impact from the creation of Tier II.
7. Unclear extent of the reversal of the current Judges Retirement Plan contribution deficiency.
8. Drafting considerations: clarification of Minnesota Statutes, Section 356.315.

**Potential Amendments**

S0983-1A makes structural and clarifying changes without any intended substantive impact.

S0983-2A amends Minn. Stat. Sec. 356.315, and specifically indicates in the statutory language to which retirement plan or plans each benefit accrual rate applies.

S0983-3A amends the various retirement plan retirement annuity computation statutes to reintroduce the applicable benefit accrual rate for each plan, program, and tier.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Lawrence A. Martin, Executive Director *JLM*  
RE: S.F. 983 (Cohen); H.F. 953 (Hilstrom): Judges Retirement Plan; Financial Sustainability Plan Provisions and Contribution Revisions  
DATE: March 2, 2013

General Summary of S.F. 983 (Cohen); H.F. 953 (Hilstrom)

S.F. 983 (Cohen); H.F. 953 (Hilstrom) amends Minnesota Statutes, Chapters 356 (Retirement, Generally) and 490 (Judges Retirement), to make modifications in the Uniform Judges Retirement Plan, as follows:

1. Reduced Benefit Accrual Rate; Creation of Tier I and Tier II. The benefit accrual rates (2.7% of the highest five successive years average salary for allowable service before July 1, 1980, and 3.2% for allowable service after June 30, 1980) of the Judges Retirement Plan are reduced as the Tier II benefit program for judges who first take office after June 30, 2013, and for judges in office on June 30, 2013, with less than five years of allowable service credit who elect to be covered by the Tier II benefit program. (Sec. 1, 5, 9, 11)
2. Reduced Annual Post-Retirement Adjustment Rate for Current Retired Judges. The 2010 reduced (2% instead of 2.5%) annual post-retirement adjustment rate is further reduced to 1.75% annually until the funded ratio of the Judges Retirement Plan, measured on a market value of assets basis, equals or exceeds 70%. (Sec. 2-3)
3. Increased Normal Retirement Age for Tier II Benefit Program. The normal retirement age of the Tier I benefit program remains at age 65, but is reset at age 66 for the Tier II benefit program. (Sec. 4)
4. Elimination of Service Credit Maximum for Tier II Benefit Program. The service credit maximum applicable to the Judges Retirement Plan, generally 24 years of allowable service credit, are eliminated for judges covered by the Tier II benefit program. (Sec. 6)
5. Revised Contribution Rates. The employer contribution rate required to be made by the State court Administrator for all judges is increased from 20.5% of covered salary to 22.5% of covered salary, the member contribution rate for judges covered by the Tier I benefit program is increased from 8.0% of covered salary to 9.0% of covered salary, and the member contribution rate for judges covered by the Tier II benefit program is set at 7.0% of covered salary. (Sec. 7-8, 10)

Section-by-Section Summary

A section-by-section summary of S.F. 983 (Cohen); H.F. 953 (Hilstrom) is attached.

Background Information on Relevant Topics

Background and related information applicable to the Judges Retirement Plan and potential modifications in the retirement plan are as follows:

- **Attachment A:** Summary of the actuarial work for the Judges Retirement Plan 1992-2012.
- **Attachment B:** History and significant features of the Uniform Judges Retirement Plan.
- **Attachment C:** Analysis from Mark Shepard, House Research, and Stephanie James, Senate Counsel, of the application of Article VI, Section 5, of the Minnesota Constitution to potential Judges Retirement Plan benefit modifications.
- **Attachment D:** Information on the 2010-2011 Minnesota post-retirement adjustment modifications.

Technical Amendment

**Amendment S0983-1A** makes various structural and clarifying changes without any intended substantive impact.

Discussion and Analysis

S.F. 983 (Cohen); H.F. 953 (Hilstrom) amends portions of Minnesota Statutes, Chapters 356 and 490, to create a second tier benefit plan in the Judges Retirement Plan with a reduced benefit accrual rate, and increased normal retirement age, and without a service credit maximum, to downsize annual post-

retirement adjustment rates for current retired judges to 1.75% annually until the funded rates on a market value basis of the Judges Retirement Plan reaches 70%, increases the employer contribution to the Judges Retirement Plan by 2% of covered salary after June 30, 2013, and increases the member contribution to the Judges Retirement Plan by 1% of covered salary at the start of the payroll period beginning after the granting of an increase in judicial salaries of at least 1%.

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

1. Appropriateness of Reducing the Post-Retirement Adjustment Rate for Current Retired Judges. The policy issue is whether or not the reduction in the post-retirement adjustment rate for the Judges Retirement Plan, affecting current retired judges, from 2% to 1.75% annually until the retirement plan becomes financially solvent is appropriate. The reduction in post-retirement adjustment rates produces immediate and significant reductions in a retirement plan's actuarial accrued liability, making it a valuable component of any attempt to gain financial sustainability. However, reducing future post-retirement adjustments for current retirees can be problematic, especially for retired judges. In 2010, legislation was enacted that downsized the post-retirement adjustment rates for the various statewide retirement plans, including the Judges Retirement Plan. Subsequent Minnesota district court litigation, Howard Swanson et al v. State of Minnesota (62-CV-10-05285), challenged the post-retirement adjustments. The litigation, with plaintiffs from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), and the Teachers Retirement Plan (TRA), but with no plaintiffs from the Judges Retirement Plan, determined on a motion for summary judgment by Ramsey District Court Judge Gregg Johnson, was not successful, with the judge finding that the Legislature in 2010 made a modest and reasonable alteration of post-retirement adjustment amount in an attempt to find a balanced approach to address an unprecedented financial deterioration suffered by the retirement plans that did not rise to constitutional proportions. The district court, in its decision, indicated that the primary Minnesota Supreme Court decision on judicial pension changes, Sylvestre v. Minnesota, 214 N.W.2d 658 (Minn. 1973), was determined by the Supreme Court in Christensen v. Minneapolis Municipal Employees Retirement Fund, 331 N.W.2d 740 (1983), as presenting a unilateral contract theory of Minnesota judicial retirement benefits that had no application outside its unique facts. The plaintiffs in Swanson did not appeal the district court decision to the Minnesota Court of Appeals. Whether the ruling in Sylvestre, which applied to judicial retirement benefits, created as a unilateral contract by a judge rendering service, which found that judicial retirement benefits were deferred judicial compensation, and which found that retirement benefits were consequently protected by the no diminishment clause of Section 5 of Article 6 of the Minnesota Constitution really has no current application to a downsizing of judicial pension benefits may not be a wise conclusion. The Commission should consider taking testimony from retired judges affected by the proposed legislation to ascertain the adequacy of communications with the retired judges group and whether that communication could rise to the level of implicit bargaining that the Minnesota Supreme Court has found binding on all judges in Anderson v. State, 214 N.W.2d 668 (Minn. 1973).
2. Appropriateness of the Creation of Another Post-Retirement Adjustment Mechanism. The policy issue is whether or not the creation of yet another post-retirement adjustment mechanism is appropriate. In 2010 and 2011 financial sustainability retirement legislation, the Legislature created eight different post-retirement adjustment mechanisms to replace the single 2008-2009 post-retirement adjustment mechanism applicable to the 13 statewide and major local retirement plans. The post-retirement adjustment proposed for the Judges Retirement Plan provides for a smaller annual post-retirement adjustment rate than the 2010 mechanism (1.75% instead of 2.0%), with a longer waiting before the initial post-retirement adjustment than the 2010 mechanism (18 months instead of six months), but with a more moderate trigger for the return to the 2008-2009 mechanism (70% funded on a market value of assets basis instead of 90% on a market value of assets basis).
3. Appropriateness of Intended Benefit Diminutions. The policy issue is whether or not it is appropriate for the Commission to recommend the benefit diminution in the form of the reduced post-retirement adjustment rate contained in the proposed legislation. The Commissions Pension Policy Principle II.C.22. provides:

II.C.22. No Intended Ultimate Benefit Diminutions

1. In recommending benefit plan modifications, the imposition of reductions in overall benefit coverage for existing pension plan members should not be recommended.
2. The imposition of a reduction in overall benefit coverage may be imposed for new pension plan members in order to achieve sound pension policy goals.
3. A reduction in some aspect or aspects of benefit coverage may be recommended in combination with a proposed benefit increase or benefit increases in implementing sound pension policy goals.

If the proposed benefit reduction for the Judges Retirement Plan is to be justified under the Commission's policy principles, it must be demonstrated that the diminishment is necessary to achieve sound pension policy goals, since the reduction is not part of a benefit decrease for benefit increase trade. While the maintenance of financial sustainability is clearly an implicit goal of Minnesota's public pension programs, it is unclear whether simple actuarial liability and cost reductions would have been the type of goals contemplated in the pension policy principles.

4. Appropriateness of the Funding Trigger for Restoration of Full Post-Retirement Adjustments. The policy issue is whether or not it is appropriate to set the trigger for the return to the full 2.5% annual automatic post-retirement adjustment rate at 70% funded on a market value asset basis rather than at 90% funded on a market value. The Judges Retirement Plan is funded on a market value basis at 51.17% as of July 1, 2012, down from 59.73% on the same basis as of July 1, 2011. The lowest previous trigger recommended by the Commission was for the two first class city teacher retirement fund associations at 80%, when, on a market value of assets basis, the Duluth Teachers Retirement Fund Association (DTRFA) would shift from no adjustment to a 1% adjustment rate and, on an actuarial value of assets basis, the St. Paul Teachers Retirement Fund Association (SPTRFA) would shift from a 1% adjustment rate to 2%. The 70% trigger is more obtainable by the Judges Retirement Plan than the 90% trigger, but implicit in most of the post-retirement adjustment mechanisms recommended by the Commission is a view that 90% funded on a market value of assets basis constitutes financial sustainable. Since upon attaining 70% funded status on a market value of assets basis, the Judges Retirement Plan would immediately shift to a 2.5% automatic adjustment rate, a 42.9% increase in the post-retirement adjustment liability is likely to have an immediate substantial decline in that newly obtained 70% funded ratio.
5. Appropriateness of Conditioning a Member Contribution Rate Increase on a Judicial Salary Increase. The policy issue is whether or not it is appropriate to condition a member contribution rate increase for the Judges Retirement Plan on the occurrence of a judicial pay raise. The Judges Retirement Plan member contribution currently only pays 40.98% of the normal cost and expenses of the plan, compared to 67.29%, 88.90% and 74.12% respectively for the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), and the Teachers Retirement Plan (TRA), and the Judges Retirement Plan member contribution currently only pays 18.11% of the total actuarial funding requirement of the retirement plan, compared to 40.58%, 43.22% and 34.67% respectively for MSRS-General, PERA-General, and TRA. If the practice with MSRS-General, PERA-General, and TRA represents good pension policy, the member contribution for the Judges Retirement Plan is considerably understated and an increase would be in order. A 1% increase, applicable only to current judges retaining Tier I coverage, would increase the member share of the Judges Retirement Plan normal cost and expenses figure to 46.43% and would increase the total actuarial requirements share to 20.52%, still far from the MSRS-General, PERA-General, and TRA. The member contribution for the new Tier II coverage would remain at the 7.00% level. The Tier I member contribution increase becomes effective only if the Legislature grants a judicial salary increase of at least 1%. No member contribution increase in any other Minnesota public pension plan has been conditioned in the enacting legislation on the occurrence of a salary increase. The conditioning of the salary increase on a judicial salary increase seems to reflect the trade for value sensibility that is found in the 1973 judicial retirement cases of Sylvestre and Anderson. If retired judges can be compelled to take a further reduction in their automatic post-retirement adjustment rate without any clear trade for comparable value, it is unclear why the active member contribution rate increase is premised on a salary increase of equal or greater value.
6. Uncertain Positive Actuarial Impact from the Creation of Tier II. The policy issue is whether or not the creation of a Judges Retirement Plan Tier II package of a slightly increased normal retirement age, a 21.9% reduction in the applicable benefit rate, the elimination of any salary credit maximum, and no member contribution rate increase provides any eventual net actuarial cost reductions that could improve the funded condition or contribution adequacy of the retirement plan. Tier II is mandatory for all judges elected or appointed after June 30, 2013, and is available to be elected by all judges with less than five years of service as of the date of the election if elected or appointed as a judge before July 1, 2013. The election period sunsets for current short-service judges on January 1, 2014. As of June 30, 2012, there were 46 judges with less than three years of allowable service credit in the Judges Retirement Plan and another 33 judges with between three years and five years of allowable service credit in the Judges Retirement Plan. The one-year increase in the normal retirement age (from age 65 to age 66) and the elimination of any service credit maximum could induce judges to delay retirement, potentially saving some actuarial cost, and the benefit accrual rate reduction will reduce pension liabilities, but the lack of any member contribution increase provides no positive pension liability impact, and the benefit downsizings will make the Judges Retirement Plan less desirable to practicing lawyers and could add to reported judicial recruitment problems. If the creation of Tier II prompts a

significant increase in the average entry age of new judges, that demographic factor could offset or overwhelm any actuarial gain from the creation of the new tier.

7. Unclear Extent of the Reversal of the Current Judges Retirement Plan Contribution Deficiency. The policy issue is whether or not the changes included in the proposed legislation will make any sizeable reversal of the current 13.5% of covered salary deficiency when the contributions of the retirement plan are compared with its full actuarial funding requirement, expressed as a percentage of covered salary. The following indicates the actuarial valuation results for the Judges Retirement Plan as of July 1, 2013, the actuarial cost estimate of the impact of the benefit changes in the proposed legislation, and the actuarial condition of the retirement plan as of July 1, 2012, if the proposed changes were in effect on that date:

	Judges Retirement Plan FY2012		Actuarial Impact of Contribution Rate Increases		Actuarial Impact of Post-Retirement Adjustment Rate Change		Resulting Condition Judges Retirement Plan	
Membership								
Active Members		308						308
Service Retirees		190						190
Disabilitants		25						25
Survivors		99						99
Deferred Retirees		17						17
Nonvested Former Members		0						0
Total Membership		639						639
Funded Status								
Accrued Liability		\$281,576,000				(\$5,200,000)		\$276,376,000
Current Assets		\$144,898,000				--		\$144,898,000
Unfunded Accrued Liability		\$136,678,000				(\$5,200,000)		\$131,478,000
Funding Ratio	51.46%				0.90%		52.43%	
Financing Requirements								
Covered Payroll		\$40,557,000	\$406,000					\$40,963,000
Benefits Payable		\$18,539,000						\$18,539,000
Normal Cost	18.18%	\$7,374,000			(0.30%)	(\$123,000)	17.88%	\$7,324,000
Administrative Expenses	0.17%	\$69,000	\$1,000		--	--	0.17%	\$70,000
Amortization	23.17%	\$9,397,000			(0.90%)	(\$369,000)	22.27%	\$9,122,000
Total Requirements	41.52%	\$16,840,000	\$1,000		(1.20%)	(\$492,000)	40.32%	\$16,516,000
Employee Contributions	7.52%	\$3,050,000	1.00%	\$410,000			8.52%	\$3,460,000
Employer Contributions	20.50%	\$8,314,000	2.00%	\$820,000			22.50%	\$9,134,000
Total Contributions	28.02%	\$11,364,000	3.00%	\$1,230,000			31.02%	\$12,594,000
Total Requirements	41.52%	\$16,840,000	--	--	(1.20%)	(\$492,000)	40.32%	\$16,516,000
Total Contributions	28.02%	\$11,364,000	3.00%	\$1,230,000	--	--	31.02%	\$12,594,000
Deficiency (Surplus)	13.50%	\$5,476,000	3.00%	\$1,230,000	(1.20%)	(\$492,000)	9.30%	\$3,922,000

8. Drafting Considerations: Clarification of Minnesota Statutes, Section 356.315. The policy issue is whether or not to clarify the specification of the benefit accrual rates in Minnesota Statutes, Section 356.315. In 1997, as part of the Benefit Uniformity Legislation enacted that year, the various benefit accrual rates of the various statewide and major local retirement plans were moved from their respective statute chapter to a single statute in Minnesota Statutes, Chapter 356, the Retirement, Generally law. The Office of the Revisor of Statutes notes that the current format of Minnesota Statutes, Section 356.315, has gotten more complex and the only clear indication of the retirement plan or program to which each benefit accrual rate specification applies can only be found in the headnote, which under Minnesota Statutes, Section 645.49, are more "catchwords" and are not part of the statute. Before the Revisor of Statutes attempts to resolve the lack of clarity in applicability in Minnesota Statutes, Section 356.315, the Commission staff decided to attempt to clarify the benefit accrual rates. Attached are two alternative amendments to address the issue:

**Amendment S0983-2A** amends Minnesota Statutes, Section 356.315, and specifically indicates in the statutory language to which retirement plan or plans each benefit accrual rate applies.

**Amendment S0983-3A** amends the various retirement plan retirement annuity computation statutes to reintroduce the applicable benefit accrual rate for each plan, program, and tier.

Section by Section Summary of S.F. 983 (Cohen); H.F. 953

Sec.	Pg.Ln	Stat. Provision	Retirement Plan	Subject Matter	Summary
1	1.11	356.315, New Subd. 8a	Judges Plan	Benefit accrual rate	Sets the Tier II benefit program benefit accrual rate at 2.5%.
2	1.15	356.415, Subd. 1	Judges Plan	Post-retirement adjustments	Adds an exception for the Judges Retirement Plan to the 2009 2.5% annual post-retirement adjustment provision.
3	2.17	356.415, Subd. 1f	Judges Plan	Post-retirement adjustments	Sets the annual post-retirement adjustment on and after January 1, 2014, at 1.75% annually until the Judges Plan becomes 70% funded on a market value of assets basis.
4	3.12	490.121, Subd. 21f	Judges Plan	Benefit accrual and normal retirement age	Limits the current normal retirement age of 65 to the Tier I benefit program and sets the Tier II benefit program normal retirement age at 66.
5	3.17	490.1221	Judges Plan	Benefit tiers	Delineates the coverages of the Judges Retirement Plan Tier I benefit program and the Tier II benefit program.
6	3.28	490.1222	Judges Plan	Benefit maximum	Excludes Judges Retirement Plan Tier II members from the service credit limit applicable to Tier I.
7	4.1	490.123, Subd. 1a	Judges Plan	Member contributions	Increases the Tier I member contribution rate to 9.00% of covered salary and sets the Tier II member contribution rate at 7.00% of covered salary.
8	4.15	490.123, Subd. 1b	Judges Plan	Employer contributions	Increases the employer contribution rate on all benefit program tiers to 22.5% of covered salary.
9	4.26	490.124, Subd. 1	Judges Plan	Benefit plan tiers	Retains the current normal retirement annuity calculation for Tier I benefit program judges and specifies the normal retirement annuity calculation, with a prospective post-12/31/13 service accrual rate reduction.
10	5.24	Uncoded	Judges Plan	Salary increase condition	Excludes from any post-2012 judicial salary increase for Tier I judges if the increased member contribution rate is not deducted from the judge's salary.
11	5.30	Uncoded	Judges Plan	Benefit plan tier election	Authorizes pre-7/1/2013 judges to elect benefit program Tier II benefit coverage.

	FY2012		FY2011		FY2010		FY2009		FY2008		FY2007		FY2006	
<b>Membership</b>														
Active Members	308	308	312	312	308	308	308	308	308	308	308	308	308	308
Service Retirees	190	176	170	162	181	171	169	169	169	169	169	169	169	169
Disabilitants	25	25	27	27	9	9	9	9	9	9	9	9	9	9
Survivors	99	96	94	96	89	83	83	83	83	83	83	83	83	83
Deferred Retirees	17	18	18	20	19	18	16	16	16	16	16	16	16	16
Nonvested Former Members	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Membership	639	623	621	617	606	589	580	580	580	580	580	580	580	580
<b>Funded Status</b>														
Accrued Liability	\$281,576,000	\$248,630,000	\$240,579,000	\$241,815,000	\$231,623,000	\$214,296,973	\$202,301,170	\$202,301,170	\$202,301,170	\$202,301,170	\$202,301,170	\$202,301,170	\$202,301,170	\$202,301,170
Current Assets	\$144,898,000	\$145,996,000	\$144,728,000	\$147,120,000	\$147,542,000	\$153,561,828	\$151,850,386	\$151,850,386	\$151,850,386	\$151,850,386	\$151,850,386	\$151,850,386	\$151,850,386	\$151,850,386
Unfunded Accrued Liability	\$136,678,000	\$102,634,000	\$95,851,000	\$94,695,000	\$84,081,000	\$60,735,145	\$50,450,784	\$50,450,784	\$50,450,784	\$50,450,784	\$50,450,784	\$50,450,784	\$50,450,784	\$50,450,784
Funding Ratio	51.46%	58.72%	60.16%	60.84%	63.70%	71.66%	75.06%	75.06%	75.06%	75.06%	75.06%	75.06%	75.06%	75.06%
<b>Financing Requirements</b>														
Covered Payroll	\$40,557,000	\$41,211,000	\$41,366,000	\$41,644,000	\$42,911,000	\$37,974,474	\$36,529,039	\$36,529,039	\$36,529,039	\$36,529,039	\$36,529,039	\$36,529,039	\$36,529,039	\$36,529,039
Benefits Payable	\$18,539,000	\$17,585,000	\$17,057,000	\$16,261,000	\$15,117,000	\$14,516,203	\$14,260,083	\$14,260,083	\$14,260,083	\$14,260,083	\$14,260,083	\$14,260,083	\$14,260,083	\$14,260,083
Normal Cost	18.18%	\$7,374,000	17.23%	\$7,102,000	17.10%	\$7,072,000	17.52%	\$7,295,000	16.21%	\$6,957,000	18.03%	\$6,848,676	17.91%	\$6,538,362
Administrative Expenses	0.17%	\$69,000	0.08%	\$33,000	0.10%	\$42,000	0.08%	\$33,000	0.14%	\$60,000	0.14%	\$53,164	0.17%	\$62,099
Amortization	23.17%	\$9,397,000	15.84%	\$6,528,000	14.46%	\$5,982,000	13.93%	\$5,801,000	11.80%	\$5,063,000	15.53%	\$5,897,448	12.65%	\$4,620,928
Total Requirements	41.52%	\$16,840,000	33.15%	\$13,663,000	31.66%	\$13,096,000	31.53%	\$13,129,000	28.15%	\$12,080,000	33.70%	\$12,799,288	30.73%	\$11,221,389
Employee Contributions	7.52%	\$3,050,000	7.48%	\$3,082,000	7.22%	\$2,988,000	7.30%	\$3,039,000	7.42%	\$3,186,000	8.00%	\$2,874,882	7.59%	\$2,772,195
Employer Contributions	20.50%	\$8,314,000	20.50%	\$8,448,000	20.02%	\$8,282,000	20.50%	\$8,537,000	20.50%	\$8,797,000	20.50%	\$7,784,783	20.50%	\$7,488,460
Employer Add'l Cont.	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Direct State Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Other Govt. Funding	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Administrative Assessment	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0	0.00%	\$0
Total Contributions	28.02%	\$11,364,000	27.98%	\$11,530,000	27.24%	\$11,270,000	27.80%	\$11,576,000	27.93%	\$11,983,000	28.07%	\$10,659,665	28.09%	\$10,260,655
Total Requirements	41.52%	\$16,840,000	33.15%	\$13,663,000	31.66%	\$13,096,000	31.53%	\$13,129,000	28.15%	\$12,080,000	33.70%	\$12,799,288	30.73%	\$11,221,389
Total Contributions	28.02%	\$11,364,000	27.98%	\$11,530,000	27.24%	\$11,270,000	27.80%	\$11,576,000	27.93%	\$11,983,000	28.07%	\$10,659,665	28.09%	\$10,260,655
Deficiency (Surplus)	13.50%	\$5,476,000	5.18%	\$2,133,000	4.41%	\$1,826,000	3.73%	\$1,553,000	0.22%	\$97,000	5.63%	\$2,139,623	2.64%	\$960,734
Amortization Target Date	2039	2038	2038	2038	2038	2038	2038	2038	2038	2038	2020	2020	2020	2020
Actuary	GRS	Mercer	Mercer	Mercer	Mercer	Mercer	Mercer	Mercer	Mercer	Mercer	Segal	Segal	Segal	Segal

+ \$ amt is 8% of contrib. members projected annual payroll  
 \* Reflects 2007 Asset Valuation Method change

Judges Plan Actuarial Valuation Data  
 Attachment A, p. 1 of 3

Actuarial Valuation Data by Year

Judges Retirement Plan

(JUDGES)

	2005	2004	2003	2002	2001	2000	1999
<b>Membership</b>							
Active Members	295	294	288	283	292	282	282
Service Retirees	163	162	160	164	155	153	149
Disabilitants	7	6	6	5	4	4	6
Survivors	85	86	87	87	88	82	83
Deferred Retirees	21	18	26	24	14	9	11
Nonvested Former Members	0	0	1	1	1	2	1
Total Membership	571	566	568	564	554	532	532
<b>Funded Status</b>							
Accrued Liability	\$191,413,999	\$190,338,344	\$176,291,000	\$171,921,000	\$165,244,000	\$153,660,000	\$139,649,000
Current Assets	<u>\$144,465,380</u>	<u>\$138,948,244</u>	<u>\$134,142,000</u>	<u>\$131,379,000</u>	<u>\$123,589,000</u>	<u>\$111,113,000</u>	<u>\$97,692,000</u>
Unfunded Accrued Liability	\$46,948,619	\$51,390,100	\$42,149,000	\$40,542,000	\$41,655,000	\$42,547,000	\$41,957,000
Funding Ratio	75.47%	73.00%	76.09%	76.42%	74.79%	72.31%	69.96%
<b>Financing Requirements</b>							
Covered Payroll	\$35,940,583	\$35,697,480	\$34,270,000	\$31,057,000	\$29,874,000	\$28,186,000	\$27,080,888
Benefits Payable	\$13,750,170	\$13,520,057	\$13,558,000	\$13,202,000	\$12,228,000	\$11,082,000	\$9,996,000
Normal Cost	17.71% \$6,365,882	17.44% \$6,224,006	16.91% \$5,797,000	16.76% \$5,204,000	16.44% \$4,913,000	16.30% \$4,593,000	16.08% \$4,363,000
Administrative Expenses	0.10% \$35,940	0.09% \$32,128	0.12% \$41,000	0.19% \$59,000	0.14% \$42,000	0.15% \$42,000	0.15% \$41,000
Amortization	<u>11.33%</u> <u>\$4,072,052</u>	<u>11.89%</u> <u>\$4,244,430</u>	<u>9.70%</u> <u>\$3,324,000</u>	<u>9.87%</u> <u>\$3,065,000</u>	<u>10.14%</u> <u>\$3,029,000</u>	<u>10.58%</u> <u>\$2,982,000</u>	<u>10.48%</u> <u>\$2,841,000</u>
Total Requirements	29.14% \$10,473,874	29.42% \$10,500,564	26.73% \$9,162,000	26.82% \$8,328,000	26.72% \$7,984,000	27.02% \$7,617,000	26.71% \$7,245,000
Employee Contributions	8.00% \$2,756,292	7.54% \$2,689,962	7.92% \$2,713,000	8.00% \$2,485,000	7.45% \$2,226,000	8.00% \$2,255,000	6.28% \$2,167,000
Employer Contributions	20.50% \$7,367,790	20.50% \$7,317,983	20.50% \$7,025,000	20.50% \$6,367,000	20.50% \$6,124,000	20.50% \$5,778,000	22.00% \$5,551,000
Employer Add'l Cont.	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Direct State Funding	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Other Govt. Funding	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Administrative Assessment	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>	<u>0.00%</u> <u>\$0</u>
Total Contributions	28.17% \$10,124,082	28.04% \$10,007,945	28.42% \$9,738,000	28.50% \$8,852,000	27.95% \$8,350,000	28.50% \$8,033,000	28.28% \$7,718,000
Total Requirements	29.14% \$10,473,874	29.42% \$10,500,564	26.73% \$9,162,000	26.82% \$8,328,000	26.72% \$7,984,000	27.02% \$7,617,000	26.71% \$7,245,000
Total Contributions	<u>28.17%</u> <u>\$10,124,082</u>	<u>28.04%</u> <u>\$10,007,945</u>	<u>28.42%</u> <u>\$9,738,000</u>	<u>28.50%</u> <u>\$8,852,000</u>	<u>27.95%</u> <u>\$8,350,000</u>	<u>28.50%</u> <u>\$8,033,000</u>	<u>28.28%</u> <u>\$7,718,000</u>
Deficiency (Surplus)	0.97% \$349,792	1.38% \$492,619	(1.69%) (\$576,000)	(1.68%) (\$524,000)	(1.23%) (\$366,000)	(1.48%) (\$416,000)	(1.57%) (\$473,000)
Amortization Target Date	2020	2020	2020	2020	2020	2020	2020
Actuary	Segal	Segal	Milliman USA	Milliman USA	Milliman USA	Milliman & Robertson	Milliman & Robertson

Judges Plan Actuarial Valuation Data  
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	1998	1997	1996	1995	1994	1993	1992
<b>Membership</b>							
Active Members	278	279	279	271	265	267	271
Service Retirees	148	142	133	131	127	123	111
Disabilitants	6	6	7	7	8	8	9
Survivors	83	79	76	77	72	69	66
Deferred Retirees	7	7	6	7	6	6	4
Nonvested Former Members	1	1	1	1	0	0	0
Total Membership	523	514	502	494	478	473	461
<b>Funded Status</b>							
Accrued Liability	\$130,727,000	\$117,714,000	\$108,150,000	\$102,238,000	\$98,313,000	\$90,509,000	\$83,969,000
Current Assets	\$86,578,000	\$74,680,000	\$64,851,000	\$56,813,000	\$50,428,000	\$44,156,000	\$37,768,000
Unfunded Accrued Liability	\$44,149,000	\$43,034,000	\$43,299,000	\$45,425,000	\$47,885,000	\$46,353,000	\$46,201,000
Funding Ratio	66.23%	63.44%	59.96%	55.57%	51.29%	48.79%	44.98%
<b>Financing Requirements</b>							
Covered Payroll	\$25,890,000	\$24,420,000	\$24,206,000	\$23,429,000	\$22,302,000	\$22,469,000	\$22,181,000
Benefits Payable	\$9,082,000	\$7,560,000	\$6,761,000	\$6,233,000	\$5,773,000	\$5,144,000	\$4,592,000
Normal Cost	16.00% \$4,141,000	16.24% \$3,965,000	17.30% \$4,187,638	17.15% \$4,018,074	17.68% \$3,942,994	16.67% \$3,745,582	16.72% \$3,708,663
Administrative Expenses	0.14% \$36,000	0.14% \$34,000	0.14% \$33,888	0.13% \$30,458	0.12% \$26,762	0.17% \$38,197	0.31% \$68,761
Amortization	11.18% \$2,895,000	11.22% \$2,740,000	9.57% \$2,316,514	10.04% \$2,352,272	10.47% \$2,335,019	9.45% \$2,123,321	9.56% \$2,120,504
Total Requirements	27.32% \$7,072,000	27.60% \$6,739,000	27.01% \$6,538,041	27.32% \$6,400,803	28.27% \$6,304,775	26.29% \$5,907,100	26.59% \$5,897,928
Employee Contributions	6.28% \$1,626,000	6.29% \$1,536,000	6.36% \$1,539,502	6.36% \$1,490,084	6.36% \$1,418,407	6.36% \$1,429,028	6.38% \$1,415,148
Employer Contributions	22.00% \$5,696,000	22.00% \$5,372,000	22.00% \$5,325,320	22.00% \$5,154,380	22.00% \$4,906,440	22.00% \$4,943,180	22.00% \$4,879,820
Employer Add'l Cont.	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Direct State Funding	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Other Govt. Funding	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Administrative Assessment	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0	0.00% \$0
Total Contributions	28.28% \$7,322,000	28.29% \$6,908,000	28.36% \$6,864,822	28.36% \$6,644,464	28.36% \$6,324,847	28.36% \$6,372,208	28.38% \$6,294,968
Total Requirements	27.32% \$7,072,000	27.60% \$6,739,000	27.01% \$6,538,041	27.32% \$6,400,803	28.27% \$6,304,775	26.29% \$5,907,100	26.59% \$5,897,928
Total Contributions	28.28% \$7,322,000	28.29% \$6,908,000	28.36% \$6,864,822	28.36% \$6,644,464	28.36% \$6,324,847	28.36% \$6,372,208	28.38% \$6,294,968
Deficiency (Surplus)	(0.96%) (\$250,000)	(0.69%) (\$169,000)	(1.35%) (\$326,781)	(1.04%) (\$243,662)	(0.09%) (\$20,072)	(2.07%) (\$465,108)	(1.79%) (\$397,040)
Amortization Target Date	2020	2020	2020	2020	2020	2020	2020
Actuary	Milliman & Robertson	Milliman & Robertson	Milliman & Robertson	Milliman & Robertson	Milliman & Robertson	Milliman & Robertson	Milliman & Robertson

Judges Plan Actuarial Valuation Data  
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## **Background Information on the History and Significant Features of the Uniform Judges Retirement Plan**

There have been six retirement plans for Minnesota judges and their survivors, the five old law plans and the current Judges Retirement Plan (Uniform Retirement and Survivors' Annuities for Judges Plan).

1. Old Law Judicial Retirement Plans. The five old law plans were:
  - the Supreme Court Justices Retirement Plan, established by legislative enactment in 1943, which provided retirement annuity and disability benefit coverage for justices of the Minnesota Supreme Court who entered service prior to January 1, 1974;
  - the District Court Judges Retirement Plan, established in 1925 by legislative enactment, which provided retirement annuity and disability benefit coverage for the judges of the various district courts in Minnesota who entered service as a judge prior to January 1, 1974;
  - the Probate and County Court Judges Retirement Plan, established by legislative enactment in 1931, which provided retirement annuity and disability benefit coverage for the judges of the various probate courts or subsequent county courts who entered into service prior to January 1, 1974;
  - the Supreme Court Justices and District Court Judges Survivor Benefit Plan, established in 1959, which provided survivor benefit coverage to the surviving spouses of deceased active or retired Supreme Court justices or District Court judges; and
  - the Probate and County Court Judges Survivor Benefit Plan, established in 1967, which provided survivor benefit coverage to surviving spouses of deceased active or retired probate or county court judges. The various justices and judges obtaining the survivor coverage were required to make a member contribution to fund the coverage, which was intended to be the sole financing of the coverage and was to be periodically revised based on the financial condition of the survivor funds.
  
2. Creation of the Uniform Judicial Retirement Plan. The Uniform Judicial Retirement Plan, Minnesota Statutes, Sections 490.121 to 490.133, was enacted in 1973. The Uniform Judicial Retirement Plan is the successor to several prior judicial retirement plans. The prior plans were applicable to the different levels of courts and judicial service and provided different levels of benefit coverage. The 1973 provisions were at the request of the Judicial Compensation Committee of the Minnesota State Bar Association, in conjunction with the Committee on Retirement of the District Judges Association and the County Judges Association. The plan standardized benefits for the judges in the various levels of courts, allowed existing judges to retain their prior coverage if they so desired, and extended Social Security coverage to existing judges on an individual election (referendum) basis and to newly appointed or elected judges on a mandatory basis. The Uniform Judicial Retirement Plan was apparently intended to provide better portability for individuals with varied judicial service, provide earlier vesting based on service credit only, improve deceased active member survivor benefit coverage, establish optional annuity forms for improved retired member survivor benefit flexibility, establish a pension fund for the plan with regular financing, and provide regular post-retirement adjustments.
  
3. Subsequent Amendments to the Uniform Judicial Retirement Plan. Since 1973, there have been a number of modifications in the uniform judicial retirement plan, as follows:
  - In 1975 (Laws 1975, Ch. 418, Sec. 3-4) a proportionate annuity based on accrued service credit at the mandatory retirement age was authorized by the Legislature.
  - In 1978 (Laws 1978, Ch. 627) the Legislature authorized fractional (portion of a year) service credit and authorized a refund to the survivor or estate of a deceased judge who is not eligible for survivor benefit coverage.
  - In 1980 (Laws 1980, Ch. 607, Art. 15, Sec. 16-17), the retirement annuity benefit accrual rate was increased by legislation from 2.5% to 3.0% for each year of service rendered after June 30, 1980, and the member contribution rate was increased by 0.50% of salary, with a 7.0% aggregate contribution (inclusive of the Social Security employee contribution).
  - In 1981 (Laws 1981, Ch. 319, Sec. 1-2) the Legislature approved an extension of active member survivor coverage to deferred annuitants during the period of that deferral and eliminated the surviving spouse or estate death refund.

- In 1982 (Laws 1982, Ch. 501, Sec. 24) with the creation of the Court of Appeals, judicial service with that court was included in coverage by the Judges Retirement Plan.
- In 1983 (Laws 1983, Ch. 286, Sec. 22) the Legislature provided that the initial disability benefit coverage, which is a two-year continuation of salary, may not continue beyond the mandatory retirement age.
- In 1984 (Laws 1984, Ch. 574, Sec. 16) the reduction factor used to calculate a reduced early retirement annuity was reset from 6.67% per year under age 65 to 6% per year under age 65.
- In 1988 (Laws 1988, Ch. 709, Art. 9, Sec. 4; Art. 10, Sec. 1-3) the service credit requirement for vesting for a normal or early retirement was reduced from ten years to five years. An unsubsidized bounceback joint-and-survivor optional retirement annuity form was authorized, the Social Security benefit offset from the coordinated program retirement annuity was reduced from 75% of the primary benefit amount to 50%, and the coordinated program member contribution rate was increased by 0.75% of salary.
- In 1989 (Laws 1989, Ch. 319, Art. 5, Sec. 1-7), the Combined Service Annuity portability mechanism was extended to the Uniform Judges Retirement Plan and former judges who return to judicial service were authorized to repay any prior refunds of member contributions and interest.
- In 1991 (Laws 1991, Ch. 345, Art. 1, Sec. 103-104) the terminal employer funding procedure for the fund was replaced with a regular concurrent employer contribution rate of 22% of salary. The coordinated program member contribution was revised to 4% of salary and the continuation of full salary initial judicial disability benefit was reduced from two years to one year. Prior to 1991, the employer contributions to the fund occurred only when benefits became payable—when the fund was required to transfer the full actuarial reserves to the State Board of Investment Post Retirement Fund.
- In 1992 (Laws 1992, Ch. 492, Art. 1, Sec. 1-3, 10; Ch. 598, Art. 1, Sec. 13) the 30-day time limit on electing an optional retirement annuity form was eliminated. The Social Security benefit offset from the coordinated program retirement annuity was repealed, the coordinated program member contribution was increased from 4% to 6.27% of pay, judges covered by the basic program were provided a second chance opportunity to elect prospective Social Security coverage, and the interest rate payable on refund repayments was increased from 6% to 8.5%.
- In 1993 (Laws 1993, Ch. 307, Art. 1, Sec. 41-42), the Legislature clarified that disabled judges earn a year of service credit for the year of full salary continuation, with the applicable salary rate credited in determining a final average salary for benefit computation, and with member contributions payable on that salary amount.
- In 1996 (Laws 1996, Ch. 438, Art. 1, Sec. 4) a death refund payable to the applicable estate was authorized if no other benefit is payable.
- In 1997 (Laws 1997, Ch. 233, Art. 1, Sec. 5, 66, 67, 72) the annual benefit accrual rates were increased to 2.7% from 2.5% for pre-July 1, 1980, service, and to 3.2% from 3.0% for post-June 30, 1980, service, while future annual post-retirement adjustments were reduced by 1%.
- In 1998 (Laws 1998, Ch. 390, Art. 5, Sec. 1-7) the member contribution rate was increased from 6.27% to 8.00%, the employer contribution rate was reduced from 22.0% to 20.5%, and the salaries of judges were increased by 1.5%.
- In 2000 (Laws 2000, Ch. 461, Art. 18, Sec. 1-9), the maximum benefit payable from the Judges Retirement Plan was revised from 70% of annual salary for the 12 months preceding retirement, to 76.8% of the high-five average salary (which, for a post-July 1, 1980, judge will occur at 24 years of service). Years of service beyond that point does not earn additional service credit in the Judges Retirement Plan, although the compensation during these “extra service years” can be used in computing the high-five average salary. After the service credit cap is reached, the judge’s continuing employee contribution is deposited into an account for the judge in the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), which is a defined contribution benefit plan. Also in 2000, the Combined Service Annuity law (Minn. Stat. Sec. 356.30) was amended to permit judges to use the full Judges Retirement Plan 3.2% accrual rate for post-July 1, 1980, service, rather than a 2.7% accrual rate, in a Combined Service Annuity.
- In 2001 (1<sup>st</sup> Spec. Sess. Laws 2001, Ch. 10, Art. 3, Sec. 27), the Judges Retirement Plan definition of allowable service was clarified to include any month in which the judge provided service, making the provision more consistent with service credit procedures used in other MSRS plans.

- In 2003 (Laws 2003, Ch. 112, Art. 2, Sec. 47) the Commissioner of Finance replaced the State Treasurer as the treasurer of the Judges Retirement Fund.
  - In 2004 (Laws 2004, Ch. 267, Art 3, Sec. 8; Art. 7, Sec. 7; Art. 9, Sec. 23, 26), the early retirement age was reduced from age 62 to age 60 and the interest on refunds of member contributions was indexed to the refund interest provision of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). A Uniformed Services Employment and Reemployment Rights Act (USERRA)-compliant military break-in-service credit purchase provision was added to the plan.
  - In 2005 (1<sup>st</sup> Spec. Sess. Laws 2005, Ch. 8 Art. 1, Sec. 30-31; Art 2, Sec. 2, 8; Art. 10, Sec. 79), the final average compensation definition was revised and the limitation on final average compensation was clarified. A definition of allowable service was expanded to include authorized leaves of absence with the payment of the equivalent of the normal cost of the retirement plan, the definition of actuarial equivalency was revised, and the prior plan-specific exemption from legal process provision was replaced by a generally applicable provision.
  - In 2006 (Laws 2006, Ch. 271, Art. 11) the Judges Retirement Plan statutory chapter was reorganized and updated and a death-while-eligible 100% joint-and-survivor annuity benefit was added to the plan.
  - In 2007 (Laws 2007, Ch. 134, Art. 2, Sec. 47-48) the definitions of “early retirement date” and “normal retirement date” were revised to shift from the last day of the month to the particular retirement date.
  - In 2009 (Laws 2009, Ch. 169, Art. 1, Sec. 74-76) the plan was disconnected from the Minnesota Post Retirement Investment Fund and covered by the flat 2.5% per year general post-retirement adjustment mechanism.
  - In 2010 (Laws 2010, Ch. 359, Art. 1, Sec. 76-77) the 2.5% post-retirement adjustment amount was reduced to 2.0% until the plan achieves 90% funded on a market value of assets basis.
4. Current Significant Features of the Judges Retirement Plan. The last Judges Retirement Plan basic members have now retired, or are no longer covered by the plan for their continued employment. Coordinated program members currently pay 8.00% of salary to the Judges Retirement Plan, and also make required contributions to the Social Security system. The employer contribution to the Judges Retirement Plan is 20.5% of salary.

The Judges Retirement Plan is a high-five average salary plan where average salary is defined as the average of the five highest years of salary during the last ten years prior to retirement. Normal retirement age is age 65 with at least five years of service. At retirement, the individual receives 2.7% of the average salary for year of service prior to July 1, 1980, and 3.2% of average salary for each year rendered on or after that date. The maximum pension payable from the plan is limited by a benefit cap of 76.8% of the high-five average salary, which is reached after 24 years of service. After an individual reaches the Judges Retirement Plan cap, employee contributions are redirected to MSRS-Unclassified, a defined contribution plan. The Judges Retirement Plan offers a single-life annuity covering only the member, or optional joint-and-survivor annuities providing survivor coverage, or term-certain annuities. Post-retirement increases are provided annually, at 2.0% per year until the retirement plan becomes 90% funded on a market value of assets basis and 2.5% thereafter. Any benefit payable from MSRS-Unclassified can be withdrawn or converted to an MSRS-General annuity.

The Judges Retirement Plan provides for disability benefits if there is a permanent inability to perform the functions of a judge. For the first year following the disability, no benefits are paid from any retirement fund; rather, the courts continue to pay full salary for one year following the date of disability. If the individual remains disabled, the individual begins to receive the larger of 25% of average salary or a retirement benefit without any reduction for early retirement computed on the years of service (including the one year of disability). The plan also has a death-while-active benefit and a refund provision.

The Judges Retirement Plan does have an early retirement provision. Members may retire as early as age 60 if they have five or more years of service. The benefit is reduced by 0.50% for each month the member is under age 65 at the time of retirement. This is equivalent to a 6% per year reduction.

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January 14, 2013

TO: Ed Burek, Legislative Commission on Pension and Retirement  
FROM: Mark Shepard, House Research  
Stephanie James, Senate Counsel, Research, and Fiscal Analysis  
RE: Proposed Legislation Affecting Judges' Pensions

### Issue

Because of projected unfunded liabilities in the judges' pension fund, the legislature may consider changes to laws governing judges' pensions. You asked for our thoughts on whether these proposed changes would violate Article VI, section 5, of the Minnesota Constitution, which provides (in part) that:

*"The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office."*

Article VI, section 7, of the Minnesota Constitution provides that:

*"The term of office of all judges shall be six years and until their successors are qualified."*

### Overview of Possible Changes

Current law requires that each judge contribute 8 percent of the judge's salary to the judges' pension plan, and that the employer contribute 20.5 percent of the judge's salary. The law specifies a pension that is payable upon retirement at the normal retirement age (a reduced pension is provided to judges who begin receiving the pension before the normal retirement age). The pension is calculated by multiplying 3.2 percent of high-five salary times years of service as a judge. Current law also provides a post-retirement adjustment of 2 percent each year.

Legislative proposals under consideration may do some or all of the following:

1. **Accrual rate.** For new judges (those first taking judicial office after this law takes effect), the 3.2 percent accrual rate per year of judicial services that is used to calculate a judge's initial pension would be reduced to 2.5 percent.
2. **Normal retirement age.** For new judges, the normal retirement age (the age at which a judge can get a full, unreduced pension would be 66, instead of 65).
3. **Post-retirement adjustment.** The post-retirement adjustment would be reduced from 2 percent to 1.75 percent, per year, for all judges, current and new, until the judges' retirement plan reaches a specified level of funding, at which point the adjustment will be restored to 2 percent each year.
4. **Contribution rate for current judges.** The amount that current judges have to pay into their pension fund will be increased from 8 to 9 percent of salary, but only if the 2013 Legislature increases judicial salaries by at least 1 percent.
5. **Contribution rate for new judges.** The amount that new judges have to pay into their pension fund will be decreased from 8 to 7 percent of salary (because the pension benefits are lower). Short-term current judges who do not yet have a vested pension (less than five years of service) will have a one-time option to be treated the same as new judges (i.e. lower contributions and lower benefits).

## Conclusions and Discussion

Our overall conclusion is that the proposals under consideration likely would not be subject to a successful legal challenge based on Article VI, section 5, either because a court would rule against a claim or because potential plaintiffs appear to have agreed to changes, and thus it is unlikely that anyone would file a lawsuit.

**Accrual rates, contribution rates, and normal retirement age for new judges.** All of the changes that would apply only to new judges do not seem to raise issues under Article VI, section 5, because they apply only to people who first become a judge after July 1, 2013. Because the proposed changes apply only to new judges, these changes would not diminish a judge's compensation during the term of office.<sup>1</sup>

**Change in post-retirement adjustment for current judges and new judges.** A reduction in post-retirement adjustments from 2 to 1.75 percent per year until a specified funding level is reached could be legally problematic as applied to current judges (not new judges), although the

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<sup>1</sup> We are not aware of Minnesota case law analyzing whether a different pension system, applied to new judges would violate the equal protection clause. The legislature previously has enacted two-tier provisions for other public employees. Case law from other states suggests that any equal protection challenge to the two-tier judicial pension system would be evaluated under a "rational basis" standard—the least rigorous standard of judicial review, and is likely to be upheld against an equal protection challenge. For example, in *Hudson v. Johnstone*, 660 P.2d 1180 (Alaska, 1983) the Alaska Supreme Court held that requiring new judges to contribute to their pensions, even though judges already in office did not have to contribute, did not violate equal protection.

outcome of a legal challenge would not be clear even with respect to current judges. The legislature enacted a similar provision in 2010, which was not challenged.<sup>2</sup> It is our understanding that there have been discussions with representatives of retired judges who would be affected by the proposed changes, and that the temporary reduction in the post-retirement adjustment has been agreed to as part of an overall package. If discussions with representatives of affected persons indicate that a legal challenge is unlikely, the uncertain legal outlook for such a challenge may not be a critical factor to legislative consideration of the provision. Even if this provision were enacted and challenged, the result of the challenge is not clear.

In *Sylvestre v. State*, 214 N.W.2d 658 (Minn. 1973), the Minnesota Supreme Court held that an attempt to reduce the basis for calculating judicial pensions was unconstitutional. The legislature had changed the basis for calculating these pensions from “the compensation allotted to the office” to “the compensation allotted for the office at the time of his retirement.” The effect of the change was that future increases in salary for active judges would not increase the pensions of retired judges. The court’s ruling that this change was unconstitutional was based primarily on a finding that the reductions unconstitutionally impaired contractual rights of judges.<sup>3</sup> While the court’s holding was not based explicitly on Article VI, section 5, the court stated that “...retirement pay constitutes deferred compensation, which cannot be diminished during the continuance in office of a judge.” The court noted that people who accept positions as judges often give up positions that pay more, anticipating that the state would continue to pay part of the judge’s salary after retirement, and that “Inflation affects retired judges the same as it does anyone else....” In conclusion, while *Sylvestre* was not based on Article VI, section 5, the decision would provide grounds for arguments that judges’ pensions are a form of “compensation” under Article VI, section 5, and that future post-retirement adjustments are part of this compensation.

While not binding on interpretation of the Minnesota Constitution, there is some federal case law holding that Congressional action blocking scheduled cost of living adjustments (COLAs) in federal judges’ salaries did not violate the clause in the United States Constitution which prohibits diminishing judicial compensation. *United States v. Will*, 449 U.S. 200 (1980). The federal case law on COLAs for active judges does not exactly match the facts of a potential judges’ pension case in Minnesota. But the rationale in cases such as *Will* could be used to argue in favor of supporting changes to post-retirement adjustments for Minnesota judges. That rationale is that a planned COLA can be changed before it fully “vests,” that the yearly adjustment can be seen as a planned, but not yet effective adjustment, and thus altering a formula

<sup>2</sup> In Laws 2010, chapter 359, article 1, section 77, the legislature provided that the post-retirement increase for most plans administered by the Minnesota State Retirement System (including the judges retirement plan) would be 2 percent per year (instead of 2.5 percent per year) until the market value of assets in a plan equaled at least 90 percent of actuarial accrued liabilities.

<sup>3</sup> The issue of whether a temporary reduction in future cost of living adjustments constitutes an unconstitutional impairment of contractual rights recently was litigated after the 2010 Legislature enacted laws provided for a temporary reduction. The Ramsey County district court held that the 2010 legislative changes, including a temporary reduction in future cost of living adjustments (including those for judges), was not an unconstitutional impairment of contract rights. We have not analyzed the impairment of contract issue in this memo because the arguments would be the same as those made in the Ramsey County litigation. The Ramsey County district court decision was not appealed, and is not binding on Minnesota appellate courts, but would likely serve as a deterrent to future plaintiffs who would make similar arguments.

for future adjustments does not unconstitutionally diminish judges' compensation. However, this issue is not clearly settled, even on the federal level.<sup>4</sup>

**Contribution rate for current judges.** It would be legally prudent to condition the increase in the required contribution rate for current judges on a judicial salary increase at least equal to the required increase in the judges' pension contribution.

While there is no directly applicable case law in Minnesota, there are cases from other jurisdictions holding that an increase in required contributions to pension plans without any corresponding change in other compensation, constitutes a prohibited diminution in compensation to a judge during the term of office. Most recently, in *Depascale v. State*, 47 A.3d 690 (N.J. 2012), the New Jersey Supreme Court ruled that required increases in judges' contributions to pension and health care plans, without corresponding salary increases, violated the clause in the New Jersey Constitution prohibiting diminishing judicial salary during the term of a judge's appointment. The New Jersey law requiring increased contributions applied to all public employees, not just judges. The magnitude of reductions in take-home pay for New Jersey judges was far greater than what may be proposed in Minnesota. The New Jersey court noted that after all the proposed contribution increases were phased in, judicial take-home pay would be reduced by approximately \$17,000 per year. Even though the changes in Minnesota would be much smaller, the principle that higher contributions constitute a diminution in salary is likely to apply. There is some contrary case law, upholding increased taxes applied to judicial salaries when the increased taxes apply generally to others. The increased pension contributions that may be proposed in Minnesota are more similar to the contribution increases rejected in New Jersey than to the increased taxes upheld in other jurisdictions:

The notion that Article VI, section 5, of the Minnesota Constitution protects judges against diminution of all "compensation," not just salary, is supported by a 1971 Minnesota Attorney General opinion. That opinion dealt with a 1971 law change forbidding payment of travel expenses from a judge's place of residence to the judge's chamber. The Attorney General believed that this law, reducing the amount of reimbursable expenses for judges, could not be applied to current judges. Op. Atty. Gen. 141-D-7, Dec. 22, 1971.

In conclusion, we think it is wise to condition the increased contribution in pension contribution for current judges on a matching salary increase for these judges. The effective date for the required pension contribution increase could be tied to the next increase in judicial salary, which would not necessarily have to be in 2013.

MS/SJ/mk

cc: David Bergstrom

Erin Leonard

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<sup>4</sup> See, e.g. *Beer v. United States*, 696 F.3d 1194 (C.A. Fed. 2012), in which the court ruled that federal legislation that blocked five years of COLAs for federal judges constituted an unconstitutional deprivation of judicial compensation in violation of the Compensation Clause.



## Background Information on the 2010-2011 Minnesota Post-Retirement Adjustment Modifications

In 2010 (Laws 2010, Ch. 359, Art. 1) and in 2011 (1st Spec. Sess. Laws 2011, Ch. 8, Art. 2), the post-retirement adjustment mechanisms of the 13 statewide and major local retirement plans were modified in a manner that reduced the actuarial accrued liabilities of the retirement plan.

For the 13 retirement plans, there were eight different approaches to the modifications, as follows:

1. The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), and the Judges Retirement Plan annual post-retirement adjustment rate was reduced from 2.5% to 2.0%, to be restored when the fund is 90% funded on a market value of assets basis, with a six-month waiting period imposed for initial increase.
2. The General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), the Local Government Correctional Service Retirement Plan (PERA-Correctional), and the MERF Division of the Public Employees Retirement Association (PERA) annual post-retirement adjustment rate was reduced from 2.5% to 1.0%, to be restored when the fund is 90% funded on a market value of assets basis, with the rate to be reduced subsequently if the fund later declines from 90% funded.
3. The Legislators Retirement Plan and the Elective State Officers Retirement Plan annual post-retirement adjustment rate was reduced from 2.5% to 2.0%, to be restored once MSRS-General is 90% funded on a market value of assets basis, and with the imposition of a six-month waiting period for initial increase.
4. The State Patrol Retirement Plan annual post-retirement adjustment rate was reduced from 2.5% to 1.5%, to be restored when the fund is 90% funded on a market value of assets basis, and with a six-month waiting period imposed for initial increase.
5. The Public Employees Police and Fire Retirement Plan (PERA-P&F) annual post-retirement adjustment rate was reduced from 2.5% to 1.0% for January 1, 2011, and January 1, 2012, then set equal to the CPI percentage for the preceding fiscal year, not to exceed 1.5% until the fund is 90% funded on a market value of assets basis, and then not to exceed 2.5%, and with the rate to be reduced again if the fund later declines from 90% funded.
6. The Teachers Retirement Association (TRA) annual post-retirement adjustment was suspended for January 1, 2011, and January 1, 2012. Starting January 1, 2013, the annual post-retirement adjustment rate was reduced from 2.5% to 2.0% thereafter, to be restored when the fund is 90% funded on a market value of assets basis, with a six-month waiting period imposed for initial increase.
7. The Duluth Teachers Retirement Fund Association (DTRFA) annual post-retirement adjustment was set at 0% when the fund is less than 80% funded on a market value of assets basis, 1% when the fund is 80% to 90% funded on a market value of assets basis, and 2% when the fund is more than 90% funded on a market value of assets basis. When the fund is 90% funded on an actuarial value of assets basis, the post-retirement adjustment rate moves to an inflation match up to 5%.
8. The St. Paul Teachers Retirement Fund Association (SPTRFA) automatic 2% post-retirement adjustment rate was suspended for January 1, 2011, and the automatic post-retirement adjustment was set at 1% when the fund is less than 80% funded on an actuarial value of assets basis, 2% until the fund is 90% funded on an actuarial value of assets basis, and when the fund is 90% funded on an actuarial value of assets basis, the automatic post-retirement adjustment rate moves to an inflation match up to 5%.

1.1 ..... moves to amend S.F. No. 983; H.F. No. 953, as follows:

1.2 Page 3, line 6, delete "after" and insert "on the January 1 next following"

1.3 Page 3, after line 17, insert:

1.4 "Sec. 5. Minnesota Statutes 2012, section 490.121, subdivision 22, is amended to read:

1.5 Subd. 22. **Service credit limit.** "Service credit limit" means, for a judge covered  
1.6 by tier I, the greater of: (1) 24 years of allowable service under this chapter; or (2), for  
1.7 judges a judge with allowable service rendered before July 1, 1980, the number of years of  
1.8 allowable service under chapter 490, which, when multiplied by the percentage listed in  
1.9 section 356.315, subdivision 7 or 8, whichever is applicable to each year of service, equals  
1.10 76.8. For a judge covered by tier II, there is no service credit limit.

1.11 Sec. 6. Minnesota Statutes 2012, section 490.121, is amended by adding a subdivision  
1.12 to read:

1.13 Subd. 25. **Tier I.** "Tier I" is the benefit program of the retirement plan with a  
1.14 membership specified by section 490.1221, paragraph (b), and governed by sections  
1.15 356.315, subdivisions 7 and 8; 356.415, subdivisions 1 and 1f; and 490.121 to 490.133,  
1.16 except as modified in sections 356.315, subdivision 8a; 490.121, subdivision 21f,  
1.17 paragraph (b); 490.1222; 490.123, subdivision 1a, paragraph (b); and 490.124, subdivision  
1.18 1, paragraphs (c) and (d).

1.19 Sec. 7 Minnesota Statutes 2012, section 490.121, is amended by adding a subdivision  
1.20 to read:

1.21 Subd. 26. **Tier II.** "Tier II" is the benefit program of the retirement plan with a  
1.22 membership specified by section 490.1221, paragraph (c), and governed by sections  
1.23 356.315, subdivision 8a; 356.415, subdivisions 1 and 1f; 490.121 to 490.133, as modified  
1.24 in section 490.121, subdivision 21f, paragraph (b); 490.1222; 490.123, subdivision 1a,  
1.25 paragraph (b); and 490.124, subdivision 1, paragraphs (c) and (d)."

1.26 Page 3, line 19, before "Members" insert "(a) "

1.27 Page 3, line 20, after "program." insert "(b)"

1.28 Page 3, line 22, after "service" insert "on or before December 30, 2013" and after "  
1.29 program." insert "(c)"

1.30 Page 3, line 25, after "2013," insert "had less than five years of allowable service on  
1.31 or before December 30, 2013,"

1.32 Page 5, line 25, delete ", due to action" and insert "enacted"

1.33 Page 5, line 26, delete the comma

1.34 Page 5, line 27, delete "a" and insert "that"

- 2.1 Page 5, line 29, delete "July 1, 2013" and insert "the day following final enactment"
- 2.2 Page 6, line 5, after "treatment" insert "in writing"
- 2.3 Page 6, line 8, delete "Any" and insert "An"
- 2.4 Page 6, line 9, after "elected" insert "by an eligible judge" and before "contributions"
- 2.5 insert "member"
- 2.6 Renumber the sections in sequence and correct the internal references
- 2.7 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 983; H.F. No. 953, as follows:

1.2 Page 1, delete section 1 and insert:

1.3 "Section 1. Minnesota Statutes 2012, section 356.315, is amended to read:

1.4 **356.315 RETIREMENT BENEFIT FORMULA PERCENTAGES.**

1.5 Subdivision 1. **Coordinated plan members.** The applicable benefit accrual rate for  
1.6 the general state employees retirement plan of the Minnesota State Retirement System, the  
1.7 coordinated program of the general employees retirement plan of the Public Employees  
1.8 Retirement Association, the coordinated program of the Teachers Retirement Association,  
1.9 the coordinated program of the St. Paul Teachers Retirement Fund Association, and  
1.10 the new law coordinated program of the Duluth Teachers Retirement Fund Association  
1.11 is 1.2 percent.

1.12 Subd. 1a. **Coordinated plan members.** The applicable benefit accrual rate for the  
1.13 coordinated program of the Teachers Retirement Association is 1.4 percent.

1.14 Subd. 2. **Coordinated plan members.** The applicable benefit accrual rate for the  
1.15 general state employees retirement plan of the Minnesota State Retirement System, the  
1.16 coordinated program of the general employees retirement plan of the Public Employees  
1.17 Retirement Association, the coordinated program of the Teachers Retirement Association,  
1.18 the coordinated program of the St. Paul Teachers Retirement Fund Association, and  
1.19 the new law coordinated program of the Duluth Teachers Retirement Fund Association  
1.20 is 1.7 percent.

1.21 Subd. 2a. **Coordinated members.** The applicable benefit accrual rate for the deputy  
1.22 state fire marshal fire/arson investigator retirement program is 2.0 percent.

1.23 Subd. 2b. **Certain coordinated program members.** The applicable benefit accrual  
1.24 rate for the coordinated program of the Teachers Retirement Association is 1.9 percent.

1.25 Subd. 3. **Basic plan members.** The applicable benefit accrual rate for the basic  
1.26 program of the general employees retirement plan of the Public Employees Retirement  
1.27 Association and for the basic program of the Teachers Retirement Association is 2.2  
1.28 percent.

1.29 Subd. 4. **Basic plan members.** The applicable benefit accrual rate for the basic  
1.30 program of the general employees retirement plan of the Public Employees Retirement  
1.31 Association and for the basic program of the Teachers Retirement Association is 2.7  
1.32 percent.

1.33 Subd. 5. **Correctional plan members.** The applicable benefit accrual rate for the  
1.34 correctional state employees retirement plan of the Minnesota State Retirement System

2.1 is 2.4 percent if employed as a correctional state employee before July 1, 2010, or 2.2  
2.2 percent if employed as a correctional state employee after June 30, 2010.

2.3 Subd. 5a. **Local government correctional service plan.** The applicable benefit  
2.4 accrual rate for the local government correctional service retirement plan of the Public  
2.5 Employees Retirement Association is 1.9 percent.

2.6 Subd. 6. **State troopers plan and police and fire plan members.** The applicable  
2.7 benefit accrual rate for the State Patrol retirement plan and for the public employees  
2.8 police and fire retirement plan is 3.0 percent.

2.9 Subd. 7. **Judges plan.** The applicable benefit accrual rate for the judges retirement  
2.10 plan is 2.7 percent.

2.11 Subd. 8. **Judges plan.** The applicable benefit accrual rate for the judges retirement  
2.12 plan is 3.2 percent.

2.13 Subd. 8a. **Judges plan tier II.** The applicable benefit accrual rate for tier II of  
2.14 the judges retirement plan is 2.5 percent.

2.15 Subd. 9. **Future benefit accrual rate increases.** ~~After January 2, 1998,~~ Benefit  
2.16 accrual rate ~~increases~~ increase proposals under this section must be drafted so as to apply  
2.17 only to allowable service or formula service rendered after the effective date of the benefit  
2.18 accrual rate increase.

2.19 **EFFECTIVE DATE.** This section is effective July 1, 2013."

2.20 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 983; H.F. No. 953, as follows:

1.2 Page 1, after line 10, insert:

1.3 "ARTICLE 1

1.4 JUDGES RETIREMENT BENEFIT PLAN MODIFICATIONS"

1.5 Page 6, after line 12, insert:

1.6 "ARTICLE 1

1.7 BENEFIT ACCRUAL RATE SPECIFICATION

1.8 Section 1. Minnesota Statutes 2012, section 352.115, subdivision 3, is amended to read:

1.9 Subd. 3. **Retirement annuity formula.** (a) This paragraph, in conjunction with  
1.10 section 352.116, subdivision 1, applies to a person who became a covered employee or a  
1.11 member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989,  
1.12 unless paragraph (b), in conjunction with section 352.116, subdivision 1a, produces a  
1.13 higher annuity amount, in which case paragraph (b) ~~will apply~~ applies. The employee's  
1.14 average salary, as defined in section 352.01, subdivision 14a, multiplied by ~~the 1.2 percent~~  
1.15 ~~specified in section 356.315, subdivision 1~~, per year of allowable service for the first ten  
1.16 years and ~~the 1.7 percent specified in section 356.315, subdivision 2~~, for each later year of  
1.17 allowable service and pro rata for completed months less than a full year ~~shall determine~~  
1.18 determines the amount of the retirement annuity to which the employee is entitled.

1.19 (b) This paragraph applies to a person who has become at least 55 years old and  
1.20 first became a covered employee after June 30, 1989, and to any other covered employee  
1.21 who has become at least 55 years old and whose annuity amount, when calculated under  
1.22 this paragraph and in conjunction with section 352.116, subdivision 1a, is higher than it is  
1.23 when calculated under paragraph (a), in conjunction with section 352.116, subdivision 1.  
1.24 The employee's average salary, as defined in section 352.01, subdivision 14a, multiplied  
1.25 by ~~the 1.7 percent specified in section 356.315, subdivision 2~~, for each year of allowable  
1.26 service and pro rata for months less than a full year ~~shall determine~~ determines the amount  
1.27 of the retirement annuity to which the employee is entitled.

1.28 Sec. 2. Minnesota Statutes 2012, section 352.87, subdivision 3, is amended to read:

1.29 Subd. 3. **Retirement annuity formula.** A person specified in subdivision 1 is  
1.30 entitled to receive a retirement annuity applicable for allowable service credit under this  
1.31 section calculated by multiplying the employee's average salary, as defined in section  
1.32 352.01, subdivision 14a, by ~~the 2.0 percent specified in section 356.315, subdivision 2a~~,  
1.33 for each year or portions of a year of allowable service credit. No reduction for retirement

2.1 before the normal retirement age, as specified in section 352.01, subdivision 25, applies  
2.2 to service to which this section applies.

2.3 Sec. 3. Minnesota Statutes 2012, section 352.93, subdivision 2, is amended to read:

2.4 Subd. 2. **Calculating monthly annuity.** The monthly annuity under this section  
2.5 must be determined by multiplying the average monthly salary by the number of years, or  
2.6 completed months, of covered correctional service by the 2.4 percent specified in section  
2.7 356.315, subdivision 5 if employed as a correctional state employee before July 1, 2010,  
2.8 or 2.2 percent if employed as a correctional state employee after June 30, 2010.

2.9 Sec. 4. Minnesota Statutes 2012, section 352.95, subdivision 1, is amended to read:

2.10 Subdivision 1. **Duty disability; computation of benefit.** A covered correctional  
2.11 employee who is determined to have a duty disability, physical or psychological, as  
2.12 defined under section 352.01, subdivision 17b, is entitled to a duty disability benefit. The  
2.13 duty disability benefit must be based on covered correctional service only. The duty  
2.14 disability benefit amount is 50 percent of the average salary defined in section 352.93,  
2.15 plus an additional 2.4 percent equal to that specified in section 356.315, subdivision 5, if  
2.16 employed as a correctional state employee before July 1, 2010, or 2.2 percent if employed  
2.17 as a correctional state employee after June 30, 2010for each year of covered correctional  
2.18 service in excess of 20 years, ten months, prorated for completed months.

2.19 Sec. 5. Minnesota Statutes 2012, section 352B.08, subdivision 2, is amended to read:

2.20 Subd. 2. **Normal retirement annuity.** The annuity must be paid in monthly  
2.21 installments. The annuity ~~shall be~~ is equal to the amount determined by multiplying the  
2.22 average monthly salary of the member by the 3.0 percent specified in section 356.315,  
2.23 subdivision 6, for each year and pro rata for completed months of service.

2.24 Sec. 6. Minnesota Statutes 2012, section 352B.10, subdivision 1, is amended to read:

2.25 Subdivision 1. **Duty disability.** A member who is determined to qualify for duty  
2.26 disability as defined in section 352B.011, subdivision 7, is entitled to receive a duty  
2.27 disability benefit while disabled. The benefits must be paid monthly. The duty disability  
2.28 benefit is an amount equal to the member's average monthly salary multiplied by 60 percent,  
2.29 plus an additional 3.0 percent equal to that specified in section 356.315, subdivision 6, for  
2.30 each year and pro rata for completed months of service in excess of 20 years, if any.

2.31 Sec. 7. Minnesota Statutes 2012, section 353.29, subdivision 3, is amended to read:

3.1 Subd. 3. **Retirement annuity formula.** (a) This paragraph, in conjunction with  
 3.2 section 353.30, subdivisions 1a, 1b, and 1c, applies to any member who first became a  
 3.3 public employee or a member of a pension fund listed in section 356.30, subdivision 3,  
 3.4 before July 1, 1989, unless paragraph (b), in conjunction with section 353.30, subdivision  
 3.5 5, produces a higher annuity amount, in which case paragraph (b) ~~will apply~~ applies. The  
 3.6 average salary as defined in section 353.01, subdivision 17a, multiplied by the 2.2 percent  
 3.7 specified in ~~section 356.315, subdivision 3,~~ for each year of allowable service for the  
 3.8 first ten years and thereafter by the 2.7 percent ~~specified in section 356.315, subdivision~~  
 3.9 ~~4,~~ per year of allowable service and completed months less than a full year for a basic  
 3.10 member; and the 1.2 percent ~~specified in section 356.315, subdivision 1,~~ for each year  
 3.11 of allowable service for the first ten years and thereafter by the 1.7 percent ~~specified in~~  
 3.12 ~~section 356.315, subdivision 2,~~ per year of allowable service and completed months less  
 3.13 than a full year for a coordinated member ~~shall determine~~ determines the amount of the  
 3.14 normal retirement annuity.

3.15 (b) This paragraph applies to a member who has become at least 55 years old and first  
 3.16 became a public employee after June 30, 1989, and to any other member whose annuity  
 3.17 amount, when calculated under this paragraph and in conjunction with section 353.30,  
 3.18 subdivision 5, is higher than it is when calculated under paragraph (a), in conjunction with  
 3.19 section 353.30, subdivisions 1a, 1b, and 1c. The average salary, as defined in section  
 3.20 353.01, subdivision 17a, multiplied by the 2.7 percent ~~specified in section 356.315,~~  
 3.21 ~~subdivision 4,~~ for each year of allowable service and completed months less than a full  
 3.22 year for a basic member and the 1.7 percent ~~specified in section 356.315, subdivision 2,~~  
 3.23 per year of allowable service and completed months less than a full year for a coordinated  
 3.24 member, ~~shall determine~~ determines the amount of the normal retirement annuity.

3.25 Sec. 8. Minnesota Statutes 2012, section 353.651, subdivision 3, is amended to read:

3.26 Subd. 3. **Retirement annuity formula.** The average salary as defined in section  
 3.27 353.01, subdivision 17a, multiplied by the 3.0 percent ~~specified in section 356.315,~~  
 3.28 ~~subdivision 6,~~ per year of allowable service determines the amount of the normal  
 3.29 retirement annuity. If the member has earned allowable service for performing services  
 3.30 other than those of a police officer or firefighter, the annuity representing that service must  
 3.31 be computed under sections 353.29 and 353.30.

3.32 Sec. 9. Minnesota Statutes 2012, section 353.656, subdivision 1, is amended to read:

3.33 Subdivision 1. **Duty disability; computation of benefits.** (a) A member of the  
 3.34 police and fire plan, other than a firefighter covered by section 353.6511, or a police



4.1 officer covered by section 353.6512, who is determined to qualify for duty disability as  
 4.2 defined in section 353.01, subdivision 41, ~~shall~~ is entitled to receive disability benefits  
 4.3 during the period of such disability in an amount equal to 60 percent of the average salary  
 4.4 as defined in section 353.01, subdivision 17a, plus an additional ~~percentage specified~~  
 4.5 ~~under section 356.315, subdivision 6,~~ 3.0 percent of that average salary for each year  
 4.6 of service in excess of 20 years.

4.7 (b) To be eligible for a benefit under paragraph (a), the member must have:

4.8 (1) not met the requirements for a retirement annuity under section 353.651,  
 4.9 subdivision 1; or

4.10 (2) met the requirements under that subdivision, but does not have at least 20 years  
 4.11 of allowable service credit.

4.12 (c) If paragraph (b), clause (2), applies, the disability benefit must be paid for a  
 4.13 period of 60 months from the disability benefit accrual date and at the end of that period  
 4.14 is subject to provisions of subdivision 5a.

4.15 (d) If the disability under this subdivision occurs before the member has at least five  
 4.16 years of allowable service credit in the police and fire plan, the disability benefit must be  
 4.17 computed on the average salary from which deductions were made for contribution to  
 4.18 the police and fire fund.

4.19 Sec. 10. Minnesota Statutes 2012, section 353.656, subdivision 1a, is amended to read:

4.20 Subd. 1a. **Total and permanent duty disability; computation of benefits.** (a) A  
 4.21 member of the police and fire plan, other than a firefighter covered by section 353.6511, or  
 4.22 a police officer covered by section 353.6512, whose disabling condition is determined  
 4.23 to be a duty disability that is also a permanent and total disability as defined in section  
 4.24 353.01, subdivision 19, is entitled to receive, for life, disability benefits in an amount  
 4.25 equal to 60 percent of the average salary as defined in section 353.01, subdivision 17a,  
 4.26 plus an additional 3.0 percent ~~specified in section 356.315, subdivision 6,~~ of that average  
 4.27 salary for each year of service in excess of 20 years.

4.28 (b) A disability benefit payable under paragraph (a) is subject to eligibility review  
 4.29 under section 353.33, subdivision 6, but the review may be waived if the executive  
 4.30 director receives a written statement from the association's medical advisor that no  
 4.31 improvement can be expected in the member's disabling condition that was the basis for  
 4.32 payment of the benefit under paragraph (a). A member receiving a disability benefit  
 4.33 under this subdivision who is found to no longer be permanently and totally disabled as  
 4.34 defined under section 353.01, subdivision 19, but continues to meet the definition for  
 4.35 receipt of a duty disability under section 353.01, subdivision 41, is subject to subdivision

5.1 1 upon written notice from the association's medical advisor that the person is no longer  
5.2 considered permanently and totally disabled.

5.3 (c) If a member approved for disability benefits under this subdivision dies before  
5.4 attaining normal retirement age as defined in section 353.01, subdivision 37, paragraph  
5.5 (b), or within 60 months of the effective date of the disability, whichever is later,  
5.6 the surviving spouse is entitled to receive a survivor benefit under section 353.657,  
5.7 subdivision 2, paragraph (a), clause (1), if the death is the direct result of the disabling  
5.8 condition for which disability benefits were approved, or section 353.657, subdivision  
5.9 2, paragraph (a), clause (2), if the death is not directly related to the disabling condition  
5.10 for which benefits were approved under this subdivision.

5.11 (d) If the election of an actuarial equivalent optional annuity is not made at the time  
5.12 the permanent and total disability benefit accrues, an election must be made within 90  
5.13 days before the member attains normal retirement age as defined under section 353.01,  
5.14 subdivision 37, paragraph (b), or having collected total and permanent disability benefits  
5.15 for 60 months, whichever is later. If a member receiving disability benefits who has  
5.16 dependent children dies, subdivision 6a, paragraph (c), applies.

5.17 Sec. 11. Minnesota Statutes 2012, section 353.656, subdivision 3a, is amended to read:

5.18 Subd. 3a. **Total and permanent regular disability; computation of benefits.** (a)  
5.19 A member of the police and fire plan, other than a firefighter covered by section 353.6511,  
5.20 or a police officer covered by section 353.6512, whose disabling condition is determined  
5.21 to be a regular disability under section 353.01, subdivision 46, that is also a permanent  
5.22 and total disability as defined in section 353.01, subdivision 19, is entitled to receive, for  
5.23 life, a disability benefit in an amount equal to 45 percent of the average salary as defined  
5.24 in section 353.01, subdivision 17a, plus an additional 3.0 percent ~~specified in section~~  
5.25 ~~356.315, subdivision 6,~~ of that average salary for each year of service in excess of 15 years.

5.26 (b) A disability benefit payable under paragraph (a) is subject to eligibility review  
5.27 under section 353.33, subdivision 6, but the review may be waived if the executive  
5.28 director receives a written statement from the association's medical advisor that no  
5.29 improvement can be expected in the member's disabling condition that was the basis for  
5.30 payment of the benefit under paragraph (a). A member receiving a disability benefit under  
5.31 this subdivision who is found to no longer be permanently and totally disabled as defined  
5.32 under section 353.01, subdivision 19, but continues to meet the definition for receipt  
5.33 of a regular disability under section 353.01, subdivision 46, is subject to subdivision 3  
5.34 upon written notice from the association's medical advisor that the person is no longer  
5.35 considered permanently and totally disabled.

6.1 (c) A member approved for disability benefits under this subdivision may elect  
 6.2 to receive a normal disability benefit or an actuarial equivalent optional annuity. If the  
 6.3 election of an actuarial equivalent optional annuity is not made at the time the total and  
 6.4 permanent disability benefit accrues, an election must be made within 90 days before  
 6.5 the member attains normal retirement age as defined in section 353.01, subdivision 37,  
 6.6 paragraph (b), or having collected disability benefits for 60 months, whichever is later.  
 6.7 No surviving spouse benefits are payable if the member dies during the period in which  
 6.8 a normal total and permanent disability benefit is being paid. If a member receiving  
 6.9 disability benefits who has dependent children dies, subdivision 6a, paragraph (c), applies.

6.10 Sec. 12. Minnesota Statutes 2012, section 353E.04, subdivision 3, is amended to read:

6.11 Subd. 3. **Annuity amount.** (a) The average salary as defined in subdivision 2,  
 6.12 multiplied by the 1.9 percent specified in section 356.315, subdivision 5a, for each year of  
 6.13 allowable service, determines the amount of the normal retirement annuity.

6.14 (b) If a person has earned allowable service in the general employees retirement plan  
 6.15 of the Public Employees Retirement Association or the public employees police and fire  
 6.16 fund prior to retirement plan before participation under this chapter, the retirement annuity  
 6.17 representing such service must be computed in accordance with the formula specified in  
 6.18 sections 353.29 and 353.30 or 353.651, whichever applies.

6.19 Sec. 13. Minnesota Statutes 2012, section 353E.06, subdivision 1, is amended to read:

6.20 Subdivision 1. **Duty disability qualification requirements.** A local government  
 6.21 correctional employee who is determined to qualify for a duty disability as defined in  
 6.22 section 353E.001, subdivision 1, is entitled to a disability benefit. The disability benefit  
 6.23 must be based on covered service under this chapter only and is an amount equal to 47.5  
 6.24 percent of the average salary defined in section 353E.04, subdivision 2, plus an additional  
 6.25 1.9 percent equal to that specified in section 356.315, subdivision 5a, for each year of  
 6.26 covered service under this chapter in excess of 25 years.

6.27 Sec. 14. Minnesota Statutes 2012, section 354.44, subdivision 6, is amended to read:

6.28 Subd. 6. **Computation of formula program retirement annuity.** (a) The formula  
 6.29 retirement annuity must be computed in accordance with the applicable provisions of the  
 6.30 formulas stated in paragraph (b) or (d) on the basis of each member's average salary under  
 6.31 section 354.05, subdivision 13a, for the period of the member's formula service credit.

6.32 (b) This paragraph, in conjunction with paragraph (c), applies to a person who first  
 6.33 became a member of the association or a member of a pension fund listed in section

7.1 356.30, subdivision 3, before July 1, 1989, unless paragraph (d), in conjunction with  
 7.2 paragraph (e), produces a higher annuity amount, in which case paragraph (d) applies. The  
 7.3 average salary as defined in section 354.05, subdivision 13a, multiplied by the following  
 7.4 percentages per year of formula service credit shall determine the amount of the annuity to  
 7.5 which the member qualifying therefor is entitled for service rendered before July 1, 2006:

	Coordinated Member	Basic Member
7.6		
7.7	Each year of service during	the <u>1.2</u> percent specified
7.8	first ten	<del>in section 356.315,</del>
7.9		subdivision 1, per year
7.10	Each year of service	the <u>1.7</u> percent specified
7.11	thereafter	<del>in section 356.315,</del>
7.12		subdivision 2, per year

7.13 For service rendered on or after July 1, 2006, the average salary as defined in section  
 7.14 354.05, subdivision 13a, multiplied by the following percentages per year of service credit,  
 7.15 determines the amount the annuity to which the member qualifying therefor is entitled:

	Coordinated Member	Basic Member
7.16		
7.17	Each year of service during	the <u>1.4</u> percent specified
7.18	first ten	<del>in section 356.315,</del>
7.19		subdivision 1a, per year
7.20	Each year of service after	the <u>1.9</u> percent specified
7.21	ten years of service	<del>in section 356.315,</del>
7.22		subdivision 2b, per year

7.23 (c)(i) This paragraph applies only to a person who first became a member of the  
 7.24 association or a member of a pension fund listed in section 356.30, subdivision 3, before  
 7.25 July 1, 1989, and whose annuity is higher when calculated under paragraph (b), in  
 7.26 conjunction with this paragraph than when calculated under paragraph (d), in conjunction  
 7.27 with paragraph (e).

7.28 (ii) Where any member retires prior to normal retirement age under a formula  
 7.29 annuity, the member shall be paid a retirement annuity in an amount equal to the normal  
 7.30 annuity provided in paragraph (b) reduced by one-quarter of one percent for each month  
 7.31 that the member is under normal retirement age at the time of retirement except that for  
 7.32 any member who has 30 or more years of allowable service credit, the reduction shall be  
 7.33 applied only for each month that the member is under age 62.

7.34 (iii) Any member whose attained age plus credited allowable service totals 90 years  
 7.35 is entitled, upon application, to a retirement annuity in an amount equal to the normal  
 7.36 annuity provided in paragraph (b), without any reduction by reason of early retirement.

7.37 (d) This paragraph applies to a member who has become at least 55 years old and  
 7.38 first became a member of the association after June 30, 1989, and to any other member  
 7.39 who has become at least 55 years old and whose annuity amount when calculated

8.1 under this paragraph and in conjunction with paragraph (e), is higher than it is when  
 8.2 calculated under paragraph (b), in conjunction with paragraph (c). For a basic member,  
 8.3 the average salary, as defined in section 354.05, subdivision 13a, multiplied by ~~the 2.7~~  
 8.4 ~~percent specified by section 356.315, subdivision 4,~~ for each year of service for a basic  
 8.5 member ~~shall determine~~ determines the amount of the retirement annuity to which the  
 8.6 basic member is entitled. The annuity of a basic member who was a member of the  
 8.7 former Minneapolis Teachers Retirement Fund Association as of June 30, 2006, must be  
 8.8 determined according to the annuity formula under the articles of incorporation of the  
 8.9 former Minneapolis Teachers Retirement Fund Association in effect as of that date. For a  
 8.10 coordinated member, the average salary, as defined in section 354.05, subdivision 13a,  
 8.11 multiplied by ~~the 1.7 percent specified in section 356.315, subdivision 2,~~ for each year of  
 8.12 service rendered before July 1, 2006, and by ~~the 1.9 percent specified in section 356.315,~~  
 8.13 ~~subdivision 2b,~~ for each year of service rendered on or after July 1, 2006, determines the  
 8.14 amount of the retirement annuity to which the coordinated member is entitled.

8.15 (e) This paragraph applies to a person who has become at least 55 years old and first  
 8.16 becomes a member of the association after June 30, 1989, and to any other member who  
 8.17 has become at least 55 years old and whose annuity is higher when calculated under  
 8.18 paragraph (d) in conjunction with this paragraph than when calculated under paragraph  
 8.19 (b), in conjunction with paragraph (c). An employee who retires under the formula annuity  
 8.20 before the normal retirement age shall be paid the normal annuity provided in paragraph  
 8.21 (d) reduced so that the reduced annuity is the actuarial equivalent of the annuity that would  
 8.22 be payable to the employee if the employee deferred receipt of the annuity and the annuity  
 8.23 amount were augmented at an annual rate of three percent compounded annually from the  
 8.24 day the annuity begins to accrue until the normal retirement age if the employee became  
 8.25 an employee before July 1, 2006, and at 2.5 percent compounded annually if the employee  
 8.26 becomes an employee after June 30, 2006.

8.27 (f) No retirement annuity is payable to a former employee with a salary that exceeds  
 8.28 95 percent of the governor's salary unless and until the salary figures used in computing  
 8.29 the highest five successive years average salary under paragraph (a) have been audited by  
 8.30 the Teachers Retirement Association and determined by the executive director to comply  
 8.31 with the requirements and limitations of section 354.05, subdivisions 35 and 35a.

8.32 Sec. 15. Minnesota Statutes 2012, section 354A.31, subdivision 4, is amended to read:

8.33 **Subd. 4. Computation of normal coordinated retirement annuity; St. Paul**  
 8.34 **fund.** (a) This subdivision applies to the coordinated program of the St. Paul Teachers  
 8.35 Retirement Fund Association.

9.1 (b) The normal coordinated retirement annuity is an amount equal to a retiring  
 9.2 coordinated member's average salary under section 354A.011, subdivision 7a, multiplied  
 9.3 by the retirement annuity formula percentage.

9.4 (c) This paragraph, in conjunction with subdivision 6, applies to a person who first  
 9.5 became a member or a member in a pension fund listed in section 356.30, subdivision 3,  
 9.6 before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a  
 9.7 higher annuity amount, in which case paragraph (d) will apply. The retirement annuity  
 9.8 formula percentage for purposes of this paragraph is the 1.2 percent specified in section  
 9.9 ~~356.315, subdivision 1~~, per year for each year of coordinated service for the first ten  
 9.10 years and the 1.7 percent specified in section ~~356.315, subdivision 2~~, for each year of  
 9.11 coordinated service thereafter.

9.12 (d) This paragraph applies to a person who has become at least 55 years old and who  
 9.13 first becomes a member after June 30, 1989, and to any other member who has become  
 9.14 at least 55 years old and whose annuity amount, when calculated under this paragraph  
 9.15 and in conjunction with subdivision 7 is higher than it is when calculated under paragraph  
 9.16 (c), in conjunction with the provisions of subdivision 6. The retirement annuity formula  
 9.17 percentage for purposes of this paragraph is the 1.7 percent specified in section ~~356.315,~~  
 9.18 ~~subdivision 2~~, for each year of coordinated service.

9.19 Sec. 16. Minnesota Statutes 2012, section 354A.31, subdivision 4a, is amended to read:

9.20 **Subd. 4a. Computation of normal coordinated retirement annuity; Duluth**  
 9.21 **fund.** (a) This subdivision applies to the new law coordinated program of the Duluth  
 9.22 Teachers Retirement Fund Association.

9.23 (b) The normal coordinated retirement annuity is an amount equal to a retiring  
 9.24 coordinated member's average salary under section 354A.011, subdivision 7a, multiplied  
 9.25 by the retirement annuity formula percentage.

9.26 (c) This paragraph, in conjunction with subdivision 6, applies to a person who first  
 9.27 became a member or a member in a pension fund listed in section 356.30, subdivision 3,  
 9.28 before July 1, 1989, unless paragraph (d), in conjunction with subdivision 7, produces a  
 9.29 higher annuity amount, in which case paragraph (d) applies. The retirement annuity  
 9.30 formula percentage for purposes of this paragraph is the 1.2 percent specified in section  
 9.31 ~~356.315, subdivision 1~~, per year for each year of coordinated service for the first ten  
 9.32 years and the 1.7 percent specified in section ~~356.315, subdivision 2~~, for each subsequent  
 9.33 year of coordinated service.

9.34 (d) This paragraph applies to a person who is at least 55 years old and who first  
 9.35 becomes a member after June 30, 1989, and to any other member who is at least 55 years

10.1 old and whose annuity amount, when calculated under this paragraph and in conjunction  
10.2 with subdivision 7, is higher than it is when calculated under paragraph (c) in conjunction  
10.3 with subdivision 6. The retirement annuity formula percentage for purposes of this  
10.4 paragraph is the 1.7 percent ~~specified in section 356.315, subdivision 2,~~ for each year of  
10.5 coordinated service.

10.6 Sec. 17. Minnesota Statutes 2012, section 356.30, subdivision 1, is amended to read:

10.7 Subdivision 1. **Eligibility; computation of annuity.** (a) Notwithstanding any  
10.8 provisions of the laws governing the retirement plans enumerated in subdivision 3, a  
10.9 person who has met the qualifications of paragraph (b) may elect to receive a retirement  
10.10 annuity from each enumerated retirement plan in which the person has at least one-half  
10.11 year of allowable service, based on the allowable service in each plan, subject to the  
10.12 provisions of paragraph (c).

10.13 (b) A person may receive, upon retirement, a retirement annuity from each  
10.14 enumerated retirement plan in which the person has at least one-half year of allowable  
10.15 service, and augmentation of a deferred annuity calculated at the appropriate rate under  
10.16 the laws governing each public pension plan or fund named in subdivision 3, based on  
10.17 the date of the person's initial entry into public employment from the date the person  
10.18 terminated all public service if:

10.19 (1) the person has allowable service in any two or more of the enumerated plans;

10.20 (2) the person has sufficient allowable service in total that equals or exceeds the  
10.21 applicable service credit vesting requirement of the retirement plan with the longest  
10.22 applicable service credit vesting requirement; and

10.23 (3) the person has not begun to receive an annuity from any enumerated plan or the  
10.24 person has made application for benefits from each applicable plan and the effective  
10.25 dates of the retirement annuity with each plan under which the person chooses to receive  
10.26 an annuity are within a one-year period.

10.27 (c) The retirement annuity from each plan must be based upon the allowable service,  
10.28 accrual rates, and average salary in the applicable plan except as further specified or  
10.29 modified in the following clauses:

10.30 (1) the laws governing annuities must be the law in effect on the date of termination  
10.31 from the last period of public service under a covered retirement plan with which the person  
10.32 earned a minimum of one-half year of allowable service credit during that employment;

10.33 (2) the "average salary" on which the annuity from each covered plan in which  
10.34 the employee has credit in a formula plan must be based on the employee's highest five  
10.35 successive years of covered salary during the entire service in covered plans;

11.1 (3) the accrual rates to be used by each plan must be those percentages prescribed by  
11.2 each plan's formula as continued for the respective years of allowable service from one  
11.3 plan to the next, recognizing all previous allowable service with the other covered plans;

11.4 (4) the allowable service in all the plans must be combined in determining eligibility  
11.5 for and the application of each plan's provisions in respect to reduction in the annuity  
11.6 amount for retirement prior to normal retirement age; and

11.7 (5) the annuity amount payable for any allowable service under a nonformula plan  
11.8 of a covered plan must not be affected, but such service and covered salary must be used  
11.9 in the above calculation.

11.10 (d) This section does not apply to any person whose final termination from the last  
11.11 public service under a covered plan was before May 1, 1975.

11.12 (e) For the purpose of computing annuities under this section, the accrual rates  
11.13 used by any covered plan, except the public employees police and fire plan, the judges  
11.14 retirement fund, and the State Patrol retirement plan, must not exceed the 2.7 percent  
11.15 ~~specified in section 356.315, subdivision 4~~, per year of service for any year of service or  
11.16 fraction thereof. The formula percentage used by the judges retirement fund must not  
11.17 exceed ~~the percentage rate specified in section 356.315, subdivision 8~~, 3.2 percent per  
11.18 year of service for any year of service or fraction thereof. The accrual rate used by the  
11.19 public employees police and fire plan and the State Patrol retirement plan must not exceed  
11.20 ~~the percentage rate specified in section 356.315, subdivision 6~~, 3.0 percent per year of  
11.21 service for any year of service or fraction thereof. The accrual rate or rates used by the  
11.22 legislators retirement plan must not exceed 2.5 percent, but this limit does not apply to the  
11.23 adjustment provided under section 3A.02, subdivision 1, paragraph (c).

11.24 (f) Any period of time for which a person has credit in more than one of the covered  
11.25 plans must be used only once for the purpose of determining total allowable service.

11.26 (g) If the period of duplicated service credit is more than one-half year, or the person  
11.27 has credit for more than one-half year, with each of the plans, each plan must apply its  
11.28 formula to a prorated service credit for the period of duplicated service based on a fraction  
11.29 of the salary on which deductions were paid to that fund for the period divided by the total  
11.30 salary on which deductions were paid to all plans for the period.

11.31 (h) If the period of duplicated service credit is less than one-half year, or when  
11.32 added to other service credit with that plan is less than one-half year, the service credit  
11.33 must be ignored and a refund of contributions made to the person in accord with that  
11.34 plan's refund provisions.

11.35 Sec. 18. Minnesota Statutes 2012, section 356.315, subdivision 9, is amended to read:



12.1 Subd. 9. **Future benefit accrual rate increases.** After January 2, 1998, benefit  
12.2 accrual rate increases under ~~this section~~ 352.115, subdivision 3; 352.87, subdivision  
12.3 3; 352.93, subdivision 3; 352.95, subdivision 1; 352B.08, subdivision 2; 352B.10,  
12.4 subdivision 1; 535.29, subdivision 3; 353.651, subdivision 3; 353.656, subdivision  
12.5 1, 1a, or 3a; 353E.04, subdivision 3; 353E.06, subdivision 1; 354.44, subdivision 6;  
12.6 354A.31, subdivision 4 or 4a; 356.30, subdivision 1; 490.121, subdivision 22; or 490.124,  
12.7 subdivision 1, must apply only to allowable service or formula service rendered after the  
12.8 effective date of the benefit accrual rate increase.

12.9 Sec. 19. Minnesota Statutes 2012, section 490.121, subdivision 22, is amended to read:

12.10 Subd. 22. **Service credit limit.** "Service credit limit" means the greater of: (1) 24  
12.11 years of allowable service under this chapter; or (2) for judges with allowable service  
12.12 rendered before July 1, 1980, the number of years of allowable service under chapter 490,  
12.13 which, when multiplied by the percentage ~~listed in section 356.315, subdivision 7~~ 2.7 or 8  
12.14 3.2, whichever is applicable to each year of service, equals 76.8.

12.15 Sec. 20. Minnesota Statutes 2012, section 490.124, subdivision 1, is amended to read:

12.16 Subdivision 1. **Basic retirement annuity.** (a) Except as qualified hereinafter from  
12.17 and after the mandatory retirement date, the normal retirement date, the early retirement  
12.18 date, or one year from the disability retirement date, as the case may be, a retiring judge is  
12.19 eligible to receive a retirement annuity from the judges' retirement fund.

12.20 (b) For a tier I program judge, the retirement annuity is an amount equal to: (1)  
12.21 the 2.7 percent specified in section 356.315, subdivision 7, multiplied by the judge's  
12.22 final average compensation with that result then multiplied by the number of years and  
12.23 fractions of years of allowable service rendered before July 1, 1980; plus (2) the 3.2  
12.24 percent specified in section 356.315, subdivision 8, multiplied by the judge's final average  
12.25 compensation with that result then multiplied by the number of years and fractions of  
12.26 years of allowable service rendered after June 30, 1980.

12.27 (c) For a tier II program judge who was first appointed or elected as a judge before  
12.28 July 1, 2013, the retirement annuity is an amount equal to:

12.29 (1) the percent specified in section 356.315, subdivision 8, multiplied by the judge's  
12.30 final average compensation with that result then multiplied by the number of years and  
12.31 fractions of years of allowable service rendered before January 1, 2014; plus

12.32 (2) the percentage specified in section 356.315, subdivision 8a, multiplied by the  
12.33 judge's final average compensation with that result then multiplied by the number of years  
12.34 and fractions of years of allowable service rendered after December 31, 2013.

13.1            (d) For a tier II program judge who was first appointed or elected as a judge after  
13.2 June 30, 2013, the retirement annuity is an amount equal to the percent specified in section  
13.3 356.315, subdivision 8a, multiplied by the judge's final average compensation with that  
13.4 result then multiplied by the number of years and fractions of years of allowable service.

13.5            (e) (e) For a judge in the tier I program, service that exceeds the service credit limit in  
13.6 section 490.121, subdivision 22, must be excluded in calculating the retirement annuity, but  
13.7 the compensation earned by the judge during this period of judicial service must be used in  
13.8 determining a judge's final average compensation and calculating the retirement annuity.

13.9            Sec. 21. **REPEALER.**

13.10           Minnesota Statutes 2012, section 356.315, subdivisions 1, 1a, 2, 2a, 2b, 3, 4, 5, 5a,  
13.11 6, 7, and 8, are repealed.

13.12           Sec. 22. **EFFECTIVE DATE.**

13.13           Sections 1 to 21 are effective the day following final enactment."

13.14           Amend the title accordingly



SENATE  
STATE OF MINNESOTA  
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 983

(SENATE AUTHORS: COHEN, Pappas and Saxhaug)

DATE	D-PG	OFFICIAL STATUS
03/04/2013		Introduction and first reading Referred to State and Local Government

1.1 A bill for an act  
 1.2 relating to retirement; judges retirement plan; reducing postretirement  
 1.3 adjustments; increasing normal retirement age for new judges; revising member  
 1.4 and employer contribution rates; permitting existing judges to elect to be treated  
 1.5 as a new judge for benefit and contribution purposes; amending Minnesota  
 1.6 Statutes 2012, sections 356.315, by adding a subdivision; 356.415, subdivision  
 1.7 1, by adding a subdivision; 490.121, subdivision 21f; 490.123, subdivisions  
 1.8 1a, 1b; 490.124, subdivision 1; proposing coding for new law in Minnesota  
 1.9 Statutes, chapter 490.

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

1.11 Section 1. Minnesota Statutes 2012, section 356.315, is amended by adding a  
 1.12 subdivision to read:

1.13 Subd. 8a. Judges plan. The applicable benefit accrual rate is 2.5 percent.

1.14 EFFECTIVE DATE. This section is effective July 1, 2013.

1.15 Sec. 2. Minnesota Statutes 2012, section 356.415, subdivision 1, is amended to read:

1.16 Subdivision 1. **Annual postretirement adjustments; generally.** (a) Except as  
 1.17 otherwise provided in subdivision 1a, 1b, 1c, 1d, ~~or 1e,~~ or 1f, retirement annuity, disability  
 1.18 benefit, or survivor benefit recipients of a covered retirement plan are entitled to a  
 1.19 postretirement adjustment annually on January 1, as follows:

1.20 (1) a postretirement increase of 2.5 percent must be applied each year, effective  
 1.21 January 1, to the monthly annuity or benefit of each annuitant or benefit recipient who has  
 1.22 been receiving an annuity or a benefit for at least 12 full months prior to the January 1  
 1.23 increase; and

1.24 (2) for each annuitant or benefit recipient who has been receiving an annuity or a  
 1.25 benefit amount for at least one full month, an annual postretirement increase of 1/12 of 2.5

2.1 percent for each month that the person has been receiving an annuity or benefit must be  
 2.2 applied, effective on January 1 following the calendar year in which the person has been  
 2.3 retired for less than 12 months.

2.4 (b) The increases provided by this subdivision commence on January 1, 2010.

2.5 (c) An increase in annuity or benefit payments under this section must be made  
 2.6 automatically unless written notice is filed by the annuitant or benefit recipient with the  
 2.7 executive director of the covered retirement plan requesting that the increase not be made.

2.8 (d) The retirement annuity payable to a person who retires before becoming eligible  
 2.9 for Social Security benefits and who has elected the optional payment as provided in  
 2.10 section 353.29, subdivision 6, must be treated as the sum of a period certain retirement  
 2.11 annuity and a life retirement annuity for the purposes of any postretirement adjustment.  
 2.12 The period certain retirement annuity plus the life retirement annuity must be the  
 2.13 annuity amount payable until age 62 for section 353.29, subdivision 6. A postretirement  
 2.14 adjustment granted on the period certain retirement annuity must terminate when the  
 2.15 period certain retirement annuity terminates.

2.16 **EFFECTIVE DATE.** This section is effective July 1, 2013.

2.17 Sec. 3. Minnesota Statutes 2012, section 356.415, is amended by adding a subdivision  
 2.18 to read:

2.19 **Subd. 1f. Annual postretirement adjustments; Minnesota State Retirement**  
 2.20 **System judges retirement plan.** (a) The increases provided under this subdivision begin  
 2.21 on January 1, 2014, and are in lieu of increases under subdivision 1 or 1a for retirement  
 2.22 annuity, disability benefit, or survivor benefit recipients of the judges retirement plan.

2.23 (b) Retirement annuity, disability benefit, or survivor benefit recipients of the  
 2.24 judges retirement plan are entitled to a postretirement adjustment annually on January  
 2.25 1, as follows:

2.26 (1) a postretirement increase of 1.75 percent must be applied each year, effective  
 2.27 on January 1, to the monthly annuity or benefit of each annuitant or benefit recipient  
 2.28 who has been receiving an annuity or a benefit for at least 18 full months before the  
 2.29 January 1 increase; and

2.30 (2) for each annuitant or benefit recipient who has been receiving an annuity or a  
 2.31 benefit for at least six full months, an annual postretirement increase of 1/12 of 1.75  
 2.32 percent for each month that the person has been receiving an annuity or benefit must be  
 2.33 applied, effective January 1, following the calendar year in which the person has been  
 2.34 retired for at least six months, but has been retired for less than 18 months.

3.1 (c) Increases under this subdivision terminate on December 31 of the calendar year in  
 3.2 which the actuarial valuation prepared by the approved actuary under sections 356.214 and  
 3.3 356.215 and the standards for actuarial work promulgated by the Legislative Commission  
 3.4 on Pensions and Retirement indicates that the market value of assets of the judges retirement  
 3.5 plan equals or exceeds 70 percent of the actuarial accrued liability of the retirement plan.  
 3.6 Increases under subdivision 1 or 1a, whichever is applicable, begin after that date.

3.7 (d) An increase in annuity or benefit payments under this subdivision must be made  
 3.8 automatically unless written notice is filed by the annuitant or benefit recipient with the  
 3.9 executive director of the applicable covered retirement plan requesting that the increase  
 3.10 not be made.

3.11 **EFFECTIVE DATE.** This section is effective July 1, 2013.

3.12 Sec. 4. Minnesota Statutes 2012, section 490.121, subdivision 21f, is amended to read:

3.13 Subd. 21f. **Normal retirement date.** (a) For a judge in the tier I program, "normal  
 3.14 retirement date" means the date a the judge attains the age of 65.

3.15 (b) For a judge in the tier II program, "normal retirement date" means the date  
 3.16 the judge attains age 66.

3.17 **EFFECTIVE DATE.** This section is effective July 1, 2013.

3.18 Sec. 5. **[490.1221] JUDGES PLAN PROGRAMS.**

3.19 Members of the judges retirement plan are members of either the tier I or tier II  
 3.20 program. A tier I program judge is a person who was first appointed or elected as a judge  
 3.21 before July 1, 2013, who was not eligible for the tier II program because the judge had  
 3.22 five or more years of allowable service, or did not elect that program. A tier II program  
 3.23 judge is a person who:

3.24 (1) was first appointed or elected as a judge after June 30, 2013; or

3.25 (2) was first appointed or elected as a judge before July 1, 2013, and made an  
 3.26 election under section 11 to be in the tier II program.

3.27 **EFFECTIVE DATE.** This section is effective July 1, 2013.

3.28 Sec. 6. **[490.1222] APPLICATION OF SERVICE CREDIT LIMIT.**

3.29 The service credit limit specified in section 490.121, subdivision 22, does not apply  
 3.30 to a judge in the tier II program.

3.31 **EFFECTIVE DATE.** This section is effective July 1, 2013.

4.1 Sec. 7. Minnesota Statutes 2012, section 490.123, subdivision 1a, is amended to read:

4.2 Subd. 1a. **Member contribution rates.** (a) A judge ~~who is covered by the federal~~  
 4.3 ~~Old Age, Survivors, Disability, and Health Insurance Program and in the tier I program~~  
 4.4 whose service does not exceed the service credit limit in section 490.121, subdivision 22,  
 4.5 shall contribute to the fund from each salary payment a sum equal to ~~8.00~~ 9.00 percent  
 4.6 of salary.

4.7 (b) A judge in the tier II program shall contribute to the fund from each salary  
 4.8 payment a sum equal to 7.00 percent of salary.

4.9 ~~(b) The contribution~~ (c) Contributions under this subdivision ~~is~~ are payable by salary  
 4.10 deduction. The deduction must be made by the state court administrator under section  
 4.11 352.04, subdivisions 4, 5, and 8.

4.12 **EFFECTIVE DATE.** This section is effective beginning on the first day of the first  
 4.13 full payroll period following an increase in judicial salaries of at least one percent due to  
 4.14 action by the legislature during calendar year 2013 or later.

4.15 Sec. 8. Minnesota Statutes 2012, section 490.123, subdivision 1b, is amended to read:

4.16 Subd. 1b. **Employer contribution rate.** (a) The employer contribution rate to the  
 4.17 fund on behalf of a judge is ~~20.5~~ 22.5 percent of salary. The employer obligation continues  
 4.18 after a judge exceeds the service credit limit in section 490.121, subdivision 22.

4.19 (b) The employer contribution must be paid by the state court administrator. The  
 4.20 employer contribution is payable at the same time as member contributions are made  
 4.21 under subdivision 1a or as employee contributions are made to the unclassified program  
 4.22 governed by chapter 352D for judges whose service exceeds the limit in section 490.121,  
 4.23 subdivision 22, are remitted.

4.24 **EFFECTIVE DATE.** This section is effective the first day of the first full payroll  
 4.25 period after June 30, 2013.

4.26 Sec. 9. Minnesota Statutes 2012, section 490.124, subdivision 1, is amended to read:

4.27 Subdivision 1. **Basic Retirement annuity.** (a) Except as qualified hereinafter from  
 4.28 and after the mandatory retirement date, the normal retirement date, the early retirement  
 4.29 date, or one year from the disability retirement date, as the case may be, a retiring judge is  
 4.30 eligible to receive a retirement annuity from the judges' retirement fund.

4.31 (b) For a tier I program judge, the retirement annuity is an amount equal to:

5.1 (1) the percent specified in section 356.315, subdivision 7, multiplied by the judge's  
 5.2 final average compensation with that result then multiplied by the number of years and  
 5.3 fractions of years of allowable service rendered before July 1, 1980; plus

5.4 (2) the percent specified in section 356.315, subdivision 8, multiplied by the judge's  
 5.5 final average compensation with that result then multiplied by the number of years and  
 5.6 fractions of years of allowable service rendered after June 30, 1980.

5.7 (c) For a tier II program judge who was first appointed or elected as a judge before  
 5.8 July 1, 2013, the retirement annuity is an amount equal to:

5.9 (1) the percent specified in section 356.315, subdivision 8, multiplied by the judge's  
 5.10 final average compensation with that result then multiplied by the number of years and  
 5.11 fractions of years of allowable service rendered before January 1, 2014; plus

5.12 (2) the percentage specified in section 356.315, subdivision 8a, multiplied by the  
 5.13 judge's final average compensation with that result then multiplied by the number of years  
 5.14 and fractions of years of allowable service rendered after December 31, 2013.

5.15 (d) For a tier II program judge who was first appointed or elected as a judge after  
 5.16 June 30, 2013, the retirement annuity is an amount equal to the percent specified in section  
 5.17 356.315, subdivision 8a, multiplied by the judge's final average compensation with that  
 5.18 result then multiplied by the number of years and fractions of years of allowable service.

5.19 (e) (e) For a judge in the tier I program, service that exceeds the service credit limit in  
 5.20 section 490.121, subdivision 22, must be excluded in calculating the retirement annuity, but  
 5.21 the compensation earned by the judge during this period of judicial service must be used in  
 5.22 determining a judge's final average compensation and calculating the retirement annuity.

5.23 **EFFECTIVE DATE.** This section is effective July 1, 2013.

5.24 Sec. 10. **MEMBER CONTRIBUTION INCREASE CONDITION.**

5.25 Any increase in judicial salaries, due to action by the legislature during calendar year  
 5.26 2013 or later, is not applicable to a judge in the tier I program if the member contribution  
 5.27 rate applicable to a judge in the tier I program under section 7 is not deducted from the  
 5.28 salary of the judge.

5.29 **EFFECTIVE DATE.** This section is effective July 1, 2013.

5.30 Sec. 11. **TIER II PROGRAM ELECTION; PRE-JULY 1, 2013, JUDGES.**

5.31 Subdivision 1. Authority. A person who was first appointed or elected as a judge  
 5.32 covered by the Minnesota State Retirement System judges retirement plan before July 1,



6.1 2013, is eligible to elect treatment as a tier II program judge if the judge has less than five  
6.2 years of allowable service on the date the judge makes a valid election under subdivision 2.

6.3 Subd. 2. Election procedure. An eligible judge under subdivision 1 may elect to be  
6.4 subject to provisions of Minnesota Statutes, chapter 490, applicable to a tier II program  
6.5 judge rather than the tier I program by electing that treatment before January 1, 2014, on a  
6.6 form provided by the executive director of the Minnesota State Retirement System.

6.7 Subd. 3. Effect of election. (a) The election is irrevocable.

6.8 (b) Any eligible judge who fails to make an election remains in the tier I program.

6.9 (c) If the tier II program is elected, contributions based on revised member  
6.10 contribution rates under Minnesota Statutes, section 490.123, subdivision 1a, begin on the  
6.11 first day of the first full pay period occurring after January 1, 2014.

6.12 **EFFECTIVE DATE.** This section is effective July 1, 2013.