

## Amendment S1712-2A: Technical Clarifications and Corrections

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### Introduction

Amendment S1712-2A is a compilation of changes to statutes that Commission staff have collected since the end of the 2020 session. Staff considers the changes non-substantive, technical clarifications, and corrections.

Many of the changes correct drafting errors and ambiguous language discovered in the new statutes enacted in 2020, which are additions to Chapter 424B, that provide procedures for volunteer firefighter relief associations wanting to convert from defined benefit to defined contribution plans or terminate their retirement plan. We made a series of related changes to these statutes due to confusion regarding the full vesting requirement and the term "member." For example, the Edina fire department is in the process of ending their use of volunteer firefighters and is terminating the relief association plan. The intent of the new law, consistent with the requirement under federal law, is that all members, active and former, with any retirement benefit in the plan must become fully vested upon plan termination. The relief association appears to have misinterpreted the new statute's use of the term "member" to fully vest only active members' retirement benefits. To eliminate confusion regarding the full vesting requirement and the term "member," we have revised relevant new sections in Chapter 424B to use the term "participant," to clearly encompass both active and former firefighters.

Amendment S1712-2A is divided into two parts:

- The first part is the first 1½ pages and consists of amendments to the Delete-Everything Amendment, S1712-1A. References are to page and lines in the DE.
- The second part is the remainder of the Amendment and consists of amendments to current law. References are to sections of current law.

### Summary of Part 1 of S1712-2A: Amendments to the DE

The line numbers refer to lines in the -2A amendment, which in turn refer to lines in the -1A Delete-Everything amendment.

**Lines 1.3 through 1.5 (changes to Section 7, on page 7, of the DE):** These changes remove references to the PERA Police and Fire Plan and the PERA Local Correctional Plan, which were added by the PERA administrative bill (SF 1712 (Rosen); HF 1758 (Nelson)). Additional work will need to be done during the

interim to determine how to make this change to Minnesota Statutes, Section 353.30, subdivision 1b. Subdivision 1b provides for a subsidized reduction to the normal retirement benefit for retirement before age 62, with 30 years of service, but under these plans normal (full) retirement is at age 55, so any subsidized reduction would need to be for retirement before age 55, not age 62.

**Lines 1.6 through 1.10 (changes to Section 11, on page 9, of the DE):** These changes replace "member" or "member's" with "participant" or "participant's" each place these terms appear in Minnesota Statutes, Section 353D.071, subdivision 1. The rest of the sections in Chapter 353D, which governs the PERA Defined Contribution Plan, refers to individuals accruing a benefit under the Plan as "participants," not "members."

**Lines 1.11 through 2.14 (changes to the DE to add a new Section 12):** These changes replace "member" or "member's" with "participant" or "participant's" each place these terms appear in Minnesota Statutes, Section 353D.071, subdivision 2, to be consistent with the rest of Chapter 353D, replace a reference to age 70½ with a reference to the required minimum distribution definition revised by Section 11 of the DE, and make other clarifying language changes. The age for making required minimum distributions (RMDs) under federal law was changed recently from 70½ to 72, and changes to these subdivisions in the DE and the -2A amendment reflect this federal law change.

## Summary of Part 2 of S1712-2A: Amendments to Current Law

### Article ...: Technical Clarifications and Corrections

Section in the new Article	Page.Line in the -2A	Statute Amended	Plan Affected	Summary
1	2.18	353E.02, Subd. 2	PERA Correctional	Corrects the misuse of the word "fund" by replacing it with the word "plan."
2	3.8	356.635, Subd. 1	All Public Pension and Retirement Plans	Restates federal law relating to required minimum distributions and clarifies language.
3	3.21	424A.01, Subd. 2	Volunteer Firefighter Relief Associations (VFRAs)	Replaces an obsolete reference to Chapter 69 with the current Chapter 477B.
4	3.26	424A.016, Subd. 4	VFRAs	Clarifies that, in a particular instance, the phrase "at the time of retirement" means "at the time that payment of a service pension commences." The term "retirement" is ambiguous in this context, which relates to the benefit to which an individual is entitled under a defined contribution relief association.

**Article ...: Technical Clarifications and Corrections**

Section in the new Article	Page.Line in the -2A	Statute Amended	Plan Affected	Summary
5	5.6	424A.10, Subd. 2	VFRAs	Adds references to the PERA Statewide Volunteer Firefighter Plan (shortened to "retirement plan") in this section on the payment of a supplemental benefit. Just as a relief association is required to pay a supplemental benefit to each recipient of a retirement benefit from a relief association retirement plan, the PERA Statewide Plan is required to pay a supplemental benefit to each recipient of a retirement benefit from that plan.
6	6.1	New Sec. 424B.001	VFRAs	Inserts a new introductory section to Chapter 424B to clarify the interaction between Chapters 424A and 424B.
7	6.5	424B.01, Subd. 3a	VFRAs	Clarifies the definition of "conversion effective date" by inserting a reference to Section 424B.13, Subd. 2.
8	6.10	424B.01, Subd. 3b	VFRAs	Clarifies the definition of "defined benefit plan" by replacing the definition with a reference to Section 424A.02, which is the section that describes defined benefit plans for VFRAs.
9	6.18	424B.01, Subd. 3d	VFRAs	Clarifies the definition of "defined contribution plan" by replacing the definition with a reference to Section 424A.016, which is the section that describes defined contribution plans for VFRAs.
10	6.22	424B.01, Subd. 3g	VFRAs	Revises the definition of "member" by adding language to clarify that, for purposes of Chapter 424B, a member of a fire department or independent nonprofit firefighting corporation means both a current employee or service provider to a fire department and a former employee or service provider.
11	7.6	424B.01, Subd. 3h	VFRAs	Replaces a portion of the definition of "municipality" with a reference to the definition of "municipality" in Chapter 424A.
12	7.19	424B.01, Subd. 3i	VFRAs	Makes conforming changes by replacing the term "member" with the term "participant."
13	8.1	424B.01, New Subd. 3j	VFRAs	Inserts a new defined term, "participant," and defines that term, separately for defined contribution plans and requirements for defined benefit plans to use appropriate references to the type of benefit, and to include active, inactive, and deferred members and retirees in pay status.

**Article ...: Technical Clarifications and Corrections**

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14	8.20	424B.01, Subd. 4a	VFRAs	Replaces a portion of the definition of "relief association" with a reference to the definition of "relief association" in Chapter 424A.
15	8.31	424B.01, Subd. 5b	VFRAs	Revises the definition of "retiree in pay status" to use the new term "participant."
16	9.3	424B.01, Subd. 5c	VFRAs	Replaces the term "member" with the term "participant."
17	9.6	424B.04, Subd. 3	VFRAs	Replaces an obsolete reference to Chapter 69 with the current Chapter 477B.
18	9.10	424B.24, Subd. 2	VFRAs	Revises the requirement that the board of trustees of a relief association that is converting from a defined benefit plan to a defined contribution plan must fully vest all members, including former members, by using the new defined term "participants," to remove any ambiguity as to whether former "members" must become fully vested; clarifies that retirees in pay status receiving a monthly pension are excepted from the full vesting requirement. These changes reflect applicable federal law.
19-24	10.10, 11.3, 11.29, 13.9, 14.1, 14.9	424B.13, Subd. 4, 5, 6, 8, 9, and 10	VFRAs	Replaces the terms "member" and "firefighter" with the term "participant," replaces the undefined term "former member" with the defined term "retiree in pay status," and makes other minor conforming changes.
25	14.18	424B.22, Subd. 1	VFRAs	Corrects a reference to "this section" by replacing it with "paragraph (b)."
26	15.10	424B.22, Subd. 2	VFRAs	Replaces the undefined term "firefighters" with the defined term "members of the relief association" which is appropriate in this context, where membership in the relief association, rather than participation in the retirement plan, is consistent with the intent of the provision.

**Article ...: Technical Clarifications and Corrections**

Section in the new Article	Page.Line in the -2A	Statute Amended	Plan Affected	Summary
27	15.27	424B.22, Subd. 3	VFRAs	Clarifies ambiguous language to state that the board of trustees of a relief association may approve a termination date of the relief association's retirement plan that is different from the dissolution date of the relief association; clarifies the full vesting requirement to use the new defined term "participants," to remove any ambiguity as to whether "members" includes former members for full vesting purposes; clarifies that retirees in pay status receiving a monthly pension are excepted from the full vesting requirement. These changes reflect applicable federal law.
28-29	16.20 17.5	424B.22, Subd. 4, 5	VFRAs	Replaces the term "member" with the term "participant" and makes other conforming changes.
30	18.1	424B.22, Subd. 7	VFRAs	Replaces the terms "member" and "firefighter" with the term "participant" and makes other conforming changes; clarifies that the phrase "other firefighters" means "former participants" when describing individuals who can be made eligible to receive surplus.
31	19.3	424B.22, Subd. 8	VFRAs	Replaces the term "member" with the term "participant" and makes other conforming changes.
32	19.28	424B.22, Subd. 9	VFRAs	Replaces the term "member" with the term "participant" and makes other conforming changes; clarifies that the benefit of a participant who does not respond to a distribution offer from a terminating plan is treated like a missing participant for purposes of transferring the benefit to an IRA or escheating the benefit to the state.
33	21.1	424B.22, Subd. 10	VFRAs	Replaces the term "member" with the term "participant" and makes other conforming changes.
34	21.9	477B.01, Subd. 1	Fire State Aid	Clarifies that terms defined in Chapter 477B apply for the purposes of Chapter 424A, unless the word or term is also defined in Chapter 424A, in which case the definition in Chapter 424A is applicable for the purposes of Chapter 424A. This reconciles a conflict between a new definition of "municipal clerk" in Section 1, Article 5, of the DE at lines 26.3 through 26.10, which is to be inserted into Chapter 424A.001, and the definition of the same term in current law, at Section 477B.01, subdivision 9.

**Article ...: Technical Clarifications and Corrections**

Section in the new Article	Page.Line in the -2A	Statute Amended	Plan Affected	Summary
35	21.16	424A.02, Subd. 3	Revisor's Instruction	Renumbers paragraphs in Section 424A.02, Subd. 3, such that paragraphs (c) and (d), which contain the lengthy tables used to determine maximum monthly and lump sum benefit amounts, will become new subdivisions. Paragraphs (a) to (b) and (e) to (h) will also become new subdivisions. This will make amending Subdivision 3 easier, by not requiring the tables to be included every time this subdivision is amended.
36	21.36	Effective Date	--	All sections in the article are effective the day following final enactment.

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