SF xxxx (Rosen); HF 1758 (Nelson, M.): Public Employees Retirement Association (PERA) 2021 Administrative Bill

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Introduction

Affected Plans: General Employee Retirement Plan (PERA General)
Public Employees Police and Fire Retirement Plan (PERA P&F)
Local Government Correctional Service Retirement Plan (PERA Correctional)
Public Employees Government Defined Contribution Plan (PERA Defined Contribution)

Laws Amended: Minnesota Statutes, sections 353.01, subdivisions 16 and 21; 353.014, subd. 4; 353.0162; 353.27, subd. 12; 353.30, subd. 1a, 1b, and 1c; 353.335; 353.34, subd. 2; 353D.071

Brief Description: This bill amends several statutes governing the Public Employees Retirement Association pension and defined contribution plans. The amendments do not substantively affect the amount of a benefit or eligibility for a benefit but make changes of an administrative or technical nature.

Attachment: Staff amendment: Amendment H1758-1A

Section-by-Section Summary

Sections 1 and 4: Coverage and purchasing rules "periodic repetitive leaves."

Sections 1 and 4 of the bill move a description of a "periodic, repetitive leave" by striking the provision from Minnesota Statutes, section 353.01, subdivision 16, and reinserting the provision in section 353.0162. Additionally, section 4 of the bill redefines the period of reduced salary (usually a leave of absence) as one occurring entirely within one calendar year, or one school year depending on the type of employee. Section 4 of the bill also extends the length of time after retiring that a member can purchase service credit for a period of reduced salary from 30 days to six months. The six-month period matches the six months permitted to purchase previously refunded service credit under Minnesota Statutes, section 353.35. Sections 1 and 4 also make several conforming changes.

Section 2: Combined service annuity pension benefits for deferred PERA members retiring under a phased retirement agreement from a non-PERA plan.

PERA, the Minnesota State Retirement System (MSRS), and the Teachers Retirement Association (TRA) each administer their own phased retirement agreement programs *(also called "post-retirement option," or "return to work agreement")*. Each of these phased retirement programs allow members to continue to work part time for their pre-retirement employer without a break in service while collecting their full pension benefit.

Section 2 of the bill fixes an issue that can affect deferred PERA members who are also active members of a plan administered by MSRS or TRA. The issue occurs when such a member is eligible for a combined service annuity from PERA and enters into a phased retirement agreement in a position covered by the non-PERA plan. Current law requires PERA members to have a 30-day separation from all public service (including service covered by other public pension plans) before the member can collect a PERA benefit, unless the member is covered by a phased retirement agreement administered by PERA.[1] However, under current law, members who enter into a phased retirement agreement administered by MSRS or TRA must still have a 30-day separation of service before collecting a PERA pension benefit. Because the phased retirement agreements do not require (or sometimes permit) a 30-day break in service, the member can lose the ability to collect a combined service annuity from PERA.

A combined service annuity is permitted under Minnesota law for a member with more than 1 year of service in each of two or more statewide pension plans. The member is permitted to retire from each of the plans using the average salary from the plan with the highest average salary.[2] For example, consider a member with service in the PERA General Plan and service in the MSRS General Plan. If the member has a high-five salary in the MSRS General Plan of $5,000/month and a high five salary in the PERA General Plan of $3,000/month, the member can use $5,000/month for both plans when calculating the member’s retirement benefits. Combined service annuities are intended to give members the ability to move from one job to another within the public sector without experiencing a reduction in their retirement benefits.

Section 2 of the bill amends Minnesota Statutes, section 353.01, subdivision 28, so that members who are eligible for a combined service annuity and who have entered into a phased retirement agreement administered by a non-PERA plan, may receive a combined service annuity from PERA without a 30-day separation from public service. This is consistent with how MSRS and TRA are administering both combined service annuities and phased retirement agreements.

Section 3: Extending period allowed to make a purchase of service credit for military leave from 30 days to six months after terminating service.

A member of the armed forces who takes a military leave from a PERA covered position in order to perform military service is entitled to purchase service credit for the duration of the military leave after

[1] Minn. Stat. § 353.01, subd. 28 *and* § 353.371, subd. 2.
[2] *See* Minn. Stat. § 356.30.

the member returns from the leave. Under current law, several limits are placed on the time period during which a member can purchase a military leave. One such limit prohibits a member from purchasing service credit for the military leave after 30 days after the member terminates public employment. Section 3 of the bill amends Minnesota Statutes, section 353.014, subdivision 4, by extending the 30-day limit to six months after the member terminates covered service. The six-month period matches the six months permitted to purchase previously refunded service credit under Minnesota Statutes, section 353.35.

Section 4: (See sections 1 and 4, above)

Section 5: Interest on omitted employee contributions.

Section 5 amends Minnesota Statutes, section 353.27, subdivision 12, by changing the rate of interest that is applied to an employee contribution that was omitted and went unpaid for longer than 60 days. In 2018, the Legislature reduced similar interest rates for all statewide plans to 7.5%. Under current law the interest rate is 8%. Section 5 changes the current rate to 7.5% in accordance with the rate changes made in 2018. Interest paid under this section is paid by the employer to the appropriate PERA fund.

Sections 6, 7, and 8: Clarifying pre-July 1, 1989 eligibility.

Sections 6, 7, and 8: amend Minnesota Statutes, sections 353.30, subdivisions 1a, 1b, and 1c, to clarify that members of the PERA P&F Plan and members of the PERA Correctional Plan who became public employees before July 1, 1989 are eligible to have their pension benefits calculated under the pre-July 1, 1989 early retirement provisions. Those provisions include the Rule of 90 and favorable early retirement factors for members with 30 years of service. The changes conform with PERA’s current administration of its pension plans.

<u>Staff Amendment</u>

Section 8 of the bill erroneously includes favorable early retirement factors for members of the PERA P&F Plan and the PERA Correctional Plan who are older than 55, but less than normal retirement age. Since such members’ normal retirement age is age 55, they cannot be eligible for the benefit. The staff amendment (H1758-1A) would, if adopted by the Commission, fix this drafting error.

Section 9: Permitting waiver of disability benefit recipient earnings reports.

Section 9 amends Minnesota Statutes, section 353.335, to allow the PERA executive director to waive the requirement that disability recipients annually report all earnings from reemployment. Under current law, if the disability recipient does not submit the earnings report, the disability recipient’s benefit must be suspended. The MSRS General Employees Retirement Plan contains a similar provision permitting the MSRS executive director to waive the earnings report.[3] The Teachers Retirement Association does not have a statute that requires a similar report.

Staff Amendment

The authority granted to the executive director to waive the reporting requirement is entirely discretionary. The staff amendment (H1758-1A) would, if adopted by the Commission, permit the executive director to waive the reporting requirement only if the medical record indicated that future earnings is unlikely.

Section 10: Interest on employee contributions made in error.

Section 10 amends Minnesota Statutes, section 353.34, subdivision 2, to clarify that interest paid on employee contributions made in error is credited at the same rate or rates used for a refund of employee contributions.

Section 11: Federal law compliance for required minimum distributions.

Section 11 amends Minnesota Statutes, section 353D.071, to bring the PERA Defined Contribution Plan into conformance with changes in federal law. Federal law requires participants in tax-qualified retirement plans to begin withdrawing their benefit upon attaining a certain age, called the "required beginning date." In 2020 the federal government enacted the Setting Every Community Up for Retirement Enhancement (SECURE) Act. The SECURE Act changed the required beginning date from age 70 ½ to age 72 for participants whose 70th birthday occurs after June 30, 2019. Section 11 of the bill amends the PERA Defined Contribution Plan's definition of the "required beginning date" to conform with the SECURE Act.

Effective Date

All sections except section 6 are effective July 1, 2021.

Staff Amendment

Section 6 does not have an effective date and therefore defaults to August 1, 2021. The staff amendment (H1758-1A) would, if adopted by the Commission, insert a July 1, 2021 effective date for section 6 for consistency.

[3] *See*, Minn. Stat. § 352.113, subd. 14.

Amendment

Staff Amendment H1758-1A.

This amendment inserts a missing effective date for section 6, corrects a drafting error in section 8, and addresses a minor issue in section 9 of the bill.

Under the bill as introduced, section 8 permits members of the PERA P&F Plan or PERA Correctional Plan who are age 55 or older but not yet normal retirement age to qualify for favorable early retirement factors. However, the normal retirement age under the PERA P&F Plan and PERA Correctional Plan is age 55. No member of these plans can ever meet that eligibility criteria because members of these plans cannot be both age 55 or older and less than normal retirement age (age 55). The amendment fixes this error by removing the references to annuities calculated under the PERA P&F Plan and PERA Correctional Plan in section 8 of the bill.

Under the bill as introduced, section 9 permits PERA's executive director to waive a requirement that disability benefit recipients report earnings annually. However, the bill did not provide a standard for when the executive director could waive this requirement. The amendment limits the waiver to situations where the medical records indicate that future non-disability income is unlikely.

Legislative Commission on Pensions and Retirement

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