HF 4428 (Nelson, M.); SF 4606 (Rasmusson): PERA General Employees Retirement Plan; Amending Withdrawal Liability for Privatizing Medical Facilities

Prepared by: Sean Kelly, Deputy Director *Date: March 7, 2024*

Introduction

Affected Plan(s): Public Employees Retirement Association (PERA) General Employees Retirement Plan (PERA General)

Laws Amended: Minnesota Statutes, sections 353F.02, 353F.025, and 353F.051

Brief Description: The bill modifies the process and method for calculating withdrawal liability owed to PERA when a publicly owned medical facility with employees covered by the PERA General Plan is sold to a private sector entity, effective for privatizations occurring after July 1, 2025.

Background

When a medical facility owned or controlled by a governmental subdivision is sold to a nonprofit or for-profit corporation (referred to as "privatization"), the public employees that work for the medical facility become private sector employees. As a result, the employees working for the medical facility are no longer able to be active, contributing members of PERA General. Chapter 353F, established in 1999, ensures that employees that work for the privatized entity will be entitled to future retirement benefits under PERA General even though the employees are no longer active members.

When a public medical facility privatizes, PERA is required, upon request from the local government, such as a city or county, that owns the facility to calculate the withdrawal liability, or the amount the facility must pay to PERA.[1] Under current law, the city or county is not required to request a calculation from PERA to assess the withdrawal liability. The current method for calculating the withdrawal liability determines whether there is an increase or a decrease in liability as a result of the privatization. If there is an increase in liability, the medical facility must pay PERA the amount of the increase.

PERA reports that since 1999, no liability calculation has resulted in an increase in liability or a net loss for PERA General. As a result, no medical facility has ever had to make a payment to PERA for its portion of the plan's unfunded liabilities, which is not captured by the current calculation method.

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[1] Minn. Stat. §353F.025, subdivision 1

Section- by- Section Summary

Sections 1- 5: Definitions.

Sections 1-5 amend section 353F.02, the definition section for chapter 353F, which governs pension benefits for privatized employees. These definitions only apply to chapter 353F.

Section 1 adds a new definition for "funding ratio," which is used to calculate the withdrawal liability. The definition is written to mean the funding ratio for the PERA General Plan.

Section 2 adds a new definition for the "general employees retirement fund." The PERA General Plan is not currently defined for purposes of Chapter 353F, but adding the definition will make references to the plan in Chapter 353F clear.

Section 3 amends the current definition for "medical facility." The proposed definition lists common types of public medical facilities, including "hospital, health care clinic, nursing home, residential hospice," and more. The definition is not limited to the types of facilities listed. A type of facility not mentioned in the definition is included if it meets the other requirements of the definition.

Section 4 amends the current definition of "privatization." The current definition refers to the medical facility itself. The proposed definition makes it clear that "privatization" means the process of privatizing a public medical facility.

Section 5 adds a new definition for "privatize or privatizing," which means to engage in a transaction that results in a medical facility that is a governmental subdivision ceasing to be a governmental subdivision. The definition excludes medical facilities that cease to be a governmental subdivision because the medical facility closed or ceased to operate.

Section 6: Eligibility determination and calculation of withdrawal liability.

Section 6 amends section 353F.025, subdivision 1, by making changes to the existing process for calculating the withdrawal liability for the privatization of a medical facility. The changes are:

- A city or county with control of a privatizing hospital must request a calculation of withdrawal liability from PERA. The request must be made prior to privatization and the medical facility must pay for the cost of the calculation. Under current law, the city or county can choose to request a calculation but is not required to and there is no requirement that the calculation be requested prior to privatization.
- PERA's actuary is required to calculate the withdrawal liability under a new methodology. The proposed calculation is:

  Withdrawal liability = (present value of accrued benefits) - (present value of accrued benefits x the plan's funding ratio)

  Under current law, PERA's actuary is required to assess whether there is an increase or decrease in liabilities as a result of the privatization. If there is an increase in liabilities, the withdrawal liability is the amount of the increase. The new methodology requires the privatizing medical facility to pay its portion of the plan's unfunded liability.

Section 7: Payment of withdrawal liability.

Section 7 amends section 353F.02, subdivision 4b, by adding a new subdivision. Section 7 requires the privatizing medical facility to pay the withdrawal liability to PERA in a lump sum within six months after the privatization or over a period of 10 years with interest at the assumed rate of return (currently 7%).

Section 8: Reporting privatizations.

Section 8 amends section 353F.025, subdivision 2, by updating the reporting requirements to include the withdrawal liability calculation and requiring PERA to update its list of privatized employees to include withdrawal liability information for employers that privatize after July 1, 2025.

Section 9: Calculation of benefits.

Section 9 amends section 353F.051, subdivision 2, by deleting an obsolete sentence related to augmentation that refers to a statute that was repealed in 2018.

Effective dates

Sections 1 to 9 are effective July 1, 2025.

Analysis

The current method of calculating withdrawal liability does not properly address the effect on the PERA General Plan

When a hospital privatizes, the liability for PERA General is reduced because the privatized employees are no longer earning service or salary credit towards a pension benefit. In other words, the privatized employees' benefits are frozen. PERA also expects to receive less in contributions from the employees and employer. If the plan was fully funded, the decrease in liability would offset the loss of future contributions. Put simply, if the plan was fully funded, the accrued benefits for the privatized employees would be paid for in full. Since the plan is underfunded,[2] the loss of future contributions exceeds the reduction in liability thus creating a net loss for the plan. Current law does not account for this loss.

The proposed law changes the calculation to require the privatizing medical facility to pay its portion of the plan's unfunded liability. The unfunded liability is the difference between the amount of accrued benefits and the amount of assets available to pay for those benefits.

[2] PERA General's funding ratio is 83.1% on a market value of assets basis, as of the plan's July 1, 2023, actuarial valuation.

The calculation method proposed by the bill more accurately addresses the effect that privatizations have on the plan. Without the payment from the privatizing medical facility or its new owners, the cost of the privatizing medical facility's portion of the plan's unfunded liability is paid by the remaining employers and employees.

The bill will increase the cost of privatizing

As mentioned above, since Chapter 353F was established in 1999, no liability calculation has resulted in a medical facility paying a withdrawal liability to PERA. Under the changes made by the bill, the withdrawal liability calculation is intended to result in withdrawal liability and therefore will increase the cost when a medical facility privatizes. The cost will be borne by the parties in the transaction, though payment is owed by the new owners of the medical facility. The amount of the additional cost depends on the number of employees at the facility and the PERA General Plan's funding ratio.