



To: *Members of the Legislative Commission on Pensions and Retirement*

From: *Susan Lenczewski, Executive Director*

Date: *April 7, 2025*

Subject: *SF 2640 (Maye Quade) / HF 2367 (Nadeau)*

Attachments: [Bill Summary, H.F. 2367](#), dated April 1, 2025, by Danyell Punelli, Analyst, House Research
[Bill Summary, S.F. 2640](#), dated April 3, 2025, by Stephanie James, Senate Counsel

For summaries of the bill and the sections relevant to the Commission (Sections 1 and 14), please see the attached summaries prepared, respectively, by House Research Analyst Danyell Punelli and Senate Counsel Stephanie James.

Considerations regarding Sections 1 and 14 of the bill:

- Based on testimony by MMB and SEIU at the Senate State and Local Government meeting on April 3, **only about 1/5 of the individual providers of direct support services are covered by the collective bargaining agreement** between the State and SEIU. Approximately 55,000 individuals out of approximately 274,000 individuals are covered by the CBA. The language in Section 1 of the bill, which amends Section 179A.54 to add a new subdivision 12 states, in paragraph (a), that the retirement program is to be established for “individual providers of direct support services who are represented by the exclusive representative.” This means that this new state-funded retirement program will cover only a small subset of individual providers of direct support services.
- Individual providers of direct support services will be eligible to participate in the Minnesota Secure Choice Retirement Program. The Program is due to open in 2026. Section 187.05, subdivision 7, states:

(a) In addition to home and community-based services employees under paragraph (b), the board may allow individuals not employed by a covered employer to open and contribute to an account in the program, in which case the individual must be considered a covered employee for purposes of sections 187.05 to 187.11.

(b) The board must allow any home and community-based services employee to open and contribute to an account in the program within six months of the opening of the program and must consider a home and community-based services employee a covered employee for purposes of sections 187.05 to 187.11.

“Home and community-based services employee” is defined in subdivision 7 of Section 187.03:

“Home and community-based services employee” means an individual employed by the individual's child or spouse to provide:

(1) consumer-directed community supports services under sections 256B.092 and 256B.49 and chapter 256S or under the alternative care program authorized under section 256B.0913; or

(2) services under the community first services and supports program authorized under section 256B.85 and Minnesota's federally approved waiver programs.

- I understand that the model for the proposed retirement program is the program established in the State of Washington pursuant to a collective bargaining agreement with SEIU. Washington **does not have a retirement program for private sector employees similar to the Secure Choice Retirement Program**. Therefore, in Washington State, such a program was not and currently is not available for individual providers of direct support services and would not have been an alternative way to save for retirement for these individuals.
- An important distinction between Secure Choice and the WA program is that only employees may contribute to Secure Choice. In the WA program, employers are required to contribute, and no employee contributions are permitted. Employers may include the State of Washington, but it is not clear from the program information publicly available whether the State is an employer, unlike in Minnesota. Under the proposed MN program, the State, but no actual employers, are required to make the contributions to the program. This feature may cause the MN program to not be able to be considered tax-qualified under the federal Internal Revenue Code.

Typically, private sector defined benefit and defined contribution do not accept payments other than contributions from employers and employees and earnings thereon. While I haven't been able to do enough research to determine whether a state that is not an employer could make contributions to this type of plan, one of the qualification requirements in Internal Revenue Code Section 401(a)(1) states that a plan constitutes a qualified trust:

“if contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under section 404(a)(3)(B) (relating to deduction for contributions to profit-sharing and stock bonus plans), ... for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;”

- The Washington program, which is to serve as the model for the new MN retirement program, looks like a multiemployer defined benefit plan. It is much more restrictive than the Secure Choice Retirement Program or than a typical defined contribution plan. This may be because SEIU has its own national multiemployer pension plan and is accustomed to the defined benefit plan, not a defined contribution plan. Differences between (1) the WA program and (2) Secure Choice and most defined contribution plans include the following:

- Participants in Secure Choice are able to direct the investment of their retirement account, which will allow them to invest in accordance with their risk tolerance and proximity to retirement. Participants in the WA program cannot direct the investment of the contributions to their accounts.
- A participant in the WA program is not able to receive a distribution of the participant's account until normal retirement age, which is 65, and the only form of distribution available is an annuity. (There is an exception for accounts valued at \$5,000 or less, which may be taken immediately after termination of employment and in a lump sum.) Nearly all defined contribution plans allow for distribution shortly after termination of employment and in a lump sum. Secure Choice permits distribution at any time, subject to potential excise tax liability, and in a lump sum. Some defined contribution plans allow for annuity distributions as an alternative, but that form of distribution is not common because of the cost of purchasing annuities.
- The proposed retirement program is a multiemployer defined contribution plan in which potentially hundreds of individuals receiving direct support services will be considered participating **employers** in this multiemployer plan. While the CBA provides that the State will make the contributions required by the CBA, it is possible that these employers will be responsible for making the contributions should there be any reduction or delay in the State's financial support.
- The proposed retirement program is governed by ERISA and the Internal Revenue Code. Due to the uniqueness of the State's involvement as the sole contributor and not as an employer, there is the possibility that even after exhausting the \$350,000 provided in Section 14 of the bill, this program cannot be considered a tax-qualified retirement plan under federal law. It might be possible to get a preliminary legal opinion for substantially less than \$350,000.
- The bill requires the appointment of a board of trustees consisting of an equal number of governor appointments and SEIU appointments. There is no limitation on the size of the board or whether the board will have a staff. Maintaining and supporting a board of trustees and providing fiduciary liability insurance to the members as authorized by the bill will be an expense paid for by participant accounts, thereby reducing the value of participant accounts. The inclusion of a board of trustees in the bill may be because it follows the model of a multiemployer defined benefit plan (e.g., the SEIU national pension plan), with commingled assets to draw from to pay expenses and no resulting direct impact on the value of formula pension benefits.

Subject PCA/CFSS labor agreement between the state of Minnesota and SEIU Healthcare Minnesota and Iowa

Authors Nadeau and others

Analyst Danyell A. Punelli

Date April 1, 2025

Overview

This bill includes the language and appropriations necessary to enact the provisions of the labor agreement between the state of Minnesota and SEIU Healthcare Minnesota and Iowa for individual providers of direct support services.

The direct support services include the personal care assistance (PCA) choice program, community first services and supports (CFSS) budget model, and consumer-directed community supports (CDCS) and extended state plan PCA services available under the medical assistance (MA) home and community-based waivers and the alternative care program.

Summary

Section	Description
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| 1 | <p>Minnesota caregiver defined contribution retirement fund trust.</p> <p>Amends § 179A.54, by adding subd. 12. Authorizes the state and an exclusive representative to establish a joint labor and management trust, referred to as the Minnesota Caregiver Defined Contribution Retirement Trust Fund, for the exclusive purpose of creating, implementing, and administering a retirement plan for individual providers of direct support services who are represented by the exclusive representative. Requires the state to make financial contributions to the trust pursuant to a collective bargaining agreement. Specifies uses of the state financial contributions. Requires a board of trustees to jointly control the trust. Prohibits the trust from being an agent of either the state or the exclusive representative. Allows a third-party administrator, financial management institution, other appropriate entity, or any combination thereof to provide certain services to the board of trustees. Authorizes the state to purchase liability insurance for members of the board of trustees appointed by the governor. Prohibits financial contributions to or</p> |
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Section	Description
	<p>participation in the management or administration of the trust from being considered an unfair labor practice.</p> <p>Provides a July 1, 2025, effective date.</p>
2	<p>Enhanced rate.</p> <p>Amends § 256B.0659, subd. 17a. Effective January 1, 2026, or upon federal approval, whichever is later, increases the PCA enhanced rate (from 107.5 percent to 112.5 percent) paid for services provided to persons who qualify for ten or more hours of PCA services per day when provided by a PCA who meets certain criteria.</p> <p>Provides an immediate effective date.</p>
3	<p>Enhanced rate.</p> <p>Amends § 256B.85, subd. 7a. Effective January 1, 2026, or upon federal approval, whichever is later, increases the CFSS enhanced rate (from 107.5 percent to 112.5 percent) paid for services provided to persons who qualify for ten or more hours of CFSS services per day when provided by a support worker who meets certain criteria.</p> <p>Makes this section effective the day following federal approval.</p>
4	<p>Determination of CFSS service authorization amount.</p> <p>Amends § 256B.85, subd. 8. Effective January 1, 2026, or upon federal approval, whichever is later, modifies the information on which the CFSS service budget for budget model participation is based.</p> <p>Provides an immediate effective date.</p>
5	<p>Support workers requirements.</p> <p>Amends § 256B.85, subd. 16. Effective January 1, 2026, or upon federal approval, whichever is later, allows CFSS to qualify for an enhanced budget if the support worker providing the services meets specified criteria.</p> <p>Makes this section effective the day following federal approval.</p>
6	<p>Payment rates; component values.</p> <p>Amends § 256B.851, subd. 5. Effective January 1, 2026, or upon federal approval, whichever is later, modifies CFSS implementation components and worker retention components. Effective January 1, 2027, or upon federal approval, whichever is later, establishes CFSS implementation components for support workers who meet specified criteria related to number of hours of PCA services provided.</p> <p>Provides an immediate effective date.</p>

Section	Description
7	<p>Payment rates; rate determination.</p> <p>Amends § 256B.851, subd. 6. Includes PCA provider agency claims in the requirement to incorporate the worker retention component. Requires the commissioner to increase the CFSS budget model authorization for CFSS participant-employers employing individual providers who meet specified criteria and to determine the amount and method of the authorization increase.</p> <p>Makes this section effective January 1, 2026, or upon federal approval, whichever is later. Requires the commissioner to notify the revisor of statutes when federal approval is obtained.</p>
8	<p>Budget increase for consumer-directed community supports.</p> <p>Effective January 1, 2026, or upon federal approval, whichever is later, requires the commissioner to increase CDCS budgets under the home and community-based waivers and alternative care program by 0.13 percent.</p> <p>Provides an immediate effective date.</p>
9	<p>Enhanced budget increase for consumer-directed community supports.</p> <p>Effective January 1, 2026, or upon federal approval, whichever is later, requires the commissioner to increase the CDCS budget exception percentage under the home and community-based waivers and alternative care program from 7.5 percent to 12.5 percent.</p> <p>Provides an immediate effective date.</p>
10	<p>Stipend payments to SEIU Healthcare Minnesota and Iowa bargaining unit members.</p> <p>Requires the commissioner to issue stipend payments to collective bargaining unit members as required by the labor agreements between the state of Minnesota and SEIU Healthcare Minnesota and Iowa. Defines the term “subtraction” for purposes of this section. Specifies the amount of the stipend payments received by collective bargaining unit members is a subtraction and is excluded from income for purposes of determining income eligibility for property tax refunds. Prohibits stipend payments from being considered income, assets, or personal property for purposes of determining or recertifying eligibility for various economic assistance, housing assistance, child care assistance, and health care programs.</p> <p>Provides an immediate effective date.</p>

Section	Description
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11-14	Appropriations.
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Appropriates various amounts in fiscal years 2026 and 2027 from the general fund to the commissioner of human services for:

- health care cost stipends;
- training stipends;
- an orientation program; and
- the Minnesota caregiver defined contribution retirement fund trust.



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S.F. No. 2640 – Minnesota Caregiver Defined Contribution Retirement Fund Trust establishment provision (as proposed to be amended by the A-4 amendment)

Author: Senator Erin K. Maye Quade

Prepared by: Stephanie James, Senate Counsel (stephanie.james@mnsenate.gov)

Date: April 3, 2025

This summary is prepared for the State and Local Government Committee and focuses on the issues within the jurisdiction of the committee. It is not a thorough summary of the entire bill.

SF 2640, section 1, authorizes the establishment of a trust fund for retirement benefits for the providers of direct support services who are represented by SEIU Healthcare Minnesota and Iowa.

Section 1 [Minnesota Caregiver Retirement Fund Trust] (a) authorizes the state and an exclusive representative of direct support service providers to establish a joint labor and management trust to create, implement, and administer a retirement program for individual providers of direct support services who are represented by the exclusive representative.

(b) Requires the state to make contributions to the trust under a collective bargaining agreement. The state's contributions must be held in trust for paying the costs associated with creating, implementing, and administering a defined contribution or other individual account retirement program for direct support service providers working under a collective bargaining agreement and providing services under a medical assistance program for direct support services. Requires a board of trustees, appointed in equal numbers by the governor and the exclusive representative, to administer and jointly control the trust fund. The trust fund is not an agent of either the state or the exclusive representative.

(c) Authorizes a third-party administrator, financial management institution, or other appropriate entity, or a combination, to provide trust administrative, management, legal, and financial services to the board of trustees. The services must be paid from the money held in the trust.

(d) The state may purchase liability insurance for members of the board of trustees.

(e) Financial contributions to or participation in the management of the trust fund is not an unfair labor practice or a violation of state law.

(f) This section does not create a defined benefit retirement plan or program.

Sections 2 through 13 are not within the subject matter or budget jurisdiction of the State and Local Government committee. Section 14 is an appropriation to create the trust fund authorized under section 1.

Sections 2 to 9 increase medical assistance (MA) reimbursement for services provided by all personal care assistants and certain other similar direct care workers.

Sections 10 to 14 are appropriations and related language to fund aspects of the SEIU Healthcare Minnesota and Iowa collective bargaining agreement that are not related to medical assistance reimbursement.

Section 14 appropriates money in fiscal year 2026 from the general fund to the commissioner of human services for a vendor to create the trust fund authorized in section 1. This appropriation is onetime and is available under June 30, 2027.



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95 University Ave. W., STE 3300, Saint Paul, MN, 55155