

2021 Pension and Retirement Bill Delete-Everything Amendment S1712-1A

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Date: April 30, 2021

Introduction

The Legislative Commission on Pensions and Retirement (the “Commission”) has met five times so far this session and has considered 14 bills. Ten of the bills are included in this delete-everything amendment that will be considered at the Commission meeting on May 4, 2021. At Chair Rosen’s direction, the DE amendment does not include HF 1678 (Youakim), reinstating the state aid to local governments to fund increased employer contributions to PERA. It is anticipated that at least one additional bill and amendments will also be considered and approved at the meeting on May 4, 2021.

This memo summarizes the DE amendment as of April 30, 2021. This memo will be supplemented and revised for additional bills and amendments approved at the May 4 meeting immediately following the meeting.

Article-by-Article Summary

Article 1: Public Employees Retirement Association Provisions

(SF1712-Rosen, HF1758-Nelson, M.; and SF1993-Howe, HF2163-O’Driscoll)

Article 1 contains provisions affecting the Public Employees Retirement Association (PERA). The article extends the time period during which a member can pay to purchase service credit for a period of military service to a minimum of three years after the service member’s discharge from the military.

Article 1 also makes the following administrative changes:

- Recodifies the coverage and purchasing rules for “periodic and repetitive leaves;”
- Refines the definition of a “period of reduced salary” (usually a leave of absence) to allow school-employees to use a school year rather than a calendar year when determining timing requirements for purchasing service credit for a leave;
- Extends the length of time after retiring that a member can purchase service credit for various types of leaves of absence from 30 days to six months;
- Fixes an inconsistency in the treatment of PERA members retiring from positions covered by non-PERA plans under phased retirement agreements who are also eligible for a combined service annuity;

- Reduces the interest rate on omitted employee contributions from 8% to 7.5%;
- Clarifies application of pre-July 1989 early retirement provisions to the PERA Correctional and Police and Fire Plans;
- Permits the PERA executive director to waive the requirement that disability benefit recipients annually complete an earnings report;
- Clarifies the interest rates used to calculate interest on past contributions made in error; and
- Changes the “required beginning date” from age 70½ to age 72 for the PERA Defined Contribution Plan as permitted by the Federal SECURE Act of 2020.

Article 2: Federal Compliance Affecting MSRS and PERA Eligibility for Certain Visa Holders *(SF1454-Pappas, HF1497-Feist)*

Article 2 amends the provisions in the MSRS and PERA statutes that define the employees eligible for coverage under the plans administered by each system. Section 1 of this Article deals with eligibility under the MSRS plans, Section 2 deals with eligibility under the PERA plans, and Section 3 makes the change to the MSRS eligibility requirement retroactively effective.

Under Minnesota Statutes, section 352.01, “state employees,” as defined, are eligible for coverage by certain MSRS-administered plans, unless the individual is included in the list of “excluded employees.” One group of excluded employees are foreign citizens, for their first three years of employment, employed under a work permit, H-1b visa, or J-1 visa, of less than three years. Federal law does not permit this three-year exclusion from participation for employees who are holders of an H-1B, H-1B1, or E-3 visa. Accordingly, the exclusion for foreign citizens is being revised in Section 1 to not apply to these visa status holders, employees who are authorized to work in the U.S. for three years or more, and any other employee who is otherwise required to participate under federal law.

Under Minnesota Statutes, section 353.01, “public employees,” as defined, are eligible for coverage by PERA-administered plans, unless the individual is included in the list of “excluded employees.” As in the MSRS statute, “foreign citizens” are excluded for the first three years of employment, but PERA’s exclusion contains exceptions that result in coverage immediately upon hire for employees of Hennepin County or Hennepin Healthcare Systems, employees legally authorized to work in the U.S. for three years or more, and employees otherwise required to participate under federal law. Section 2 expands the list of exceptions to explicitly state that H-1B, H-1B1, and E-3 status holders are included employees.

Section 3 applies only to foreign citizens hired on or after October 1, 2020, who were excluded under current law but become MSRS-covered employees due to the changes in this Article 2. These employees are given the opportunity to purchase service credit beginning with their date of hire, by paying MSRS employee contributions missed during the period of employment that the employee was excluded from coverage under current law. Under paragraph (b), the employee or the employer must pay the missed employee contributions by August 31, 2021, and if the missed employee contributions are paid, then the employer must pay the missed employer contributions by September 30, 2021.

Article 3: PERA Statewide Volunteer Firefighter Plan Provisions
(*SF2252-Howe, HF1107-Murphy*)

Article 3 contains the second of two bills recommended by the Fire State Aid Work Group. The first bill, enacted in 2020, allows municipalities with both volunteer firefighters covered by a fire relief association and career firefighters covered by the Public Employees Police and Fire Plan (“Police and Fire Plan”) to split (or allocate) their fire state aid between the two groups of firefighters. This bill authorizes municipalities and independent nonprofit firefighting corporations, with both volunteer firefighters covered by the PERA Statewide Volunteer Firefighter Plan (“Statewide Plan”) and career firefighters covered by the Police and Fire Plan, to receive a portion of their fire state aid to pay employer contributions on behalf of career firefighters.

The bill creates in effect a pilot program because it only applies to departments that are combination departments on or before January 1, 2021. Municipalities that qualify under the bill, can submit an “aid allocation plan” to PERA. If the aid allocation meets the requirements in the bill, then PERA will send a portion of the municipality’s fire state aid to the municipality as a reimbursement of the previous year’s employer contributions to the PERA Police and Fire Plan. However, the amount that can be transmitted to the municipality is limited to the smallest of the following amounts:

- The amount listed in the aid allocation plan;
- The amount that the municipality contributed in employer contributions for career firefighters during the previous calendar year;
- The amount of fire state aid that PERA receives in a given year for that municipality;
- The amount of fire state aid left over after the municipality’s funding requirement is met for that year; or
- Any amount that would result in the municipality’s Statewide Plan account becoming less than 100% funded (PERA can only transmit fire state aid to a municipality if the municipality’s Statewide Plan account is already 100% funded).

The bill also establishes an administrative process that would allow firefighters of a municipality that submits an aid allocation plan, to petition PERA to stop the transmission of fire state aid to the municipality. PERA is required to honor any such petition if it is signed by more than half of the active firefighters associated with the municipality.

Article 4: St. Paul Teachers Retirement Fund Association Provisions
(*SF1303-Pappas, HF1459-Nelson, M.*)

Article 4 contains two sections affecting the St. Paul Teachers Retirement Fund association. Section 1 delays by one year the implementation of a higher employee contribution rate. Under current law, the fund’s employee contribution rate is scheduled to increase from 7.5% to 7.75% on July 1, 2022. Under the provision, the increase would go into effect July 1, 2023, instead.

Section 2 of Article 4 is an administrative change that fixes a drafting error in the 2018 omnibus pension bill. The drafting error resulted in an inaccurate description of the early retirement factors that are used by the fund for certain members. The section is effective retroactively from June 30, 2018.

Article 5: Volunteer Firefighter Relief Association Provisions

(SF2056-Rosen, HF2145-Nelson, M.; SF1925-Abeler, HF2192-Heinrich)

The first nine sections of Article 5 are changes to current law recommended by the State Auditor's Volunteer Fire Relief Association Working Group. The last four sections of Article 5 replace a session law enacted in 2020 regarding the retirement benefits in the Ramsey Volunteer Firefighters' Relief Association (Ramsey Relief Association) for firefighters affected by the termination of the joint powers agreement between the cities of Ramsey and Nowthen.

Sections 1-9 consist mostly of technical or clarifying changes to Chapter 424A, which governs volunteer firefighter relief associations. Substantive changes include the following:

- Section 4 changes the provisions for combined service pensions, so that a firefighter will be able to have service credit from two or more relief associations combined for vesting purposes only for the pension benefit in the subsequent relief association and no longer for the pension benefit in the prior relief association.
- Section 6 clarifies language in the statute requiring the crediting of "interest or additional investment performance" to deferred member accounts in defined contribution relief associations. The section also permits the application of an amendment to the bylaws of a relief association relating to the crediting of interest and investment performance, if adopted by January 1, 2022, to apply to firefighters who separated from active service before January 1, 2021 (rather than having the bylaws in effect on the date the firefighter separated from active service apply, as under current law).
- Section 7 permits relief associations to eliminate service credit from their books for former firefighters who leave active service before vesting in their pension benefit and do not return to active service within five years.
- Section 9 permits a supplemental benefit to be paid for each distribution from a relief association, subject to a separate \$1,000 maximum, and thereby authorizes the Department of Revenue to reimburse relief associations and the PERA Statewide Volunteer Firefighter Plan for these benefits. This section is retroactively effective for supplemental benefits paid in 2018 and thereafter, allowing the Department of Revenue to reimburse relief associations and the PERA Statewide Plan for supplemental benefits paid under current law that lacked the clarity provided by the changes in this section.

Sections 10-13 apply only to the cities of Ramsey and Nowthen and the Ramsey Relief Association. This topic was addressed during the 2020 legislative session and resulted in the enactment of a session law that provided for the transfer of retirement accounts from the Ramsey Relief Association to another relief association established by a fire department that would employ the firefighters assigned to the Nowthen fire station. Since then, circumstances have changed and Nowthen is in the process of forming a new fire department and has decided to join the PERA Statewide Volunteer Firefighter Plan (PERA Statewide Plan).

Sections 10-12 applies to the firefighters assigned to the Nowthen fire station, whose employment will be terminated by the city of Ramsey during 2021. Section 10 requires the Ramsey Relief Association to give these firefighters twelve months of service credit for 2021, fully vest these firefighters in their retirement account in the Ramsey Relief Association, and authorizes the immediate distribution of these retirement accounts, if elected by the Nowthen firefighter. Section 11 modifies requirements for fire state aid so Nowthen will qualify for fire state aid payable in 2022. Section 12 modifies current law to permit the Nowthen fire department to join the PERA Statewide Plan mid-year.

Section 13 repeals the 2020 session law on the same topic.

Article 6: Deadline for Agency Requests to LCPR Staff to Draft Bills (LCPR21-023)

Article 6 inserts two new statutes in Chapter 356B to add a definitions section, as Section 356B.01, and, as Section 356B.02, a new deadline that applies only to the public pension funds and agencies, when they submit requests to the staff of the Commission to draft bills. The deadline is November 1, which can be waived by the executive director. An amendment adopted by the Commission removes the State Auditor from the definition of “agency,” so bill drafting requests from the State Auditor are not subject to a deadline.

This new statute replaces existing law, at Section 356B.05, that requires public pension funds and agencies to submit proposals for legislation by October 1. This statute is largely obsolete because it applied only to bills that address topics, such as purchases of past service credit, offsets from disability benefits, earnings by reemployed annuitants, and retroactive effect for retirement annuity applications, that are no longer necessary because of changes in applicable law. Article 6 also repeals Section 356B.05.

Article 7: Session Laws for Individuals (SF950-Pappas, HF407-Nelson, M.; and SF2098-Pratt, HF2188-Mortensen)

Article 7 contains two bills addressing retirement benefits for two individuals. Section 1 of Article 7 applies to an individual who retired in reliance on inaccurate estimates provided by the Minnesota State Retirement System (MSRS). Section 1 increases the benefit from the MSRS General Plan to the amount that was indicated in the estimates prepared by MSRS.

Section 2 of Article 7 applies to an employee of the Department of Human Services who was mistakenly covered by the MSRS General Plan but should have been covered by the MSRS Correctional Plan. Section 2 permits the employee to transfer past service credit from the MSRS General Plan to the MSRS Correctional Plan if the employee pays additional employee contributions. If the employee transfers the past service credit, the Department of Human Services is required to contribute to the MSRS Correctional Plan the amount required to cover the additional liability attributable to the transfer of past service credit.

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