

**2021 Omnibus Pension and Retirement Bill:
SF 1712-Rosen/Nelson, M., 2nd Engrossment,
as passed by the Senate**

General Summary

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Introduction

The Legislative Commission on Pensions and Retirement (the "Commission") met six times during this legislative session and considered 17 bills. Thirteen of the bills and several amendments approved by the Commission became the Commission's 2021 omnibus pension and retirement bill. The bill was approved by the Commission, the Senate and House state government committees, and the House Ways and Means Committee. On May 11, 2021, the bill, as Senate File 1712, the 2nd engrossment, was passed by the Senate.

Article-by-Article Summary

Article 1: Minnesota State Retirement System Provisions
*(SF2405-Rosen, HF2514-O'Driscoll; Commission Amendment S2405-2A;
SF1452-Frentz, HF1291-Murphy)*

Article 1 amends statutes applicable to retirement plans administered by the Minnesota State Retirement System (MSRS). Section 1 amends provisions of the Unclassified Plan and Section 2 amends provisions of the Judges Retirement Plan.

Section 1 extends the use of pre-2017 annuity factors in calculating the annuity benefit for certain Unclassified Plan participants. Participants in the Unclassified Plan are permitted, upon retirement, to elect to have their plan account distributed in the form of an annuity. The factors used to convert a lump sum amount to an annuity were changed in 2017 to reflect changes to actuarial assumptions. However, because the pre-2017 factors provided a larger monthly benefit to Unclassified Plan participants than the factors approved in 2017, Section 352D.06, subdivision 1, was amended in 2017 to extend the application of the pre-2017 annuity factors until 2020 for employees who had attained at least age 63 or who had at least 26 years of service. In 2020, use of the factors was again extended until June 30, 2021. Section 1 extends until June 30, 2022, the use of the pre-2017 factors in calculating the annuity benefit for any Unclassified Plan participant who:

- terminates employment on or after June 1, 2021, and before July 1, 2022;

- is an employee of the House of Representatives, the Senate, or the Legislative Coordinating Commission; and
- on June 30, 2020, was at least age 63 or had at least 26 years of covered service.

Section 2 reduces the postretirement adjustment rate, or COLA, for retirees in the Judges Retirement Plan from the current rate of 1.75% per year to the new rate of 1.5% per year. The section also removes automatic funding triggers that, under current law, would automatically increase the annual postretirement adjustment rate to 2% when the plan achieves a funded ratio of 70% in two consecutive years and to 2.5% when the plan achieves a funded ratio of 90% in two consecutive years.

Article 2: Federal Compliance Affecting MSRS and PERA Eligibility for Certain Visa Holders (SF1454-Pappas, HF1497-Feist; Commission Amendment S1712-5A)

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 of foreign citizens under the MSRS plans, Section 2 deals with eligibility of foreign citizens under the PERA plans, and Section 3 permits members in MSRS to purchase service credit for periods of employment during which they were not covered by MSRS because of the exclusion for foreign citizens.

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 allows foreign citizens who are currently employed or who terminated employment in the twelve-month period ending on the effective date of this article to purchase service credit for any period of employment they were excluded under current law. If the "eligible person" or that person's employer pays MSRS the employee contributions missed during the excluded period of employment, MSRS is required to provide the service credit and the employer is required to pay the missed employer contributions plus interest on both the employee and employer contributions.

Article 3: Public Employees Retirement Association Provisions

(SF1712-Rosen, HF1758-Nelson, M.; SF1993-Howe, HF2163-O'Driscoll; Commission Amendments S1993-1A and S1712-2A)

Article 3 contains provisions affecting the Public Employees Retirement Association (PERA). Section 3 of 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. The rest of the sections in this article make minor changes to clarify or correct language or simplify administration, including the following:

- 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
- Replaces the reference to age 70½ in the definition of "required beginning date" to a reference to that definition in Chapter 356, which governs all public pension and retirement plans and makes conforming changes, including replacing "member" with "participant".

Article 4: PERA Statewide Volunteer Firefighter Plan Provisions

(SF2252-Howe, HF1107-Murphy)

Article 4 contains the second of two bills recommended by the Fire State Aid Work Group established in 2018. The first bill, enacted in 2020, allows municipalities with both volunteer firefighters covered by a firefighter 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 Police and Fire Plan. 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 5: St. Paul Teachers Retirement Fund Association Provisions *(SF1303-Pappas, HF1459-Nelson, M.)*

Article 5 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 employee contribution rate is scheduled to increase from 7.5% to 7.75% on July 1, 2022. Section 1 changes the effective date of the increase to July 1, 2023. This change mirrors the timing of a similar increase in the employee contribution rate for members of the Teachers Retirement Association.

Section 2 of Article 5 corrects a drafting error dating back to the 2018 omnibus pension bill. Changes made in 2018 to Section 354A.31, Subd. 7, resulted in an error regarding the application of early retirement discount percentages. Section 2 changes the timing of the "bend point", from age 60 to age 59. The "bend point" is the dividing line between a 7% per year reduction and a 4% per year reduction for every year prior to normal retirement age a member begins to take an early retirement benefit. The new language clarifies that the early reduction factors are four percent per year for members whose age at retirement is at least 55 but not yet 59 and seven percent per year for members whose age at retirement is at least 59 but not yet normal retirement age. The section is effective retroactively from June 30, 2018.

Article 6: Volunteer Firefighter Relief Association Provisions

(SF2056-Rosen, HF2145-Nelson, M.; SF1925-Abeler, HF2192-Heinrich; Commission Amendment S1712-8A)

The first eight sections of Article 6 are changes to current law recommended by the State Auditor's Volunteer Fire Relief Association Working Group. The last four sections of Article 6 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 1-8 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 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.

Sections 9-12 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).

Section 9 applies to the firefighters assigned to the Nowthen fire station, whose employment will be terminated by the city of Ramsey during 2021. Section 9 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 10 modifies requirements for fire state aid so Nowthen will qualify for fire state aid payable in 2022. Section 11 modifies current law to permit the Nowthen fire department to join the PERA Statewide Plan mid-year.

Section 12 repeals the 2020 session law on the same topic.

Article 7: Deadline for Agency Requests to LCPR Staff to Draft Bills
(Commission bill draft LCPR21-023; Commission oral amendment)

Article 7 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 is also the deadline for bill requests from agencies to the Revisor's office under Section 3C.0135. The deadline 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 8: Session Laws for Individuals
(SF950-Pappas, HF407-Nelson, M.; SF2098-Pratt, HF2188-Mortensen; Commission Amendment S1712-3A)

Article 8 contains two bills addressing retirement benefits for two individuals. Section 1 of Article 8 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. The amendment changes the effective date from the day following final enactment to July 1, 2021.

Section 2 of Article 8 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 approximately nine years of 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.

Article 9: Work Groups for 911 Telecommunicators and Supplemental State Aid
(SF2485-Bigham; Senate Floor Amendment scs1712a-1; Commission Amendment S1712-7A; Commission oral amendment)

Article 9 establishes two work groups to provide recommendations to the Commission.

Section 1 establishes a working group to study whether 911 telecommunicators should receive enhanced pension benefits and to recommend options to the Commission for providing enhanced benefits. The working group will be convened by the Commission's executive director. The work group is to be comprised of at least 11 members. Members of the work group include:

- representatives from MSRS, PERA, and several organizations representing local governments;
- 911 telecommunicators; and
- members of the PERA and MSRS correctional plans.

The amendment adopted by the Senate requires that the members of the PERA and MSRS correctional plan who will serve on the working group be designated by the governing boards of PERA and MSRS, respectively. An amendment adopted by the Commission requires the work group to report to the Commission by March 1, 2022, rather than January 15, 2022.

Section 2 establishes a Supplemental State Aid Work Group to discuss and articulate options to the Commission on changing the method of allocating firefighter supplemental state aid provided under Minnesota Statutes, Section 423A.022. The work group is to be convened and chaired by the State Auditor. Members of the work group include:

- representatives appointed by the league of Minnesota Cities, Minnesota Association of Townships, and the Minnesota State Fire Departments Association;
- a representative of the State Fire Marshall Division of the Department of Public Safety;
- a representative of the Department of Revenue; and
- the executive director of PERA or the executive director's designee.

The work group must submit a report to the chair, vice chair, and executive director of the Commission by December 31, 2022.

Article 10: Technical Clarifications and Corrections *(Commission Amendment S1712-2A)*

Article 10 is a compilation of changes to statute that Commission staff have collected since the end of 2020. Commission staff considers the changes to be non-substantive, technical clarifications and corrections. Sections 1-5 correct miscellaneous drafting errors or clarify sections affected by changes in statute or federal law.

Sections 6-33 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. The sections make a series of related changes to these statutes to clarify ambiguity regarding the full vesting requirement and the term "member." Many of the changes are replacing the term "member" with the term "participant." The changes are consistent with the intent of the new statutes enacted in 2020 and with applicable federal law.

Section 34 clarifies the applicability of duplicate definitions found in Chapters 424A and 477B.

Section 35 is an instruction to the Revisor of Statutes to renumber certain paragraphs as subdivisions.

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