



Amendment S2884-8A (Rasmusson; Frentz): Corrections, Clarifications, and Technical Changes to Statutes Governing Public Pension and Retirement Plans

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Introduction

Affected Plans and Programs: Most pension and retirement plans for public employees in Minnesota, including firefighter relief associations; State Board of Investment; fire and supplemental state aid; and the Legislative Commission on Pensions and Retirement

Laws Amended: Statutes in Chapters 3, 11A, 124E, 181, 353D, 353G, 354B, 356, 423A, 424A, 424B, and 477B

Brief Description: Since the end of the 2024 legislative session, Commission staff have received requests from agencies, the pension funds, fire relief associations, and others for changes to correct or clarify Minnesota statutes, including statutes amended in the 2024 Pension and Retirement Policy and Supplemental Budget bill (“2024 Omnibus Pension bill”). In the course of day-to-day review of the statutes, Commission staff also noted statutes that need revision. The changes in the bill are corrections, clarifications, or technical or administrative changes and are generally not substantive.

Background

Amendment S2884-8A contains the language of SF 3467 (Rasmusson/Frentz): Making Corrections and Clarifying Changes to Pension and Retirement Statutes, with a few minor changes to Article 14 requested by the Department of Revenue and the Office of the State Auditor, and includes that language in the Omnibus Pension and Retirement Bill.

Section- by- Section Summary

Article 11: Legislative Commission on Pensions and Retirement

Section 1 amends subdivision 2 (“Powers”) of Section 3.85, which governs the Commission. Paragraph (d) of subdivision 2 requires the Commission to “analyze each item of proposed pension and retirement legislation, including amendments to each, with particular reference to analysis of their cost, actuarial

soundness, and adherence to sound pension policy” and report its findings to the legislature. Complying with this requirement is not feasible or practical and is cost prohibitive due to the volume of pension and retirement legislation introduced each session and the cost of doing an actuarial cost assessment of each bill and amendment.

Mandated reports such as the one required by paragraph (d) are filed with the Legislative Reference Library. The LRL has six reports required by Section 3.85, subdivision 2, paragraph (d), in its collection, dated from 1969 through 1984, and nothing more recent. It is possible that this report has not been produced by the Commission since 1984. To prepare this report and include the contents described in paragraph (d) would be quite an undertaking, requiring days of work and tens of thousands of dollars in actuarial fees.

For these reasons, Section 1 revises this requirement to require analysis of proposed legislation (not “each item of proposed legislation”) and the reporting requirement is deleted.

Section 2 amends subdivision 3 (“Membership”) to clarify that a member of the Commission serves until the earlier of the appointment of the member’s successor or the end of the member’s legislative term. Under current law, a member is to continue to serve until the member’s successor is appointed. This often does not happen until weeks into the first year of the next legislative biennium, beyond the end of the term of legislators who are not returning for the new biennium.

Section 3 amends subdivision 10 (“Standards for pension valuations and cost estimates”) to update terminology, revise the requirement that all pension plans for public employees in Minnesota are subject to the Commission’s Standards for Actuarial Work (“Standards”), replace the requirement that the Standards be update “annually” with “periodically,” and delete unnecessary language.

Effective date: Article 11 is effective the day following final enactment.

Article 12: Statewide Volunteer Firefighter Plan

Chapter 353G governs the PERA Statewide Volunteer Firefighter Plan (SVF Plan). Chapter 353G was substantially amended in the 2024 Omnibus Pension bill, including the addition of a defined contribution plan as an option for fire departments. The changes in Article 12 include incorporating new defined terms, adding missing language, and correcting changes made in 2024.

Sections 1, 3 through 6 amend subdivisions in Sections 353G.08, 353G.11, and 353G.17 to update or clarify language and incorporate the new or revised defined terms for Chapter 353G included in the 2024 Omnibus Pension bill.

Section 2 adds a new subdivision 1b (“Applicable benefit level”) to Section 353G.11. This subdivision was inadvertently omitted when this Chapter was substantially revised as part of the 2024 Omnibus Pension bill. The new subdivision incorporates provisions included in Section 353G.09 in effect prior to 2024 stating that the benefit level in effect when the member terminated firefighting services applies when calculating the member’s lump sum or monthly benefit.

Sections 7 through 10 amends subdivisions in Section 353G.19 (“Conversion to defined contribution plan”) to revise the requirement regarding full vesting when a tax-qualified retirement or pension plan terminates or converts from a defined benefit plan to a defined contribution plan. This requirement appears in Section 356.001, subdivision 3, and applicable federal law (Internal Revenue Code Section 401(a)(7) in effect on September 1, 1974). Full vesting is required for all accrued benefits and accounts but only “to the extent funded.” This means that if a fire department account in the SVF Plan elects to transition from coverage by the SVF Plan’s defined benefit plan to coverage by the SVF Plan’s defined contribution plan and the fire department account is less than 100% funded, all accrued benefits must become vested on the conversion effective date *only to the extent of the funding available*.

Section 11 amends subdivision 5 (“Surplus over full funding”) of Section 353G.19 (“Conversion to defined contribution plan”) to state that, when a fire department elects to convert the fire department’s defined benefit account in the SVF Plan to a defined contribution account, and the defined benefit account is overfunded, the surplus must be allocated among active volunteer firefighters to their new accounts in the defined contribution plan. This change means that a volunteer firefighter who is no longer providing firefighting services to a fire department will have an account established in the new defined contribution plan to which the amount of the former firefighter’s accrued benefit will be deposited, like all other former and active firefighters, but the former firefighter’s account will not share in the surplus.

Effective date: Article 12 is effective the day following final enactment.

Article 13: IRAP to TRA Transfers

The 2024 Omnibus Pension bill added new procedures for determining which participants in the Minnesota State Colleges and Universities Individual Retirement Account Plan (IRAP) are eligible to elect a transfer from the IRAP to the Teachers Retirement Association (TRA) and how that transfer is to occur. If the participant satisfies the eligibility requirements, the participant can elect to transfer retirement coverage to TRA and begin accruing a pension benefit. The election will result in the transfer of the participant’s IRAP account to TRA for the purchase of credit for past service toward the TRA pension.

Representatives from the Teamsters, other employee organizations, and MN State worked with Commission staff during the interim to clarify language in the statutes added in 2024.

Section 1 makes changes to subdivision 3 (“Eligible person”) of Section 354B.215 (“Teachers Retirement Association coverage for employees who did not receive election to transfer”) to clarify language regarding the following:

- A participant in the IRAP will be an “eligible person” entitled to elect a transfer from the IRAP to TRA only if the participant was previously eligible to elect a transfer. MN State staff identified periods of time and circumstances when applicable law did not authorize a transfer.
- MN State employees who are granted tenure would have had two opportunities to elect a transfer under current law: upon hire and upon achieving tenure. Even if MN State produces documentation showing that a participant was offered the opportunity to elect a transfer when the participant was hired, a participant will be considered an eligible person and have the

opportunity to elect a transfer if MN State cannot produce documentation showing that the participant was offered the opportunity to elect a transfer when the participant was granted tenure or comparable permanent status.

Sections 1 and 2 amend subdivisions 3 and 4 of Section 354B.215 to extend the time period from 60 days to 75 days during which MN State may produce documentation showing a participant was given the opportunity to elect a transfer and is therefore not eligible to make a transfer now or in the future. If MN State produces such documentation no later than 75 days after the participant files an application to transfer, the participant is not eligible to elect the transfer.

Effective date: Article 13 is retroactively effective as of January 1, 2025.

Article 14: Fire and Police State Aid

The 2024 Omnibus Pension bill made changes to Section 477B.02 (“Qualifying for fire state aid”) to incorporate references to part-time firefighters and explicitly state in this statute that fire departments that employ part-time firefighters are eligible for fire state aid. After the bill was enacted, a representative of the Department of Revenue, which administers the fire state aid and supplemental state aid programs, contacted Commission staff and noted that similar changes are needed to Chapter 423A, which governs supplemental state aid, and that additional changes are needed to both Chapters 423A and 477B to take into account the fire departments that employ part-time firefighters and provide coverage through the PERA General Employees Retirement Plan (PERA General Plan), not the Police and Fire Plan.

Article 14 makes changes to several sections in Chapter 423A, governing supplemental state aid, 477B, governing fire state aid, and 424A, governing fire relief associations to incorporate references to part-time firefighters and the PERA General Plan as follows:

Section 1 amends subdivision 2 of Section 423A.022, which governs the allocation of supplemental state aid. Under Section 423A.022, the \$15.5 million of supplemental state aid is split as follows (clause (1) through (3) of paragraph (a)):

- (1) 58.064% to PERA for the Police and Fire Plan,
- (2) 35.484% to municipalities with fire departments that participate in the PERA Statewide Volunteer Firefighter Plan (SVF Plan) or are affiliated with a firefighter relief association, and
- (3) 6.452% to the MSRS State Patrol Plan.

Clause (2) explicitly excludes municipalities “solely employing firefighters with retirement coverage by the public employees police and fire retirement plan.” We understand that this has been interpreted to also exclude from supplemental state aid municipalities with part-time firefighters covered by the PERA General Plan. Accordingly, the changes to subdivision 2 revise the exclusion to state “solely employing firefighters with retirement coverage provided by a pension plan administered by [PERA], other than the [SVF] Plan.” This is intended to align the statute with how the allocation is being administered.

At the suggestion of the Revisor's Office language was moved out of clause (2) and into a new paragraph (b). Changes to paragraph (c) remove the word "volunteer" from "volunteer firefighter relief associations, to conform to the change in this defined term enacted in 2024 and update the reference to the SVF Plan.

Section 2 amends Section 423A.022, subdivision 3 ("Reporting"), to require the executive director of PERA to report to the Department of Revenue, for the purpose of supplemental state aid, the municipalities that employ firefighters with coverage by the PERA General Plan, in addition to the reporting required under the current statute of municipalities with firefighters in the P&F Plan or the SVF Plan.

Section 3 amends Section 424A.014, subdivision 5 ("Report by certain municipalities; exceptions") to add a reference to the PERA General Plan and a reference to the statutes referring to employer contributions to the PERA General Plan.

Section 4 amends Section 424A.08 ("Municipality without relief association; authorized disbursements") to clarify language and insert references to the SVF Plan, part-time firefighters, and PERA General Plan. This section limits the use of fire state aid when a municipality is not affiliated with a relief association or participating in the SVF Plan and authorizes fire state aid to be used to pay employer contributions to the P&F Plan or the PERA General Plan. References to the SVF Plan and PERA General Plan are missing from current statutes.

Section 5 amends Section 477B, subdivision 3 ("Benefit requirements"), to insert a reference to the PERA General Plan and makes other conforming language changes.

Section 6 amends Section 477B.02, subdivision 8 ("PERA certification to commissioner"), to require the executive director of PERA to certify to the Department of Revenue, for the purpose of fire state aid, the fire departments that (1) participant in the SVF Plan but have no firefighters receiving credit for service toward a retirement benefit and (2) employ part-time firefighters covered by the PERA General Plan.

Sections 7 to 10 delete references to "volunteer" to align with the new definitions in Chapter 424A, added by the 2024 Omnibus Pension bill and make other clarifications to language in Sections 477B.03 and 477B.04.

Effective date: This article is effective for aids payable in 2026.

Article 15: State Board of Investment

Sections 1 and 2 revise a reporting deadline in Section 11A.07, subdivisions 4 ("Duties and powers") and 4b ("Annual report"). One of the duties of the State Board of Investment is to file with the Legislative Reference Library a report summarizing the activities of the SBI during the preceding fiscal year. The report is to be filed by December 31. The changes to this reporting deadline are to (1) delete the reference to December 31 in subdivision 4 and (2) revise the annual report requirement to require that the report be filed "after the completion of the applicable fiscal year audit, but no later than March 31 of each year...." The new due date will align with the completion of the SBI's annual audit, which typically

concludes mid-January. The SBI does not file the annual report until the SBI has received the audit letter.

Section 3 (Repealer): Section 3 repeals Section 11A.27 (“Report on investment consultant activities and deliverables”), which eliminates the requirement for the SBI to produce a specific report on the SBI’s external investment consultants. The requested information is redundant as it is included in the SBI’s quarterly board materials and yearly budget documentation.

Effective date: Article 15 is effective the day following final enactment.

Article 16: Public employees defined contribution plan

This article amends sections in Chapter 353D, which governs the PERA Defined Contribution Plan (DC Plan).

Section 1 amends Section 353D.01, subdivision 2 (“Eligibility”) to add the Eden Valley municipal rescue squad as a new clause (5), making members of the squad eligible to participate in the DC Plan if the member is not eligible for membership in the PERA Police and Fire Plan or an affiliated firefighter relief association and elects to participate in the Plan.

Section 2 amends Section 353D.02, subdivision 4 (“Eligible rescue squad members”), to add a reference to new clause (5) and require that an election to participate in the DC Plan must be made within 30 days of the date on which the member first begins service with the rescue squad. A sentence in paragraph (a) is moved to new paragraph (c) so an election under either paragraph (a) or (b) will be irrevocable.

Effective date: Article 16 is effective the day following final enactment.

Article 17: Miscellaneous technical corrections

Sections 1 and 2 amend subdivisions 4 and 6 in section 124E.12 (“Employment” in Chapter 12E on “Charter Schools”) to delete obsolete language and insert updated language relating to TRA and St. Paul Teachers Retirement Fund Association.

Section 3 amends Section 181.101 (“Wages; how often paid”) to conform a reference to “volunteer firefighter, as defined in section 424A.001” to the new definitions added to Section 424A.001 by the 2024 Omnibus Pension bill. Defined terms used in Chapter 424A were revised in 2024, and included making a distinction between “volunteer firefighters” and “on-call firefighters,” both of which are covered by relief associations. Changes were made to revise references to “volunteer firefighter” throughout Chapter 424A to also include “on-call firefighter.” A comprehensive review of all of Minnesota statutes has not yet been done to fix every reference to “volunteer firefighter” that should also refer to “on-call firefighter.” As we discover references to “volunteer firefighter” as used in Chapter 424A, Commission staff will continue to propose corrections.

Sections 4 and 5 amends Section 356.633 (“Direct rollovers”), which was substantially revised in the 2024 Omnibus Pension bill. Federal law requires that members or participants in a pension or retirement plan and their beneficiaries must be given the opportunity to elect a direct rollover of a lump sum

distribution and certain other distributions to an individual retirement account (IRA) or another retirement plan. The changes made to subdivisions 1 and 2 clarify that the direct rollover requirements apply to all public pension and retirement plans and do not apply to a distribution of less than \$200, and makes other revisions to more closely mirror the federal requirements.

Section 6 adds a new subdivision 4 to Section 356.633 that requires covered retirement plans to provide the tax notice required by federal law. While the statewide and St. Paul plans are undoubtedly providing this tax notice, including the requirement in this section may lead to more compliance by relief associations, most of which distribute retirement benefits in a lump sum.

Section 7 moves a subdivision that is currently the last subdivision in Section 356.635 to a new Section 356.638 titled “Military service,” and updates and clarifies language. All the rest of Section 356.635 deals with required minimum distributions, unrelated to the federally required language for military service. Moving this subdivision to its own section will make it more noticeable and not buried in a section that deals with an unrelated topic.

Sections 8 to 11 revise Section 424B.22 (“Relief association dissolution and retirement plan termination”). Section 8 amends Section 424B.22, subdivision 1 (“Application”) to delete provisions that are moved to a new subdivision 1a, titled “Voluntary dissolution and termination,” added by Section 9. Moving these procedures to a new subdivision will clarify that they apply when a relief association is voluntarily dissolved and the retirement plan terminated and not when a relief association is involuntarily dissolved and the retirement plan terminated, which is addressed in subdivision 2.

Section 10 amends Section 424B.22, subdivision 2 (“Involuntary dissolution and termination”) to add a new clause (3) to the clauses that describe when an involuntary dissolution occurs. The new provision states that an involuntary dissolution occurs when the fire department transfers its active part-time firefighters who are members of the relief association to the PERA Police and Fire Plan and no other active firefighters remain in the relief association.

Section 11 amends Section 424B.22, subdivision 3 (“Retirement plan termination date, full vesting, and forfeitures”), to incorporate the concept noted in the summary of Article 12, on pages 2 and 3, which is that full vesting is required upon plan termination but only to the extent funded. As mentioned previously, this is consistent with Section 356.001, subdivision 3, and federal law. A new clause (2) in paragraph (b) states that if a relief association pays interest on deferred benefits, interest ends on the retirement plan termination date. This was a concern of relief association representatives that contacted staff over the interim.

Section 12 (Repealer): The “Military service” subdivision in Section 356.635 is being repealed because it is moved to its own new section 356.638.

Effective date: Article 17 is effective the day following final enactment.