



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director <sup>EB</sup>  
RE: Summary of the 2004 Legislative Session Pension Provisions  
DATE: July 2, 2004

This memo summarizes the 2004 Legislative Session pension provisions. Most of the legislation was contained in the Legislative Commission on Pensions and Retirement omnibus pension bill (S.F. 676, the Fourth Engrossment), which was enacted as Laws 2004, Chapter 267. Provisions which eliminated the actuary retained by the Legislative Commission on Pensions and Retirement and replaced that actuary with an actuary to be retained jointly by the larger Minnesota public pension fund administrations was passed separately and enacted as Laws 2004, Chapter 223. A few miscellaneous provisions are found in other chapters.

The first major section, Fund-Specific Legislation, summarizes all pension-related legislation for individual plans and for plans of a specific category, such as the first class city teacher plans, local police and paid fire plans, or volunteer fire plans. The second major section, General Pension Provisions, summarizes pension legislation applying to all public plans or to miscellaneous plan groupings. The third major section, Miscellaneous Provisions, describes the actuarial service changes, and also mentions legislation which in some cases is not related directly to pension plan law but which is of interest to Commission members and public sector retirees.

## I. FUND-SPECIFIC LEGISLATION

### A. Minnesota State Retirement System (MSRS)

#### **General State Employees Retirement Plan (MSRS-General)**

1. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan's salary definition. *Laws 2004, Chapter 267, Article 2, Section 1. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
2. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan's military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The time period to make a purchase begins when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 1. Source: Commission Amendment*
3. Disabilitants: Temporary Reemployment Benefit Reduction Waiver. Any reduction or termination of disability benefits due to gainful employment from which earnings are equal to or more than the employee's salary the date of disability or the salary currently paid to similar

positions is waived for the first six months of the employment. Effective until July 1, 2006. *Laws 2004, Chapter 267, Article 8, Section 3. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

4. Clarification of Death Before Termination of Service Refund Provision. The MSRS-General death before termination of service refund provision is clarified, and will include interest compounded daily rather than annually. *Laws 2004, Chapter 267, Article 9, Section 2. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
5. Clarification of Death After Termination of Service Refund Provision. The MSRS-General death after termination of service refund provision is clarified, and will include interest compounded daily rather than annually. *Laws 2004, Chapter 267, Article 9, Section 3. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
6. Revision of Interest Payment Requirements on Refunds. Refunds to terminating employees who request a refund will include six percent interest compounded daily from the date the contribution was made until the date on which the refund is paid, rather than a refund with interest based on monthly or fiscal year balances. *Laws 2004, Chapter 267, Article 9, Section 4. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
7. Change in Refund Waiting Period, Deferred Annuity Provision. A vested member who has left covered employment may select a refund, in lieu of a deferred annuity, upon termination of service, rather than a minimum of 30 days after termination of service. *Laws 2004, Chapter 267, Article 9, Section 5. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
8. Special Law Provision: Election by Survivor; Transfer from MSRS-General to MSRS-Unclassified. A personal representative of the estate of a person who was born on March 26, 1942, was employed by the House of Representatives for several years, and was later employed by the Senate shortly before her death, may elect to transfer prior contributions from MSRS-General to MSRS-Unclassified, for purposes of receiving a death benefit under Section 352D.075. *Laws 2004, Chapter 267, Article 16, Section 3. Source: House Ways and Means Committee and Senate Finance Committee Amendments drawn from S.F. 3041 (Betzold).*
9. MSRS Full Actuarial Value Military Service Credit Provision Revised and Extended. The MSRS full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 1 and 7. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*
10. Revision of MSRS DOT Pilots Early Retirement Reduction Waiver. This provision applies solely to Department of Transportation pilots. The MSRS provision that waives early retirement reductions if the pilot retires at age 62 or later remains in effect, despite a change in the mandatory pilot retirement age from age 62 to age 65 under revised department of transportation policy documents. *Laws 2004, Chapter 267, Article 7, Section 1. Source: H.F. 2541 (Beard); S.F. 2556 (Murphy).*

#### **Legislators Retirement Plan**

1. Revised Interest Compounding Procedure. A refund taken from the Legislator's Retirement Plan will include interest compounded daily, rather than annually, and repayment of refund interest requirements are clarified. *Laws 2004, Chapter 267, Article 9, Section 1. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

#### **Correctional State Employees Retirement Plan (MSRS-Correctional)**

1. Several Positions at Minnesota Correctional Facility-Rush City Added to Plan. The Corrections Discipline Unit Supervisor, Dental Hygienist, and Psychologist 2 at the Minnesota Correctional Facility-Rush City are added to the MSRS-Correctional Plan, providing that that at least 75 percent of the employee's working time is spent in direct contact with inmates, and the Commissioner of Corrections certifies that to the MSRS Executive Director. *Laws 2004, Chapter 267, Article 1, Section 1. Source: House Ways and Means Committee and Senate Finance Committee Amendments.*

2. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The change in the MSRS-General military leave provision described above in the MSRS-General section also applies to this plan.
3. Duty-Related and Non-Duty-Related Disability Eligibility Provisions Clarified. The duty-related and non-duty-related disability benefit eligibility provisions are clarified by indicating that the individual must be expected to be unable to perform the duties of the position for at least one year in order to be eligible for disability benefits. *Laws 2004, Chapter 267, Article 8, Sections 5 and 6. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

#### **Unclassified State Employees Retirement Program (MSRS-Unclassified)**

1. Repealer of TRA Basic Member MSRS-Unclassified Program Exclusion. Minnesota Statutes, Section 352D.02, Subdivision 5, a provision which prohibited any TRA basic member from participating in the MSRS-Unclassified Program unless the individual terminates from TRA-covered employment and at least 30 days have expired before becoming employed in an MSRS-Unclassified covered position, is repealed. (The provision became obsolete because TRA no longer has any basic members.) *Laws 2004, Chapter 267, Article 1, Section 9. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
2. Disability Benefit Provision Revised to Permit More Flexible Payout Options. More flexibility is created for partial payouts in disability situations by permitting any portion of the account value to be paid or transferred in a lump sum, rather than a full payout or payout of half of the account value, with the remainder being annuitized. *Laws 2004, Chapter 267, Article 8, Section 14. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
3. Surviving Spouse Benefit Provision Revised to Permit More Flexible Payout Options. More flexibility is created for partial payouts to surviving spouses by permitting any portion of the account value to be paid or transferred in a lump sum, rather than only a full payout or payout of half of the account value, with the remainder being annuitized, and by permitting a survivor annuity to commence anytime, rather than only when the recipient is age 55 or older, and by permitting election of a surviving spouse term-certain annuities of 5, 10, 15, or 20 years. *Laws 2004, Chapter 267, Article 9, Sections 12 and 13.*
4. Beneficiary Refund Provision Revised to Apply if No Surviving Spouse. The Unclassified Program refund beneficiary provision is revised to apply only if there is no surviving spouse. *Laws 2004, Chapter 267, Article 9, Section 14. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
5. Special Law Provision: Election by Survivor; Transfer from MSRS-General to MSRS-Unclassified. A personal representative of the estate of a person who was born on March 26, 1942, was employed by the House of Representatives for several years, and was later employed by the Senate shortly before her death, may elect to transfer prior contributions from MSRS-General to MSRS-Unclassified for purposes of receiving an Unclassified Program death benefit (Section 352D.075). *Laws 2004, Chapter 267, Article 16, Section 3. Source: House Ways and Means Committee and Senate Finance Committee Amendments drawn from S.F. 3041 (Betzold).*

#### **State Patrol Retirement Plan**

1. State Patrol Retirement Plan Average Monthly Salary Definition Revised. The State Patrol Plan average monthly salary definition is clarified by stating it applies to salary upon which contributions were made to the plan, and that salary means salary as defined in MSRS-General law. (Given the revision in MSRS-General's salary definition regarding grievance awards and legal settlements, those new limitations will apply to the State Patrol Retirement Plan.) *Laws 2004, Chapter 267, Article 2, Section 2. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
2. Military Leave Provision Added to the Plan to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). A military leave of absence/break in service provision, conforming to USERRA requirements, is added to the plan. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer

contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase payment period begins on the date the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 2. Source: Commission Amendment.*

3. Disability Eligibility Provisions Clarified. The duty-related and non-duty-related disability benefit eligibility provisions are clarified by indicating that the individual must be expected to be unable to perform the employment duties for at least one year in order to be eligible for disability benefits. *Laws 2004, Chapter 267, Article 8, Sections 8 and 9. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
4. Disabilitant Optional Annuity Clarification. The State Patrol Plan disabilitant optional annuity provision is clarified by indicating that the election must be made in writing on a form prescribed by the Executive Director. *Laws 2004, Chapter 267, Article 8, Section 12. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
5. Disabilitant to Retirement Status Provision, Transfer Date Defined. The State Patrol Plan provision, specifying when an individual transfers from disabilitant status to retirement status, is clarified by adding a definition of transfer date, which is the end of the month in which the disabilitant becomes age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. *Laws 2004, Chapter 267, Article 8, Section 13. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
6. Revised Interest Treatment on Refunds. Any terminated employee refund or death refunds will include interest (six percent) compounded daily, rather than annually. *Laws 2004 Chapter 267, Article 9, Section 7. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
7. Clarification of Surviving Spouse Benefits. The State Patrol Plan surviving spouse/dependent child benefit provision is revised to clarify surviving spouse benefits, as follows:
  - a. If a vested active member dies before retirement age (age 55), the surviving spouse is eligible to receive a benefit equal to 50 percent of the deceased member's average monthly salary, and when the member would have turned age 55, the surviving spouse may receive the second half of a joint and survivor annuity, if that provides a greater benefit.
  - b. If vested member dies on or after age 55 the surviving spouse is eligible to receive a benefit equal to 50 percent of the deceased member's average monthly salary or the second half of a joint and survivor annuity, whichever provides a greater benefit.
  - c. If a non-vested active members dies, the surviving spouse receives a benefit equal to 50 percent of the average monthly salary.
  - d. If a disabilitant dies while receiving a disability benefit (or prior to commencement of that benefit) and an optional annuity was not elected, the surviving spouse is eligible to receive the benefits specified in (a) above.
  - e. If a vested deferred member dies, the surviving spouse is eligible to receive the second half of a 100 percent joint and survivor annuity, commencing no sooner than the date the deceased annuitant would have attained age 55.
  - f. If a non-vested ex-member who did not take a refund dies, the surviving spouse is entitled to a refund plus six percent interest compounded daily.
  - g. If a surviving spouse or dependent children are entitled to benefits under workers' compensation law due to the events which caused the employee's death, the annuities described above must not be reduced due to those workers' compensation benefits.

The benefits as stated above are intended as clarification of existing law. If the provisions increase, modify, impair, or diminish the benefits as stated in existing law, the Executive Director shall provide draft remedial legislation and inform the Chairs of the Legislative

Commission on Pensions and Retirement, the House Governmental Operations Committee, and the Senate Governmental Operations Committee, and the Executive Director of the Legislative Commission on Pensions and Retirement. *Laws 2004, Chapter 267, Article 9, Sections, 6, 8, 9, 10, 11, and 26. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

8. State Patrol Retirement Plan Full Actuarial Value Military Service Credit Provision Revised and Extended. The MSRS State Patrol Plan full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 2 and 7. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*

### **Judges Retirement Plan**

1. Military Leave Provision Added to the Plan to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). A military leave of absence/break in service provision, conforming to USERRA requirements, is added to the plan. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer (court administrator) will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase period begins when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 8. Source: Commission Amendment.*
2. Repeal of Obsolete Probate Court Provision. An obsolete probate court disability provision which required an application to the Governor for disability benefits, rather than to MSRS, and an investigation by the Governor, is repealed. *Laws 2004, Chapter 267, Article 8, Section 41. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
3. Increased Interest Rate Paid on Refunds. The interest rate on a refund is increased from five percent to six percent, making the refund interest rate in this plan comparable to other MSRS defined benefit plans. Interest will be compounded daily. Consistent with general policy for interpreting statutory changes, the increased interest rate will apply only to cases where the judge terminates service on or after the effective date of the provision (July 1, 2004). Repayment of refund language is clarified by specifying the time period over which interest will be computed. *Laws 2004, Chapter 267, Article 9, Sections 23 and 26. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

### **MSRS Privatized Employees Chapter (Chapter 352F)**

1. MSRS Privatized Employees Chapter Revised to Clarify Application of Surviving Spouse, Dependent Children Benefits. A section is added clarifying that surviving spouse and dependent children provisions of MSRS-General law (as stated in law at the time of the privatization) apply to privatized employees covered by this chapter. *Laws 2004, Chapter 267, Article 9, Section 15. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*

### **B. Public Employees Retirement Association (PERA)**

#### **General Employee Retirement Plan (PERA-General)**

1. Temporary Position Definition is Clarified. The definition of “temporary position” is clarified by stating that a position is not temporary if the position extends beyond six months and PERA’s salary threshold for membership is met or exceeded. *Laws 2004, Chapter 267, Article 1, Sections 2 and 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*

2. Reference to “Business Year” Removed from Seasonal Position Definition. Language relating to “business year,” an obsolete term, is stricken from the seasonal position definition. *Laws 2004, Chapter 267, Article 1, Section 4. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
3. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan’s salary definition. PERA’s salary definition is further revised by clarifying that salary for pension purposes can not exceed federal law compensation limits for pension purposes, or limits provided in state statute (Section 356.611). This provision would also apply to members of PERA-P&F and the PERA Local Correctional Plan. *Laws 2004, Chapter 267, Article 2, Section 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
4. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan’s military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase can made during a period starting when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 3. Source: Commission Amendment.*
5. Clarification of Reemployed Annuitant Reallocations. The PERA reemployed annuitant provision is revised by removing language made obsolete by changes in Social Security law. As revised, no reemployed annuitant reallocations will apply after an individual reaches normal retirement age under Social Security law (between age 65 and 67, depending upon date of birth). *Laws 2004, Chapter 267, Article 7, Sections 2 and 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
6. Disabilitant Partial Reemployment Provisions Clarified. The PERA partial reemployment provision is clarified by indicating it applies in situations where the disabilitant has income from employment that is not substantial gainful employment, rather than “resumes a gainful occupation.” *Laws 2004, Chapter 267, Article 8, Section 18. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
7. Disabilitants: Temporary Reemployment Benefit Reduction Waiver. Any reduction or termination of disability benefits due to gainful employment from which earnings are equal to or more than the employee’s salary at the date of disability or the salary currently paid to similar positions is waived for the first six months of the employment. No contributions can be made to the retirement plan during this six-month period unless the member waives the disability benefit. An individual may only use this provision once. The provision sunsets on July 1, 2006. *Laws 2004, Chapter 267, Article 8, Section 19. Source: Commission Amendment.*
8. Repealed: Provision Dealing with One-Time 1987 Disability Benefit Change. An obsolete PERA provision which authorized an increase in disability benefits for any PERA member who prior to July 1, 1987, had disability benefits reduced due to receipt of workers’ compensation benefits, is repealed. *Laws 2004, Chapter 267, Article 8, Section 41. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
9. Lake Johanna Volunteer Fire Department, Inc., Added to the PERA Governmental Subdivision Provision. Lake Johanna Volunteer Fire Department, Incorporated, is added to PERA’s governmental subdivision provision. The change makes this organization a public employer for PERA purposes, allowing employees of the association who meet other PERA requirements to be members of PERA plans, either the General Plan or PERA-P&F, as applicable given the



nature of the employment. *Laws 2004, Chapter 267, Article 15, Section 1. Source: H.F. 2347 (Krinkie); S.F. 2212 (Reiter).*

10. Special Law Purchase of Service Credit, Certain Current TRA member. A current TRA member employed by the Anoka-Hennepin school district since 1986, and who was employed by the Mounds View school district (May 1968 to December 1971) and by the Bemidji school district in employment that may have qualified for PERA coverage but for which no retirement coverage occurred, may purchase PERA-General service credit for applicable uncovered periods at full actuarial value. The application must be in writing and include all necessary documentation of the person's eligibility for PERA-General retirement coverage for the applicable periods. *Laws 2004, Chapter 267, Article 16, Section 1. Source: H.F. 1586 (Nelson, P.); S.F. 1579 (Nienow).*
11. Goodhue County Commissioner with PERA-P&F and PERA-General Coverage. This provision attempts to remedy the pension problem of an individual elected to the Goodhue County Board of Commissioners, and has application to both PERA-General and PERA-P&F.

A Goodhue County Commissioner, who was elected to the county board in 1998 and elected to have PERA-General coverage for that elected employment, and who also was employed as a Red Wing police officer with PERA-P&F coverage for that public safety employment, is authorized to begin drawing a PERA-P&F annuity providing the individual has terminated from the public safety service, despite the election of PERA coverage for the elected employment. The annuity must be based solely on PERA-P&F covered salary. All contributions to PERA-General due to the elected service are to be determined, and the individual can elect to transfer that amount plus six percent interest to a Public Employees Defined Contribution Plan account and have continuing coverage by that plan, or can elect a refund of the PERA-General employee contributions plus interest, with no continuing pension plan coverage. *Laws 2004, Chapter 267, Article 16, Section 2. Source: H.F. 1975 (Dempsey); S.F. 1756 (Murphy).*

12. PERA Full Actuarial Value Military Service Credit Provision Revised and Extended. The PERA full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. The provision would also apply for PERA-P&F members, and the PERA Local Government Correctional Plan. *Laws 2004, Chapter 267, Article 17, Sections 3 and 7. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*

### **PERA Privatized Employees Chapter (Chapter 353F)**

1. PERA Privatized Employees Chapter Revised to Clarify Application of Surviving Spouse, Dependent Children Benefits. A section is added clarifying that surviving spouse and dependent children provisions of PERA (as stated in law at the time of the privatization) apply to privatized employees covered by this chapter. *Laws 2004, Chapter 267, Article 9, Section 16. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
2. Various Privatized Healthcare Facilities Added to PERA Privatization Chapter. Fair Oaks Lodge (Wadena), Kanabec Hospital, RenVilla Nursing Home, and the St. Peter Community Healthcare Center, are added to the PERA Privatized Employee Chapter. Local approval is required. Also required is a finding that the privatization will not impose a loss on PERA. (In some cases, that determination was made prior to passage by the Legislature.) *Laws 2004, Chapter 267, Article 12, Sections 1 and 4. Sources: H.F. 2460 (Simpson); S.F. 2341 (Larson), H.F. 2672 (Koenen); S.F. 1871 (Kubly), and Senate Finance Committee Amendment.*
3. Government Training Center Employees and Anoka County Achieve Program Employees Continuation of PERA Coverage Following Privatization. Employees of the Achieve Program, or of the Government Training Office, who were employed by either entity on the day prior to privatization, remain as members of PERA-General following the privatization for employment with the successor organization. *Laws 2004, Chapter 267, Article 12, Sections 2 and 3. Source: H.F. 1699 (DeLaForest); S.F. 1619 (Betzold), and Senate State and Local Government Operations Committee Amendment.*

### **Public Employees Police and Fire Retirement Plan (PERA-P&F)**

1. A few provisions (relating to grievance awards, revision of the military service credit purchase provision to comply with USERRA, and clarification of the reemployed annuitant reallocation

provision) were summarized in the PERA-General section but apply here also. Other provisions are as follows below.

2. Temporary Waiver of Reemployment Reallocations: PERA-P&F Retirees Working for Metropolitan Airports Commission. For PERA-P&F annuitants working for the Metropolitan Airports Commission, any reemployed annuitant reallocation is waived on earnings for the period January 1, 2004, to June 30, 2007. *Laws 2004, Chapter 267, Article 7, Section 8. Source: S.F. 2280 (Pogemiller).*
3. Revised PERA-P&F Disability Application and Review Procedures. Several changes were made in PERA-P&F disability application procedures, and in provisions for reviewing ongoing disability benefit cases, as listed below. *Laws 2004, Chapter 267, Article 8, Sections 20 to 25. Sources: Commission Amendment and H.F. 2457 (Smith); S.F. 1616 (Betzold).*
  - a. The applicant must apply for benefits in writing on forms provided by the Executive Director.
  - b. The application must include adequate proof of a disability including a written report by a licensed physician, chiropractor, or psychologist.
  - c. The individual must release all medical records, both for purposes of the initial benefit application or for later benefit continuation purposes.
  - d. If the application is filed within two years of the date of the injury or illness, the disability determination depends on whether the individual is capable of performing the duties of the position held on the date of the injury or illness. If the application is filed more than two years after the injury or illness, the determination is whether the individual can perform the duties assigned during the 90 days before filing the application.
  - e. Applications can be filed after termination of service, but if the application is filed more than three years after the individual terminates from PERA-P&F covered employment, the individual must provide evidence that the disability is the direct result of an injury or illness contracted while the individual was a PERA-P&F covered employee.
  - f. Every duty-related application must include a first report of injury, as specified under workers' compensation law.
  - g. The employer must provide input regarding the individual's ability to provide services.
  - h. If a disability benefit application is approved but the individual does not terminate service or is not placed on an authorized leave within 45 days after the application is approved, the application is voided and another may not be filed within one year.
  - i. Individuals may repay a refund up to six months after the effective date of the disability benefits.
  - j. Benefits can accrue up to 90 days before the filing of an application, but not prior to the date of the disabling injury or illness.
  - k. An individual applying for or receiving disability benefits must submit to an independent medical evaluation paid for by PERA.
  - l. Any applicant who is denied initial benefits or a benefit continuation may appeal the Executive Director's decision to the PERA Board within 45 days of receipt of a certified letter notifying the individual of denial of benefits or benefit continuation.

### **C. Teachers Retirement Association (TRA)**

1. Obsolete Language Removed from "Teacher" Definition. Language pertaining to the Comprehensive Employment and Training Act (CETA), technical colleges, adult supplementary technical college license, and other obsolete language, is removed from TRA's definition of "teacher." *Laws 2004, Chapter 267, Article 1, Section 5. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*
2. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan's salary definition. *Laws 2004, Chapter 267, Article 2, Section 4. Source: Commission Amendment.*



3. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan's military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase must occur during a period beginning when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 6. Source: H.F. 1086 (Smith); S.F. 806 (Betzold)*.
4. Crediting of Service, Full-Time and Part-Time MnSCU Employees. For service rendered after July 1, 2003, full-time service credit for MnSCU employees will be based on definitions of full-time employment contained in collective bargaining agreements for the applicable employees, or as contained in personnel or salary plans. Part-time service credit will be determined based on appropriate proration of the full-time service requirements. Reporting of part-time service credit for TRA members at MnSCU must occur by July 31 of each year, based on the employee's actual assigned workload during the fiscal year. *Laws 2004, Chapter 267, Article 3, Section 4, and Article 6, Section 3. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller)*.
5. Family Leave Provision Revised to Eliminate Conflicting Reporting Requirements. The TRA family leave provision is revised to clarify employer reporting requirements. *Laws 2004, Chapter 267, Article 3, Section 5. Source: H.F. 519 (Smith); S.F. 807 (Betzold)*.
6. Extension of Filing Requirement Deadlines, Teachers Who are Legislators, Qualified Part-Time Teacher Program. If a teacher is also a legislator, the agreement between the school district and teacher to enter the qualified part-time teacher program must be signed by March 1 of the school year, rather than by October 1, and can be filed with TRA without a fine before March 1, rather than before October 1. *Laws 2004, Chapter 267, Article 4, Section 1. Source: H.F. 519 (Smith); S.F. 807 (Betzold)*.
7. Revised Treatment of Employee and Employer Contributions Sent to Wrong Pension Plan. If employee and employer contributions were sent to the wrong pension fund, and removing those erroneous contributions from the fund would cause the fund to lose qualified plan status, the transfer will not be made. Instead, within 30 days after notification by TRA, the employer will transfer an amount representing the employee and employer contributions plus interest to the correct plan fund, and TRA will provide a credit in TRA for the amount of the erroneous contributions plus interest against future contributions from the employer. Similar treatment will occur for refunds that could cause loss of qualified plan status. *Laws 2004, Chapter 267, Article 5, Section 1. Source: H.F. 1086 (Smith); S.F. 806 (Betzold)*.
8. Service and Salary Crediting Procedure for Initial Employment Period, MnSCU Employee with Initial Employment Less than 25 Percent of Full-Time. If an individual was employed by MnSCU in an initial appointment of less than 25 percent of full-time, and that individual later elects TRA coverage for MnSCU employment, MnSCU must pay to TRA the employer and employee contributions applicable for the initial period of uncovered employment, plus 8.5 percent annual compound interest. Payment is authorized only if the initial employment was within the last 36 months. MnSCU will recoup the employee contribution plus interest amount by salary deduction. This section is effective on July 1, 2004, and applies retroactively to July 1, 2001. *Laws 2004, Chapter 267, Article 5, Section 2. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller)*.
9. Member Data Clarification. Employing units must provide initial member data and any updates of that data in a format prescribed by the Executive Director, and information on employee gender and position code must be provided. *Laws 2004, Chapter 267, Article 6, Section 1. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller)*.

10. Clarification of Penalties. The penalties provision in TRA's reporting section is clarified to avoid double penalties on late transmittal of contributions from employing units. *Laws 2004, Chapter 267, Article 6, Section 4. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*
11. Clarification of Reemployed Annuitant Reallocations. The TRA reemployed annuitant provision is revised by removing language made obsolete by changes in Social Security law. As revised, no reemployed annuitant reallocations will apply after an individual reaches normal retirement age under Social Security law (between age 65 and 67, depending upon date of birth). *Laws 2004, Chapter 267, Article 7, Section 5. Source: Commission Amendment.*
12. Accrual Date Revision. TRA's accrual date provision is revised by allowing an annuity to accrue more than one month before the date of final salary receipt, but not before termination of service. *Laws 2004, Chapter 267, Article 7, Section 4. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*
13. Required Salary Audit Prior to Start of Annuity, TRA High Salaried Members/Required TRA Report.
  - a. If a TRA member has a salary in excess of 95 percent of the Governor's salary, TRA must audit the salary for consistency with TRA's salary for pension purposes provision. *Laws 2004, Chapter 267, Article 7, Section 6. Source: Senate Finance Committee Amendment.*  
  

Note: A report to the Legislature is required. In the report section, the language on the group to be studied is not fully consistent with the above provision.
  - b. TRA must report to the chairs of the Legislative Commission on Pensions and Retirement, Government Operations and Veterans Affairs Policy Committee in the House, and State And Local Government Operations Committee in the Senate on the number of superintendents, assistant superintendents, and principals who retired during the year where the audit identified an impermissible salary inclusion amount. The reports are due on February 15, 2004 and 2005. If any impermissible salary inclusions are identified in those reports, reports must also be made for 2006 and 2007. *Laws 2004, Chapter 267, Article 7, Section 9. Source: Senate Finance Committee Amendment.*
14. Disability Benefit Application Provision Clarified. TRA's disability benefit application provision is revised by clarifying that the application must be in writing, on a form provided by the Executive Director. *Laws 2004, Chapter 267, Article 8, Section 26. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*
15. Disabilitant Transfer to Retirement Status Provision Revised. TRA's provision for transferring disabilitants to retirement rolls at age 65 is revised to have the transfer occur at "normal retirement age" rather than age 65, to accommodate the range of normal retirement ages under the plan (varying from age 65 to age 66, depending upon date of birth under Social Security law). *Laws 2004, Chapter 2004, Article 8, Section 30. Source: Commission Amendment.*
16. Designated Beneficiary Definition Revised to Eliminate Need for Witnesses to Member's Signature. The TRA "designated beneficiary" definition is revised by removing a requirement that the signing of the form had to be witnessed (by two individuals). *Laws 2004, Chapter 267, Article 9, Section 17. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*
17. Revision in Computing Surviving Spouse Benefits, Higher Benefits Provided in Deferred Benefit Receipt Situations. Surviving spouse benefit occupations will use the age of the spouse at the date the benefit accrues, rather than the surviving spouse's age when the member died. (This should result in higher monthly benefits if the survivor benefit is deferred.) *Laws 2004, Chapter 267, Article 9, Section 18. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*
18. Non-Married Members May Designate a Beneficiary to Receive Surviving Spouse Benefit. An individual who is not married may designate in writing a beneficiary to receive a surviving spouse benefit. (The designated beneficiary must be a former spouse or a biological or adopted child.) *Laws 2004, Chapter 267, Article 9, Section 20. Source: H.F. 519 (Smith); S.F. 807 (Betzold), and S.F. 2297 (Kiscaden).*
19. Beneficiary Designation Procedures, Treatment of Survivor Annuities. All beneficiary designations and applications for surviving spouse and dependent child benefits must be in writing on forms provided by the Executive Director. Deferred annuity augmentation and service

in more than one fund provisions apply to survivor annuities. *Laws 2004, Chapter 267, Article 9, Section 21. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*

20. Special Law Provisions: Entitlement to Name a Beneficiary to Surviving Spouse Benefit; TRA Member with Two Minor Children. A TRA-covered teacher employed by Independent School district No. 535, Rochester, with more than 19 years of service credit, who has two minor children and no potential surviving spouse due to a marriage dissolution, and who has been diagnosed with a life threatening medical condition, may designate a biological or adopted child or a trust established for the child or children to receive a surviving spouse benefit or a refund. Any assets to be received are for the support and education of the dependent child or children. *Laws 2004, Chapter 267, Article 9, Section 24. Source: S.F. 2297 (Kiscaden).*
21. TRA Full Actuarial Value Military Service Credit Provision Revised and Extended. The TRA full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 4 and 6. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*

#### **D. First Class City Teacher Plans**

##### **Duluth Teachers Retirement Fund Association (DTRFA)**

##### **St. Paul Teachers Retirement Fund Association (SPTRFA)**

##### **Minneapolis Teachers Retirement Fund Association (MTRFA)**

1. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan's salary definition. *Laws 2004, Chapter 267, Article 2, Section 5. Source: Commission Amendment.*
2. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan's military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase must be made during a period beginning on the date the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 7. Source: H.F. 1086 (Smith); S.F. 806 (Betzold).*
3. Extension of Filing Requirement Deadlines, Teachers Who are Legislators, Qualified Part-Time Teacher Program. If a teacher is also a legislator, the agreement between the school district and teacher to enter the qualified part-time teacher program must be signed by March 1 of the school year, rather than by October 1, and can be filed with the applicable first class city teacher fund association without a fine before March 1, rather than before October 1. *Laws 2004, Chapter 267, Article 4, Section 2. Source: Commission Amendment.*
4. Repealer: Allowable Funding Sources for Payment of Equivalent Contributions. A first class city teacher plan law allowing repayments of refunds and contributions for leaves of absences to be paid using assets received from qualified pension plans, including 401(k) plans, 403 tax sheltered annuity plans, individual retirement accounts (IRAs), and Section 457 deferred compensation plans, is repealed. (The provision is no longer needed given comparable language added to law for all plans in Chapter 356, described below under "GENERAL PENSION PROVISIONS.") *Laws 2004, Chapter 267, Article 9, Section 25. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*

5. First Class City Teacher Plan Full Actuarial Value Military Service Credit Provision Revised and Extended. The First Class City Teacher Plan full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 5 and 6. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*

#### **E. Higher Education Individual Retirement Account Plan (IRAP)**

1. Obsolete Language Removed for "Covered Employment" Definition. An obsolete reference to the state university or community colleges is stricken and replaced by "Minnesota State Colleges and Universities System." *Laws 2004, Chapter 267, Article 1, Section 6. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*
2. IRAP Eligibility Expanded. IRAP eligibility is expanded to include unclassified managers and professionals in academic and academic support programs employed by a state university or college, the Minnesota State Colleges and Universities System (MnSCU) Board, or the Higher Education Services Office. Effective on July 1, 2004, but applies retroactive to the date of hire. *Laws 2004, Chapter 267, Article 1, Section 7. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*
3. Equal Employee Contribution (4.5 percent) to Apply to All IRAP Members. The IRAP employee contribution rate of 4.0 percent for certain unclassified employees who could have elected the MSRS-Unclassified Program rather than IRAP is eliminated. The change creates a uniform employee contribution rate, 4.5 percent of pay, for all higher Education IRAP members. *Laws 2004, Chapter 267, Article 5, Section 3. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*
4. Access to Amounts Transferred into IRAP. IRAP members who had less than ten years of TRA or first class city teacher plan service credit, and who elected to transfer employee contributions plus six percent interest from the applicable defined benefit teacher plan to IRAP, may access those transferred amounts upon termination of IRAP-covered service, rather than upon retirement. *Laws 2004, Chapter 267, Article 5, Section 4. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*

#### **F. Higher Education Supplemental Retirement Plan**

1. Supplemental Retirement Plan Eligibility Expanded. Eligibility for the Higher Education Supplemental Retirement Plan is expanded to include confidential status employees, retroactive to July 1, 2001. *Laws 2004, Chapter 267, Article 1, Section 8. Source: H.F. 1474 (Erickson); S.F. 1420 (Pogemiller).*

#### **G. Local Police and Paid Fire Relief Associations**

##### **Minneapolis Fire Relief Association (MFRA)**

1. Revision in Executive Secretary Salary Restrictions. The portion of the salary of the Executive Secretary that is paid by the relief association rather than the city, which was set last year at 50 percent of the maximum salary of a first grade firefighter, is revised to apply only if the Executive Secretary is an active relief association member. If the Executive Secretary is not an active member, the salary may not exceed the highest salary received by the Executive Directors of MSRS, PERA, or TRA. Local approval is required. *Laws 2004, Chapter 267, Article 13, Section 1. Source: H.F. 2030 (Smith); S.F. 2085 (Pogemiller).*

##### **Minneapolis Police Relief Association (MPRA)**

1. Extending Amortization Date, Enhancing Service and Survivor Annuities and Changing Thirteenth Check Trigger. Several provisions passed for the Minneapolis Police Relief Association (MPRA) which would lengthen the amortization period beyond 2010 in exchange for a set of benefit improvements. The amortization date is extended from December 31, 2010, to December 31, 2020. To determine if a thirteenth check can be paid, the time weighted return for the most recent two-year period will be used in the determination, rather than the time weighted rate of return in the most recent five year period. Service pensions for 20 or more years of service are increased by one unit (approximately \$78 per month) and a corresponding increase in

survivor annuities is provided. Language that required the service pension to be decreased if the funding ratio fell below 90 percent is stricken from law. A new section, Guaranteed Pension Provision, is added which states, "Once a pension benefit is properly paid in accordance with this law to any member, the dollar amount of that pension benefit shall not be reduced." Requires local approval. *Laws 2004, Chapter 267, Article 18. Source: House Governmental Operations and Veterans Affairs Policy Committee and Senate State and Local Government Operations Committee Amendments drawn from H.F. 2844 (Kahn).*

## **H. Volunteer Fire Relief Associations**

1. Revision in Non-Forfeitable Portion of Service Pension, Marine on St. Croix and Other Defined Contribution Plans. Minnesota Statutes, Section 424A.02, Subdivision 2, authorizes all volunteer fire relief associations to pay, if the articles of incorporation or bylaws so provide, a reduced service pension (as indicated in law by a non-forfeitable percentage table) to members who have completed fewer than 20 years of service. This year, a new separate table was added to that statute applying to defined contribution volunteer fire plans which specifies a 40 percent non-forfeitable portion at 5 years of service; 52 percent at six years of service; 64 percent at seven years of service; 76 percent at eight years of service; 88 percent at nine years of service; and 100 percent at ten years and thereafter. A comparable special law provision was enacted for Marine on St. Croix. The Marine on St. Croix special law requires local approval. *Laws 2004, Chapter 267, Article 14, Section 1 and 3. Source: Commission Amendment and H.F. 2466 (Otto); S.F. 1856 (Bachmann).*
2. Additional Treatment for Interest on Deferred Service Pensions, Temporary Provision. In addition to treatments already in law for lump sum plans, relief associations may pay interest on a deferred pension equal to the actual time weighted rate of return of the pension plan as reported by the State Auditor, not to exceed five percent, if the bylaws are amended accordingly. The proposed treatment expires on December 31, 2008. *Laws 2004, Chapter 267, Article 14, Section 2. Source: H.F. 2376 (Rhodes); S.F. 2220 (Kelley).*
3. Bellingham Firefighter Relief Association, Ratification of Prior Annuity Purchases. Annuities purchased by the Bellingham Volunteer Fire Relief Association, although they were not permissible investments under applicable investment authority provisions, are ratified. *Laws 2004, Chapter 267, Article 14, Section 5. Source: H.F. 2458 (Smith); S.F. 1806 (Kubly).*

## **I. Ambulance Service Personnel Longevity Award and Incentive Program**

The Ambulance Service Personnel Longevity Award and Incentive Program was created in 1993 to provide an award upon termination of service for individuals who served as an ambulance attendant, driver, or ambulance service medical director or medical advisor earning little or no pay. The provided benefit is a distribution from a pool of assets derived from excess police state aid. Award recipients must be at least age 50 and provide at least five years of service. No more than 400 awards can be given in any year.

1. Revised Qualification Criteria and Elimination of Service Credit Cap. The maximum salary an individual can receive and be eligible for the program is reset from \$3,000 indexed for inflation beginning in 1994 to \$6,000 indexed for inflation beginning in 2005, and the service credit cap on service that can be included in the program (20 years under current law) is stricken. *Laws 2004, Chapter 144, Sections 7 and 8. Source: H.F. 1702 (Powell); S.F. 1748 (Kubly).*

## **II. GENERAL PENSION PROVISIONS**

This portion of the memo summarizes provisions applying to all pension plans or to miscellaneous plan groupings.

1. Expanding Exemptions to Salary Cap for Pension Purposes. This provision amends a provision of statute (Section 356.611, Subdivision 1) which is applicable to all plans covered by the Combined Service Annuity provision (Section 356.30), although the specific changes enacted this year are largely limited to members of various MSRS plans. The exemptions to the cap in state law (95 percent of the Governor's salary) on salary for pension purposes are expanded to include judges, all state employees (including MnSCU employees and executive, legislative, and judicial branch employees), Gillette

Hospital employees who have MSRS-General coverage, employees of the Minnesota Crop Improvement Council, and the Minnesota Historical Society. The change is retroactive to April 28, 1994 (when this salary cap provision was first enacted), and any retirement annuities on covered salary in excess of the limit in effect after April 28, 1994, for these newly added positions are ratified. *Laws 2004, Chapter 267, Article 2, Section 6. Source: House Ways and Means Committee and Senate Finance Committee Amendments.*

2. Federal Code Compensation Limits for Pension Purposes. This provision, which updates and clarifies compensation limits for pension plan purposes as specified in federal code, applies to all plans covered by the combined service annuity provision (Section 356.30). For individuals who first contribute to a covered pension plan on or after July 1, 1995, the compensation limit for pension purposes specified Section 401(a)(17) of Internal Revenue Code applies. For individuals who first contribute to a covered pension plan before July 1, 1995, the limit specified in Section 401(a)(17) of Internal Revenue Code on June 30, 1993, applies, if that provides a higher limit. *Laws 2004, Chapter 267, Article 2, Section 7. Source: H.F. 1086 (Smith); S.F. 806 (Betzold).*
3. Federal Code Benefit Limits. The impact of this provision is less than clear. The provision, which refers to benefit limits found in federal code, adds a new subdivision to a section of statutes found in Chapter 365, Retirement Systems, Generally. The federal provision directly addresses situations where the employer provides all funding for the plan. Because Minnesota public pension plans (other than volunteer fire plans) are partially funded by employee contributions, the specific limits stated in the federal code provision do not apply, but other criteria found in federal regulations would apply. Another set of criteria may apply to public safety plans, and the provision may not apply to volunteer fire plans, where no salary is provided.

An individual receiving an annuity from a defined benefit plan must have the benefit reduced to the extent required by Section 415(b) of the Internal Revenue Code. (Section 415(b) of the Internal Revenue Code states that for plans funded solely by the employer, the benefit at the time of initial receipt must be reduced if it exceeds \$90,000, adjusted for inflation, or the high-three average salary of the individual, whichever is less. In cases where the employee contributes to the plan (which is the case with Minnesota plans other than volunteer fire plans) the criteria are to be modified as further specified in Treasury Department regulations.) *Laws 2004, Chapter 267, Article 2, Section 8. Source: H.F. 1086 (Smith); S.F. 806 (Betzold).*

4. Legislative Commission on Pensions and Retirement Actuarial Services Billing to Third Parties. This uncoded provision clarifies Commission authority to bill third parties. The provision will have limited future application because the Commission will no longer retain an actuary; that responsibility has shifted to the larger pension plan administrations (see "Miscellaneous Provisions"). The Commission may bill third parties for actuarial service performed for their benefit under the Commission's contract with its actuary, and may deposit the reimbursements for these services in the Commission's budget for Commission use. This provision is retroactive to July 1, 2003. *Laws 2004, Chapter 267, Article 6, Section 5. Source: House Ways and Means Committee and Senate Taxes Committee Amendments.*
5. Use of Licensed Chiropractors and Psychologists in Disability Benefit Determinations. The disability provisions in many plans (MSRS plans, PERA plans, TRA, the first class city teacher plans, MERF, MPRA, and MFRA) are amended to authorize, but not require, use of licensed chiropractors and psychologists and reports from these professionals in new disability application review processes and for periodic reviews of existing disability plans. *Laws 2004, Chapter 267, Article 8, Sections 1, 2, 4, 7, 15, 16, 17, 20, 27, 28, 29, 31, 32, 34, 35, 36, 38, and 40. Sources: Commission Amendments, H.F. 871 (Smith); S.F. 844 (Higgins), H.F. 890 (Smith); S.F. 676 (Betzold), and H.F. 2457 (Smith); S.F. 1616 (Betzold).*
6. Disability Transfer to Retirement Status Combined Service Provision Revised. This provision is applicable for MSRS-General, MSRS-Unclassified, the Judges Retirement Plan, PERA-General, TRA, the first class city teacher plans, and MERF. The combined service disability benefit provision found in Chapter 356 for transferring disability plans to retirement rolls at age 65 is revised to have the transfer occur at "normal retirement age" rather than age 65, to accommodate the range of normal retirement ages within these plans (varying from age 65 to age 66, depending upon birth date under Social Security law). *Laws 2004, Chapter 2004, Article 8, Section 33. Source: Commission Amendment*
7. Allowable Funding Sources for Payment of Equivalent Contributions. This provision applies to all Minnesota public pension plans. A repayment of refund provision in Chapter 356 is revised to also



include payment of equivalent contributions and interest for eligible leaves of absence. Assets to cover these refund repayments and leave of absence contribution requirements can be made from funds distributed or transferred from qualified pension plans, including 401(k) plans, 403 tax sheltered annuity plans, individual retirement accounts (IRAs), and Section 457 deferred compensation plans. Any amounts a pension fund receives through these non-taxable rollovers or transfers must be separately accounted for as member contributions not previously taxed. A comparable provision, which had applied only to first class city teacher plans, is repealed. *Laws 2004, Chapter 267, Article 9, Sections 22 and 25. Source: H.F. 519 (Smith); S.F. 807 (Betzold).*

8. Definition of Terms: Federal Internal Revenue Compliance. This provision applies to all Minnesota public pension plans. Various terms are defined, as deemed necessary for federal Internal Revenue Code Compliance. These include “compensation,” “retirement benefit commencement,” “distributions,” “direct rollovers,” “eligible rollover distribution,” “ineligible amounts,” “eligible retirement plan,” “distributee,” “forfeitures,” and a statement that military service credit requirements in Minnesota public plans must be fully compliant with federal law. Various provisions have retroactive effect. For distributions made before January 1, 2002, an eligible rollover distribution does not include any portion of a distribution that is not included in gross income, and for eligible rollover distributions to a surviving spouse, an eligible retirement plan is limited to an individual retirement account (IRA) or an IRA annuity. *Laws 2004, Chapter 267, Article 10. Sources: Administrative Legislation Subcommittee Amendment, H.F. 1086 (Smith), S.F. 806 (Betzold).*

### III. MISCELLANEOUS PROVISIONS

This section covers miscellaneous legislation, some of which is not directly related to pensions but which is of interest to Commission members and various retiree and employee groups.

1. Shift in Actuarial Service Provider Responsibility to Pension Fund Administrations. For at least the last 15 years, the Commission retained an actuary who performed annual actuarial valuations, periodic experience studies, and provided the Commission with pension bill cost estimates and related services. Due to legislation enacted this year, the Commission will no longer retain an actuary. The chief responsibility for actuarial services as provided in the past has shifted to the larger Minnesota pension plan administrations, which will jointly retain an actuary. The change in actuarial services and related change in the Commission budget are listed below. *Laws 2004, Chapter 223. Source: H.F. 890 (Smith); S.F. 806 (Betzold).*
  - a. The consulting actuary to produce the official actuarial valuations of the various statewide and major local Minnesota public pension plans will be retained jointly by the chief administrative officers of the seven major retirement systems (MSRS, PERA, TRA, DTRFA, MTRFA, MERF, and SPTRFA) rather than by the Commission. The selection of that consulting actuary is subject to Commission ratification. The actuary must be a Fellow in the Society of Actuaries (FSA), a private credentialing organization, or have at least 15 years of experience with major public pension plans (Section 6, Subdivision 1, Paragraph (a));
  - b. The annual actuarial valuations prepared by the jointly retained actuary must comply with Minnesota Statutes, Section 356.215, the actuarial reporting law, and with the Standards for Actuarial Work adopted and revised periodically by the Commission. Experience studies for MSRS-General, PERA-General, and TRA must be prepared every four years by the jointly retained actuary. Experience studies for any of the smaller 11 statewide or major local pension plans would be performed by the jointly retained actuary when requested by the Commission chair. (Section 6, Subdivision 1, Paragraphs (b) (c), and (e));
  - c. Competitive bidding procedures are required to be used in selecting the actuary, the consideration of actuarial services bids and selection of the actuary must be conducted in open meetings, and the maximum contract length is five years. (Section 6, Subdivision 1, Paragraphs (f) and (g));
  - d. The joint retirement system chief administrative officers are required to specify the procedure under which the actuarial services contract will be bid and the substantive provisions of the actuarial services contract, with those rules or requirements subject to Commission notification and an opportunity for Commission comment (Section 6, Subdivision 1, Paragraph (f));
  - e. If the actuarial services contract includes a limit on the parties who can rely on actuarial results under the contract, the limit cannot be extended to the Legislature or the Commission (Section 6, Subdivision 1, Paragraph (g));

- f. The cost of annual actuarial valuations and quadrennial experience studies must be allocated among the various pension plans on the basis of the plan's proportional share of the total work effort. The cost of actuarial cost estimates prepared at the request of a pension plan or interested party must be billed to the plan or interested party and may be pre-billed to interested parties. The cost of actuarial cost estimates prepared at the request of the Commission are payable by the Commission (Section 6, Subdivision 2);
  - g. Any cost estimates for pending legislation prepared by the jointly retained actuary under the contract must be reported to the Commission at the same time as they are transmitted to the requester (Section 6, Subdivision 3); and
  - h. The Commission fiscal year 2005 appropriation allocation is reduced by \$152,000 to account for the reassigned actuarial responsibilities. (Section 10.)
2. MSRS Health Care Plan, Revised to Allow Disbursements to Active Employees. The Health Care Savings Plan administered by MSRS (found in Section 362.98 of statutes) is revised from a plan providing reimbursement of healthcare costs for retirees covered by the plan, to a plan which also can reimburse active employees for healthcare-related costs. Transitional language which authorized MSRS to charge participating employers a fee to cover start-up costs for the healthcare reimbursement plan is stricken. *Laws 2004, Chapter 267, Article 11. Source: H.F. 2872 (Murphy); S.F. 2121 (Betzold).*
  3. Metropolitan Council Authorized to Have State Board of Investment (SBI) Invest Reserves for Potential Post Retirement Benefits. If requested by the Metropolitan Council, SBI is authorized to invest any Metropolitan Council assets for future payment of potential post-retirement benefits to council employees. The investment of these assets does not constitute an irrevocable dedication of assets for retirement-related purposes. *Laws 2004, Chapter 175. Source: H.F. 1821 (Buesgens); S.F. 1815 (Wiger).*
  4. Legislative Coordinating Commission Study of Local Government Salary Cap. The Legislative Coordinating Commission (LCC) is required to study the existing salary cap for local government units (excluding school districts), which is set at 95 percent of the salary of the Governor under Section 43A.17, Subdivision 9, and report to the House and Senate local government committees by January 15, 2005, regarding the impact of this provision on local government salary structures, recruitment, and retention. In performing the study, the LCC must consult with the Commissioner of Employee Relations and various local government associations. *Laws 2004, Chapter 207, Section 20. Source: Senate Floor Amendment to S.F. 2703 (Ranum).*

cc: House Information  
 Mark Shepard, House Research  
 Phil Raines, House Majority Research  
 Brad Kelly, House Minority Research  
 Helen Roberts, House Fiscal Analyst  
 Legislative Reference Library

Senate Information  
 Tom Bottern, Senate Counsel & Research  
 Jim Robins, Senate Majority Research  
 Erica Ulstrom, Senate Minority Research  
 Kevin Lundeen, Senate Fiscal Analyst