

TO: Members of the Administrative Legislation Subcommittee of the
Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director

RE: Amendment LCPR03-225, Working Document For Subcommittee Hearing #3:
Various Dependent Child and Surviving Spouse Benefit, and Refund and Refund
Repayment Benefit Issues

DATE: August 6, 2003

Current Administrative Retirement Legislation

Due to time constraints during the 2003 Legislative Session, several retirement-related bills that are at least in part administrative in nature were either not considered during that Session or were tabled for further consideration. At the Legislative Commission on Pensions and Retirement (LCPR) interim meeting on July 14, 2003, the LCPR appointed an Administrative Legislation Subcommittee consisting of Representatives Smith and Lipman and Senators Betzold and Michel to consider the substance of these bills, and to recommend appropriate action to the full Commission. The administrative retirement bills referred to the Subcommittee for review are:

- ? H.F. 519 (Smith); S.F. 807 (Betzold): TRA; Administrative and Benefit Provisions
- ? H.F. 871 (Smith); S.F. 844 (Higgins): Various Plans; Disability Determinations by Licensed Psychologists
- ? H.F. 890 (Smith); S.F. 676 (Betzold): PERA; Administrative and Benefit Provisions
- ? H.F. 1086 (Smith); S.F. 806 (Betzold): Various Plans; Uniformed Services Employment and Reemployment Rights Act (USERRA) and Internal Revenue Code Compliance
- ? H.F. 1430 (Smith); S.F. 1460 (Betzold): MSRS; Administrative Provisions
- ? H.F. 1474 (Erickson); S.F. 1420 (Pogemiller): MnSCU; Administrative and Plan Coverage Provisions

Work Plan

Because the various retirement administrative bills remaining from the 2003 Legislative Session often cover similar topics but for different plans, the Commission staff recommended that the administrative bills be considered by the Subcommittee in their component parts, based on the substantive area of change rather than as individual bills. For the Subcommittee's first meeting on July 29, 2003, Commission staff prepared draft amendment LCPR03-220 which contained provisions from several substantive areas that were contained in the six bills previously mentioned, including various membership issues, service credit (including credit in Minnesota plans for periods of military service), salary definitions, and plan reporting. For the second Subcommittee meeting, staff prepared draft LCPR03-223, covering various retirement annuity accrual, early retirement, disability, and Internal Revenue compliance issues. For the third Subcommittee meeting, staff has prepared a third legislative draft, LCPR03-225, covering the remaining substantive sections from the six original bills. The issues covered in LCPR03-225 cover various dependent child and surviving spouse definition and benefit provisions, and refund and refund repayment provisions. The intention is to cover with these three amendments all of the provisions that were included in the original bills. Staff has also provided LCPR03-226, which is intended to provide technical cleanup of LCPR03-225.

Benefit-Related Provisions in LCPR03-225

The benefit-related provisions in LCPR03-225 mentioned below are discretionary; they are not required by federal law or ruling. The Subcommittee may wish to recommend that some or all of these provisions be removed as being inconsistent with administrative legislation. If not, the Subcommittee may wish to give careful consideration to these sections as the Subcommittee reviews the articles in LCPR03-225.

Benefit provisions in LCPR03-225 that will increase plan costs are the following:

- ? Article 28, Sections 1 to 4, Dependent Child Definitions. These provisions revise dependent child definitions in several plans by eliminating dependency criteria (such as eliminating the requirement that a child of the deceased member must be unmarried to qualify, or be financially dependent upon the member prior to the member's death). More individuals will qualify for dependent child benefits, increasing total payments and increasing plan costs.

- ? Article 32, Sections 1, 3, 10, and 11, State Patrol Plan Increased Dependent Child Benefits, New TRA Death-While Active or Deferred Annuity Benefits, Increased TRA Surviving Spouse Benefit, New TRA Annuity. These sections remove a benefit maximum in an MSRS term-certain provision (Section 1); revise and in some cases increase dependent child benefits in the State Patrol Plan while making it easier to qualify for those benefits (Section 3); enhance TRA surviving spouse benefits in cases where receipt of the benefit is delayed (Section 10); and create a new TRA benefit, an annuity payable in death-while active-or-deferred situations where there is no spouse or dependent children (Section 11).
- ? Article 33, Section 1, 2, 4, and 5, MSRS Terminated Member Refund Enhancements. These are active member refund provisions in various MSRS plans which create an added cost by changing from annual to daily compounding of interest payable by the plan on refunds to terminated active members, and in the case of the Judges Retirement Plan, by also increasing the interest rate from five percent to six percent.
- ? Article 34, Sections 1 to 5, MSRS Death Refund Enhancements. These sections revise various MSRS plan death refund provisions by paying interest compounded daily rather than annually, and by providing interest on certain refunds where interest is not explicitly authorized under current law.

The following provisions are intended to clarify existing law. However, the provisions deserve attention to ensure that they do not increase benefits or expand benefit eligibility. The provisions are:

- ? Article 32, Sections 2, 4, 5, 6, and 12, State Patrol Plan Surviving Spouse Benefit Provisions. These sections are intended to clarify existing State Patrol Plan surviving spouse benefits rather than to enhance benefits or expand benefit eligibility. The issue is whether one or more of these sections inadvertently expand benefit eligibility or enhance benefits.

The following provision enhances use of tax-free rollovers to purchase service credit in defined benefit plans. The provision will harm public pension plans and increase costs if the purchases are knowingly subsidized, or if the full actuarial value estimation method is flawed leading to underestimates of true cost.

- ? Article 35, Section 1. This section revises Section 356.441, a provision that applies to many plans, permitting use of tax-free rollovers to finance purchases of service credit.

LCPR03-225: Section-By-Section Summary and Policy Issues

ARTICLE 28

DEPENDENT CHILD DEFINITION

Summary of Article 28

- Section 1. Minnesota Statutes, Section 3A.01, Subdivision 2, the Legislators Plan dependent child definition, is amended to include any child of the member under age 22, rather than under age 18 or under age 22 if a full-time student. All other dependency requirements are also deleted; these were requirements that the child be unmarried and actually be financially dependent upon the deceased for more than one-half of the child's support. (Page 1, lines 6 to 19.)
- Section 2. Minnesota Statutes, Section 352B.01, Subdivision 10, the State Patrol Plan dependent child definition, is amended by revising the maximum eligibility age from age 18 to age 23. (Page 1, lines 20 to 26.)

(NOTE: A State Patrol Plan survivor benefit provision being amended in Article 32, Section 3, strikes language in that provision which permitted children over age 18 but under age 23 to qualify for dependent child benefits if the child is enrolled in an accredited school. Given that stricken language, found on page 6, lines 24 to 31, and the proposed change in Section 2 above, any child of the member under age 23 will qualify for benefits.)
- Section 3. Section 354.05, Subdivision 8, one of TRA's dependent child definitions, is amended by removing the requirements that an eligible dependent child be unmarried and dependent for more than one-half of support from the now deceased member. (Page 1, lines 27 to 36, page 2, line 1.)

- Section 4. Section 354.05, Subdivision 8a, a TRA dependent child definition applicable for dependent child benefits if there is no surviving spouse in death-while-active-or-deferred situations, is revised by eliminating the requirement that the child had to be dependent on the member for more than one-half of support. (Page 2, lines 2 to 11.)
- Section 5. Section 354.46, Subdivision 2b, a TRA dependent child survivor benefit provision applicable if there is no eligible surviving spouse, is revised by clarifying language. (Page 2, lines 12 to 28.)
- Section 6. Effective Date. Sections 1 to 4 are effective on July 1, 2004. (Page 2, lines 29 to 30.)

Policy Issues Raised by Article 28

Dependent child definitions in a pension plan determine whether the child could be eligible for the dependent child benefits provided by the plan, in the event of active member or deferred member death. The Subcommittee may wish to hear brief testimony from several plan directors about the types of benefits that can be paid to a dependent child. Commission staff's current understanding is that the benefits can be substantial in some cases. Some plans may interpret their laws as permitting payment to the child over the course of the eligible period of the full actuarial reserves that would have been used to provide a lifetime pension to the deceased had that member survived. Reserves sufficient to provide retirement income to a retiree over the twenty or more years of expected retirement are instead paid out to a child over the course of a few years. This could result in very large payouts in any given year to the child, being similar to a large life insurance payment being spread out over a few years.

The various proposed changes in the definitions of dependent child contained in this article for several pension plans will increase access to these benefits by increasing age limits to qualify, or by removing requirements that the child be unmarried, or by removing any requirement that the child must be financially dependent upon the now deceased member. The sections which revise dependent child definitions raises several policy issues, as follows:

1. Consistency Between Plans and Pension Systems/Equity Problems. Dependent child definitions are found in many MSRS plans, in PERA, TRA, first class city teacher plans, MERF, and various other plans. These definitions determine whether or not a child of a deceased active or deferred member can be eligible for dependent child benefits. Because the definitions differ across these plans, children of deceased plan members currently are treated inconsistently across plans. Revising definitions in two MSRS plans and in TRA does little to address these basic inconsistencies, and even in the sections proposed to be amended the proposals are not consistent. Under these proposals, as drafted, the maximum age for eligibility, provided any other requirements are met, will be age 22 in the Legislators Plan; age 23 in the State Patrol Plan; age 18 or 22 if a full-time student in TRA for purposes of qualifying for a death refund, or age 20 in TRA for purposes of qualifying for an annuity. Unless a public purpose is served by these differences, the Subcommittee may wish to delete or revise these sections.
2. Removal of Financial Dependency Requirements: Implications. Some of these proposals eliminate the requirements that the child must be unmarried and financially dependent on the deceased member to be eligible for dependent child benefits. In another case, a requirement that a child over age 18 but under age 23 must be enrolled in an accredited school to retain eligibility is being removed. In the State Patrol Plan and some others the only remaining eligibility factor will be age.

At their core, these proposals redefine public pension plan policy regarding appropriate treatment of the children of deceased employees. In its most basic form, a defined benefit pension plan provides coverage for the employee, providing an inducement to remain in service and providing income for that individual during retirement. It has become customary to provide coverage, or at least the option of coverage, beyond the employee to the spouse or family unit. A retiree can name a spouse to receive continued monthly income after the retiree's death using a joint-and-survivor annuity option. In death-while-active-or-deferred situations, under our pension laws the surviving spouse is generally entitled to an annuity comparable to the annuity to which the member would have been entitled at the time of death. The Legislature has also followed a policy of authorizing benefits to dependent children of deceased employees, based on notions of compassion and public purpose. Current law reflects an intention that *financially dependent* children should be provided monetary support from the pension plan that covered the deceased employee. Depending upon the plan, the children may be eligible for benefits only if there is no surviving spouse drawing a benefit. Presumably, the children receive

support from the surviving parent and the annuity he or she receives. In other plans, the State Patrol Plan for example, surviving child benefits may be paid in addition to a surviving spouse annuity.

Some of the current proposals effectively eliminate any dependency requirement (other than age) to be eligible for dependent child benefits. Under the Legislators Plan and one of the TRA proposals, the requirement that a child must be unmarried to qualify is eliminated, and any requirement that the child was financially dependent on the now deceased public employee is also eliminated. If a child who is financially *independent* will now be able to qualify for these benefits, then the benefit can no longer be justified based on compassion and public purpose. In effect, the pension plan is providing life insurance. The Subcommittee may wish to decide what it considers to be the proper dividing line between public pension plan coverage and life insurance policies.

3. Cost. The proposed change will expand entitlement to child survivor benefits, which will have some cost impact on any pension plan fund in which it becomes easier to qualify for child benefits.
4. Conflict Between Administrative Ease and Public Policy. The proposed changes will make easier to administer these plans, but at the expense of current policy. Plan administrators will no longer need to review tax records, child custody agreements, or other documents to make financial dependency determinations. The Commission may wish to inquire about the number of cases these pension plan administrations handle and the level of this administrative burden, and whether reducing that burden is sufficient justification for abandoning the longstanding policies reflected in the current law.
5. Need for Further Study. Given questions about what dependency requirements should be included in dependent child definitions, and a need to provide some consistency across pension plans, the Subcommittee may choose to recommend that these sections be removed, pending possible further study.

ARTICLE 29

DESIGNATED BENEFICIARY DEFINITION

Summary of Article 29

- Section 1. Minnesota Statutes, Section 354.05, Subdivision 22, TRA's definition of designated beneficiary which requires that the designation be on a signed form, is amended by striking a requirement that the form must be signed before two witnesses. (Page 2, lines 33 to 36, page 3, lines 1 to 12.)
- Section 2. Effective Date. Section 1 is effective on July 1, 2004. (Page 3, lines 13 and 14.)

Policy Issue Raised by Article 29

- ? Need for Change. Presumably, the witness requirement is in TRA law because in the past TRA thought that requirement was needed to ensure that the member making the designation was of sound mind and that the designation was not due to coercion. The Subcommittee may wish to consider whether the requirement should remain to provide that safeguard. If that is the Subcommittee's conclusion on this matter, then the Subcommittee should recommend removing this section from the draft. An argument for leaving this section in the draft is that the proposed change would make TRA requirements consistent with those of the first class city teacher fund associations, and MSRS and PERA. Those plans require a signed form, but applicable law does not mention the need for witnesses.

ARTICLE 30

SURVIVOR BENEFIT APPLICABILITY

Summary of Article 30

- Section 1. Proposed new section in the MSRS privatized employee chapter, Section 352F.052. The section specifies that survivor and dependent child benefits (refunds or optional annuities) as specified in the MSRS statutes in the year prior to the year in which the privatization occurred, is applicable to the survivors of terminated hospital employees of Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians. (Page 3, lines 17 to 25.)

- Section 2. Proposed new section, Section 353F.052, in the PERA privatization chapter. The section specifies that survivor and dependent child benefits (refunds or optional annuities) as specified in the PERA statutes in the year prior to the year in which the privatization occurred, is applicable to the survivors of terminated privatized individuals covered by the privatization chapter. (Page 3, lines 26 to 34.)
- Section 3. Section in TRA statutes, Section 354.46, a survivor benefit section, is amended by adding a new subdivision stating that all beneficiary designations under this section must be in writing on a form prescribed by the Executive Director, that deferred annuities augmentation and service-in-more-than-one-fund provisions apply, and that unless otherwise stated the annuity or annuities are to be computed under Section 354.44, Subdivision 2 (money purchase annuity) or Subdivision 6 (formula benefit), as applicable. (Page 3, lines 35 and 36, page 4, lines 1 to 8.)
- Section 4. Effective Date. Sections 1 to 3 are effective on July 1, 2004. (Page 4, lines 9 and 10.)

Policy Issues Raised by Article 30

Section 3 is part of an effort to clarify TRA surviving spouse and dependent child benefit provisions and does not provide any new entitlements or raise other issues. Sections 1 and 2, however, which specify surviving spouse and dependent child benefits within the MSRS and PERA privatization chapter, do raise a few issues. Before stating those issues, some background may be helpful.

The MSRS privatization chapter, Chapter 352F, was enacted to address some public employee issues raised by the University Hospital/Fairview Hospital merger in the mid-1990s. The merger resulted in the University of Minnesota hospital employees being privatized. As public employees who became private sector employees due to the action of their immediate employers rather than their own free will, the question arose regarding what rights under the public pension plans should be extended to these employees. The treatment in the MSRS privatized employee chapter requires that these privatized employees are no longer retained in the public pension plan as active employees as of the date of the merger. In that respect, they are treated like other terminated employees. The “retirement benefits” to which they are eligible are as stated in law at the time of termination. However, certain continuing rights were extended to these employees. If the employee does not take a refund from MSRS and therefore remains eligible for a deferred annuity, service with the new employer can be counted for purposes of *qualifying* for a Rule-of 90 annuity under MSRS, although the service with the new employer is not otherwise counted for purposes of computing the amount of that annuity. Also, these privatized employees were granted a higher deferred annuity augmentation rate than is true of other terminated employees. A deferred annuity for these privatized employees increases at 5.5 percent per year (rather than 3.0 percent) until age 55, and by 7.5 percent (rather than 5.0 percent) thereafter.

In 1999, a similar situation arose with certain PERA-covered hospital employees who were to be privatized. A chapter was added to PERA law, Chapter 353F, substantively identical to the MSRS privatization chapter. When either chapter has been amended in the years since the initial enactments, the Legislature has always made comparable changes in both chapters.

Sections 1 and 2 add statements of dependent child and surviving spouse benefits to the MSRS and PERA privatization chapters. Issues raised by these two sections are:

1. Clarification or Benefit Improvement. The issue is whether these two proposed new sections are a clarification of current entitlements of privatized public employees under Chapter 352F, MSRS University Hospital Employee Retirement, and the comparable PERA chapter, Chapter 353F, or whether this is a new benefit to which the survivors of privatized employees previously were not entitled. The provisions do appear to be clarifications rather than benefit improvements. Under the primary MSRS chapter, Chapter 352, and the primary PERA chapter, Chapter 353, the survivor of a deferred annuitant is entitled to survivor benefits. There is nothing in the privatization chapters or elsewhere in law that indicates that certain benefit rights provided under the privatization chapter are in lieu of other benefits that would otherwise be provided. To not provide a survivor benefit or dependent child benefit seems contrary to authority in Chapter 352 or 353, as applicable.
2. Cost, Consistency with Initial Legislative Action Regarding Privatizations. The question is whether this provision creates a cost to MSRS-General and PERA-General that has not yet been recognized. When the LCPR and Legislature reviewed privatization situations and considered whether to add the applicable groups to coverage under the privatized employee chapter (either Chapter 352F or 353F,

whichever is applicable), the Legislature included a requirement that the legislation was not to become effective if a review by the LCPR-retained actuary concluded that the pension fund, PERA-General or MSRS-General, as applicable, would be harmed (i.e., more liability is created than is released). If the cost of survivor benefits were not included in the LCPR-retained actuary's initial review of these privatizations, the Commission would need to determine whether these newly recognized liabilities create a situation where the applicable privatizations create a net expected loss to the fund. If that is the case, the Legislature must either depart from this prior policy or reject these proposed sections. According to MSRS and PERA, potential survivor benefit liabilities were included in the actuary's calculations. Therefore, recommending that these survivor benefit sections be enacted should not cause a problem.

ARTICLE 31

SURVIVING SPOUSE BENEFIT

Summary of Article 31

- Section 1. Section 354.46, Subdivision 5, a TRA provision which permits the covered employee and spouse to designate some other beneficiary to receive a joint-and-survivor annuity or death refund in lieu of the surviving spouse in death-while-active-or-deferred cases, is revised to permit naming more than one beneficiary, and by clarifying language. (Page 4, lines 13 to 23.)
- Section 2. Effective Date. Section 1 is effective on July 1, 2004. (Page 4 lines 24 and 25.)

Policy Issues Raised by Article 31

The provision raises no significant policy issues.

ARTICLE 32

SURVIVOR BENEFIT COVERAGE AND AMOUNTS

Summary of Article 32

- Section 1. Minnesota Statutes, Section 352.12, Subdivision 2a, the MSRS surviving spouse term-certain annuity provision, is revised by adding a six-year term-certain annuity option, and by removing a requirement that monthly payments under any term-certain annuity cannot exceed 75 percent of the average high-five average salary of the deceased employee. (Page 4, lines 28 to 36, page 5, lines 1 to 7.)
- Section 2. Minnesota Statutes, Section 352B.10, Subdivision 5, a State Patrol Plan disabilitant optional annuity provision, is clarified and revised to reference new proposed subdivisions. (Page 5, lines 8 to 22.)
- Section 3. Minnesota Statutes, Section 352B.11, Subdivision 2, a State Patrol Plan spousal and dependent child benefit provision, is amended to provide an annuity to each dependent child of 12.5 percent of the average monthly salary of the former member, rather than 10 percent, by removing an additional payment of \$20 per month divided equally among the surviving dependent children, by deleting a requirement that that a child over age 18 and under age 23 remains eligible for surviving child benefits only if the child is enrolled in an accredited school, and by deleting surviving spouse benefit language being moved to new subdivisions. (Page 5, lines 23 to 36; page 6, lines 1 to 36; page 7, lines 1 to 18.)
- Section 4. Minnesota Statutes, Section 352B.11, a State Patrol Plan benefit provision, is amended by adding a new subdivision (Subdivision 2b) which clarifies the surviving spouse benefits offered by the plan by creating categories of surviving spouses based on whether the deceased member was vested at the time of death, whether death occurred while active or deferred, or whether the deceased was a disabilitant. (Page 7 lines 19 to 36, page 8, lines 1 to 14.)
- Section 5. Minnesota Statutes, Section 352B.11, a State Patrol Plan benefit provision, is amended by adding a new subdivision (Subdivision 2c) clarifying the surviving spouse benefits offered by

the plan by specifying the benefit or benefits applicable to each category of surviving spouse specified in new Subdivision 2b. (Page 8, lines 15 to 36, page 9, lines 1 to 19.)

- Section 6. Minnesota Statutes, Section 352B.11, a State Patrol Plan benefit provision, is amended by adding a new subdivision, Subdivision 2d, to contain language moved from another subdivision of this section, specifying that workers compensation benefits are not to be deducted from survivor benefits paid by the State Patrol Plan. (Page 9, lines 20 to 27.)
- Section 7. Minnesota Statutes, Section 352D.075, Subdivision 2, the MSRS-Unclassified survivor benefit provision, is amended by removing authority to name any beneficiary other than a surviving spouse if there is surviving spouse, by increasing flexibility to provide partial value annuities, and by permitting receipt of a survivor annuity to commence at any age rather than at age 55 or later. (Page 9, lines 28 to 36, page 10, lines 1 to 23.)
- Section 8. Minnesota Statutes, Section 352D.075, an MSRS-Unclassified death benefit provision, is amended by adding a subdivision to create a term-certain surviving spouse benefit annuity option of five, six, 15, or 20 years, which is actuarially equivalent to the “lifetime monthly annuity.” (Page 10, lines 24 to 32.)
- Section 9. Minnesota Statutes, Section 352D.075, Subdivision 3, an MSRS-Unclassified beneficiary provision, is amended to make the provision apply only if there is no surviving spouse. (Page 10, lines 33 to 36, page 11, lines 1 to 7.)
- Section 10. Minnesota Statutes, Section 354.46, Subdivision 2, TRA’s death-while-active-or-deferred surviving spouse benefit provision, is amended by using the surviving spouse’s age at the date receipt commences, rather than the age at the date of the member’s death, for purposes of computing the joint-and-survivor annuity, and by striking language to be moved to another subdivision. (Page 11, lines 8 to 36, page 12 lines 1 to 33.)
- Section 11. Minnesota Statutes, Section 354.46 is amended by adding a new subdivision (Subdivision 6), an additional beneficiary coverage provision. The new subdivision permits vested employees to designate any individual or individuals to receive, in death-while-active-or-deferred situations, the second half of a 100 percent joint-and-survivor annuity based on the member’s age at death and the age of the designated beneficiary or beneficiaries at the time benefits commence, providing there is no surviving spouse or surviving dependent children. If there is more than one beneficiary, the amounts are split between them. A beneficiary can also elect to receive a term-certain benefit and may delay receipt of an annuity until state or federal law requires distributions. (Page 12, lines 34 to 36, page 13, lines 1 to 13.)
- Section 12. Uncoded section. Sections 2 and 4 to 6, the various State Patrol Plan surviving spouse provisions, are not intended to modify, impair, or diminish the benefit entitlements presently provided by Minnesota Statutes, Chapter 353B. If any of these provisions have that effect, the MSRS Executive Director must bring this to the attention of the Commission and Governmental Operations Committees for corrective action. (Page 13, lines 14 to 27.)
- Section 13. Effective Date. This article is effective on July 1, 2004.

Policy Issues Raised Article 32

This article raises many issues. Section 1 revises an MSRS surviving spouse term-certain annuity provision by adding a six-year term-certain annuity option and by removing a requirement that monthly payments under any term certain annuity cannot exceed 75 percent of the average high-five average salary of the deceased employee. Issues are:

1. Sufficient Need for Six-Year Term-Certain. MSRS proposes to add a six-year term certain annuity option in addition to the existing five-, ten-, 15-, or 20-year options. Our understanding is that MSRS is proposing a six-year term certain annuity because a five-year term-certain annuity is subject to tax withholding and penalties while a six-year term-certain is not. With a six-year term-certain annuity individuals could avoid withholding requirements without having to take a ten-year term-certain annuity. MSRS should provide documentation of applicable laws relating to the withholding and penalties that it indicates are applicable to the five-year versus six year term-certain.

2. Need For Benefit Improvement. Striking the language stating that the monthly payout cannot exceed 75 percent of the monthly high-five average salary presumably allows greater payouts per month, which is a benefit improvement that presumably has cost implications for the plan.
3. Scope, Consistency with Other Plans. The issue is the scope of the proposed change and consistency with other plans. Authority to provide five-year term-certain annuities is found in PERA, TRA, and the laws for various other plans. None of these are proposing the change suggested by MSRS. If there is a compelling need to make these changes in MSRS, presumably there is a need for similar changes in other plans.

Section 3 amends Minnesota Statutes, Section 352B.11, Subdivision 2, a State Patrol Plan spousal and dependent child benefit provision, to provide an annuity to each dependent child of 12.5 percent of the average monthly salary of the former member, rather than 10 percent; by removing an additional payment of \$20 per month divided equally among the surviving dependent children; by striking a requirement that a child over age 18 but under age 23 can remain eligible for dependent child benefits only if enrolled in an accredited school; and by deleting surviving spouse benefit language being moved to new subdivisions. Issues are:

1. Need for Benefit Revision or Improvement. The draft proposes to replace the State Patrol Plan surviving child benefit, currently ten percent of average salary plus a prorated share of \$20 per month distributed among the deceased member's eligible children, with a benefit of 12 percent of average salary. MSRS should indicate why it is seeking this change and the cost of the change.
2. Creating Inconsistencies Between Plans. The proposed change to the benefit amount and structure of the benefit creates further differences between this plan and the comparable Public Employees Police and Fire Plan (PERA-P&F). PERA-P&F pays a child benefit of ten percent of salary, similar to the process now in law for the State Patrol Plan, although to determine the amount of this specific benefit, the PERA-P&F plan uses salary in the last six months prior to death rather than a high-five average salary.
3. Removal of Child Dependency Requirement to Remain Eligible for Benefits. The drafting strikes language (page 6, lines 24 to 31) which permitted children over age 18 and under age 23 to remain eligible for benefits only if enrolled in an accredited school. The change and related changes in an earlier definition section cause all children of the member to be eligible for benefits up to age 23, whether or not the child is in school, was financially dependent on the now deceased State Patrol officer, or is married and presumably independent. This lack of targeting undermines the justification or social purpose for providing these benefits. By expanding the eligible group, the fund administrators are proposing a benefit improvement for the plan that will increase costs.

Issue regarding sections 2, 4, 5, and 6. Section 2, a State Patrol Plan disabilitant optional annuity provision, is clarified and revised to reference new proposed subdivisions. Section 4 revises a State Patrol Plan survivor benefit provision by creating categories of surviving spouses based on whether the deceased member was vested at the time of death, whether death occurred while active or deferred, or whether the deceased was a disabilitant. Section 5 adds a new subdivision hopefully clarifying the surviving spouse benefits offered by the plan by specifying the benefit or benefits applicable to each category of surviving spouse specified in Section 4. Section 6 contains language moved from another subdivision specifying that workers compensation benefits are not to be deducted from survivor benefits paid by the State Patrol Plan. The issue is:

- ? Consistency with Intent to Clarify Rather than Revise or Enhance Benefits. These sections reflect work by MSRS and the Commission staff to clarify the State Patrol Plan survivor benefit law and are *not* intended to change benefit entitlements in any way. The issue is whether we succeeded in that effort. Benefit entitlements are not always clear in prior law. For instance, regarding the benefits available to the surviving spouse of a *vested*, deceased active member, page 6, lines 8 to 12, suggest these survivors can choose between two possible annuities (the annuity described in paragraph (b) on lines 3 to 7 or paragraph (c) on lines 8 to 12), but the wording in paragraph (b) states that that option applies only in deceased, *non-vested* situations. The entitlements of the surviving spouse of a deceased disabilitant were largely unstated. Page 7, lines 10 to 12, states that the benefit specified in that paragraph does *not* apply to survivors of disabilitants, but we find no clear statement regarding the benefit that should apply. When current law did not provide sufficient guidance, as in the case of surviving spouses of deceased disabilitants, the drafting of the new subdivisions is based on the policy MSRS claims it has followed to date or would follow in these situations if they were to occur.

While the drafting is an effort to provide clarity and not substantive change, because of the poorly stated benefit and benefit entitlement language in current law the new drafting in part reflects an effort to have statute conform to policy. Section 12 (page 13, lines 14 to 27) requires the Executive Director to report to the LCPR and Governmental Operations Committees if the drafting of sections 2, 4, 5, or 6 represents a benefit takeaway or enhancement. This requirement does *not* include Section 3, a section which is intended in part to expand eligibility for dependent child benefits and to revise and at least in some cases enhance those child benefits.

Section 7 amends the MSRS-Unclassified survivor benefit provision by removing authority to name any beneficiary other than a surviving spouse if there is surviving spouse, by increasing flexibility to provide partial value annuities, and by permitting receipt of a survivor annuity to commence at any age rather than at age 55 or later. The provision raises the following issues:

1. Removal of Authority to Name Beneficiary. The proposal would remove authority to name someone other than a spouse if a surviving spouse lives. It is unclear why MSRS is proposing to remove that flexibility. If MSRS contends that provisions in state or federal law mandate this change, that documentation should be provided. MSRS and TRA appear to be moving in different directions. TRA has proposed language to provide more beneficiary designation authority in some of its survivor provisions, permitting a surviving spouse to waive the benefit and to designate another individual to receive the annuity. MSRS and/or administrators in other systems should be prepared to testify regarding whether this proposal is consistent with treatment in other systems and in other plans within MSRS.
2. Increased Flexibility in Payout Options. Under current law, one of the payment options is a payment of half of the account's value in a lump sum, while the other half is annuitized. MSRS is proposing considerably increased payout flexibility, with partial lump sum payouts from zero to 100 percent of the account's value with the remainder annuitized. Since this is a defined contribution plan this change has no cost impact on the plan, but it may add an administrative burden to MSRS. Individuals may have more questions and require more counseling due to the expanded options. Also, MSRS may wish to consider recommending that the Subcommittee should add some lower limit on the portion that can be annuitized. Although unlikely, it is possible that an individual may want to have a trivial portion of the account's value annuitized, which would not be cost-effective for MSRS to handle during the years or decades in which monthly benefits would be paid.

Section 8 revises an MSRS-Unclassified death benefit provision by adding term-certain surviving spouse benefit annuity options. The options will be five, six, 15, or 20 years, which are to be actuarially equivalent to the "lifetime monthly annuity." Issues are:

1. Need to Clarify the Annuity's Value. The Subcommittee may wish to consider whether to redraft the provision to provide clarity. Page 10, lines 26 to 28, cross-reference several options available to the surviving spouse. These are to (1) withdraw the full value of the account, (2) withdraw part of the account's value and have an annuity for life based on the value of the remainder, or (3) in lieu of a full or partial withdrawal, annuitize the full value of the account. The new proposed subdivision adds another set of possibilities by offering a five-, six-, 15-, or 20-year term-certain annuity to be actuarially equivalent to "the lifetime annuity." Because of all of the options, it is unclear what is meant by "lifetime monthly annuity." It should be specified whether this is to be based on the partial value annuity in Subdivision 2, clause 2, or a full-value annuity in subdivision 2, clause 3, as applicable. Use of the term "remaining shares" on page 10, line 31, may also need revising. It suggests that all annuities under the provision are partial value annuities, which is not the case.
2. Term-Certain Annuity Issues. The issue is whether term-certain annuities should be added to this plan. The Subcommittee may wish to hear brief testimony from MSRS regarding why it is proposing this option and the purpose served by a term-certain option.
3. Possible Need to Specify Beneficiary. The similar MSRS-General provision (being amended on pages 4, lines 30 to 36, and page 5, lines 1 to 7) includes existing law language stating that if the surviving spouse elects a term certain annuity and dies before the specified term of the annuity, the value of the remaining annuity payments must be paid to that spouse's estate in a lump sum. No comparable language is being proposed in this new MSRS-Unclassified section. The issue is whether that language needs to be added.

In Section 9 an MSRS-Unclassified beneficiary provision is amended to make the provision apply only if there is no surviving spouse. The changes in Section 9 are to conform to the revisions found in Section 7

above. Applicable issues were raised in that section. If the Subcommittee recommends deleting Section 7, then Section 9 may also be deleted. If Section 7 is recommended to be revised, it may be necessary to revise Section 9 to remain consistent.

Section 10 amends TRA's death-while-active-or-deferred surviving spouse benefit provision by using the surviving spouse's age at the date receipt commences, rather than the age at the date of the member's death for purposes of computing the joint-and-survivor annuity, and by striking language to be moved to another subdivision. The proposed age change will increase the surviving spouse benefit amount in a situation where the surviving spouse delays receipt of the joint-and-survivor annuity. MSRS and PERA have suggested similar changes in their law in past years. To date, these changes have not been incorporated into law. The issues raised are:

1. Need for Benefit Improvement. The question is the amount of the benefit improvement and the need for that improvement. TRA may wish to provide supporting information for Subcommittee consideration.
2. Scope, Consistency with Other Plans. The issue is the scope of the proposed change and consistency with other plans. If the change is appropriate for TRA, the Subcommittee may wish to consider making similar changes in other pension plans.
3. Cost. The issue is the cost of the proposal. If this treatment is extended to similar plans, those plans will also incur cost increases.

Section 11 amends Minnesota Statutes, Section 354.46, a TRA survivor benefit section, by adding a new subdivision (Subdivision 6), an additional beneficiary coverage provision. The new subdivision permits vested employees to designate any individual or individuals to receive, in death-while-active-or-deferred situations, the second half of a 100 percent joint-and-survivor annuity based on the member's age at death and the age of the designated beneficiary or beneficiaries at the time benefits commence, providing there is no surviving spouse or surviving dependent children. If there is more than one beneficiary, the amounts are split between them. A beneficiary can also elect to receive a term-certain benefit, and may delay receipt of an annuity until state or federal law requires distributions.

This proposed provision creates a new benefit in TRA. TRA has indicated that the purpose of this new provision is to fill what it feels is a gap in its coverage. Under existing law, the surviving spouse and or dependent children of an active or deferred member are eligible for annuities upon the death of the active or deferred member. However, if an active or deferred member dies and there is no surviving spouse or dependent child, no annuities are payable; the only benefit would be a death refund to the designated beneficiaries or estate. The new proposed subdivision revises that policy. In lieu of a death refund, the new provisions would allow annuities computed like a surviving spouse benefit to be paid in death-while-active-or-deferred situations where there is no surviving spouse or dependent children. Active and deferred members who have no spouse and no dependent children will designate one or more individuals (a child who is no longer dependent, or any other individual or individuals) to receive the second half of a joint-and-survivor annuity. This new subdivision raises several issues:

1. Need for Change. The issue is whether there is any compelling reason to adopt this provision. The provision would provide survivor benefits in cases where there are no survivors as typically defined in our public pension plans. Since there is no spouse or dependent child, others are named to receive a comparable benefit, rather than allowing the pension fund to recognize a gain. The provision creates risk for the plan, additional administrative burden, and adds to plan cost. The Commission may wish to consider whether life insurance or other assets of the employee, rather than the pension plan, should cover this situation.
2. Pension Fund Risk Due to Mortality Factors, Multiple Beneficiaries. The issue is whether to adopt TRA's proposal given that it is likely to add to mortality losses over time. Mortality losses occur when annuitants live longer than predicted from current life tables, which increases the length of the payout period. Future increases in life expectancies are not knowable with any precision and are not built into our pension plan funding. As life expectancies increase over time due to improved medical procedures and other factors, pension funds incur mortality loss. The additional mortality loss exposure which will stem from this proposed TRA provision will be a mortality loss suffered by providing benefits to individuals who are not public employees, who are not the spouses of public employees, and who are not dependents of those employees. Mortality loss will contribute to higher contribution requirements in future years as these accumulating mortality losses filter into employee and employer contribution rate requirements.

3. Administrative Burden. The provision will increase administrative burden. Under this proposal, all active members and members who become deferred are permitted to name one or more beneficiaries to receive a 100 percent joint-and-survivor annuity or term-certain annuity (or a prorated share if more than one beneficiary is named) in the event of death prior to retirement. TRA may need to notify its members of this change in law and maintain files on the beneficiary designations.
4. Possible Legal Considerations/Cost Complications. The Subcommittee may wish to seek testimony or other input to be assured that this provision will not create legal problems, leading to excessive payouts from the plan. Nothing is stated in the draft regarding whether TRA intends that the active members or deferred members, who name one or more individuals to receive the second half of a joint-and-survivor annuity in the event of the individual's death prior to retirement will be permitted to change those beneficiaries prior to retirement, or at the time of retirement. If these changes are not permitted, TRA must deal with angry members who want to make these changes. If changes are permitted, the Commission may wish to seek assurance that the courts will not conclude that benefits must be paid to those named prior to retirement and also to those named at retirement under a conclusion that entitlement to the joint-and-survivor annuity can not be removed.
5. Cost. The proposal will add to plan cost. This proposal provides annuities based on the value of the deceased individual's retirement annuity in situations where only a death refund of employee permitted under current law.
6. Design Issues. The proposal bases the annuities on the member's age at death and the age of the beneficiary at the time the benefit accrues. This treatment is identical that proposed in Section 10 regarding surviving spouse benefits. If the Commission concludes that this change in surviving spouse benefits in Section 10 should not occur, then this current section should either be deleted from the draft or it should be revised for consistency with current policy regarding ages for computing survivor benefits.

ARTICLE 33

TERMINATED ACTIVE MEMBER REFUNDS

Summary of Article 33

- Section 1. Minnesota Statutes, Section 3A.03, Subdivision 2, the Legislators Plan refund provision, is revised to permit the interest included with the refund to be compounded daily, rather than annually. (Page 13, lines 32 to 36, page 14, lines 1 to 17.)
- Section 2. Minnesota Statutes, Section 352.22, Subdivision 2, the MSRS-General refund provision, is amended to include daily compounding rather than annual compounding, and by striking language that required any interest included in a past refund repayment to be included in the new refund. (Page 14, lines 18 to 29.)
- Section 3. Minnesota Statutes, Section 352.22, Subdivision 3, the MSRS deferred annuity provision, is revised by permitting an application for a refund to be made at any time following termination of service rather than at least 30 days after termination. (Page 14, lines 30 to 36, page 15, lines 1 to 20.)
- Section 4. Minnesota Statutes, Section 352B.12, Subdivision 11, an MSRS death-while-disabled refund provision, is amended to permit daily rather than annual compounding of interest. (Page 15, lines 21 to 36.)
- Section 5. Minnesota Statutes, Section 490.124, Subdivision 12, the Judges Plan refund provision, is amended to provide six percent interest compounded daily rather than five percent interest compounded annually based on fiscal year balances, and by specifying that a refund repayment must include interest on the total amount previously received. (Page 16, lines 1 to 20.)
- Section 6. Effective Date. Sections 1 to 5 are effective on July 1, 2004. Consistent with Minnesota Statutes, Section 645.21, which states that no law should be interpreted to provide retroactive effect unless clearly intended by the Legislature, the interest rate increase on Judges Plan annuities applies only to terminations that occur on or after July 1, 2003. (Page 16, lines 21 to 26.)

Policy Issues Raised by Article 33

Sections 1, 2, 4, and 5 will increase the total amount refunded to terminated employees who request refunds by using daily compounding of interest rather than annual compounding. These revisions raise the following general issues:

1. Benefit Improvement, Daily Rather Than Annual Interest. Sections 1, 2, and 4 and 5 revise the MSRS-General, the Legislators Plan, the State Patrol Plan, and the Judges Plan by providing daily rather than annual compounding of the interest paid with a refund. This will increase the total amount refunded and represents a benefit improvement. An argument for making the change is that with the current level of computerization, determining the amount of interest with daily compounding requires little effort, while it may have been more time consuming decades ago. Arguments for not making the change is that the proposal is benefit improvement and will have a slight upward effect on plan costs. MSRS should be prepared to provide a cost estimate for the various benefits-related changes it is proposing.
2. Creating Inconsistencies Across Systems. The change will create inconsistent treatment across plans unless these changes are extended to non-MSRS plans. PERA, TRA, and the first class city teacher plans all provide refunds with interest compounded annually, similar or identical to MSRS's current law procedure. If MSRS moves to daily compounding, consistency suggests that similar changes should also be made in the PERA, TRA, and first class city teacher plans. This would, however, impose costs on all of these plans. While the cost increase is not a significant amount, the Subcommittee may be reluctant to recommend any change for a few of the plans due to their current weak funding condition. The St. Paul Teachers Retirement Association (SPTRFA) is not in good financial condition, and the Minneapolis Teachers Retirement Fund Association (MTRFA) has major funding problems.
3. Inconsistencies Between Refund Provisions and Refund Repayment Provisions. The MSRS plans and most other large Minnesota public pension plans have provisions in their laws which allow individuals who terminated from service and took a refund with interest to repay those refunded amounts, plus interest, if they become reemployed in a position covered by the same public pension system. MSRS is recommending enhancing the refund provisions by including daily compound interest on the refund amount. A question for the Subcommittee is whether refund repayment provisions should also be revised to require daily rather than annual compounding of interest on a refund repayment. For an example, refund and refund repayment language for the Judges Plan is found on page 16 of the draft. Lines 3 to 11 is the refund language, which, as revised, would provide daily compounding of interest due to revised language on lines 8 to 11. The refund repayment language is on lines 12 to 20. Language on lines 19 and 20 retains annual rather than daily compounding. The Subcommittee may wish to consider whether this refund repayment language, and similar refund repayment language in law for other MSRS plans (and possibly non-MSRS plans, depending upon the desired scope of the changes), should be revised to require daily compounding of interest. A factor that the Subcommittee may wish to consider is that the interest that the fund pays on a refund is *six* percent compounded daily under the proposed changes in the draft document, while an individual who repays a refund must repay at 8.5 percent interest (a rate equal to the long-term investment earnings assumption for the plan as specified in law). The Subcommittee might feel that due to the differential in the interest rate, further increasing the cost to the individual of repaying a refund is not justifiable. On the other hand, the Subcommittee may conclude that requiring daily compounding of interest on a refund repayment would better keep the fund whole, and it would help to offset some of the added cost to the plans of providing daily compound interest when the plan provides a refund.

Section 2 raises the following additional policy issues:

1. Possible Benefit Reduction. MSRS is proposing to strike from its primary refund provision language which specified that if an individual repaid a prior refund with interest, and that individual again terminates from covered service and requests a refund, the new refund must include a refund of any interest that the individual previously paid to the fund (see page 14, lines 25 to 27.) Given the stricken language, interest previously paid by the individual to the fund will not be repaid to the individual. Striking that language appears to be a benefit reduction for this class of individuals and will create harm. The provision being amended is an MSRS-General provision, but under the drafting of this article which includes many cross-references to this provision, this change will apply to many MSRS Plans.

2. Reversal of MSRS Policy Position. It is unclear why MSRS is proposing this change. The language relating to treatment of interest paid to MSRS with past refund repayments (page 14, lines 25 to 27) is authority that MSRS sought in 1993, and it passed as Laws 1993, Chapter 307, Article 2, Section 4. MSRS now seeks to remove that authority. MSRS should explain this apparent change in its position.

Section 3 amends Section 352.22, Subdivision 3, an MSRS deferred annuity provision, by permitting an application for a refund to be made at any time following termination of service rather than at least 30 days after termination. The issues are:

1. Ambiguous Refund Language. Refunds include only the employee contributions plus interest, not employer contributions. The existing law language on page 15, lines 18 to 20, is vague, referring to “an application for accumulated contributions...” without defining accumulated contributions. To avoid any confusion on the part of plan members about whether employer contributions are included in the refund, the Subcommittee may wish to recommend that Commission staff revise the language to refer to employee contributions rather than “accumulated contributions.”
2. Appropriateness of Striking the 30-Day Requirement. The issue is whether it is good policy to revise this provision by removing the “30-day requirement” language found in this subdivision. One purpose served by a requirement that terminated employees must wait a specified period before applying for and receiving a refund is to avoid sham termination problems. Without these delay requirements, some individuals might be able to make special arrangements with the employer to terminate employment, which permits them to request a refund of the employee contributions to the plan, and then be promptly rehired. Allowing some individuals access to the accumulated contributions but not others is inconsistent treatment, and could cause considerable harm to the individual if the refund is not repaid. By taking a refund in a defined benefit plan, the individual forfeits all of the related service credit.

In recent years there has been a move away from 30-day waiting periods. There is an inconsistency between Section 352.22, Subdivision 3, being amended here, and an earlier subdivision in that section, Subdivision 1 (copy attached). Subdivision 1 did have a 30-day waiting period until it was removed by Laws 1993, Chapter 307, Article 2, Section 3 (copy attached). After being revised in 1993, that provision states, “Application for a refund may be made after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.” The current law version of Subdivision 3, in contrast, continues to include the statement that “Application for the accumulated contributions left on deposit with the fund may be made *at any time after 30 days* following the date of terminate of service.” If the Subcommittee concludes that no specific waiting period is needed, it could recommend that this section pass as proposed in the draft document. That action is consistent with a belief that Subdivision 3 should have been amended in 1993 to be consistent with the change made in Subdivisions 1 at that time. On the other hand, if the Subcommittee concludes that a 30-day waiting period serves a useful pension policy and should be reinstated, the Subcommittee may wish to recommend that this section should be deleted from the draft, and direct staff to revise Section 352.22, Subdivision 1, to add a 30-day waiting period.

The Subcommittee may wish to consider that in some cases when unemployment occurs, delays in receiving a refund could be a hardship for the terminated employee, as those funds are needed to meet expenses.

Regarding treatment in other plans, PERA does *not* have a specified waiting period, although they may have at one time. The comparable provisions in PERA are in Section 353.34, Subdivisions 1 and 3. Under those provisions, the individual can apply for a refund anytime after termination, providing the individual is not rehired, and PERA is required to pay the refund within 30 days of application.

Sections 5 and 6 present a few issues. Section 5 amends Minnesota Statutes, Section 490.124, Subdivision 12, the Judges Plan refund provision, to provide six percent interest on refunds compounded daily, rather than five percent interest, compounded annually based on fiscal year balances. Section 6, the effective date provision, is intended to state that the Judges Plan refund provision applies only to terminations occurring after the effective date of this section, July 1, 2004, but there are drafting errors in the effective date section. These two sections raise the following issues:

1. Sufficient Need for a Benefit Improvement. In Section 5 the interest rate on Judges Plan refunds is increased from five percent to six percent. In 1989, most plans were changed to provide six percent interest rather than five, but the Judges Plan was not. This has been noted in various Commission staff memos since that time but no legislative action has been taken. At the current time, the five percent refund interest rate in law for this plan seems due to legislative decision rather than an error.

The current proposal will increase the Judges Plan refund interest rate from five percent to six percent. If the Subcommittee chooses to review this issue, it may conclude that no increase in the refund interest rate is warranted because refunds occur infrequently in this plan, or it may conclude that the generosity of other plan provisions (largely driven by a 3.2 percent per year accrual rate compared to 1.7 percent in general employee plans), more than compensates Judges Plan members for the lower interest rate payable on a refund. The Subcommittee, however, may be persuaded that refund interest rates in this plan should be consistent with other plans, despite the large inconsistencies between the accrual rate in this plan and others.

2. Cost. MSRS should be prepared to provide a cost estimate. The July 1, 2002, Judges Plan actuarial valuation indicated a 1.68 percent contribution sufficiency. Assuming an adequate sufficiency remains when the July 1, 2003, actuarial valuation is complete, it should not be necessary to deal with issues that would be presented if there were a need to increase contributions by judges or by the employer, even by marginal amounts.
3. Effective Date Provision Drafting and Policy Issues. The effective date provision contains a few drafting errors. Two of them are addressed by technical amendment LCPR03-226, which adds “(a)” before “Sections “ on page 16, line 22, of LCPR03-225 and deletes “10” on page 16, line 25, and inserts “5”.

A substantive issue remains. The drafting of paragraph (b) of this effective date provision (page 16, lines 23 to 26) reflects an MSRS concern that judges might contend that the proposal to increase the Judges Plan refund interest rate has retroactive application. MSRS wanted a statement that made it unquestionably clear that the provision was not retroactive. If the Subcommittee believes that the language on page 16, lines 23 to 26, is necessary to prohibit any retroactive interpretation, then the Subcommittee could choose to recommend that paragraph (b) remain in the draft, but that “2003” on line 26 should be changed to “2004.” MSRS did not intend that this provision should have any retroactive application. The “2003” date was a future date when this provision was drafted for review during the 2003 Session. To be consistent with MSRS intention, it should be revised to be consistent with the effective date on line 22.

If the Subcommittee believes that paragraph (b) (the language on page 16, lines 23 to 26) is unnecessary to ensure that Section 5 is not interpreted to include retroactivity, or that its inclusion is problematic, then the Subcommittee should recommend removing paragraph (b). One concern that the Subcommittee may have is that including this language could lead to an argument that any provision that does not include this explicit statement against retroactivity is presumed to have retroactive application.

ARTICLE 34

DEATH REFUNDS

Summary of Article 34

- Section 1. Minnesota Statutes, Section 352.12, Subdivision 1, the MSRS death-while-active refund provision, is amended to permit the refund to include interest compounded daily rather than annually, and by clarifying language. (Page 16, lines 29 to 36, page 17, lines 1 to 19.)
- Section 2. Minnesota Statutes, Section 352.12, Subdivision 6, the MSRS death-after-service-termination provision, is amended to permit the interest (six percent) included with the refund to be compounded daily, rather than annually, and by clarifying language. (Page 17, lines 20 to 34.)
- Section 3. Minnesota Statutes, Section 352.12, Subdivision 7, an MSRS refund provision in death-while-retired-situations where no optional annuity or other continuing annuity is payable, is amended to include interest with the refund, which will be at six percent, compounded daily. (Page 17, lines 35 and 36, page 28, lines 1 to 18.)
- Section 4. Minnesota Statutes, Section 352.12, Subdivision 8, an MSRS refund provision in cases where the payout from the primary annuity and the optional annuity is less than the value of the employee’s accumulated employee contributions, is amended to include interest with the refund, which will be at six percent compounded daily. (Page 18, lines 19 to 35.)

Section 5. Minnesota Statutes, Section 352.12, Subdivision 11, an MSRS death-while-disabled refund provision, is amended to permit interest with the refund, which will be at six percent, compounded daily. (Page 18, line 36, page 19, lines 1 to 16.)

Section 6. Effective Date. Sections 1 to 5 are effective on July 1, 2004. (Page 19, lines 17 to 18.)

Policy Issues Raised by Article 34

The previous article, Article 33, amended various refund provisions where a refund is paid to the terminated employee. The current article, Article 34, amends death refund provisions, where a refund is provided to the survivors or estate of an employee who died while active, disabled, in deferred status, or retired. A refund is paid to the survivors or to the estate of a deceased retiree if the total annuity payments prior to death were less than the accumulated employee contributions the individual made while employed. The refund is the difference between these two amounts, and is payable if the second half of a joint-and-survivor annuity is not payable.

Sections 1 and 2 amend the MSRS death-while-active-or-deferred provisions. These provisions included interest in the past, but interest was compounded annually rather than daily. The use of daily rather than annual compounding raises the general policy concerns noted for the earlier article, which were:

1. Benefit Improvement, Daily Rather Than Annual Interest. Use of daily compounding rather than annual compounding increases the total refund amounts and represents a benefit improvement. MSRS should provide an estimate of these costs.
2. Inconsistencies Across Systems. PERA, TRA, and first class city teacher plans will continue to use annual compounding unless the Subcommittee recommends that Commission staff prepare amendments to revise the provisions in these other plans. Those changes would impose costs on all of these plans, some of which have serious funding problems.

Sections 3 to 5 raise further benefit-related issues. These three sections govern refund payment policy if a retiree dies with no optional or reversionary annuity (Section 3), or if an optional annuitant dies (Section 4), or if a disabilitant dies (Section 5). Current law does not permit any interest to be paid. The proposed revisions in these sections would permit six percent interest with daily compounding to be included in the refund. The issues are:

1. Benefit Improvement, Paying Interest and Permitting Daily Compounding. Paying interest on these death refunds is a benefit improvement. MSRS should be prepared to provide a cost estimate.
2. Unclear Public Purpose. In cases where the enhanced refund amount will be payable to designated beneficiaries who are not dependent upon the deceased and may not be related to the deceased, or where the additional amount will be paid to the estate, there is a question of what public purpose is served by increasing the amount of these refunds. Since more will be paid from the fund there is a cost for this proposed benefit revision.
3. Inconsistent Statements Between Sections. Section 5 will enhance refunds in certain disabilitant death situations by adding interest to the refund payment (page 19, lines 2 to 16, particularly lines 5 and 6), but Section 352.12, Subdivision 1, which appears as Section 1 in this article on pages 16 and 17, retains language explicitly prohibiting interest in these disabilitant situations. If the Subcommittee concludes that Section 5 should be recommended to pass, then the Subcommittee should direct staff to strike the language on page 17, line 14 after the period, and page 17 lines 15 to 19, to avoid creating a conflict in law.
4. Lack of Specification of Interest Payment Period. Every section being amended in this article lacks specification regarding the time period to be used to compute the interest. This is also a problem with some sections in the prior article. The start date and the end date are left unspecified. Given the lack of specification, one possibility is to compute interest from the date of death until paid to the beneficiaries. Other alternatives are to begin computing the interest from the date each contribution was made, or the midpoint of the contributions. As revised, many of these sections give no guidance on the interest calculation other than to say that interest is to be computed as provided in Section 352.22, Subdivision 2. That section, as recommended to be revised in Article 33, provides no guidance other than to say that the interest rate is six percent and daily compounding should be used (see page 14, lines 18 to 29). The Subcommittee may wish to question MSRS regarding the time period they intend to use in the interest computations required in the sections of this article. The Subcommittee

may wish to direct Commission staff to add language to this article, and possibly the previous article, specifying the start and end dates for these interest calculations.

ARTICLE 35

REFUND REPAYMENTS

Summary of Article 35

- Section 1. Section 356.441, a provision applicable to all Minnesota public pension plans which permits refund repayments to be made from accounts eligible for tax-free rollovers, is revised by expanding the provision to include payments for leave of absences and any payments for allowable service credit. (Page 19, lines 21 to 36, page 20, lines 1 to 16.)
- Section 2. This is a duplicate section because these same revisions were proposed in Article 34 and were discussed there. The section will be deleted from this article of the draft. (Page 20, lines 17 to 36.)
- Section 3. Repealer. Minnesota Statutes, Section 354A.107, the first class city teacher plan provision dealing with tax-free rollovers to finance refund repayments, service credit purchases, and leave of absence contribution requirements, which is made redundant if Section 6 above were to pass, is repealed. (Page 21, lines 1 and 2.)
- Section 4. Effective Date. Sections 1 to 3 are effective on the day following final enactment. (Page 21, lines 3 to 5.)

Policy Issues Raised by Article 35

During the 2001 First Special Session a provision was enacted for the first class city teacher plans (Laws 2001, First Special Session, Chapter 10, Article 3, Section 20), which provides more expanded authority than that provided by the existing law version of Section 356.441. Section 356.411 currently applies only to repayments of refunds and permits those repayments to be made from individual retirement accounts (IRAs) or other accounts or plans if federal law permits tax-free rollovers from those sources. The provision that was passed during the 2001 Special Session (coded as Section 354A.107) applied to first class city teacher plans only and would permit these rollovers to be used to finance purchases of allowable service credit, contributions required for leaves of absences, in addition to refund repayments.

Section 1 of this article was proposed by TRA and is quite similar to the provision enacted for the first class city teacher plans in 2001, except that TRA is proposing to revise Section 356.441, in the Retirement System, Generally chapter, where it would apply to all Minnesota public pension plans rather than just to TRA or to teacher plans in general. Issues are:

1. Question of Whether the Changes are Required. The issue is whether the Legislature is required to make these changes by federal law or ruling, or whether these changes are discretionary. If the federal government requires these changes, TRA should be prepared to present the Subcommittee with citations and the language mandating these changes.
2. Scope. The issue is the proper scope. The proposed change impacts all Minnesota public pension plans. If that broad scope is not mandated by the federal government, then the Subcommittee may wish to consider whether this section should be deleted, or should be modified to apply only to certain plans.
3. Cost Impact. This provision expands use of tax-free rollovers to make various contributions to receive service credit or to purchase service credit under full actuarial value provisions. Using tax-free rollovers to finance these contributions and purchases will encourage these activities. This increased activity will harm the plan whenever the contributions or payment received are less than the true (and unknowable) full actuarial value. An example is the repayment of refunds, which are subsidized purchases of service credit. Minnesota law grants special treatment to individuals who return to covered employment, permitting them to reestablish lost service credit by repaying the refund plus interest, which is likely to be far less than the full actuarial value.
4. Impact of Benefit Improvements After the Purchase. Even when purchases of service credit are at full actuarial value, as estimated by our current methodology, the price is unlikely to cover the true cost of the service credit. There are several reasons for this. In memos provided to the Commission last year,

deficiencies were noted in the full actuarial value methodology, indicating numerous cases where the full actuarial value methodology is producing costs estimates well below the liability added to the plan by the purchase. Even if that methodology were improved, problems would remain. The purchase price is computed based on the current pension plan, the package of benefits provided by that plan when the purchase occurs. Whenever a benefit improvement occurs after the service credit purchase, the purchaser receives a windfall. If the Commission is concerned about these effects, it should carefully consider any revision in law that will encourage refund repayments and service credit purchases.

Minnesota Statutes 2002, Section 353.01

353.01 Definitions.

Subd. 15. **Dependent child.** For the purpose of survivor benefit eligibility under sections 353.31, subdivision 1, and 353.657, subdivision 3, "dependent child" means a biological or adopted child of a deceased member who is unmarried, and under the age of 18, or age 18 to 23, so long as the child submits evidence of full-time enrollment in an accredited educational institution. "Dependent child" also includes a child of the member conceived during the member's lifetime and born after the member's death. It also means a dependent child who is the subject of adoption proceedings filed by a member, and who within two years after death of the member, by judgment and decree duly entered, is adjudged to be the adopted child of the deceased member; subject, however, to the qualifying conditions of age and dependency under this subdivision. The dependency of the child dates from the decree of adoption. "Dependent child" also includes a child age 18 to 23 who had submitted evidence of full-time enrollment in an accredited educational institution but was determined to be medically unable to continue school on a full-time basis. The board of trustees shall adopt written procedures to make determinations regarding eligibility based on a student being medically unable to continue school, and may not continue a benefit for medical reasons for a period greater than one year.

Subd. 15a. **Dependent child.** For the purpose of survivor benefit eligibility under section 353.32, subdivision 1c, "dependent child" means any biological or adopted child of a deceased member who has not reached the age of 20 and is dependent for more than one-half of support upon the member. It also includes any child of the member conceived during the member's lifetime and born after the member's death.

Minnesota Statutes 2002, Section 353.32

353.32 Refunds after death of member or former member.

Subd. 1c. **Dependent child survivor coverage.** If there is no surviving spouse eligible for benefits under subdivision 1a, a dependent child or children as defined in section 353.01, subdivision 15a, is eligible for monthly payments. Payments to a dependent child must be paid from the date of the member's death to the date the dependent child attains age 20 if the child is under age 15. If the child is 15 years or older on the date of death, payment must be made for five years. The payment to a dependent child is an amount actuarially equivalent to the value of a 100 percent optional annuity under subdivision 1a using the age of the member and age of the dependent child at the date of death in lieu of the age of the surviving spouse. If there is more than one dependent child, each dependent child shall receive a proportionate share of the actuarial value of the employee's account.

Minnesota Statutes 2002, Section 352.01

352.01 Definitions.

Subd. 26. **Dependent child.** "Dependent child" means a biological or adopted child of a deceased employee who has not reached the age of 20 and is dependent upon the employee for more than one-half of the child's support at the time of the employee's death. It also means a child of the member conceived during the member's lifetime and born after the member's death.

Minnesota Statutes 2002, Section 352.12

352.12 Refund after death.

Subd. 2b. **Dependent child survivor coverage.** If there is no surviving spouse eligible for benefits under subdivision 2, a dependent child or children as defined in section 352.01, subdivision 26, is eligible for monthly payments. Payments to a dependent child must be paid from the date of the employee's death to the date the dependent child attains age 20 if the child is under age 15. If the child is 15 years or older on the date of death, payment must be made for five years. The payment to a dependent child is an amount actuarially equivalent to the value of a 100 percent optional annuity under subdivision 2 using the age of the employee and age of the dependent child at the date of death in lieu of the age of the surviving spouse. If there is more than one dependent child, each dependent child shall receive a proportionate share of the actuarial value of the employee's account.

Minnesota Statutes 2002, Chapter 352F

352F.01 Purpose.

The purpose of this chapter is to assure, to the extent possible, that persons employed at the University of Minnesota hospital and clinics will be entitled to receive future retirement benefits under the general state employees retirement plan of the Minnesota state retirement system commensurate with the prior contributions made by them or on their behalf upon the integration of the University of Minnesota hospital and clinics and Fairview hospital and healthcare services.

352F.02 Definitions.

Subdivision 1. **Definitions.** As used in this chapter, unless the context or subject matter indicates otherwise, the following terms have the meanings given in this section.

Subd. 2. **Allowable service.** "Allowable service" has the meaning provided in Minnesota Statutes 1994, section 352.01, subdivision 11.

Subd. 3. **Effective date.** "Effective date" is the date terminated hospital employees transfer employment to Fairview under a definitive integration agreement between the University of Minnesota and Fairview or the date terminated academic health center employees are transferred to the University of Minnesota Physicians or University Affiliated Family Physicians, whichever is applicable.

Subd. 4. **Fairview.** "Fairview" means Fairview hospital and healthcare services, a Minnesota nonprofit corporation, and its successors.

Subd. 5. **Section.** "Section" means the designated section of Minnesota Statutes.

Subd. 6. **Terminated hospital employee.** "Terminated hospital employee" means a person who: (1) was employed on the day before the effective date by the University of Minnesota at the University of Minnesota hospital and clinics or the academic health center and was paid on a biweekly payroll; (2) terminated employment with the University of Minnesota on the day before the effective date or in the case of employees of the academic health center, terminated employment with the University of Minnesota after the effective date but immediately transferred employment to the University of Minnesota Physicians or University Affiliated Family Physicians; and (3) was a participant in the general state employees retirement plan of the Minnesota state retirement system at the time of termination of employment with the University of Minnesota.

Subd. 7. **University of Minnesota.** "University of Minnesota" means University of Minnesota hospital and clinics, the hospitals and clinics operated by the regents of the University of Minnesota.

Subd. 8. **Years of allowable service.** "Years of allowable service" has the meaning provided in Minnesota Statutes 1994, section 352.01, subdivision 16.

Subd. 9. **Academic health center.** "Academic health center" means the seven professional schools in health care related disciplines at the University of Minnesota.

Subd. 10. **University of Minnesota Physicians.** "University of Minnesota Physicians" means the multispecialty single group medical practice group in which medical school faculty will practice medicine beginning in 1997. Subd. 11. **University Affiliated Family Physicians.** "University Affiliated Family Physicians" means the private practice group of the department of family practice in the university's medical school.

352F.03 Vesting rule for certain employees.

Notwithstanding any provision of chapter 352 to the contrary, a terminated hospital employee or academic health center employee is eligible to receive a retirement annuity under Minnesota Statutes 1994, section 352.115, without regard to the requirement for three years of allowable service.

352F.04 Augmentation interest rate for terminated university hospital employees.

The deferred annuity of a terminated hospital employee is subject to augmentation in accordance with Minnesota Statutes 1994, section 352.72, subdivision 2, except that the rate of interest for this purpose is 5.5 percent compounded annually until January 1 following the year in which such person attains age 55. From that date to the effective date of retirement, the rate is 7.5 percent. These increased augmentation rates are no longer applicable for any time after the terminated hospital employee or academic health center employee becomes covered again by a retirement fund enumerated in section 356.30, subdivision 3. These increased deferred annuity augmentation rates do not apply to a terminated transferred hospital employee or academic health center employee who begins receipt of a retirement annuity while employed by Fairview.

352F.05 Authorization for additional allowable service for certain early retirement purposes.

For purpose of determining eligibility for early retirement benefits provided under Minnesota Statutes 1994, section 352.116, subdivision 1, paragraphs (a) and (b), and notwithstanding any provision of chapter 352 to the contrary, the years of allowable service for a terminated hospital employee who transfers to employment at Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians on the effective date and does not apply for a refund of contributions

under Minnesota Statutes 1994, section 352.22, subdivision 2, or any similar provision in future Minnesota Statutes, includes service with Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians following the effective date. Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians shall provide any reports that the executive director of the Minnesota state retirement system may reasonably request to permit calculation of benefits.

To be eligible for early retirement benefits under this section, the individual must separate from service with Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians. The terminated eligible individual, or an individual authorized to act on behalf of that individual, may apply for an annuity following application procedures under section 352.115, subdivision 7.

352F.051 Continuation of disability coverage.

Subdivision 1. **Eligibility.** A terminated hospital employee who is totally and permanently disabled under section 352.01, subdivision 17, and who had a medically documented preexisting condition of the disability before January 1, 1997, may apply under Minnesota Statutes 1996, section 352.113, subdivision 1, for a disability benefit.

Subd. 2. **Calculation of benefits.** A person qualifying under subdivision 1 is entitled to receive a disability benefit calculated under Minnesota Statutes 1996, section 352.113, subdivision 3. The disability benefit must be augmented under section 352.72, subdivision 2, from January 1, 1997, to the date on which the disability benefit begins to accrue.

Subd. 3. **Applicability of general law.** Except as otherwise provided, section 352.113 applies to a person who qualifies for disability under subdivision 1.

352F.06 Application of reemployed annuitant earnings limitations.

The reemployed annuitant earnings limitations of section 352.115, subdivision 10, apply to any service by a terminated hospital employee as an employee of Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians.

352F.07 Effect on refund.

Notwithstanding any provision of chapter 352 to the contrary, terminated hospital employees may receive a refund of employee accumulated contributions plus interest at the rate of six percent per year compounded annually in accordance with Minnesota Statutes 1994, section 352.22, subdivision 2, at any time after the transfer of employment to Fairview, University of Minnesota Physicians, or University Affiliated Family Physicians. If a terminated hospital employee has received a refund from a pension plan enumerated in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with section 356.30, subdivision 2.

352F.08 Counseling services.

The University of Minnesota hospital and clinics or the academic health center, whichever is applicable and the Minnesota state retirement system shall provide terminated hospital employees with counseling on their benefits available under the general state employees retirement plan of the Minnesota state retirement system.

Minnesota Statutes 2002, Chapter 353F

353F.01 Purpose and intent.

The purpose of this chapter is to ensure, to the extent possible, that persons employed at public medical facilities and other public employing units who are privatized and consequently are excluded from retirement coverage by the public employees retirement association will be entitled to receive future retirement benefits under the general employees retirement plan of the public employees retirement association commensurate with the prior contributions made by them or made on their behalf upon the privatization of the medical facility or other public employing unit.

353F.02 Definitions.

Subdivision 1. **Generally.** As used in this chapter, unless the context clearly indicates otherwise, each of the terms in the following subdivisions has the meaning indicated.

Subd. 2. **Allowable service.** "Allowable service" has the meaning provided in section 353.01, subdivision 16, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred.

Subd. 3. **Effective date.** "Effective date" means the date that the operation of the medical facility or other public employing unit is assumed by another employer or the date that the medical facility or other public employing unit is purchased by another employer and active membership in the public employees retirement association consequently terminates.

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) the Glencoe area health center;
- (2) the Luverne public hospital;
- (3) the Waconia-Ridgeview medical center; and
- (4) the Kanabec hospital.

Subd. 5. **Other public employing unit.** "Other public employing unit" means:

- (1) Metro II, a joint powers organization formed under section 471.59; and
- (2) the St. Paul civic center authority.

Subd. 6. **Terminated medical facility or other public employing unit employee.** "Terminated medical facility or other public employing unit employee" means a person who:

- (1) was employed on the day before the effective date by the medical facility or other public employing unit; or
- (2) terminated employment with the medical facility or other public employing unit on the day before the effective date; and
- (3) was a participant in the general employees retirement plan of the public employees retirement association at the time of termination of employment with the medical facility or other public employing unit.

Subd. 7. **Years of allowable service.** "Years of allowable service" means the total number of years of allowable service under section 353.01, subdivision 18, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred.

353F.03 Vesting rule for certain employees.

Notwithstanding any provision of chapter 353 to the contrary, a terminated medical facility or other public employing unit employee is eligible to receive a retirement annuity under section 353.29 of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, without regard to the requirement for three years of allowable service.

353F.04 Augmentation interest rate for terminated medical facility employees.

The deferred annuity of a terminated medical facility or other public employing unit employee is subject to augmentation in accordance with section 353.71, subdivision 2, of the edition of Minnesota Statutes published in the year in which the privatization occurred, except that the rate of interest for this purpose is 5.5 percent compounded annually until January 1 following the year in which such person attains age 55. From that date to the effective date of retirement, the rate is 7.5 percent. These increased augmentation rates are no longer applicable for any time after the terminated medical facility or other public employing unit employee becomes covered again by a retirement fund enumerated in section 356.30, subdivision 3. These increased deferred annuity augmentation rates do not apply to a terminated transferred medical facility or other public employing unit employee who begins receipt of a retirement annuity while employed by the employer which assumed

operations of the medical facility or other public employing unit or purchased the medical facility or other public employing unit.

353F.05 Authorization for additional allowable service for certain early retirement purposes.

For the purpose of determining eligibility for early retirement benefits provided under section 353.30, subdivision 1a, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, and notwithstanding any provision of chapter 353, to the contrary, the years of allowable service for a terminated medical facility or other public employing unit employee who transfers employment on the effective date and does not apply for a refund of contributions under section 353.34, subdivision 1, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, or any similar provision, includes service with the successor employer to the medical facility or other public employing unit following the effective date. The successor employer shall provide any reports that the executive director of the public employees retirement association may reasonably request to permit calculation of benefits.

To be eligible for early retirement benefits under this section, the individual must separate from service with the successor employer to the medical facility. The terminated eligible individual, or an individual authorized to act on behalf of that individual, may apply for an annuity following application procedures under section 353.29, subdivision 4.

353F.051 Continuation of disability coverage.

Subdivision 1. **Eligibility.** A terminated medical facility or other public employing unit employee who is totally and permanently disabled under Minnesota Statutes 1998, section 353.01, subdivision 19, and who had a medically documented preexisting condition of the disability before the termination of coverage, may apply for a disability benefit.

Subd. 2. **Calculation of benefits.** A person qualifying under subdivision 1 is entitled to receive a disability benefit calculated under Minnesota Statutes 1998, section 353.33, subdivision 3. The disability benefit must be augmented under Minnesota Statutes 1998, section 353.71, subdivision 2, from the date of termination to the date the disability benefit begins to accrue.

Subd. 3. **Applicability of general law.** Except as otherwise provided, Minnesota Statutes 1998, section 353.33, applies to a person who qualifies for disability under subdivision 1.

353F.06 Application of reemployed annuitant earnings limitations.

The reemployed annuitant earnings limitations of section 353.37 apply to any service by a terminated medical facility or other public employing unit employee as an employee of the successor employer to the medical facility.

353F.07 Effect on refund.

Notwithstanding any provision of chapter 353 to the contrary, terminated medical facility or other public employing unit employees may receive a refund of employee accumulated contributions plus interest at the rate of six percent per year compounded annually in accordance with section 353.34, subdivision 2, of the edition of Minnesota Statutes published in the year in which the privatization occurred, at any time after the transfer of employment to the successor employer to the medical facility or other public employing unit. If a terminated medical facility employee has received a refund from a pension plan enumerated in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those enumerated plans and complies with section 356.30, subdivision 2.

353F.08 Counseling services.

The medical facility or other public employing unit and the executive director of the public employees retirement association shall provide terminated medical facility or other public employing unit employees with counseling on their benefits available under the general employees retirement plan of the public employees retirement association during the 90 days following privatization.

Minnesota Statutes 2002, Section 352.23

352.23 Termination of rights.

When any employee accepts a refund as provided in section 352.22, all existing service credits and all rights and benefits to which the employee was entitled before accepting the refund terminate. They must not again be restored until the former employee acquires at least six months of allowable service credit after taking the last refund. In that event, the employee may repay all refunds previously taken from the retirement fund. Repayment of refunds entitles the employee only to credit for service covered by (1) salary deductions; (2) payments made in lieu of salary deductions; (3) payments made to obtain credit for service as permitted by laws in effect when payment was made; and (4) allowable service once credited while receiving temporary workers' compensation as provided in section 352.01, subdivision 11, clause (5). Payments under this section for repayment of refunds are to be paid with interest at an annual rate of 8.5 percent compounded annually. They may be paid in a lump sum or by payroll deduction in the manner provided in section 352.04. Payment may be made in a lump sum up to six months after termination from service.

Minnesota Statutes 2002, Section 352.22

352.22 Refund or deferred annuities.

Subdivision 1. **Service termination.** Any employee who ceases to be a state employee by reason of termination of state service or layoff is entitled to a refund provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a refund may be made after the termination of state service or layoff if the applicant has not again become a state employee required to be covered by the system.

Minnesota Statutes 2002, Section 353.34

353.34 Rights upon termination of membership.

Subdivision 1. **Refund or deferred annuity.** (a) A former member is entitled to a refund of accumulated employee deductions under subdivision 2, or to a deferred annuity under subdivision 3. Application for a refund may not be made prior to the date of termination of public service or the termination of membership, whichever is sooner. Except as specified in paragraph (b), a refund must be paid within 120 days following receipt of the application unless the applicant has again become a public employee required to be covered by the association.

(b) If an individual was granted an authorized temporary layoff, a refund is not payable before termination of membership under section 353.01, subdivision 11b, clause (3).

(c) An individual who terminates public service covered by the public employees retirement association general plan, the public employees retirement association police and fire plan, or the public employees local government corrections service retirement plan, and who becomes an active member covered by one of the other two plans, may receive a refund of employee contributions plus six percent interest compounded annually from the plan in which the member terminated service.

Subd. 3. **Deferred annuity; eligibility; computation.** A member with at least three years of allowable service when termination of public service or termination of membership occurs has the option of leaving the accumulated deductions in the fund and being entitled to a deferred retirement annuity commencing at normal retirement age or to a deferred early retirement annuity under section 353.30, subdivision 1, 1a, 1b, 1c, or 5. The deferred annuity must be computed under section 353.29, subdivisions 2 and 3, on the basis of the law in effect on the date of termination of public service or termination of membership and must be augmented as provided in section 353.71, subdivision 2. A former member qualified to apply for a deferred retirement annuity may revoke this option at any time before the commencement of deferred annuity payments by making application for a refund. The person is entitled to a refund of accumulated member contributions within 30 days following date of receipt of the application by the executive director.

Minnesota Statutes 2002, Section 354A.107

354A.107 Payment acceptance allowed.

The payment for the purchase of allowable service credit, or the repayment of a prior refund, or the payment of equivalent contributions for an eligible leave of absence, as permitted by law, by a member of the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, or the Duluth teachers retirement fund association, may be made with amounts transferred from a plan qualified under section 401(a), 401(k), 403(a), 403(b), or 457(b) of the federal Internal Revenue Code of 1986, as amended from time to time, or amounts transferred from an individual retirement account if done solely in a manner that is eligible for treatment as a nontaxable rollover under the applicable federal law. The rollover must be separately accounted for as member contributions that were not previously taxed. Before accepting any transfers to which this section applies, the executive secretary or director must require the member to provide written documentation that the amounts to be transferred are eligible for tax-free rollover and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended.