



**H.F. 2451** *in the form of delete-all H2451-DE1*  
(Nelson)

**S.F. 2266**  
(Wergin)

### **Executive Summary of Commission Staff Materials**

Affected Pension Plan(s): Minnesota Public Pension Plans  
Relevant Provisions of Law: Minnesota Statutes, Section 356.46, 352.12, 352.32, 353.30  
General Nature of Proposal: Makes joint-and-survivor annuity mandatory unless waived by spouse.  
Date of Summary: March 31, 2008

### **Specific Proposed Changes**

For all plans that provide joint-and survivor annuities, requires all married public plan annuitants to select at least a 50 percent joint-and-survivor annuity covering the spouse unless the spouse waives that coverage.

### **Policy Issues Raised by the Proposed Legislation**

#### General Policy Issues:

1. Implications of adding joint-and-survivor options to plans with automatic spousal coverage.
2. Public pension plan purpose; recruiting/retention concerns.
3. Enforcement issues.
4. Question of whether current notification procedures are sufficient to address or avoid harm.

#### Specific Policy Issues:

1. Sufficient need to abandon current approach.
2. Whether proposed solution will create more problems than the current system.
3. Confusion regarding application to disability annuity elections.
4. Appropriateness of following model mandated for private sector.
5. Intention: whether all plans must provide joint-and-survivor annuities if not currently offered.
6. Problems applying requirements if marriage dissolution, spousal abuse, separation, or abandonment.
7. Possible lack of support by plan members and covered plans.
8. Scope: plans to include/exclude.
9. Proper level of joint-and-survivor coverage.
10. Special considerations: plans with automatic survivor coverage.
11. Withdrawal of asset issues; design issues.
12. Cost to plans: financial cost and administrative burden.
13. Possibility of study rather than action on the bill.
14. Need for conforming revisions.

### **Potential Amendments**

- H2451-32A clarifies that disability elections must comply with the revised requirements.
- H2451-33A requires any plan providing a single life annuity to also offer a joint-and-survivor annuity form.
- H2451-34A makes the treatment inoperative if the employee has a restraining order against the spouse, if there is separation without a court-ordered joint-and-survivor annuity mandate, or if the spouse has not been living with the member for a period of time to be specified, or if the spouse cannot be located.
- H2451-35A exempts all volunteer fire plans from the provision.
- H2451-36A eliminates from inclusion the University of Minnesota faculty supplemental plan.
- H2451-37A, an alternative to the previous amendment; eliminates from inclusion both the University of Minnesota faculty supplemental plan and the faculty retirement plan.
- H2451-38A eliminates from inclusion the MSRS-Unclassified Program.
- H2451-39A revises the minimum joint-and survivor option from 50 percent to a percentage to be specified.
- H2451-40A revises marriage dissolution language to specify that the mandate to pay any level of joint-and-survivor annuity is voided if there is a court order to the contrary.
- H2451-41A requires that, for plans that offer automatic surviving spouse coverage in addition to joint-and-survivor options, the survivor would receive a joint-and-survivor annuity or a benefit equal to that of the alternative automatic coverage, whichever is greater.
- H2451-42A, an alternative to H2451-41A, eliminates from coverage any plan which offers automatic spousal coverage to the applicable surviving spouse if joint-and-survivor coverage were not elected
- H2451-43A removes the requirement that the statement be notarized.
- H2451-44A, an alternative to H2451-43A, removes references to "Medallion Signature Guarantee."



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director *EB*  
RE: Delete-All Amendment H2451-DE1 to H.F. 2451 (Nelson); S.F. 2266 (Wergin):  
Minnesota Public Pension Plans; Mandating Joint-and-Survivor Annuity Unless  
Waived By Spouse  
DATE: March 31, 2008

Summary of H.F. 2451 (Nelson); S.F. 2266 (Wergin), in the form of Delete-All Amendment H2451-DE1

H2451-DE1 is a delete-all amendment to H.F. 2451 (Nelson); S.F. 2266 (Wergin) which was developed by administrators from the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA), in consultation with Representative Nelson.

The delete-all amendment, which applies to nearly all Minnesota public pension plans (except lump sum volunteer fire plans) that offer joint-and-survivor annuity options, amends Minnesota Statutes, Section 356.46, a Minnesota public pension plan annuity application and spousal notification provision, by:

1. Requiring all married public plan annuitants to select a percent joint-and-survivor annuity naming the spouse as beneficiary, unless the spouse waives that coverage;
2. Requiring payment of a 50 percent joint-and-survivor annuity if the spouse does not waive joint-and-survivor coverage;
3. Permitting a survivor annuity to be paid if it provides a higher benefit;
4. Waiving specified joint-and-survivor coverage if there is a court order to the contrary; and
5. Holding the pension plan, fund, and its employees and agents harmless if there is an act of fraud committed by the member or spouse, and or the member or spouse withhold information or provide incorrect information.

Additional changes are:

- The MSRS-General (Section 352.12, Subdivision 2) and MSRS-Correctional (Section 352.931, Subdivision 1) death-while-active-or-deferred surviving spouse benefit provisions, which permit the employee to elect to have the surviving spouse annuity paid to an individual other than a spouse, is revised by requiring spousal consent.
- The PERA-General (Section 353.32, Subdivision 1a), PERA P&F (Section 353.657, Subdivision 2a) and PERA Local Government Correctional Plan (Section 353E.07, Subdivision 7) death-while-active-or-deferred surviving spouse benefit provisions, which permit the employee to elect to have the surviving spouse annuity paid to an individual other than a spouse, is revised by requiring spousal consent.
- The PERA optional annuity form provision, Section 353.30, Subdivision 3, is amended to indicate that any annuity form chosen by the member must conform with the new optional annuity requirements in Section 356.46, as revised by this bill.

Background Information

- A. Information on the current law spousal notification requirement is contained in **Attachment A**.
- B. Information on joint and survivor annuities is contained in **Attachment B**.

Implications of Adding Joint-and-Survivor Options to Plans with Automatic Spousal Coverage

In 1997, optional joint-and-survivor annuity options were added to the Legislators Retirement Plan and to the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association plans

which also have automatic spousal coverage that would apply if a joint-and-survivor annuity is not elected. The current proposed legislation would impact these plans because they offer joint-and-survivor annuities. For the Minneapolis Fire and Minneapolis Police plans, the 1997 law specifically authorized offering 50 percent, 75 percent, and 100 percent optional annuities. If an optional annuity was elected, it was in lieu of coverage that would otherwise be provided by the plan's surviving spouse benefit provision. The 50 percent optional annuity provides less survivor coverage than the approximately 52 percent survivor coverage that would otherwise apply under the automatic surviving spouse coverage provision.

Care is needed when adding or in any way modifying optional annuities to a plan with automatic surviving spouse coverage. Given the existing automatic survivor coverage provisions of these plans, the 1997 law language adding optional annuities to these plans specified that the optional joint-and-survivor annuities must be actuarially equivalent to a primary annuity plus the automatic surviving spouse benefit coverage that would otherwise apply. In order to maintain actuarial equivalence when a 50 percent joint-and-survivor annuity is elected rather than the approximately 52 percent automatic spousal coverage that would otherwise apply, it is necessary to pay the primary annuitant a slightly higher annuity than would otherwise be payable under law. This may provide a retiring member with an incentive to provide the spouse with less coverage (a 50 percent joint-and-survivor annuity) than the automatic coverage that would otherwise apply.

#### Public Pension Plan Purpose; Recruiting/Retention Concerns

In considering the proposed legislation, the Legislature may wish to consider whether the legislation is consistent with the existing purpose for public pension plans. Currently, the pension plan benefits are employee benefits provided to attract the individual into public employment and to retain that employee. How the individual chooses to receive that retirement benefit (through payments under a single-life annuity or through monthly payments (but expected longer duration) under a joint-and-survivor annuity, or in some cases through a distribution of assets) is left for the individual to decide. Hopefully, the family unit is consulted, and decisions mutually agreeable are reached. But whatever occurs, the retiring public employee is the decision-maker. The proposed legislation replaces the public employee as the decision-maker. The spouse, not the employee, is given authority to require that a joint-and-survivor annuity be paid, even if that is against the wishes of the covered employee. The proposed change may impact the way current and prospective employees value public pension benefits, impacting employee recruiting and retention.

#### Enforcement Issues

The bill states that if a public plan or fund provides for a joint-and-survivor annuity, that annuity must be selected unless the spouse signs a waiver. It is unclear whether there is an intention to restrict any complete lump sum withdrawals or partial asset withdrawals to preclude efforts to circumvent this joint-and-survivor annuity requirement. It is also unclear whether there is an intention to mandate that withdrawals be used to purchase joint-and-survivor annuities from insurance companies or other providers. Withdrawals can occur under most of our public plans. A defined benefit plan member has a right to take a refund in lieu of an annuity. Most volunteer fire plans pay lump sum amounts, rather than annuities at termination. Defined contribution plan members can withdraw assets rather than take an annuity. Under current state and federal law, the individual can use money withdrawn or otherwise received or transferred from a pension plan or fund for any purpose (although in some cases with tax penalties), one of which is to purchase an annuity from an insurance company or comparable provider. If the intention of the bill is to require that any withdrawn pension assets be used to purchase joint-and-survivor annuities (unless waived by the spouse), that may not be possible or desirable.

The Commission may wish to consider issues the proposed legislation raises for the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan which offers coverage to various unclassified executive branch employees, legislative staff, newer legislators, and those legislators with service originally covered by the Legislators Retirement Plan who chose to transfer coverage to MSRS-Unclassified. According to the MSRS-Unclassified handbook and MSRS-Unclassified law, members with at least ten years of MSRS-covered service have a right to transfer coverage to the MSRS General State Employees Retirement Plan (MSRS-General). MSRS-General offers a defined benefit, payable by a single-life annuity or various forms of optional annuities. If the transfer right is not exercised and the member remains in MSRS-Unclassified, the member has several other opportunities. A member has a right to refund of their account value any time after termination of service. The member can select a single-life annuity payable from the Minnesota Post Retirement Investment Fund computed on the account's value, or optional annuities. The member can also select a single-life or optional annuity based on part of the account's value and receive a refund of

the remainder. The question is how the bill influences these options. If the intention of the proposed legislation to require joint-and-survivor annuities unless waived by the spouse, this would suggest that MSRS-Unclassified should be revised to prohibit any full or partial refund of the account's value, limiting the former employee to a joint-and-survivor optional annuity under MSRS-Unclassified or MSRS-General. If the Legislature intends that any amounts otherwise withdrawn from MSRS-Unclassified must be used to purchase a joint-and-survivor annuity, the question is whether there is any way to enforce that intention after the money is withdrawn. If restrictions are not placed on MSRS-Unclassified withdrawal options, the Legislature may wish to consider that some individuals may be more likely to use the withdrawal options to avoid joint-and-survivor usage requirements placed on any assets left in the member's account or transferred to MSRS-General. Such behavior may occur in situations where there is considerable stress within a marriage; the outcome may not be productive for any of the parties.

#### Question of Whether Current Notification Procedures are Sufficient to Address or Avoid Harm

Proposals to require joint-and-survivor annuities generally stem from incidents where a retiree's spouse was not aware that the retiree had elected a single-life annuity, and was unprepared when the retiree died and benefits ceased. The Commission may wish to consider whether the information requirements in current law are sufficient to address the issue. Under existing law, the disabliant or retiree and the spouse are given an explanation of the various options available before the election is made. Following the election, the benefit recipient's spouse is required to sign a notice, indicating that he or she is aware of the benefit option the retiree selected. The disabliant or retiring member and the spouse have a responsibility to understand the implications of the election. If this process is followed, any later claim to harm is likely to be largely self-inflicted. Other than the minor impact of bounce-back provisions, for most of Minnesota's pension plans single-life annuities and joint-and-survivor annuities are actuarially equivalent (i.e., have the same lifetime expected value). A single-life annuity pays a larger monthly benefit than a comparable joint-and-survivor annuity. By saving and investing part of the single-life annuity payments, the couple can generate assets to cover the expected life of the survivor following the death of the primary annuitant, assuming the primary annuitant does not suffer an untimely early death.

#### Discussion and Analysis

Delete-all amendment H2451-DE1 (and H.F. 2451 (Nelson); S.F. 2266 (Wergin), as introduced) is similar to 2001 Session H.F. 597 (Evans); S.F. 695 (Vickerman). The 2001 bill was scheduled to be heard by the Legislative Commission on Pensions and Retirement but was withdrawn by the authors.

The bill in the form of the delete-all amendment raises several pension and related public policy issues for Commission consideration, as follows:

1. Sufficient Need to Abandon Current Approach. The issue is whether there is sufficient need to abandon the existing law version of Section 356.46, regarding spousal notification about the retirement annuity option chosen by the member, recasting it as a provision requiring payment of a joint and survivor annuity form unless the spouse waives that coverage. As noted above, in most plans the expected value of the payout stream under a single-life annuity and joint-and-survivor annuity are the same (ignoring a bounce-back effect). What differs is the length of the expected payout period (a single-life annuity covers one life, while a joint-and-survivor annuity naming the spouse to the second half covers both lives). With the joint-and-survivor annuity the monthly payment is reduced to offset the extended covered life period. Excluding taxation effects, a couple can save a portion of the monthly amounts received under a single-life annuity to create assets to provide an income stream to the survivor.
2. Problems Caused by Proposed Solution. The issue is whether the proposed solution will create problems which exceed those of the present approach. Under the existing law approach, in which the spouse must be informed of the annuity choice selected by the retiring member but can not override that election, the Commission has occasionally been presented with requests to provide continuing coverage to a surviving spouse, following the death of the primary annuitant who had elected a straight life annuity. There have been very few of these legislative requests. The proposed solution as reflected in this bill, however, will place a burden on thousands of retiring public plan members who want a straight life annuity, requiring them to provide a notarized statement, or some other form of sworn statement, to the plan administration to waive joint-and-survivor coverage. Complaints to the Legislature seeking relief through special laws may increase considerably. The Legislature may be requested to hear special law requests by spouses who waived joint-and-survivor annuities but now regret that choice or who claim they were pressured or threatened by the retiring public employee to sign the waiver; by retirees who receive a joint-and-survivor annuity against their wishes because of a

failure to submit a notarized form; and from working couples who both have joint-and-survivor annuities covering the other person, and who later decide that coverage is unnecessary and undesirable. The retirement plans will also be burdened by additional counseling, and by the need to follow up on cases where no waiver is submitted but the person wants a straight life annuity. Pension plan administrations may also need additional information before any initial benefit estimate information is provided to a member: information to document the existence of a spouse and the age of that individual. If a member is given an estimate based on a straight life annuity, and is later forced to receive a joint-and-survivor annuity with the resulting reduced monthly benefit amount, the individual may claim he was harmed by the plan and seek legislative relief to force the plan to provide a monthly benefit amount equivalent to a straight life annuity.

3. Confusion Regarding Application to Disability Annuity Elections. The delete-all amendment is confusing regarding application to disability annuity elections. Page 2, lines 10 to 13, which is existing law language, seems to state that the requirements of this section apply to all annuities that “can be elected by an active, disabled, or retiring member.” Existing and new language on page one also indicates that the requirements are to apply to disabled persons. However, there is new language on page 2 and 3 which refers to “retirement applications” or “form or retirement benefit,” rather than to the form of disability or retirement benefit. Some clarification by amendment seems necessary to avoid confusion regarding application to disabled persons.
4. Marriage Dissolution Treatment. The language on page 3, lines 32 and 33, specify that the requirement to pay a 50 percent joint and survivor option is void if there is a court order to the contrary; which may not be fully compatible with the remainder of the section. The Commission may wish to consider an amendment which waives a requirement to pay any form of joint-and-survivor annuity if there is a court order to the contrary, not just a 50 percent joint-and survivor annuity.
5. Intention. If the plan offers any form of joint-and-survivor annuity, the bill as drafted would require payment of a joint-and-survivor annuity to the retiring member. If the intention is to also require that any plan which provides single-life annuities must provide joint-and-survivor options, an amendment will be needed.
6. Appropriateness of Following Model Mandated for Private Sector. The issue is whether the ERISA/ federal law model proposed in the bill is appropriate for Minnesota public pensions. There are differences between the objectives of the federal government when setting standards for private sector pensions, and the objectives of state and local governments when setting policy for the pension plans that apply to their own workforce. When the federal government imposed changes on private sector pensions in 1984, the federal government was addressing issues of public welfare and broad social policy. In contrast, when it comes to its public work force, Minnesota public employers have a more narrow interest: they seek to create public employee pension programs that address the employer’s need to attract and retain capable employees, and to out-transition those employees at the end of their working lifetimes.

Also, Minnesota does not have laws restricting other actions an employee might take which can have a profound impact on income available in retirement, so it is not clear why we should impose a law mandating spousal approval of the annuity form. We do not require spousal approval prior to an employee terminating service and taking a refund in lieu of a deferred annuity, or spousal approval of a decision of when to retire (early retirement with or without a subsidy versus retirement at normal retirement age), although that decision can greatly impact the amount of retirement income. Therefore, there may be no compelling reason to mandate joint-and-survivor annuities rather than some other annuity form.

7. Treatment in Cases of Spousal Abuse, Separation, or Abandonment. The issue is whether the proposed treatment, shifting control of the annuity form decision from the member to the spouse, is appropriate or workable in cases where the member may have sought a restraining order against that spouse due to abuse, or where the couple is separated either informally or by a legal separation, or in cases where the spouse cannot be located or has abandoned the member. In some of these situations, the Commission might conclude that it would not be proper to provide the spouse with the authority provided by this bill, while in other cases that spouse will not be making any decision whether to waive a joint-and-survivor annuity because that spouse cannot be located.
8. Covered Plan and Covered Employee Reaction. The issue is whether plan administrators, speaking on behalf of their boards, will be supportive of the changes which shift authority from the member to the

spouse, and whether covered employees will support those changes. Many may feel the change is unnecessary, while others may view it as harmful.

9. Scope. The issue is scope, the types of plans to be included under this mandate. As drafted, the proposed changes would apply to nearly all Minnesota public plans, including the MSRS-Unclassified defined contribution program, but not to volunteer fire lump sum pension plans and a few non-volunteer-fire defined contribution plans (notably, the Individual Retirement Account Plans (IRAP)). The mandate may be difficult to enforce, particularly in MSRS-Unclassified. Some individuals may engage in economically unproductive behavior attempting to avoid the new requirements. Some plans, including the defined contribution volunteer fire plans included under this bill, provide benefits intended more as an inducement or reward for providing volunteer service than to provide income in retirement. Those plans may not warrant any action to mandate joint-and-survivor treatment. A consideration in including any volunteer fire plans under this bill is that it may impact the willingness to provide volunteer service. Another is whether this bill may lead some volunteer fire plans to alter the form of benefits that they offer to their members, causing some volunteer fire defined contribution plans to shift to a lump sum defined benefit approach, or from monthly benefits to lump sum. The bill as drafted would also apply to the University of Minnesota faculty supplemental retirement plan and faculty retirement plan. A question for the Commission is whether it is appropriate to include University of Minnesota faculty retirement plans.
10. Proper Level of Joint-and-Survivor Coverage. The issue is the proper minimum level of joint-and-survivor coverage. The delete-all amendment does not establish a minimum joint-and-survivor option. Rather, it states that if the spouse does not provide a signed waiver permitting some other annuity, the plan administration must provide 50 percent joint-and-survivor coverage. Presumably, a spouse can agree to a joint-and-survivor annuity providing lesser coverage. Under general law, it is typical to permit pension plan boards to create any joint-and-survivor option deemed desirable for the plan membership, provided that the annuity form has the same value as a single-life annuity. Commission staff is aware that PERA offers, at least in some special circumstances dealing with members of the prior PERA-P&F consolidation accounts, 15 and 25 percent joint-and-survivor options. There may be other pension plans that currently offer less than 50 percent options.
11. Consideration of Plans with Automatic Coverage. The issue is how to treat plans that have automatic spousal coverage in addition to offering joint-and-survivor coverage, such as the Minneapolis Police Relief Association and the Minneapolis Fire Relief Association. The Commission might want to consider requiring that the minimal joint-and-survivor coverage in these plans must be equal to the automatic coverage that would otherwise apply, so that the joint-and-survivor annuity option could not be used as a way of actually lowering the coverage the spouse will have.
12. Withdrawal Issues; Design Issues. The issue is whether current law provisions that allow terminated members to withdraw all or part of their assets rather than take an annuity under the plan should be revised to force or at least in some way further encourage taking annuities from the plan rather than withdrawals.
13. Cost. Joint-and-survivor annuities involve a minor subsidy in many cases due to a subsidized bounce-back provision. If the percentage of joint-and-survivor annuities increases due to the proposed legislation, costs will increase in the plans, leading to some upward pressure on contribution requirements, although the impact will be minor. To the extent that there is an increase in plan cost, the increase would be due to joint-and-survivor annuities required against the wishes of the retiring employee.
14. Possibility of Study Rather than Action on the Current Bill. The issue is whether to study the issues raised by the bill over the interim rather than taking action on the bill at this time. The Commission might wish to consider studying this matter further due to the nature of the proposed change, the broad number of plans that would be impacted, and the divergent ways given plans might be impacted because of the existing nature of the plan's surviving spouse coverage.
15. Need for Conforming Revisions. If the bill is enacted, there will be a need for additional conforming changes in other statutes covering the various plans. It is difficult to do a conforming amendment at this time given the questions about what plans to include in this mandate and the divergent directions taken in substantive amendments. Conforming revisions can be done next year.



## Potential Amendments for Commission Consideration

- Amendment H2451-32A clarifies that disability benefit elections must comply with the requirements of this section.
- Amendment H2451-33A requires that any plan providing a single-life annuity to its members must also offer a joint-and-survivor annuity form.
- Amendment H2451-34A makes the bill treatment inoperative in cases where the employee has obtained a restraining order against the spouse, or if there is a separation without a court-ordered mandate that a joint-and-survivor annuity be selected, or if the spouse has not been living with the member for a period of time to be specified by the Commission, or if the spouse cannot be located.
- Amendment H2451-35A exempts all volunteer fire plans from this provision.
- Amendment H2451-36A eliminates the University of Minnesota faculty supplemental plan.
- Amendment H2451-37A, an alternative to Amendment H2451-36A, eliminates from inclusion the University of Minnesota faculty supplemental plan and the faculty retirement plan.
- Amendment H2451-38A, eliminates from inclusion the MSRS-Unclassified Program. As noted previously, there are valid reasons for exempting the MSRS-Unclassified Plan. However, the Commission may choose to be aware that the plan provides coverage to many legislators. Eliminating this plan from coverage under this provision may raise perception problems.
- Amendment H2451-39A revises the minimum percentage joint-and-survivor option from 50 percent to a percentage to be specified by the Commission.
- Amendment H2451-40A revises the marriage dissolution language to specify that the requirement to pay any level of joint-and-survivor annuity is voided if there is a court order to the contrary, not just a 50 percent joint-and-survivor annuity.
- Amendment H2451-41A requires that, for any plan which offers automatic surviving spouse coverage in addition to joint-and-survivor options, the minimum joint-and-survivor annuity that a plan can offer must provide a spousal benefit equal to that of the alternative automatic coverage. This amendment may be opposed by the Minneapolis Fire Relief Association and Minneapolis Police Relief Association, and any other plan that may offer a joint-and-survivor annuity option which under existing law is less than the automatic coverage that would otherwise apply.
- Amendment H2451-42A, an alternative to Amendment H2451-41A, eliminates from coverage under this provision any plan which offers automatic spousal coverage to the applicable surviving spouse if joint-and-survivor coverage were not elected.
- Amendment H2451-43A, would remove the requirement that any waiver of the joint-and-survivor annuity be notarized, and also removes the statement of other forms of verification that the pension plan administrators may use in lieu of notarization.
- Amendment H2451-44A, an alternative to Amendment H2451-43, would remove references to medallion signature guarantee, which under this draft can be used instead of notarization. Included in the attachments are comments on "medallion signature guarantee," as found in the online encyclopedia Wikipedia. According to that source, medallion signature guarantees are used as a guarantee for transfer of stocks, bonds, and other securities. Since the statement being requested in this bill is not a security, medallion signature guarantees may not be relevant.

**Attachment A**  
**Background Information on**  
**Current Law Spousal Notification Requirement**

Minnesota Statutes, Section 356.46, is a spousal notification provision that requires Minnesota public pension plans, including supplemental plans but excluding volunteer fire plans, to include with any benefit application form a description of all optional annuity forms offered by the plan, and a brief analysis of the implications of selecting an optional annuity rather than a single-life annuity. The description of the optional annuity forms is also sent to the spouse. After the retiring or disabled public employee has made his or her selection, the public pension plan administration must send notification to the disabled or retiring employee's spouse, providing notification of the election made by the disabled or retiring employee. The spouse is required to sign the notification, acknowledging receipt of the information. If the pension fund administration does not receive the signed notification form within 30 days, another form is sent to the spouse by certified mail.



## Attachment B

### Background Information on Joint and Survivor Annuities

A joint-and-survivor annuity is an annuity form which provides coverage to another individual, in addition to the retired or disabled employee. The other individual is often a spouse, but it could also be another adult or a child, unless specifically restricted under the laws or by-laws governing a particular plan. The intent is to provide continuing income to the other individual for life, following the death of the primary annuitant.

In recent decades, it has become increasingly common for families to have more than one wage earner. Currently, in a majority of cases both partners in a marriage or other committed relationship are employed. Given this situation, the couple seems more able to save toward retirement by accumulating assets other than the plan retirement annuity, and both individuals may have earned a pension due to their own employment. The couple may not want or need surviving spouse coverage. This possibility is reflected in most of our more modern Minnesota public pension plans. Automatic coverage is not provided and joint-and-survivor surviving spouse coverage, if desired, can be elected. The election is left to the employee. If joint-and-survivor coverage is appropriate for a given retiree, he or she can elect that coverage.

Some of the older plans, however, did have automatic surviving spouse coverage following the death of the primary annuitant. This may reflect a family norm that is less relevant today than it was decades ago. To the best of Commission staff's knowledge, all Minnesota public plans which provide automatic surviving spouse coverage are closed to new members. This automatic coverage was a common feature in police and paid fire local relief association plans, all of which were closed to new members in 1980. The old Legislator's Retirement Plan and Elected State Officers Retirement Plan, which were closed to new members in 1997, have automatic surviving spouse coverage, equal to 50 percent of the benefit received by the primary annuitant prior to death.

Except for the exceptions noted later, the total value of a joint-and-survivor annuity (or any other optional annuity form) has the same total expected value as an annuity covering only the life of the retired or disabled employee. For most Minnesota public pension plans, the total value of the retirement benefit is a function of the individual's salary near retirement and total years of service, but not marital status. The retirement and disability benefits offered through the public pension plan are employee benefits, serving to attract, retain, and out-transition the employee at the end of his or her productive working life. Currently, that employee is the decision-maker who decides whether to share some of the pension's value with a spouse, other adult, or child, following the death of the primary annuitant.

In general, when a joint-and survivor annuity is selected, the monthly benefit received by the primary annuitant must be reduced, in order to provide some continuing coverage to the survivor. Otherwise, the total value received would be higher than that received by a comparable single individual, or a comparable married individual who decides not to take a joint-and-survivor annuity. The amount of the reduction is a function of the ages of the annuitant and designated beneficiary. If the retiree is male and the joint-and-survivor annuity provides coverage to a wife who is much younger than the primary annuitant, the amount of the monthly reduction can be quite large, due to the likelihood that the female will outlive the male by many years.

The amount of the reduction also depends upon the extent of the continuing coverage. When plans permit joint-and-survivor annuities, several joint-and-survivor options typically are offered. Under a 100 percent joint-and-survivor option, following the death of the primary annuitant the designated beneficiary receives the same monthly benefit as before the death occurred. Because of the level of this continuing coverage, a 100 percent joint-and-survivor annuity requires a larger monthly reduction than options offering lesser continuing coverage. With a 50 percent joint-and-survivor option, the designated beneficiary would receive a monthly benefit which is half that previously received. Fifty percent, 75 percent, and 100 percent joint-and-survivor annuities are the most common joint-and-survivor offerings, but others also exist. For instance, in 2000 the Legislature passed a provision (Laws 2000, Chapter 461, Article 9, Section 4) providing a one-time election of actuarial equivalent 15 or 25 percent joint-and-survivor coverage for Public Employees Police and Fire Retirement Plan (PERA-P&F) former consolidation account members who were restricted to local plan benefits, to supplement the automatic survivor coverage provided by those plans.

There is a provision in many of the larger Minnesota state retirement plans (Public Employee Retirement Association (PERA) plans, Teachers Retirement Association (TRA), the first class city teacher plans, and most Minnesota State Retirement System (MSRS plans) which slightly modifies the general actuarial equivalence requirement, due to a bounce-back. In 1989, bounce-back provisions were added to many joint-and-survivor annuity laws. Under this modification, if the individual to receive the second half of the joint-and-survivor annuity predeceases the primary annuitant, the monthly benefit is restored ("bounces back") to the monthly benefit level that would have been received if the individual had selected a single-life annuity. In the state-wide plans, this bounce-back feature is provided without any further reduction in the monthly benefits computed when the retirement or disability benefit commences. Therefore, it is a subsidized feature. It raises the overall cost of the pension system and results in a subsidy paid by the employer and all employees who are single, or who are married but who do not elect a joint-and-survivor annuity.

In 1997, laws were enacted which extended joint-and-survivor annuity forms, both those with a bounce-back and those without, to the Minneapolis Police Relief Association plan and to the Minneapolis Fire Relief Association plan. The language in the 1997 laws for these two relief associations, however, required full actuarial equivalence, whether or not the bounce-back is elected.

- 1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything
- 1.2 amendment (H2451-DE1), as follows:
  
- 1.3 Page 2, line 11, strike "retirement"
- 1.4 Page 2, lines 20 and 23, delete "retirement" and insert "annuity "
- 1.5 Page 2, line 32, after "retirement" insert "or disability "
- 1.6 Page 2, line 36, after "retirement" insert "or disability "
- 1.7 Page 3, line 1, after "retirement" insert "or disability "
- 1.8 Page 3, line 2, strike the first "retirement" and strike the second "retirement"
- 1.9 Page 3, line 4, after "retiring" insert "or disabled "
- 1.10 Page 3, lines 5 and 6, strike "retirement"
- 1.11 Page 3, line 10, delete "retirement"

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 2, after line 9, insert:

1.4 "Subd. 1a. Annuity form requirement. A public pension plan that provides a  
1.5 retirement annuity covering the life of the retired or disabled member must also offer one  
1.6 or more joint and survivor annuity forms. Unless otherwise specified in law applicable  
1.7 to a specific plan, the optional annuity form must be actuarially equivalent to the single  
1.8 life annuity."

1.9 Page 2, line 10, before "Every" insert "The administrators of"

1.10 Page 2, line 11, strike everything after "plan"

1.11 Page 2, line 12, strike everything before "shall"

1.12 Page 2, line 19, delete "If the public pension plan offers joint and survivor optional  
1.13 annuity forms,"

1.14 Page 2, line 31, delete "that" and strike "provides"

1.15 Page 2, strike lines 32 and 33

1.16 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 2, line 26, after "(a)," insert "or in subdivision 8, "

1.4 Page 4, after line 2, insert:

1.5 "Subd. 8. Exceptions to requirements. (a) This section does not apply if:

1.6 (1) a restraining order has been issued restraining the spouse of the member;

1.7 (2) there is a legal separation without a court ordered mandate to select a joint

1.8 and survivor annuity;

1.9 (3) the spouse has not been living with the member for a period of ... months before  
1.10 the date the member requests an annuity application and a notarized statement to that fact  
1.11 is included with the annuity application; or

1.12 (4) the spouse can not be located and the member provides the applicable pension  
1.13 plan administration with a notarized statement that a good faith effort has been made to  
1.14 locate the spouse.

1.15 (b) The notarized statement required under paragraph (a), clause (4), must document  
1.16 all actions taken to locate the spouse. A pension plan administration is authorized to  
1.17 develop forms and additional minimum requirements for this notarized statement."

1.18 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 26, delete "Application to" and insert "Exclusion of"

1.4 Page 3, delete lines 27 and 28 and insert "any volunteer fire relief association to  
1.5 which sections 69.771 to 69.776 apply."

1.6 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 26, delete "Application to volunteer fire plans" and insert "Plan  
1.4 Exclusions" and after "to" insert ":", and before "lump" insert "(1)"

1.5 Page 3, line 28, delete "." and insert "; and"

1.6 Page 3, after line 28, insert:

1.7 "(2) the University of Minnesota faculty supplemental retirement plan."

1.8 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 26, delete "Application to volunteer fire plans" and insert "Plan  
1.4 Exclusions" and after "to" insert ":", and before "lump" insert "(1)"

1.5 Page 3, line 28, delete "." and insert ";

1.6 Page 3, after line 28, insert:

1.7 "(2) the University of Minnesota faculty supplemental retirement plan; and  
1.8 (3) the University of Minnesota faculty retirement plan."

1.9 Amend the title accordingly



1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 26, delete "Application to volunteer fire plans" and insert "Plan  
1.4 Exclusions" and after "to" insert ":", and before "lump" insert "(1)"

1.5 Page 3, line 28, delete "." and insert "; and"

1.6 Page 3, after line 28, insert:

1.7 "(2) the unclassified employees retirement program established under chapter 352D."

1.8 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 2, line 24, delete "50" and insert "..."

1.4 Page 3, lines 14 and 32, delete "50" and insert "..."

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 32, delete "50"

1.4 Page 3, line 33, delete "percent"

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 2, line 25, after "form" insert ", or an amount equal to that provided under  
1.4 the automatic survivor benefit coverage provision of the plan, if applicable, whichever  
1.5 is greater"

1.6 Page 3, line 14, after "form" insert ", or an amount equal to that provided under  
1.7 the automatic survivor benefit coverage provision of the plan, if applicable, whichever  
1.8 is greater"

1.9 Page 3, line 32, delete "50"

1.10 Page 3, line 33, delete "percent"

1.11 Amend the title accordingly

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 3, line 26, delete "Application to volunteer fire plans" and insert "Plan  
1.4 Exclusions" and after "to" insert ":", and before "lump" insert "(1)"

1.5 Page 3, line 28, delete "." and insert "; and"

1.6 Page 3, after line 28, insert:

1.7 "(2) any plan under which the applicable surviving spouse would receive automatic  
1.8 surviving spouse coverage if a joint and survivor annuity were not elected."

1.9 Amend the title accordingly

- 1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything
- 1.2 amendment (H2451-DE1), as follows:
  
- 1.3 Page 2, line 10, delete "(a)"
- 1.4 Page 2, line 22, delete "by a notarized statement"
- 1.5 Page 2, delete lines 26 to 29

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, the delete everything  
1.2 amendment (H2451-DE1), as follows:

1.3 Page 2, line 27 delete "with a medallion signature guarantee,"

1.4 Page 2, line 28, delete "or"



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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE NO. 2451

April 23, 2007

Authored by Nelson

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

1.1 A bill for an act  
1.2 relating to retirement; Minnesota public pension plan benefits; requiring the  
1.3 selection of a joint and survivor annuity benefit if provided for under the plan;  
1.4 amending Minnesota Statutes 2006, section 356.46.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 356.46, is amended to read:

1.7 **356.46 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE**  
1.8 **FOR ELECTING ANNUITY FORM; MANDATORY JOINT AND SURVIVOR**  
1.9 **OPTIONAL ANNUITY FORM.**

1.10 Subdivision 1. **Definitions.** As used in this section, each of the following terms shall  
1.11 have the meaning given.

1.12 (a) "Annuity form" means the payment procedure and duration of a retirement  
1.13 annuity or disability benefit available to a member of a public pension fund, based on the  
1.14 period over which a retirement annuity or disability benefit is payable, determined by the  
1.15 number of persons to whom the retirement annuity or disability benefit is payable, and the  
1.16 amount of the retirement annuity or disability benefit which is payable to each person.

1.17 (b) "Joint and survivor optional annuity" means an optional annuity form which  
1.18 provides a retirement annuity or disability benefit to a retired member and the spouse of  
1.19 the member on a joint basis during the lifetime of the retired member and all or a portion  
1.20 of the original retirement annuity or disability benefit amount to the surviving spouse  
1.21 in the event of the death of the retired member. The minimum continuing benefit to a  
1.22 surviving spouse under a joint and survivor optional annuity must be at least 50 percent of  
1.23 the monthly amount paid just before the death of the primary annuitant.

2.1 (c) "Optional annuity form" means an annuity form which is elected by a member  
2.2 and is not provided automatically as the standard annuity form of the public pension plan.

2.3 (d) "Public pension plan" means a public pension plan ~~as defined under section~~  
2.4 356.63, paragraph (b) that provides pension or retirement coverage for public employees,  
2.5 including those plans and funds specified in sections 356.20, subdivision 2, and 356.30,  
2.6 subdivision 3, and any retirement or pension fund, including a supplemental retirement  
2.7 plan or fund, established, maintained, or supported by a governmental subdivision or  
2.8 public body whose revenues are derived from taxation, fees, assessments, or other public  
2.9 sources.

2.10 (e) "Retirement annuity" means a series of monthly payments to which a former or  
2.11 retired member of a public pension fund is entitled due to attaining a specified age and  
2.12 acquiring credit for a specified period of service, which includes a retirement annuity,  
2.13 retirement allowance, or service pension.

2.14 (f) "Disability benefit" means a series of monthly payments to which a former or  
2.15 disabled member of a public pension fund is entitled due to a physical or mental inability  
2.16 to engage in specified employment.

2.17 Subd. 2. **Provision of information on annuity forms.** Every public pension plan  
2.18 which provides for an annuity form other than a single life retirement annuity as an option  
2.19 which can be elected by an active, disabled, or retiring member shall provide as a part  
2.20 of, or accompanying the annuity application form, a written statement summarizing the  
2.21 optional annuity forms which are available, a general indication of the consequences of  
2.22 selecting one annuity form over another, a calculation of the actuarial reduction in the  
2.23 amount of the retirement annuity which would be required for each optional annuity form,  
2.24 and the procedure to be followed to obtain more information from the public pension fund  
2.25 concerning ~~the optional~~ all annuity forms provided by the plan. If the public pension plan  
2.26 offers a joint and survivor optional annuity, the statement must also inform the member  
2.27 and the member's spouse that, notwithstanding any law to the contrary, the member must  
2.28 select the joint and survivor optional annuity, naming the spouse as survivor, unless the  
2.29 member's spouse signs and returns to the public pension fund a notarized statement in  
2.30 which the spouse consents to the selection of a different form of benefit and waives any  
2.31 rights to share in a joint and survivor optional annuity.

2.32 Subd. 3. **Requirement of joint and survivor annuity benefit and notice to**  
2.33 **member's spouse.** (a) ~~If a~~ Every public pension plan administration that provides optional  
2.34 retirement annuity forms which include for a joint and survivor optional retirement  
2.35 annuity form potentially applicable to the surviving spouse of a member, ~~the executive~~  
2.36 ~~director of the public pension plan~~ shall send a copy of the written statement required by

3.1 subdivision 2 to the spouse of the member before the member's ~~election~~ selection of  
3.2 an optional retirement annuity the form of retirement benefit. If the public pension plan  
3.3 provides for a joint and survivor optional annuity form, the member is required to select  
3.4 that annuity form, naming the member's spouse as survivor, unless the public pension plan  
3.5 administration receives a signed and notarized statement from the member's spouse in  
3.6 which the spouse consents to the selection of a different benefit form and waives any right  
3.7 to an interest in a joint and survivor optional annuity.

3.8 (b) Following the ~~election~~ selection of a retirement annuity by the member, a copy  
3.9 of the completed retirement annuity application and retirement annuity beneficiary form,  
3.10 if applicable, must be sent by the public pension plan administration to the spouse of the  
3.11 retiring member. A signed acknowledgment must be required from the spouse confirming  
3.12 receipt of a copy of the completed retirement annuity application and retirement annuity  
3.13 beneficiary form, unless the spouse's signature confirming the receipt is on the annuity  
3.14 application form. If the required signed acknowledgment is not received from the  
3.15 spouse within 30 days, the public pension plan must send another copy of the completed  
3.16 retirement annuity application and retirement annuity beneficiary form, if applicable, to  
3.17 the spouse by certified mail with restricted delivery. If a public pension plan receives  
3.18 notice that the provisions of this section have not been complied with, or if a member  
3.19 selects a benefit form without the valid consent of the member's spouse, the public pension  
3.20 plan shall suspend the payment of monthly benefits and shall take all actions necessary  
3.21 to comply with this section, including converting the form of benefit selected into one  
3.22 providing for a joint and survivor annuity.

3.23 Subd. 4. Application to volunteer fire plans. This section does not apply to  
3.24 lump-sum service pensions provided under section 424A.02, subdivision 3, paragraph  
3.25 (d), by a volunteer fire relief association.

3.26 EFFECTIVE DATE. This section is effective July 1, 2007, and applies to annuities  
3.27 that commence on or after that date.

1.1 ..... moves to amend H.F. No. 2451; S.F. No. 2266, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "ARTICLE 1

1.4 MANDATORY JOINT AND SURVIVOR  
1.5 OPTIONAL ANNUITY FORM

1.6 Section 1. Minnesota Statutes 2006, section 356.46, as amended by Laws 2007, chapter  
1.7 134, article 2, section 44, is amended to read:

1.8 **356.46 APPLICATION FOR RETIREMENT ANNUITY; PROCEDURE**  
1.9 **FOR ELECTING ANNUITY FORM; MANDATORY JOINT AND SURVIVOR**  
1.10 **OPTIONAL ANNUITY FORM.**

1.11 Subdivision 1. **Definitions.** As used in this section, each of the following terms shall  
1.12 have the meaning given.

1.13 (a) "Annuity form" means the payment procedure and duration of a retirement  
1.14 annuity or disability benefit available to a member of a public pension ~~fund~~ plan, based on  
1.15 the period over which a retirement annuity or disability benefit is payable, determined by  
1.16 the number of persons to whom the retirement annuity or disability benefit is payable, and  
1.17 the amount of the retirement annuity or disability benefit which is payable to each person.

1.18 (b) "Joint and survivor optional annuity" means an optional annuity form which  
1.19 provides a retirement annuity or disability benefit to a retired member or disabilitant  
1.20 and the spouse of the member or disabilitant on a joint basis during the lifetime of the  
1.21 retired member or disabilitant and all or a portion of the original retirement annuity or  
1.22 disability benefit amount to the surviving spouse in the event of the death of the retired  
1.23 member or disabilitant.

1.24 (c) "Optional annuity form" means an annuity form which is elected by a member  
1.25 and is not provided automatically as the standard annuity form of the public pension plan.

2.1 (d) "Public pension plan" means a public pension plan as defined under section  
2.2 356.63, paragraph (b).

2.3 (e) "Retirement annuity" means a series of monthly payments to which a former or  
2.4 retired member of a public pension ~~fund~~ plan is entitled due to attaining a specified age  
2.5 and acquiring credit for a specified period of service, which includes a retirement annuity,  
2.6 retirement allowance, or service pension.

2.7 (f) "Disability benefit" means a series of monthly payments to which a former or  
2.8 disabled member of a public pension ~~fund~~ plan is entitled due to a physical or mental  
2.9 inability to engage in specified employment.

2.10 Subd. 2. **Provision of information on annuity forms.** (a) Every public pension  
2.11 plan which provides for an annuity form other than a single life retirement annuity as an  
2.12 option which can be elected by an active, disabled, or retiring member shall provide as a  
2.13 part of, or accompanying the annuity application form, a written statement summarizing  
2.14 the ~~optional~~ annuity forms which are available, a general indication of the consequences  
2.15 of selecting one annuity form over another, a calculation of the actuarial reduction in the  
2.16 amount of the retirement annuity which would be required for each optional annuity  
2.17 form, and the procedure to be followed to obtain more information from the public  
2.18 pension ~~fund~~ plan administration concerning ~~the optional~~ all annuity forms provided by  
2.19 the plan. If the public pension plan offers joint and survivor optional annuity forms, the  
2.20 retirement application and accompanying information must include a statement informing  
2.21 the member and the member's spouse that, notwithstanding any law to the contrary,  
2.22 unless the spouse waives any rights to an optional annuity by a notarized statement on  
2.23 the retirement application or other form provided by the pension plan administration, the  
2.24 public pension plan administration shall assume that the member selected the 50 percent  
2.25 joint and survivor optional annuity form.

2.26 (b) In lieu of the notarized statement requirement referred to in paragraph (a), the  
2.27 pension plan administration may accept a statement with a medallion signature guarantee,  
2.28 or which has been verified, including electronic verification, by administrators of the  
2.29 pension plan.

2.30 Subd. 3. **Requirement of notice to member's spouse.** (a) ~~Except as specified~~  
2.31 ~~in paragraph (c), if a~~ Every public pension plan administration that provides optional  
2.32 ~~retirement annuity forms which include for~~ a joint and survivor optional retirement  
2.33 ~~annuity form~~ potentially applicable to the surviving spouse of a member, the executive  
2.34 ~~director of the public pension plan~~ shall send a copy of the written statement required by  
2.35 subdivision 2 to the spouse of the member before the member's election selection of a  
2.36 retirement annuity the form of retirement benefit.

3.1 (b) Following the ~~election~~ selection of a retirement annuity by the member, a copy  
3.2 of the completed retirement annuity application and retirement annuity beneficiary form,  
3.3 if applicable, must be sent by the executive director of the public pension plan to the  
3.4 spouse of the retiring member. A signed acknowledgment must be required from the  
3.5 spouse confirming receipt of a copy of the completed retirement annuity application  
3.6 and retirement annuity beneficiary form, unless the spouse's signature ~~confirming~~  
3.7 acknowledging the receipt annuity form selected is on the annuity application or other form  
3.8 as designated by the plan. If the ~~required signed acknowledgment is public pension plan~~  
3.9 administration has not received from the spouse within 30 days; a signed acknowledgment,  
3.10 because the retirement annuity application or other form as designated by the public  
3.11 pension plan administration did not include the spouse's signature, the executive director  
3.12 of the public pension plan must notify the member ~~send another copy of the completed~~  
3.13 ~~retirement annuity application and retirement annuity beneficiary form, if applicable, to~~  
3.14 the member's spouse that the 50 percent joint and survivor annuity form, or a higher joint  
3.15 and survivor form if selected, shall be paid if the spouse does not acknowledge the annuity  
3.16 form selected by the member by responding to the second notice sent to the spouse within  
3.17 30 days. The second notice must be sent by certified mail with restricted delivery.

3.18 (c) If a public pension plan administration receives notice that the provisions of  
3.19 this section have not been complied with, or if a member selects a benefit form without  
3.20 the valid consent of the member's spouse, the executive director of the public pension  
3.21 plan shall suspend the payment of monthly benefits and shall take all actions necessary  
3.22 to comply with this subdivision.

3.23 (d) For the Teachers Retirement Association, the statement to the spouse that is  
3.24 required under paragraph (a) must be sent before or upon the member's election of an  
3.25 annuity.

3.26 Subd. 4. Application to volunteer fire plans. This section does not apply to lump  
3.27 sum service pensions provided under section 424A.02, subdivision 3, paragraph (d), by a  
3.28 volunteer fire relief association.

3.29 Subd. 5. Disabilitant survivor treatment. This section should not be interpreted as  
3.30 prohibiting payment of a survivor annuity to the spouse of a deceased disabilitant, in lieu of  
3.31 any other annuity, if laws specific to the plan provide for a higher surviving spouse annuity.

3.32 Subd. 6. Limitations due to marriage dissolution. The requirement to pay a 50  
3.33 percent joint and survivor annuity is void if there is a court order to the contrary.

3.34 Subd. 7. Liability waiver. The pension fund and plan, its employees, and any agent  
3.35 working on behalf of the plan administration are not liable for harm caused by any act of

4.1 fraud committed by the retiring member or current or previous spouse, or any information  
 4.2 withheld from, or incorrect information supplied to the plan administration.

4.3 EFFECTIVE DATE. This section is effective January 1, 2009, and applies to  
 4.4 annuities that are elected and commence on or after that date.

## 4.5 ARTICLE 2

### 4.6 DEATH WHILE ELIGIBLE SURVIVOR ANNUITY WAIVER

4.7 Section 1. Minnesota Statutes 2006, section 352.12, subdivision 2, is amended to read:

4.8 Subd. 2. **Surviving spouse benefit.** (a) If an employee or former employee has  
 4.9 credit for at least three years allowable service and dies before an annuity or disability  
 4.10 benefit has become payable, notwithstanding any designation of beneficiary to the contrary,  
 4.11 the surviving spouse of the employee may elect to receive, in lieu of the refund with  
 4.12 interest under subdivision 1, an annuity equal to the joint and 100 percent survivor annuity  
 4.13 which the employee or former employee could have qualified for on the date of death.

4.14 (b) If the employee was under age 55 and has credit for at least 30 years of allowable  
 4.15 service on the date of death, the surviving spouse may elect to receive a 100 percent joint  
 4.16 and survivor annuity based on the age of the employee and surviving spouse on the date  
 4.17 of death. The annuity is payable using the full early retirement reduction under section  
 4.18 352.116, subdivision 1, paragraph (a), to age 55 and one-half of the early retirement  
 4.19 reduction from age 55 to the age payment begins.

4.20 (c) If the employee was under age 55 and has credit for at least three years of  
 4.21 allowable service credit on the date of death but did not yet qualify for retirement, the  
 4.22 surviving spouse may elect to receive a 100 percent joint and survivor annuity based on  
 4.23 the age of the employee and surviving spouse at the time of death. The annuity is payable  
 4.24 using the full early retirement reduction under section 352.116, subdivision 1 or 1a, to age  
 4.25 55 and one-half of the early retirement reduction from age 55 to the age payment begins.

4.26 (d) The surviving spouse eligible for benefits under paragraph (a) may apply for the  
 4.27 annuity at any time after the date on which the employee or former employee would  
 4.28 have attained the required age for retirement based on the allowable service earned.  
 4.29 The surviving spouse eligible for surviving spouse benefits under paragraph (b) or (c)  
 4.30 may apply for the annuity at any time after the employee's death. The annuity must be  
 4.31 computed under sections 352.115, subdivisions 1, 2, and 3, and 352.116, subdivisions 1,  
 4.32 1a, and 3. Sections 352.22, subdivision 3, and 352.72, subdivision 2, apply to a deferred  
 4.33 annuity or surviving spouse benefit payable under this subdivision. The annuity must cease  
 4.34 with the last payment received by the surviving spouse in the lifetime of the surviving  
 4.35 spouse, or upon expiration of a term certain benefit payment to a surviving spouse under



5.1 subdivision 2a. An amount equal to the excess, if any, of the accumulated contributions  
 5.2 credited to the account of the deceased employee in excess of the total of the benefits paid  
 5.3 and payable to the surviving spouse must be paid to the deceased employee's or former  
 5.4 employee's last designated beneficiary or, if none, as specified under subdivision 1.

5.5 (e) Any employee or former employee may request in writing, with the signed  
 5.6 consent of the spouse, that this subdivision not apply and that payment be made only to a  
 5.7 designated beneficiary as otherwise provided by this chapter.

5.8 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.9 Sec. 2. Minnesota Statutes 2006, section 352.931, subdivision 1, is amended to read:

5.10 Subdivision 1. **Surviving spouse benefit.** (a) If the correctional employee was at  
 5.11 least age 50, has credit for at least three years of allowable service, and dies before an  
 5.12 annuity or disability benefit has become payable, notwithstanding any designation of  
 5.13 beneficiary to the contrary, the surviving spouse of the employee may elect to receive,  
 5.14 in lieu of the refund under section 352.12, subdivision 1, an annuity for life equal to the  
 5.15 joint and 100 percent survivor annuity which the employee could have qualified for had  
 5.16 the employee terminated service on the date of death. The election may be made at any  
 5.17 time after the date of death of the employee. The surviving spouse benefit begins to  
 5.18 accrue as of the first of the month next following the date on which the application for  
 5.19 the benefit was filed.

5.20 (b) If the employee was under age 50, dies, and had credit for at least three years of  
 5.21 allowable service credit on the date of death but did not yet qualify for retirement, the  
 5.22 surviving spouse may elect to receive a 100 percent joint and survivor annuity based on  
 5.23 the age of the employee and surviving spouse at the time of death. The annuity is payable  
 5.24 using the early retirement reduction under section 352.93, subdivision 2a, to age 50, and  
 5.25 one-half of the early retirement reduction from age 50 to the age payment begins. The  
 5.26 surviving spouse eligible for surviving spouse benefits under this paragraph may apply  
 5.27 for the annuity at any time after the employee's death. Sections 352.22, subdivision 3,  
 5.28 and 352.72, subdivision 2, apply to a deferred annuity or surviving spouse benefit payable  
 5.29 under this subdivision.

5.30 (c) The annuity must cease with the last payment received by the surviving spouse  
 5.31 in the lifetime of the surviving spouse. Any employee may request in writing, with the  
 5.32 signed consent of the spouse, that this subdivision not apply and that payment be made  
 5.33 only to a designated beneficiary as otherwise provided by this chapter.

5.34 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.1 Sec. 3. Minnesota Statutes 2007 Supplement, section 353.32, subdivision 1a, is  
6.2 amended to read:

6.3 Subd. 1a. **Surviving spouse optional annuity.** (a) If a member or former member  
6.4 who has credit for not less than three years of allowable service and dies before the  
6.5 annuity or disability benefit begins to accrue under section 353.29, subdivision 7, or  
6.6 353.33, subdivision 2, notwithstanding any designation of beneficiary to the contrary, the  
6.7 surviving spouse may elect to receive, instead of a refund with interest under subdivision  
6.8 1, or surviving spouse benefits otherwise payable under section 353.31, an annuity equal  
6.9 to a 100 percent joint and survivor annuity computed consistent with section 353.30,  
6.10 subdivision 1a, 1c, or 5, whichever is applicable.

6.11 (b) If a member first became a public employee or a member of a pension fund listed  
6.12 in section 356.30, subdivision 3, before July 1, 1989, and has credit for at least 30 years  
6.13 of allowable service on the date of death, the surviving spouse may elect to receive a  
6.14 100 percent joint and survivor annuity computed using section 353.30, subdivision 1b,  
6.15 except that the early retirement reduction under that provision will be applied from age  
6.16 62 back to age 55 and one-half of the early retirement reduction from age 55 back to  
6.17 the age payment begins.

6.18 (c) If a member who was under age 55 and has credit for at least three years  
6.19 of allowable service dies, but did not qualify for retirement on the date of death, the  
6.20 surviving spouse may elect to receive a 100 percent joint and survivor annuity computed  
6.21 using section 353.30, subdivision 1c or 5, as applicable, except that the early retirement  
6.22 reduction specified in the applicable subdivision will be applied to age 55 and one-half of  
6.23 the early retirement reduction from age 55 back to the age payment begins.

6.24 (d) Notwithstanding the definition of surviving spouse in section 353.01, subdivision  
6.25 20, a former spouse of the member, if any, is entitled to a portion of the monthly surviving  
6.26 spouse optional annuity if stipulated under the terms of a marriage dissolution decree filed  
6.27 with the association. If there is no surviving spouse or child or children, a former spouse  
6.28 may be entitled to a lump-sum refund payment under subdivision 1, if provided for in a  
6.29 marriage dissolution decree, but not a monthly surviving spouse optional annuity, despite  
6.30 the terms of a marriage dissolution decree filed with the association.

6.31 (e) The surviving spouse eligible for surviving spouse benefits under paragraph (a)  
6.32 may apply for the annuity at any time after the date on which the deceased employee  
6.33 would have attained the required age for retirement based on the employee's allowable  
6.34 service. The surviving spouse eligible for surviving spouse benefits under paragraph (b) or  
6.35 (c) may apply for an annuity any time after the member's death.

7.1 (f) Sections 353.34, subdivision 3, and 353.71, subdivision 2, apply to a deferred  
7.2 annuity or surviving spouse benefit payable under this subdivision.

7.3 (g) An amount equal to any excess of the accumulated contributions that were  
7.4 credited to the account of the deceased employee over and above the total of the annuities  
7.5 paid and payable to the surviving spouse must be paid to the surviving spouse's estate.

7.6 (h) A member may specify in writing, with the signed consent of the spouse, that  
7.7 this subdivision does not apply and that payment may be made only to the designated  
7.8 beneficiary as otherwise provided by this chapter. The waiver of a surviving spouse  
7.9 annuity under this section does not make a dependent child eligible for benefits under  
7.10 subdivision 1c.

7.11 (i) If the deceased member or former member first became a public employee or a  
7.12 member of a public pension plan listed in section 356.30, subdivision 3, on or after July  
7.13 1, 1989, a survivor annuity computed under paragraph (a) or (c) must be computed as  
7.14 specified in section 353.30, subdivision 5, except for the revised early retirement reduction  
7.15 specified in paragraph (c), if paragraph (c) is the applicable provision.

7.16 (j) For any survivor annuity determined under this subdivision, the payment is to be  
7.17 based on the total allowable service that the member had accrued as of the date of death  
7.18 and the age of the member and surviving spouse on that date.

7.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.20 Sec. 4. Minnesota Statutes 2007 Supplement, section 353.657, subdivision 2a, is  
7.21 amended to read:

7.22 Subd. 2a. **Death while eligible survivor benefit.** (a) If a member or former  
7.23 member who has attained the age of at least 50 years and has credit for not less than  
7.24 three years allowable service or who has credit for at least 30 years of allowable service,  
7.25 regardless of age attained, dies before the annuity or disability benefit becomes payable,  
7.26 notwithstanding any designation of beneficiary to the contrary, the surviving spouse may  
7.27 elect to receive a death while eligible survivor benefit.

7.28 (b) Notwithstanding the definition of surviving spouse in section 353.01, subdivision  
7.29 20, a former spouse of the member, if any, is entitled to a portion of the death while  
7.30 eligible survivor benefit if stipulated under the terms of a marriage dissolution decree  
7.31 filed with the association. If there is no surviving spouse or child or children, a former  
7.32 spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision  
7.33 1, if provided for in a marriage dissolution decree but not a death while eligible survivor  
7.34 benefit despite the terms of a marriage dissolution decree filed with the association.

8.1 (c) The benefit may be elected instead of a refund with interest under section 353.32,  
 8.2 subdivision 1, or surviving spouse benefits otherwise payable under subdivisions 1 and  
 8.3 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity  
 8.4 which the member could have qualified for on the date of death, computed as provided in  
 8.5 sections 353.651, subdivisions 2 and 3, and 353.30, subdivision 3.

8.6 (d) The surviving spouse may apply for the annuity at any time after the date  
 8.7 on which the deceased employee would have attained the required age for retirement  
 8.8 based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71,  
 8.9 subdivision 2, apply to a deferred annuity payable under this subdivision.

8.10 (e) No payment accrues beyond the end of the month in which entitlement to  
 8.11 such annuity has terminated. An amount equal to the excess, if any, of the accumulated  
 8.12 contributions which were credited to the account of the deceased employee over and  
 8.13 above the total of the annuities paid and payable to the surviving spouse must be paid to  
 8.14 the deceased member's last designated beneficiary or, if none, to the legal representative of  
 8.15 the estate of such deceased member.

8.16 (f) Any member may request in writing, with the signed consent of the spouse, that  
 8.17 this subdivision not apply and that payment be made only to the designated beneficiary, as  
 8.18 otherwise provided by this chapter.

8.19 (g) For a member who is employed as a full-time firefighter by the Department of  
 8.20 Military Affairs of the state of Minnesota, allowable service as a full-time state Military  
 8.21 Affairs Department firefighter credited by the Minnesota State Retirement System may be  
 8.22 used in meeting the minimum allowable service requirement of this subdivision.

8.23 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.24 Sec. 5. Minnesota Statutes 2006, section 353E.07, subdivision 7, is amended to read:

8.25 Subd. 7. **Election that section does not apply.** A member may specify in writing,  
 8.26 with the signed consent of the spouse, that this section does not apply and that payment  
 8.27 must be made only to the designated beneficiary, as otherwise provided by this chapter.

8.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.29 **ARTICLE 3**  
 8.30 **CONFORMING PROVISIONS**

8.31 Section 1. Minnesota Statutes 2006, section 353.30, subdivision 3, is amended to read:

8.32 Subd. 3. **Optional retirement annuity forms.** The board of trustees shall establish  
 8.33 optional annuities which shall take the form of a joint and survivor annuity. Except as  
 8.34 provided in subdivision 3a, the optional annuity forms shall be actuarially equivalent to

9.1 the forms provided in section 353.29 and subdivisions 1, 1a, 1b, 1c, and 5. In establishing  
9.2 those optional forms, the board shall obtain the written recommendation of the actuary  
9.3 retained under section 356.214. The recommendations shall be a part of the permanent  
9.4 records of the board. A member or former member may select an optional form of  
9.5 annuity, subject to the provisions of section 356.46, in lieu of accepting any other form of  
9.6 annuity which might otherwise be available.

9.7 **EFFECTIVE DATE.** This section is effective the day following final enactment."

9.8 Amend the title accordingly