



## S.F. xxx (LCPR10-008)

## H.F. xxx

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

<i>Affected Pension Plan(s):</i>	PERA Plans, and appeal procedure used by PERA, MSRS, and TRA
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Chapters 353, 353D, 353F, and 356.96; Laws 2009, Chapter 169
<i>General Nature of Proposal:</i>	Administrative and other changes
<i>Date of Summary:</i>	December 8, 2009

### **Specific Proposed Changes**

- Clarifies PERA membership provisions.
- Revises PERA board election provision to permit use of internet.
- Clarifies employer reporting; creates new fines for employer reporting failures.
- Revises employee refund treatment when erroneous contributions occur.
- Revises PERA Postretirement Option Program (PRO) to permit up to four renewals and extends the program.
- Includes elected county sheriff PERA-P&F annuitants in the Public Employees Defined Contribution Plan (PEDC); and clarifies PEDC membership provisions.
- Adds three healthcare organizations to the PERA Privatization Chapter, and permits inclusion if employer payment is made to eliminate expected PERA loss.
- Clarifies and revises major plan appeal procedure.
- Permits the City of Virginia to use correction of deductions provision passed in 2009 for City of Duluth and Duluth Airport
- Repeals obsolete provisions.

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

1. Possible need to revise effective date language for public officer provision.
2. Whether proposed treatment of providing PEDC coverage for elected county sheriffs is appropriate, possible implications for other reemployed annuitants who may want similar coverage; whether employers support PEDC coverage for members of local boards and commissions.
3. Whether it is proper to exclude deferred members from PERA Board.
4. Whether proposed fines or interest penalties for PERA employer reporting failures are needed and well designed.
5. Possible employer opposition to requested PERA auditing authority.
6. Whether resolution of PERA erroneous receipt provision is final; and implications of similar proposed changes in provisions for City of Duluth, Duluth Airport, and City of Virginia; questions about proper effective date for City of Virginia inclusion, other drafting concerns.
7. PERA PRO program: appropriateness of proposed changes regarding position renewals and extension of the program.
8. Risk of loss under proposal permitting employer to offset expected PERA loss under a privatization.
9. Appropriate of proposal to no longer provide a copy of applicable law to individuals in appeal hearings.
10. Correction of errors provision effective date, other drafting issues.
11. Appropriateness of repealer in PEDC regarding elected official past service.

### **Potential Amendments**

- LCPR10-008-1A revises the effective date to include public officers retroactively, thus making it possible for PERA to address coverage omissions for individuals currently in those positions who have avoided PERA coverage by contending they are independent contractors.

- LCPR10-008-2A adds language clarifying that PERA-P&F coverage is provided to elected county sheriffs unless the individual is already receiving a PERA-P&F retirement annuity.
- LCPR10-008-3A removes language intended to clarify that seats for terminated members cannot be filled by a deferred annuitant.
- LCPR10-008-4A deletes all proposed fines for employer failures to file timely reports to PERA.
- LCPR10-008-5A removes the proposed authority for PERA to bill an employer for PERA's cost for performing a field audit if that becomes necessary to obtain necessary reliable information.
- LCPR10-008-6A deletes Section 7, which would have revised PERA's adjustments for erroneous receipts or disbursements provision.
- LCPR10-008-7A retains the existing PERA PRO program duration requirements by deleting Section 9.
- LCPR10-008-8A removes the explicit authority for elected county sheriffs who are PERA-P&F retired annuitants to have PEDC coverage.
- LCPR10-008-9A removes the proposed procedure to permit a privatizing employer to make a lump sum contribution to PERA to eliminate a proposed loss to PERA due to a privatization. The amendment deletes Sections 15 and 16, and the language from Section 14 dealing with the Douglas County Hospital Mental Health Unit, which is the privatization that would otherwise create a loss to PERA.
- LCPR10-008-10A reinstates the requirement that the individual appealing a board decision be provided with a copy of the applicable law.
- LCPR10-008-11A, an alternative to -10A, revises the major plan appeal procedure provision by requiring the plan administration to provide the individual with a plan language explanation of the applicable law.
- LCPR10-008-12A revises the City of Duluth, Duluth Airport Authority, and City of Virginia correction of erroneous contribution provision by leaving the active employee refund language unchanged.
- LCPR10-008-13A, which can be used with amendments -12A and -14A, can be used if there is a need to make this section retroactive for the City of Virginia. The date from which the provision is retroactive would need to be filled in by the Commission or Legislature.
- LCPR10-008-14A, which may be used with amendment -13A, can be used if there is a perceived need to clarify the effective date to ensure that revisions in this special law which are not specific to the City of Virginia do not fail to become effective if the City of Virginia fails to give special approval. If the -12A amendment is used, the -14A amendment should not be used.
- LCPR10-008-15A, an alternative to the -16A amendment, deletes Section 23, which extends the expiration of the PERA PRO program from June 30, 2011, to June 30, 2014. It can be used if the Commission concludes that an extension of the program is not appropriate until the Commission has more time to consider whether the program is successfully meeting program objectives.
- LCPR10-008-16A, an alternative to -15A, can be used if the Commission concludes that the PERA PRO program should be extended, but to some date other than 2014. The Commission would need to fill in the blank.
- LCPR10-008-17A revises Section 24, the repealer language, by removing from the repealer the Public PEDC provision for elected officials, which permits elected officials who are PEDC members to make contributions for certain pre-1991 service. It can be used if the Commission concludes that repealer is premature or otherwise inappropriate. As drafted, the repealer would not be effective until July 1, 2011.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director *EB*  
RE: LCPR10-008: Public Employees Retirement Association Administrative Provisions  
DATE: December 1, 2009

General Summary of Document LCPR10-008

Document LCPR10-008 makes changes generally of an administrative nature in provisions applicable to Public Employees Retirement Association (PERA) plans, and in a few cases also revises laws which have broader application to include the Teachers Retirement Association (TRA) and Minnesota State Retirement Association (MSRS). The changes include:

- Clarifying PERA membership provisions (the public employee definition, included and excluded employee provisions and optional membership provision);
- Revising the PERA board election provision to permit voting by e-mail and other mediums rather than mailed hard copies;
- Clarifying employer reporting provisions and creating new fines for employer reporting failures;
- Revising employee refund procedures when erroneous contributions occur;
- Revising the PERA postretirement option (PRO) program by permitting renewals up to four years, including permitting renewals after the individual attains Social Security normal retirement age, and extending the program to 2014;
- Including elected county sheriffs who are receiving PERA-P&F annuities in the Public Employees Defined Contribution plan;
- Clarifying Public Employees Defined Contribution plan membership provisions;
- Adding three healthcare organizations to the PERA privatization chapter;
- Revising PERA privatization chapter eligibility provisions to permit an employer to make a contributions to offset the actuarial loss which might otherwise occur;
- Clarifying major plan (MSRS, PERA, and TRA) appeal procedures;
- Adding the City of Virginia to the City of Duluth and Duluth Airport correction of deductions provision; and
- Repealing obsolete provisions.

A section-by-section summary of document LCPR10-008 is attached.

Discussion and Analysis

Various sections in the proposed legislation raise pension or related public policy issues for Commission consideration. The applicable sections and the issues they pose follow.

1. Issues Raised by the PERA Included and Excluded Employee Provisions. (*Sections 2 and 3*) These sections revise the PERA included and excluded employee provisions. In part, PERA is seeking to address a problem it has detected where certain public officials are "contracted" to perform the duties of a statutory governmental function or position, such as the duties of township or city clerks, county auditors, and various other positions. The applicable individual or the governmental subdivision being served contend that the person is an independent contractor and therefore is excluded by law from PERA. Apparently, the applicable individuals do not want PERA coverage and the government subdivisions would prefer to save by not making the PERA employer contributions. However, PERA indicates that the Internal Revenue Service (IRS) does not consider persons performing these functions to be independent contractors because the duties are specifically defined in state law and/or local ordinance. PERA is seeking to make it clear that these individuals are required to be reported to PERA for coverage. Language added in Section 2, the included employee provision, specifies that persons "appointed, employed, or contracted to perform governmental functions that by law or local ordinance are required of a public officer," including, but not limited to town or city clerk or treasurer, county auditor, treasurer, or recorder (*lines 2.28-2.34*). Section 3, the excluded employee provision, currently excludes from PERA coverage any independent contractor or employee of an independent contractor, but language is being added (*lines 7.6-7.8*) indicating that persons performing public officer functions cannot claim independent contractor status.
  - Possible Need to Revise Effective Date Language. The issue is whether an amendment to revise effective date language is needed. As drafted, the effective date provision indicates that the public

official language covering clerks, treasurers, and local or county auditors applies only to persons first appointed, elected, or contracted after June 30, 2010. This would seem to place in questionable status those in these positions who are current PERA members, and it would appear to exempt employees currently in these positions who may not be in PERA due to a claim of independent contractor status. Perhaps the language should be revised to indicate that it has retroactive application for those already in these positions, permitting PERA to address this for these current individuals and to seek correction of a prior uncovered period.

- Treatment of Elected County Sheriffs. Section 2 includes some clarifying language (*line 2.27*) indicating that elected county sheriffs are plan members (members of the PERA-P&F plan). However, in a later section of the bill draft (*Section 10, lines 15.33-15.34*), PERA is proposing language which specifies that any individual who retired from the PERA-P&F, who is drawing a PERA-P&F annuity, and who becomes an elected county sheriff, is to be a member of the PEDC plan for that elected service. Perhaps, in Section 2, the Commission may wish to add language to clarify that elected county sheriffs are covered by PERA-P&F for that elected service unless the individual drawing a PERA-P&F retirement annuity.
2. Elected Member Board Composition Issue-Exclusion of Deferred Members. (*Section 5*) The PERA board election procedures are revised by making it possible for PERA to provide materials on the candidates to members and benefit recipients, and to permit these eligible voters to vote by means other than a mailed ballot. The issue is the exclusion of deferred members from the board. PERA is adding language specifying that if the seat is not filled by a disabilitant, the individual filling that seat must not only be a terminated member, but must also be receiving a retirement annuity (*lines 8.30-9.1*). PERA views this as clarification and consistent with its policy. While it is reasonable to interpret the current law language as implying that the seat must either be filled by a disabilitant or a retiree, the language can also be read as permitting a deferred member to serve on the board.

The question has added relevance as PERA administrators debate proposals to cut back on benefits offered to active members or terminated employees, including the deferred annuity augmentation rates applicable for individuals who have terminated employment but have not yet commence receiving an annuity. PERA administrators may soon bring these proposals before the Commission for discussion. Given these discussions, deferred members may contend they deserve a voice on PERA's board, at least a chance to be elected. Some might go so far as to contend that a position on the board should be reserved for a deferred member.

3. PERA Employing Unit Reporting Requirements: Late Reporting Fines. (*Sections 6 and 8*) The issue is whether various fines PERA wishes to add to its laws are needed. If needed, a subsequent question is whether the proposed amount is reasonable and sufficient to encourage prompt compliance with the law. PERA is proposing to create fines for late filing by employing units of reports. Existing law requires employers to file salary deduction report and PERA is proposing to add a \$5 per calendar day fine for salary deduction reports filed more than 14 days after the pay date (*lines 10.31-10.33*). Existing law also includes a report covering the status of employees: new employees to be covered by PERA, reinstated employees, and any changes in status (leaves, termination, death, etc.). PERA is proposing a \$25 fine for each status report more than three months late (*lines 11.17-11.20*). In Section 8, PERA is proposing to add a \$25 fine for each failure to file an exclusion report (a report indicating individuals (such as reemployed annuitants) not covered by PERA who are employed in positions that are normally PERA-covered) if the report is more than three months late. The Commission may wish to consider that TRA does currently have similar fine provisions in its laws.
4. PERA Employing Unit Reporting Requirements: Requested Auditing Authority. (*Section 6*) PERA is proposing to create authority to review employer compliance with salary and contribution reporting (*lines 11.28-11.36*). Employers are required to provide the requested data and records or be liable to PERA for any expenses PERA incurs for a field audit. The issue is whether PERA needs this authority and whether it is reasonable.
5. PERA Erroneous Receipts or Disbursements Provision: Resolution of Issue. (*Section 7*) This provision was revised last year, following several draft revisions as PERA dealt with the IRS regarding proper procedures for refunding overcharges and related matters. PERA is proposing to revise the provision again based on the more recent IRS contact. Under the proposed change, the applicable PERA pension fund would refund to an active employee any overcharges due to invalid employee deductions, with interest. This replaces a requirement in last year's law which required the employer to make these payments, with compensation from the fund by way of credits against future contributions. A question is whether this proposed change will resolve this issue or whether another change is likely in the near future. The Commission may wish to establish through testimony

whether PERA believes this matter has been resolved and this can be adopted with some permanency. If further discussions or negotiations between PERA and the IRS are likely to lead to a reversal of this proposed policy or further changes, the Commission may wish to consider whether this proposal is premature.

6. PERA Postretirement Option Program Revisions: Implications of the Change. (Section 9) This provision (lines 14.26-15.1) revises the PERA Postretirement Option (PRO) Program by removing the prohibition against renewing the employment of a person in a PRO position after the individual attains Social Security normal retirement age (age 65 to 67, depending on the individual's birth date), and by permitting renewals for up to four years. The Commission may wish to hear testimony from PERA regarding why this change is being sought and by whom, and whether the change is appropriate. Under the PERA PRO program individuals are exempt from any reemployed annuitant forced savings account requirements due to the reemployment, but the individual cannot work more than half-time. The Commission last year adopted an amendment creating the requirement that the individual could not stay in this program after achieving Social Security normal retirement age because at that age there is no advantage to being in this program, and remaining in the program actually could harm the individual. After an individual attains Social Security normal retirement age, the individual is no longer subject to the PERA reemployed annuitant provision. Therefore, remaining in this program after that date provides the individual with no known advantage while restricting his or her employment to half time.

Adding the requirement of permitting no more than four renewals is a less than perfect substitute for the existing law prohibition. If an individual is age 62, the youngest age for which a person can be considered for a PRO position, then the person could remain in that position with renewals until the individual is age 67. But if the individual enters this program in their mid to late 60s, the individual could remain in the program well beyond Social Security normal retirement age.

7. Public Employees Defined Contribution Plan Revisions: Appropriateness Given Existence of Other Reemployed Annuitants. (Section 10) The section revises the Public Employees Defined Contribution Plan (PEDC) eligibility provision by extending plan eligibility to elected county sheriffs who in a previous employment were covered by PERA-P&F and who terminated service and began receiving a PERA-P&F annuity, and to members of governmental local boards and commissions. These groups are excluded from coverage by other PERA plans due to existing law or to other sections in this PERA draft. An issue is whether this coverage is appropriate or necessary. An argument for coverage is that the Commission and Legislature may wish to encourage individuals to seek elected office, including those who are retired public employees.
8. Public Employees Defined Contribution Plan Revisions: Inconsistent Treatment, Other Reemployed Annuitants. (Section 10) The Commission may wish to consider that if certain reemployed annuitants, in this case individuals serving as elected county sheriffs, are permitted to make contributions for the new employment in a defined contribution plan, other reemployed annuitants may seek similar treatment. Under current law, reemployed annuitants are not covered for the reemployment by the plan from which they retired, or any other defined benefit plan, and do not have authority to make contributions to a defined contribution plan. Commission members may wish to consider that providing defined contribution plan coverage for some reemployed annuitants may lead to that becoming standard policy for all reemployed annuitants. Such a change would have financial implications for employers who would be making the employer contribution to the individual's account.
9. Public Employees Defined Contribution Plan Revisions: Employer Support. (Section 10) An issue is whether employers support allowing local government subdivision board and commission members to elect Public Employees Defined Contribution Plan (PEDC) coverage, since the employer would also be required to make contributions to these accounts. A similar question relates to the elected sheriffs. If this language as it relates to elected sheriffs is new authority, an issue is whether employers support making employer contributions to the PEDC on behalf of the individual.
10. PERA Privatization Chapter Lump Sum Contribution to Offset Anticipated Actuarial Loss: Implications of the Change. (Sections 15 and 16) The PERA Privatization Chapter, Minnesota Statutes, Chapter 353F, is revised to authorize the employees of a new privatization to be provided coverage under this chapter even if the actuarial work indicates that a net loss to PERA is expected to occur, providing the employing unit makes a lump sum contribution to the PERA-General fund sufficient to eliminate the expected loss as computed by the actuary. A question is whether this procedure harms the fund or at least puts the fund at some additional risk of loss. An argument can be made that there is some risk to PERA. If over time the results of the actuary's study prove to be

wrong, to have understated the true liabilities, then permitting these privatizations to occur could harm the fund. However, these risks are not by themselves considerable, and current law does allow automatic inclusion of a privatization under this chapter if the actuary had predicted no impact on PERA (in other words, that the privatization would create neither a gain nor a loss). The new language permits inclusion of the privatization in the chapter if the employer agrees to make a lump sum payment to PERA just sufficient to eliminate the loss computed by the actuary, bring the situation up to the minimal inclusion standard found in existing law.

11. Appeals Procedure Notice-Of-Determination Provision: Appropriateness of Eliminating Need to Provide Petitioner with Copy of Law. (*Section 18*) This section is a revision of the MSRS, PERA, and TRA appeals procedure notice-of-determination provision. Under this drafting a requirement that the chief administrative officer provide the petitioner with a copy of the appeal procedure law is stricken. The PERA Executive Director indicates that instead the plan director will provide the individual with a plain language summary of the law. However, there is no statement in the language requiring that to occur. The Commission may wish to consider revising this provision to reinstate the language requiring the individual to receive a copy of the applicable law, or alternatively to leave that strikeout, but add a requirement that a reasonable summary of the requirements and protections of the law be provided to the individual.
12. Appeals Procedure: Appropriateness of Revised Submission Timelines. (*Section 19 to 21*). These sections revise the MSRS, PERA, and TRA plan appeal procedure, Minnesota Statutes, Section 356.96, by in part revising the timelines of the law for submission of material to be considered in the hearing, for hearing delay requests and continuances, and related matters. The Commission may wish to hear testimony from one of more of the executive directors of these funds to determine the problems they seek to address and why proposed new timelines are more appropriate.
13. Correction of Errors Provision: Appropriateness of the New Refund Procedure. (*Section 22*) The question is whether the new procedure for these refunds is appropriate. The City of Virginia is added to the correction of errors provision enacted last for the City of Duluth and the Duluth Airport Authority, and revises the active employee refund language to require the refunds to be sent by PERA rather than acting through the employer unit, having the employer make the refunds and having PERA reimburse the employer through use of credits toward future contributions. This matter received considerable attention last year in the context of the similar provision in PERA statute, as PERA communicated with IRS regarding the necessary procedure to use. This treatment revises the treatment which the IRS presumably demanded last year. The Commission may wish to hear testimony from PERA regarding the need and appropriateness of this change.
14. Correction of Errors Provision: Effective Date Issue. (*Section 22*) The revised provision is effective for the City of Virginia upon local approval, the same procedure as was used last year for the City of Duluth and the Duluth Airport Authority. A question is whether the draft should be revised in some manner to create retroactive application for the City or Virginia.
15. Correction of Errors Provision: Implications of Section Drafting and Local Effective Date. (*Section 22*) The issue is whether the drafting is appropriate to ensure that the substantive change in the refund procedure will become effective even if the City of Virginia fails to provide local approval, or whether an amendment is needed to ensure that occurs even if no local approval is provided.
16. Extension of PERA Postretirement Option Program: Need and Appropriateness of the Change. (*Section 23*) This section extends the PERA Postretirement Option Program (PRO) until June 30, 2014 rather than expiring on June 30, 2011. PERA indicates that this change was requested by the League of Minnesota Cities. Presumably, this program was given an expiration date (June 30, 2011) to permit legislative review of the program's effectiveness, allowing the Legislature to decide whether the program ought to continue or be permitted to expire. The Commission may wish to hear testimony from the League of Minnesota Cities or other parties regarding the objectives of this program and the effectiveness of this program in meeting these objectives. If the Commission concludes the program ought to continue for some period of time, a question is whether 2014 is the right expiration date. In materials provided by PERA Executive Director Mary Vanek, Ms. Vanek contends that moving beyond 2011 is beneficial by providing employees some assurance that the program will not be ended shortly after employees enter the program. She also contends that extending the date will give PERA more time to develop alternative retiree-return-to-work provisions that may prove to be better policy for the fund and for the retirees. PERA's statement raises a question. If PERA is not confident that the present program reflects good policy, perhaps the Commission and Legislature may wish to consider whether it is appropriate to extend the program.

17. Appropriateness of the Repealer. (Section 24) Three provisions are repealed. An issue with any repealer is whether the repeal is appropriate and timely. Typical justifications for repealers are because a provision has become redundant given recent changes in law; has become inconsistent with current policy, state law, or federal requirements; or has become inoperative or otherwise obsolete. In other situations, perhaps a purchase of service credit authority provision, the Legislature may conclude that those who could have used the provision have had more than sufficient time to take advantage of the opportunity.

Of the provisions proposed for repeal, Section 353.46, Subdivision 1a, a purchase of service credit savings clause for certain individual who had purchased service which included the year 1957, is obsolete. Anyone who could have used it has retired. Section 353D.03, Subdivision 2, a Public Employees Defined Contribution (PEDC) physician contribution provision, will not be needed if other changes in the bill draft are adopted because the substance of that language is proposed to be moved to another provision. The Commission may wish to hear brief testimony regarding the repealing Minnesota Statutes, Section 353D.12, a provision permitting elected official in the PEDC to make contributions relating to service rendered before 1991. Perhaps the provision has become inoperative due to some federal limitation, or the Legislature may conclude that anyone who wanted to use the provision has had ample opportunity to do so. The provision, as drafted, would repeal this PEDC authority on July 1, 2011. Presumably, this will provide PERA with sufficient time to inform those who might wish to use this provision that they must do so prior to the repeal date.

#### Potential Amendments for Commission Consideration

**LCPR10-008-1A** revises the effective date provision for section 2 to include public officers retroactively, thus making it possible for PERA to address coverage omissions for individuals currently in those positions who have avoided PERA coverage by contending they are independent contractors.

**LCPR10-008-2A** adds clarifying language in section 2 clarifying that PERA-P&F coverage is provided to elected county sheriffs unless the individual is already receiving a PERA-P&F retirement annuity.

**LCPR10-008-3A** removes proposed language from section 5 intended to clarify that seats for terminated members cannot be filled by a deferred annuitant.

**LCPR10-008-4A** revises sections 6 and 8, PERA employer reporting requirement provisions, by deleting all proposed fines for employer failures to file timely reports to PERA. PERA's proposal to create fines has merit. The reports are needed for PERA's proper administration of the plan. However, the Commission might wish to remove this authority if the Commission is concerned that public employers may object to the requirement. Current TRA law does contain similar fines for reporting failures.

**LCPR10-008-5A** revises section 6 by removing the proposed requirement that PERA can bill an employer for PERA's cost for performing a field audit, if that becomes necessary to obtain necessary reliable information. PERA's proposal has merit. However, the Commission might wish to remove this authority from PERA's draft if the Commission is concerned that public employers may object to the authority.

**LCPR10-008-6A** removes Section 7, which would have revised PERA's adjustments-for-erroneous-receipts-or-disbursements provision. PERA proposed revising this law in 2008; the proposal changed several times in an effort to capture PERA's understanding of IRS requirements regarding these matters, as PERA sought additional clarifications from the IRS. Section 7 of this bill draft reflects a further change from what the Commission and Legislature finally adopted last year. The Commission may wish to delete this section if the Commission is not confident that this proposed language will settle the matter. The Commission may wish to hear testimony from PERA regarding whether PERA believes these changes will settle the matter for the foreseeable future.

**LCPR10-008-7A** retains the existing PERA Postretirement Option Program duration requirements by deleting Section 9.

**LCPR10-008-8A** removes the explicit authority for elected county sheriffs who are PERA-P&F retired annuitants to have Public Employees Defined Contribution Plan coverage.

**LCPR10-008-9A** can be used if the Commission is not comfortable with the proposed procedure to permit a privatizing employer to make a lump sum contribution to PERA to eliminate a proposed loss to PERA due to a privatization. The amendment removes Sections 15 and 16 and the language from Section 14 dealing with the Douglas County Hospital Mental Health Unit, which is the privatization that would otherwise create a loss to PERA.

**LCPR10-008-10A** revises Section 18, the major plan appeal procedure notice of determination provision, by reinstating the requirement that the individual be provided with a copy of the applicable law.

**LCPR10-008-11A**, an alternative to -10A, revises the major plan appeal procedure notice of determination provision by requiring the plan administration to provide the individual with a plan language explanation of the applicable law.

**LCPR10-008-12A** revises Section 22, the 2009 special law City of Duluth, Duluth Airport Authority, and City of Virginia correction-of-erroneous-contribution provision, by leaving the active employee refund language unchanged. The employee refund language changes proposed in this section mirror the revisions PERA proposed in Section 7 to PERA's adjustments for erroneous receipts or disbursements provision. If the Commission concluded that Section 7 should be removed because the change may be premature, then presumably the similar language in this section (Section 22) should also be removed.

**LCPR10-008-13A**, which can be used with amendments -12A and -14A, can be used if there is a need to make this section retroactive for the City of Virginia. The date from which the provision is retroactive would need to be filled in by the Commission or Legislature.

**LCPR10-008-14A**, which can be used with amendment -13A, may be considered by the Commission if there is a perceived need to clarify the effective date, to ensure that revisions in this special law which are not specific to the City of Virginia do not fail to become effective if the City of Virginia fails to give special approval. If the -12A amendment is used, the -14A amendment should not be used.

**LCPR10-008-15A**, an alternative to the -16A amendment, deletes Section 23, which extends the expiration of the PERA Postretirement Option Program from June 30, 2011 to June 30, 2014. It can be used if the Commission concludes that an extension of the program is not appropriate until the Commission has more time to consider whether the program is successfully meeting program objectives.

**LCPR10-008-16A**, an alternative to -15A, can be used if the Commission concludes that the PERA Postretirement Option Program should be extended, but to some date other than 2014. The Commission would need to fill in the blank.

**LCPR10-008-17A** revises Section 24, the repealer language, by removing from the repealer the Public Employees Defined Contribution Plan (PEDC) provision for elected officials, which permits elected officials who are PEDC members to make contributions for certain pre-1991 service. It can be used if the Commission concludes that repealer is premature or otherwise inappropriate. As drafted, the repealer would not be effective until July 1, 2011.



## Section-by-Section Summary of LCPR10-008

### Summary of LCPR10-008, 2010 PERA Administrative Bill

Sec.	Pg.Ln - Pg.Ln	Retirement Plan	Stat. Provision	Summary
1	1.20-2.3	PERA	353.01, Subd. 2	The PERA definition of "public employee" is revised for clarity, including indicating that it includes public officers not otherwise excluded by other plan provisions.
2	2.4-3.28	PERA	353.01, Subd. 2a	The PERA definition of "included employee" is revised for clarity, including indicating that it includes public officers not otherwise excluded by other plan provisions.
3	3.29-7.10	PERA	353.01, Subd. 2b	The PERA definition of "excluded employee" is revised by excluding city mayors from PERA-General coverage; the Hennepin County/Hennepin Healthcare system employees clause for individuals who were on a work permit and whose employment is extended beyond three years is clarified by stating that they remain excluded if the \$450 salary threshold is not met; by stating that persons serving on boards or commissions of governmental subdivisions are excluded from membership, and by stating that independent contractor status does not apply to any individual performing a government function that by law of local ordinance is required of a public officer, including but not limited to clerk or treasurer, county auditor, county treasurer, or county recorder, emergency management director, or city manager.
4	7.11-8.22	PERA	353.01, Subd. 2d	The PERA "optional membership" definition is clarified by reformatting the paragraph structure.
5	8.23-10.11	PERA	353.03, Subd. 1	The PERA board election provision is clarified by specifying that the seat for a terminated employee must be filled by a person who is a benefit recipient rather than by a deferred annuitant; and by revising board election provisions to make use of e-mail and the internet, rather than being restricted to using regular mail.
6	10.12-12.1	PERA	353.27, Subd. 4	The PERA employer reporting requirements member status provision is revised by clarifying the requirements apply to all PERA plans; by specifying a time limit (30 days late) before interest will be charged on delinquent employee and employer contribution amounts; by specifying that salary deduction reports are due within 14 days of the pay date or a \$5 per calendar day penalty will be applied; that the salary data reports must include data on reemployed annuitants and any reemployed disabilitants; by creating a \$25 fine for failure to report membership data; and by authorizing PERA to review employer payroll records. If the employer fails to provide the requested payroll records, the employer is responsible to pay any PERA expenses associated with a field audit, including staff salaries, administrative expenses, and travel expenses.
7	12.2-14.6	PERA	353.27, Subd. 7	The PERA adjustments-for-erroneous-receipts provision is revised by removing authority to have the employer pay any employee refund and interest to the employee with the employer being compensated by a credit against future contributions; instead, the pension fund will pay the refund.
8	14.7-14.25	PERA	353.27, Subd. 10	The PERA exclusion report provision (an annual report from employers listing individuals occupying positions normally covered by PERA who for various reasons are not covered by the plan), is revised by creating a \$25 fine for employer failure to provide the report.
9	14.26-15.1	PERA	353.371, Subd. 4	The Post Retirement Option Program duration provision is revised by permitting renewals after the person attains Social Security normal retirement age, and by permitting up to four renewals.
10	15.2-16.16	Public Employees Defined Contribution Plan	353D.01, Subd. 2	The Public Employees Defined Contribution Plan eligibility provision is revised by extending eligibility to elected county sheriffs who are receiving PERA-P&F annuities and to persons serving on boards and commissions of governmental subdivisions.
11	16.17-16.28	Public Employees Defined Contribution Plan	353D.03, Subd. 1	The Public Employees Defined Contribution Plan local government official contribution provision is revised to make the provision also apply to other classes who elect this coverage, including public physicians and persons serving on boards and commissions of governmental subdivisions.
12	16.29-17.7	Public Employees Defined Contribution Plan	353D.04, Subd. 1	The Public Employees Defined Contribution Plan account crediting provision is revised for clarity.
13	17.8-17.12	Public Employees Defined Contribution Plan	353D.04, Subd. 2	The Public Employees Defined Contribution Plan authority to adopt policy provision is revised by revising a headnote.
14	17.13-18.5	PERA Privatizations	3535F.02, Subd. 4	The privatized employee chapter medical facility inclusion provision is revised by adding three facilities to the list: the Chris Jenson Health and Rehabilitation Center in St. Louis County, the Douglass County Hospital Mental Health Unit, and Wheaton Community Hospital.
15	18.6-18.32	PERA Privatizations	353F.025, Subd. 1	The privatized employee chapter eligibility determination procedure is revised by adding a definition of net loss.
16	18.33-19.31	PERA Privatizations	353F.025, Subd. 2	The privatized employee chapter recommendation to Legislature provision is revised by clarifying that recommendations to add privatized entities to plan coverage can be made as part of the PERA administrative bill; and by permitting inclusion of entities that are expected to create and actuarial loss to PERA if the employer agrees to provide a lump sum payment, with interest, to PERA sufficient to eliminate the computed net loss.
17	19.32-20.3	MSRS, PERA, and TRA	356.96, Subd. 2	The appeals procedure right to review provision is amended by stating that determinations are made by the plan's chief administrative officer rather than the plan "administration."

Summary of LCPR10-008, 2010 PERA Administrative Bill

Sec.	Pg.Ln - Pg.Ln	Retirement Plan	Stat. Provision	Summary
18	20.4-20.22	MSRS, PERA, and TRA	356.96, Subd. 3	The appeals procedure notice of determination provision is amended by requiring a statement of all materials the person wants the board to review to be filed with the board 15 days, rather than 30 days, before the hearing date, and by removing a requirement that the individual must be supplied with a copy of this section of law.
19	20.23-21.6	MSRS, PERA, and TRA	356.96, Subd. 5	The appeals procedure petition for review provision is amended by replacing the term "executive director" with "chief administrative officer."
20	21.7-21.31	MSRS, PERA, and TRA	356.96, Subd. 7	The appeals procedure notice of hearing provision is amended by removing any time requirements for scheduling review of a petition; by requiring that the chief administrative officer mail an acknowledgement of the person's petition 30 days, rather than 15 days, before the hearing date; by requiring all materials the petitioner wishes the board to review be submitted at least 15 days, rather than 30 days before the hearing; and by permitting the chief administrative officer to reschedule a hearing review within "a reasonable time," rather than within 60 days.
21	21.32-22.15	MSRS, PERA, and TRA	356.96, Subd. 8	The appeals procedure record of review provision is amended by revising the provision for clarity; and by allowing the applicable board to permit any additional document or information the petitioner requests at any time, with the consent of the board, rather than at least five days before the hearing.
22	22.16-24.23	City of Duluth, Duluth Airport Authority	Laws 2009, Ch. 169, Art. 4, Sec. 49	A provision specifying a procedure to correct erroneous employee deductions and employer contributions and to adjust benefit overpayments applicable to the City of Duluth and the Duluth Airport Authority, is revised by requiring any refund of excess employee contributions to active employees to be paid by the retirement plan fund rather than having that money transmitted to the employer who would then refund the amount to the employee; and by making this section of law also apply to the City of Virginia. Local approval is required.
23	24.24-24.29	PERA	Laws 2009, Ch. 169, Art. 5, Sec. 2	The effective date, which required the Postretirement Option Program to sunset on June 30, 2011, is revised by extending the program to June 30, 2014.
24	24.30-1401	--	Repealer	M.S., Sec. 353.46, Subd. 1a, a PERA purchase of allowable service savings clause applicable to individuals who purchased service credit which included the date June 30, 1957, and Sec. 353D.03, Subd. 2, a Public Employees Defined Contribution Plan public physician contribution rate provision which is no longer needed because the language is moved to another provision, are repealed effective the day after final enactment. Section 353D.12, a Public Employees Defined Contribution Plan provision permitting elected officials to make prior contribution for elected service that occurred before June 30, 1991, is repealed effective July 1, 2011.

**DATE:** August 21, 2009  
**TO:** Ed Burek, Deputy Director  
Legislative Commission on  
Pensions and Retirement

**FROM:** Mary Most Vanek  
Executive Director

**PHONE:** (651) 296-8358

**SUBJECT:** Modifications to Definitions of public employee; included and excluded

*State of Minnesota*  
**PERA**  
Public Employees Retirement Association  
*Office Memorandum*

The accompanying language is intended to clarify some concerns we have had with the definitions of public employee and classes of employees who are included and excluded. We've also done some work on the classes of eligible individuals for participation in 353D, but there are other sections of 353D that will also need some work as a result of the modifications we are suggesting here. I may need some help from you on those modifications, but we are working on those other sections.

Section 1 is cleaning up the structure of the broad definition of 'public employee,' adding 'public officer' to the description.

Section 2 restructures our opening statement of those classes of public employees that must participate in PERA General, P&F, or Correctional. We are adding elected county sheriffs, because while elected officials generally have an option to participate, section 353.64 mandates that the 'person in charge of a sheriff's department' must participate in the Police and Fire Plan, so we moved this up front so it's easier to see that elected sheriffs must participate.

We have been struggling with the assessment that certain public officials can be 'contracted' to perform the duties of a statutory governmental function. Conversations with our contacts at the IRS have confirmed for us that the Service does not consider a person performing those types of duties as independent contractors since their duties are generally defined by state law or local governing ordinances. Therefore, we have attempted to spell out in our law that those types of positions must participate in PERA unless another section of our law (as is the case for city managers) allow an exception to that rule.

And, finally we moved language that we struck from paragraph (a) to paragraph (c) to state that once a person meets the minimum participation requirements, regardless of the salary paid in the future, the person remains a member.

We've highlighted the language added last year to include the employees

of Minneapolis Police and Fire Relief Association. Now that the three individuals have elected participation, should this language be cleaned up? We ask for your guidance on that. Is the change simply striking “under section 5?”

Section 3 affirms the general exclusion that a public employee who never earns \$425 in a month is not eligible to participate in our plans, and we added “mayors” to the list of ‘governing board’ elected officials in the overall exclusion of ‘governing board’ elected positions.

Clause 13 has been modified to clarify combinations of public employment under a work permit or visa. There has been some dispute on how to interpret that language, so we have attempted to clarify it to ensure that it is clear that once a total of three years of service has been excluded under the work permit or visa exclusion, the person must be reported if earnings are met thereafter.

And, we added a new clause 25 to exclude persons appointed to serve on a local government board or commission. We are using this exclusion description to allow this class of individuals to participate in the PERA DCP program.

Section 4 was added simply to separate the last sentence in the section, because we think that is cleaner.

Section 5 amends eligibility to allow an elected county sheriff who is already collecting a retirement benefit from PERA P&F to participate in the DCP on subsequent elected service, and to clarify in paragraph (b) that the elected county sheriffs prohibited from participating in this plan are those who must be members of PERA P&F under 353.64 and our suggested amendment to 353.01, subdivision 2(a).

And, this is the section where we added the option for persons appointed to local boards or commissions to participate in the DCP.

Section 6 is the repeal of the DCP buy back enacted in 1990. We understand the purpose of it when enacted, but don’t think it should continue. We’ve suggested a delayed effective date so we can get the word out. The Board has authorized this repeal.

e.

**DATE:** August 31, 2009  
**TO:** PERA Board of Trustees  
**FROM:** Mary Most Vanek  
**PHONE:** (651) 296-8358  
**SUBJECT:** Phased Retirement Option Sunset Date Extension

*State of Minnesota*  
**PERA**  
Public Employees Retirement Association  
**Office Memorandum**

I have been asked by the staff of the League of MN Cities, on behalf of the member cities, if we would support extending the sunset date on the Phased Retirement Option (PRO) enacted this year. They have spoken to Senator Betzold who has indicated he would accept a change in the sunset date, but that he does not support eliminating a sunset date at this time. I have not spoken to him recently, but when I met with him in anticipation of the 2009 session, I did make him aware that we wanted an opportunity to review the impact of the program on the fund before making it permanent.

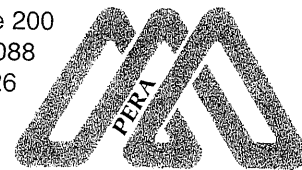
The reason we are being asked to extend the sunset date is primarily because many cities are still undertaking some workforce planning exercises and have not yet determined to what extent they would make the program available to their employees. We currently have 16 individuals enrolled as participants of the PRO.

***I would like to recommend that we extend the sunset date to June 30, 2014, giving a full five fiscal years in which the PRO would be available.*** We will continue to track the participation and can at anytime ask for an analysis of the program by the actuary. We could repeal it if we find the use of this provision is having an adverse impact on the plan.

The longer sunset date also avoids what we experienced with the military actuarial service purchase. When initially enacted, this provision had a two year window. As the sunset date approached for this provision, we had a rush of requests for information only to have the legislature extend the sunset another year or two. This happened at least three times. The outcome was that we didn't know, as another sunset date approached, if the legislature would once again extend the date, or if this would truly be the end of the opportunity. This made it very difficult to advise members of what to expect. A year after the provision was allowed to sunset, it was once again added to PERA with a sunset five years into the future.

Another advantage of extending the date is that it gives us more time to develop alternative retiree-return-to-work provisions that may prove to be better policy for the fund and the retired members.

Public Employees Retirement Association of Minnesota  
60 Empire Drive, Suite 200  
Saint Paul, Minnesota 55103-2088  
Member Information Services: 651-296-7460 or 1-800-652-9026  
Employer Response Lines: 651-296-3636 or 1-888-892-7372  
PERA Fax Number: 651-297-2547  
PERA Website: www.mnpera.org



May 13, 2009

William G. Flaig, Administrator  
Douglas County Hospital  
111 – 17<sup>TH</sup> AVE EAST  
ALEXANDRIA MN 56308

Dear Mr. Flaig:

Enclosed is the updated letter describing the actuarial study results for the Douglas County Hospital Mental Health Unit.

The results in the enclosed letter, removing [redacted] from the group of individuals making the change, continue to show that the cost of the enhanced termination benefits under Chapter 353F are greater than the cost of these individuals continuing to participate in the retirement plan. As I discussed with Margaret Kalina of your staff, we would be happy to work with you and your legislative representatives to propose legislation that would allow a payment to PERA to cover the cost of the enhanced benefits.

The intent of offering the Chapter 353F enhanced benefits is to provide PERA participants, who are forced to discontinue their ongoing participation in PERA because the employer is changing its governance structure from governmental to private, a package of termination benefits that offer a little better retirement protection than what is provided to individuals who voluntarily leave PERA-covered employment. However, the cost of those enhanced benefits cannot be borne by the PERA members and employers who continue to contribute to the plan.

Under the numbers presented in the letter of May 11, the accrued liability of the benefits for the 11 individuals of the hospital's mental health unit if they were to continue working for the hospital and participating in PERA is \$1,323,849. The liability of those 11 individuals discontinuing participation in PERA and receiving the enhanced termination benefits under Chapter 353F is \$1,337,399. PERA would have to receive a lump sum payment of approximately \$13,550 to cover the cost of the enhanced benefit package for these individuals.

**LCPR** MAY 22 2009

Mr. William G. Flaig  
Page 2  
May 13, 2009

I will discuss the results of the Douglas County Hospital study with the Chair of the Legislative Commission on Pensions and Retirement and will bring to his attention the solution we are suggesting here. I have discussed the idea of PERA receiving a lump sum payment to cover the difference in the accrued liability costs with our actuary, and she has confirmed for me that the payment would be a reasonable solution to allow these individuals to receive the enhanced termination benefits under Chapter 353F.

I have asked our Pension Services Division staff to begin to prepare estimates for the affected individuals assuming a privatization date of July 1, 2009 and passage of legislation in 2010 to retroactively extend these benefits to these individuals. We will also prepare estimates of the normal termination benefits to which they would otherwise be entitled so the employees can understand the difference and advantage of the enhanced benefits. PERA staff will be contacting Ms. Kalina to discuss scheduling a counseling opportunity between the affected employees and PERA staff when the benefit estimates are ready to present.

We look forward to working with you on this issue. Do not hesitate to contact me with any questions you may have.

Sincerely,

Mary Most Vanek  
Executive Director

C: Senator Don Betzold, Chair,  
Legislative Commission on Pensions and Retirement (LCPR)  
Larry Martin, Executive Director, LCPR

Enclosure

# MERCER

 MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN

**Bonnie Wurst, ASA**

333 South 7th Street, Suite 1600  
Minneapolis, MN 55402-2427  
612 642 8816 Fax 612 642 8686  
bonnie.wurst@mercer.com  
www.mercer.com

April 8, 2009

Ms. Mary Most Vanek  
Executive Director  
Public Employees Ret. Assoc. of MN  
60 Empire Drive, Suite 200  
St. Paul, MN 55103

**Subject:** Douglas County Hospital Mental Health Unit

Dear Mary:

Eligible employees of Douglas County Hospital Mental Health Unit are currently members in the Public Employees Retirement Fund. If the Mental Health Unit of this Hospital becomes a private employer, these employees will terminate active participation in the plan. We have completed an analysis of the actuarial accrued liability of the active members of Douglas County Hospital Mental Health Unit under three scenarios, as follows:

- Ongoing Active Employees
- Terminated Vested Employees
- Terminated Vested Employees with the enhancements of the PERA Privatized Plan

From the data file of 13 employees that you provided, we identified 12 active members in PERA as of July 1, 2008. The remaining employee was listed on this file as having no service and was not included in our 2008 valuation. The average age of the 12 active members is 51.8, and over half are immediately eligible to retire.

The liabilities in this letter are determined as of July 1, 2008 and are based on the employee data provided by PERA, and the plan provisions, assumptions, and methods as summarized in the 2008 valuation report dated December 2008. Liabilities under all three scenarios were adjusted by 0.8% to reflect the possibility of Combined Service Annuities, consistent with the adjustment applied to all active employees in the PERA valuation.

The specific Privatization enhancements reflected in our liabilities are as follows:

- All participants are 100% vested upon termination
- Augmentation rate of 4.0% annually through age 55
- Augmentation rate of 6.0% after age 55 until retirement



# MERCER



MARSH MERCER KROLL  
GUY CARPENTER OLIVER WYMAN

Page 2  
April 8, 2009  
Ms. Mary Most Vanek  
Public Employees Ret. Assoc. of MN

The actuarial accrued liabilities under the three scenarios described above are as follows:

	Actuarial Accrued Liability as of July 1, 2008	
1. Ongoing Active PERA Members	\$	1,350,798
2. Terminated Vested Employees		1,269,057
3. Terminated Vested Employees with the enhancements of the PERA Privatized Plan		1,365,419

The actuarial accrued liability with the enhancements of the PERA Privatized Plan is **greater** than the ongoing active actuarial accrued liability.

We are available to answer any questions on the material contained in the report, or to provide explanations or further details, as may be appropriate. The undersigned credentialed actuaries meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained in this report. In addition, Mr. Moehle meets the requirements of "approved actuary" under Minnesota Statutes, Section 356.215, Subdivision 1, Paragraph (c). We are not aware of any direct or material indirect financial interest or relationship, including investments or other services that could create a conflict of interest that would impair the objectivity of our work.

Sincerely,

*Bonnie Wurst*  
Bonita J. Wurst, A.S.A.

*Mike Moehle*  
Michael Moehle, F.S.A.

Copy:  
Colin Caes, Julie Thompson, Becky Wegleitner, Sheri Wroblewski – Mercer

The information contained in this document (including any attachments) is not intended by Mercer to be used, and it cannot be used, for the purpose of avoiding penalties under the Internal Revenue Code that may be imposed on the taxpayer.

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1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 3, delete lines 27 to 28 and insert "(a), clause (3) applies retroactively to any  
1.4 person currently in a position specified in that clause whether the person is appointed,  
1.5 elected or contracted."

1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 2, line 27, after "sheriffs" insert ", providing the person has not commenced  
1.4 receipt of a retirement annuity under section 353.651"

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 8, line 35, delete the new language

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 10, line 32, delete everything after "date"
- 1.4 Page 10, line 33, delete everything before the period
- 1.5 Page 11, lines 17 to 20, delete the new language
- 1.6 Page 14, delete section 8
- 1.7 Renumber the sections in sequence
- 1.8 Amend the title accordingly

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
- 1.3 Page 11, line 34, delete everything after the period
- 1.4 Page 11, delete lines 35 to 36

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 12, delete section 7
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 14, delete section 9
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly



- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 15, line 32, after the semicolon insert "and"
- 1.4 Page 15, delete lines 33 to 34
- 1.5 Page 16, line 1, delete "(9)" and insert "(8)"

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:
- 1.3 Page 17, delete line 22
- 1.4 Page 17, line 23, delete "(7)" and insert "(6)"
- 1.5 Page 17, line 24, delete "(8)" and insert "(7)"
- 1.6 Page 17, line 25, delete "(9)" and insert "(8)"
- 1.7 Page 17, line 26, delete "(10)" and insert "(9)"
- 1.8 Page 17, line 27, delete "(11)" and insert "(10)"
- 1.9 Page 17, line 28, delete "(12)" and insert "(11)"
- 1.10 Page 17, line 29, delete "(13)" and insert "(12)"
- 1.11 Page 17, line 30, delete "(14)" and insert "(13)"
- 1.12 Page 17, line 31, delete "(15)" and insert "(14)"
- 1.13 Page 17, line 33, delete "(16)" and insert "(15)"
- 1.14 Page 18, line 1, delete "(17)" and insert "(16)"
- 1.15 Page 18, line 2, delete "(18)" and insert "(17)"
- 1.16 Page 18, line 3, delete "(19)" and insert "(18)"
- 1.17 Page 18, line 4, delete "(20)" and insert "(19)"
- 1.18 Page 18, delete sections 15 to 16
- 1.19 Renumber the sections in sequence
- 1.20 Amend the title accordingly

1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 20, lines 20 to 21, reinstate the stricken language and delete the new language

1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 20, line 20, reinstate the stricken language and delete the new language

1.4 Page 20, line 21, reinstate "~~(5)-a~~" and after "copy" insert "summary" and reinstate "  
1.5 ~~of this section.~~" and before the period insert "including all filing requirements and  
1.6 deadlines"

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 23, lines 3 to 5, reinstate the stricken language and delete the new language
- 1.4 Page 23, line 6, reinstate "~~or~~" and delete the first comma

1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 24, line 22, after the period insert "If this section becomes effective for the  
1.4 city of Virginia, it applies retroactively from ..... ."

1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,  
1.2 as follows:

1.3 Page 24, line 23, delete "This section is" and insert "Any revisions in this section  
1.4 which are not specific to the city of Virginia are"

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
  
- 1.3 Page 24, delete section 23
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly



- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
- 1.3 Page 24, line 27, delete "2014" and insert "...."

- 1.1 ..... moves to amend S.F. No. ....; H.F. No. ...., Document LCPR10-008,
- 1.2 as follows:
- 1.3 Page 24, line 31, delete "(a)"
- 1.4 Page 25, delete line 1

1.1 A bill for an act  
 1.2 relating to retirement; Public Employees Retirement Association plans and  
 1.3 various other plans; making changes of an administrative nature; clarifying PERA  
 1.4 membership provisions, revising PERA board election procedures; creating  
 1.5 fines for PERA employer reporting failures; revising public employees defined  
 1.6 contribution plan eligibility; adding new privatizations to the PERA privatized  
 1.7 employee chapter and permitting employers to make payment to eliminated  
 1.8 privatization loss; revising appeal procedure applicable to the Minnesota State  
 1.9 Retirement System, the Public Employees Retirement Association, and the  
 1.10 Teachers Retirement Association; extending PERA postretirement option  
 1.11 program; and repealing obsolete provisions; amending Minnesota Statutes 2008,  
 1.12 sections 353.01, subdivisions 2b, 2d; 353.03, subdivision 1; 353.27, subdivisions  
 1.13 4, 10; 353D.01, subdivision 2; 353D.03, subdivision 1; 353D.04, subdivisions 1,  
 1.14 2; 353F.025, subdivisions 1, 2; 356.96, subdivisions 2, 3, 7, 8; Minnesota Statutes  
 1.15 2009 Supplement, sections 353.01, subdivisions 2, 2a; 353.27, subdivision 7;  
 1.16 353.371, subdivision 4; 353F.02, subdivision 4; 356.96, subdivision 5; Laws  
 1.17 2009, chapter 169, article 4, section 49; article 5, section 2; repealing Minnesota  
 1.18 Statutes 2008, sections 353.46, subdivision 1a; 353D.03, subdivision 2; 353D.12.

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

1.20 Section 1. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 2, is  
 1.21 amended to read:

1.22 Subd. 2. **Public employee.** "Public employee" means a governmental employee  
 1.23 or a public officer performing personal services for a governmental subdivision defined  
 1.24 in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from  
 1.25 taxation, fees, assessments, or from other sources. For purposes of membership in the  
 1.26 association, the term includes the classes of persons ~~described or~~ listed in subdivision  
 1.27 2a and excludes the classes of persons listed in subdivision 2b. The term also includes  
 1.28 persons who elect association membership under subdivision 2d, paragraph (a), and  
 1.29 persons for whom the applicable governmental subdivision had elected association

2.1 membership under subdivision 2d, paragraph (b). ~~The term excludes the classes of persons~~  
 2.2 ~~listed in subdivision 2b for purposes of membership in the association.~~

2.3 **EFFECTIVE DATE.** This section is effective July 1, 2010.

2.4 Sec. 2. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 2a, is  
 2.5 amended to read:

2.6 Subd. 2a. **Included employees; mandatory membership.** ~~(a) Public employees~~  
 2.7 ~~whose salary from employment in one or more positions within one governmental~~  
 2.8 ~~subdivision exceeds \$425 in any month shall participate as members of the association.~~  
 2.9 ~~If the salary is less than \$425 in a subsequent month, the employee retains membership~~  
 2.10 ~~eligibility. Eligible Public employees shall~~ whose salary exceeds \$425 in any month and  
 2.11 who are not specifically excluded under subdivision 2b or provided an option to participate  
 2.12 under subdivision 2d, whether individually or by action of the governmental subdivision,  
 2.13 must participate as members of the association with retirement coverage by the public  
 2.14 employees retirement plan or the public employees police and fire retirement plan under  
 2.15 this chapter, or the local government correctional employees retirement plan under chapter  
 2.16 353E, whichever applies;. Membership commences as a condition of their employment on  
 2.17 the first day of their employment unless they or on the first day the eligibility criteria are  
 2.18 met, whichever is later. Public employees include but are not limited to:

2.19 ~~(1) are specifically excluded under subdivision 2b;~~

2.20 ~~(2) do not exercise their option to elect retirement coverage in the association as~~  
 2.21 ~~provided in subdivision 2d, paragraph (a); or~~

2.22 ~~(3) are employees of the governmental subdivisions listed in subdivision 2d,~~  
 2.23 ~~paragraph (b), where the governmental subdivision has not elected to participate as a~~  
 2.24 ~~governmental subdivision covered by the association.~~

2.25 (1) persons whose salary meets the threshold in paragraph (a) from employment in  
 2.26 one or more positions within one governmental subdivision;

2.27 (2) elected county sheriffs;

2.28 (3) persons appointed, employed, or contracted to perform governmental functions  
 2.29 that by law or local ordinance are required of a public officer, including, but not limited to:

2.30 (i) town and city clerk or treasurer;

2.31 (ii) county auditor, treasurer, or recorder;

2.32 (iii) city manager as defined in section 353.028 who does not exercise the option  
 2.33 provided under subdivision 2d; or

2.34 (iv) emergency management director, as provided under section 12.25;

3.1 (4) physicians under section 353D.01, subdivision 2, who do not elect public  
 3.2 employees defined contribution plan coverage under section 353D.02, subdivision 2;  
 3.3 (5) full-time employees of the Dakota County Agricultural Society; and  
 3.4 (6) employees of the Minneapolis Firefighters Relief Association or Minneapolis  
 3.5 Police Relief Association who are not excluded employees under subdivision 2b due  
 3.6 to coverage by the relief association pension plan and who elected Public Employee  
 3.7 Retirement Association general plan coverage before August 20, 2009.

3.8 (b) A public employee or elected official who was a member of the association on  
 3.9 June 30, 2002, based on employment that qualified for membership coverage by the public  
 3.10 employees retirement plan or the public employees police and fire plan under this chapter,  
 3.11 or the local government correctional employees retirement plan under chapter 353E as of  
 3.12 June 30, 2002, retains that membership for the duration of the person's employment in that  
 3.13 position or incumbency in elected office. Except as provided in subdivision 28, the person  
 3.14 shall participate as a member until the employee or elected official terminates public  
 3.15 employment under subdivision 11a or terminates membership under subdivision 11b.

3.16 ~~(c) Public employees under paragraph (a) include:~~

3.17 ~~(1) physicians under section 353D.01, subdivision 2, who do not elect public~~  
 3.18 ~~employees defined contribution plan coverage under section 353D.02, subdivision 2;~~

3.19 ~~(2) full-time employees of the Dakota County Agricultural Society; and~~

3.20 ~~(3) employees of the Minneapolis Firefighters Relief Association or Minneapolis~~  
 3.21 ~~Police Relief Association who are not excluded employees under subdivision 2b due to~~  
 3.22 ~~coverage by the relief association pension plan and who elect Public Employee Retirement~~  
 3.23 ~~Association general plan coverage under Laws 2009, chapter 169, article 12, section 10.~~

3.24 (c) If the salary of an included public employee is less than \$425 in any subsequent  
 3.25 month, the member retains membership eligibility.

3.26 **EFFECTIVE DATE.** This section is effective July 1, 2010, except that paragraph  
 3.27 (a), clause (3) applies to any person first appointed, elected or contracted after June 30,  
 3.28 2010.

3.29 Sec. 3. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to read:

3.30 Subd. 2b. **Excluded employees.** (a) The following public employees are not  
 3.31 eligible to participate as members of the association with retirement coverage by the  
 3.32 public employees retirement plan, the local government correctional employees retirement  
 3.33 plan under chapter 353E, or the public employees police and fire retirement plan:

3.34 (1) persons whose salary from one governmental subdivision never exceeds \$425 in  
 3.35 a month;

- 4.1 ~~(2)~~ (2) public officers, ~~other than county sheriffs~~, who are elected to a governing body,  
4.2 the mayor of a city, or persons who are appointed to fill a vacancy in an elective office  
4.3 of a governing body, whose term of office commences on or after July 1, 2002, for the  
4.4 service to be rendered in that elective position;
- 4.5 ~~(2)~~ (3) election officers or election judges;
- 4.6 ~~(3)~~ (4) patient and inmate personnel who perform services for a governmental  
4.7 subdivision;
- 4.8 ~~(4)~~ (5) except as otherwise specified in subdivision 12a, employees who are hired  
4.9 for a temporary position as defined under subdivision 12a, and employees who resign  
4.10 from a nontemporary position and accept a temporary position within 30 days in the  
4.11 same governmental subdivision;
- 4.12 ~~(5)~~ (6) employees who are employed by reason of work emergency caused by fire,  
4.13 flood, storm, or similar disaster;
- 4.14 ~~(6)~~ (7) employees who by virtue of their employment in one governmental  
4.15 subdivision are required by law to be a member of and to contribute to any of the plans or  
4.16 funds administered by the Minnesota State Retirement System, the Teachers Retirement  
4.17 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers  
4.18 Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police  
4.19 or firefighters relief association governed by section 69.77 that has not consolidated  
4.20 with the Public Employees Retirement Association, or any local police or firefighters  
4.21 consolidation account who have not elected the type of benefit coverage provided by the  
4.22 public employees police and fire fund under sections 353A.01 to 353A.10, or any persons  
4.23 covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees  
4.24 police and fire plan benefit coverage. This clause must not be construed to prevent a person  
4.25 from being a member of and contributing to the Public Employees Retirement Association  
4.26 and also belonging to and contributing to another public pension plan or fund for other  
4.27 service occurring during the same period of time. A person who meets the definition of  
4.28 "public employee" in subdivision 2 by virtue of other service occurring during the same  
4.29 period of time becomes a member of the association unless contributions are made to  
4.30 another public retirement fund on the salary based on the other service or to the Teachers  
4.31 Retirement Association by a teacher as defined in section 354.05, subdivision 2;
- 4.32 ~~(7)~~ (8) persons who are members of a religious order and are excluded from coverage  
4.33 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the  
4.34 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),  
4.35 as amended through January 1, 1987, if no irrevocable election of coverage has been made  
4.36 under section 3121(r) of the Internal Revenue Code of 1954, as amended;

5.1 ~~(8)~~ (9) employees of a governmental subdivision who have not reached the age of  
5.2 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
5.3 basis at an accredited school, college, or university in an undergraduate, graduate, or  
5.4 professional-technical program, or a public or charter high school;

5.5 ~~(9)~~ (10) resident physicians, medical interns, and pharmacist residents and  
5.6 pharmacist interns who are serving in a degree or residency program in public hospitals  
5.7 or clinics;

5.8 ~~(10)~~ (11) students who are serving in an internship or residency program sponsored  
5.9 by an accredited educational institution;

5.10 ~~(11)~~ (12) persons who hold a part-time adult supplementary technical college license  
5.11 who render part-time teaching service in a technical college;

5.12 ~~(12)~~ (13) except for employees of Hennepin County or Hennepin Healthcare System,  
5.13 Inc., foreign citizens working for a governmental subdivision with a work permit ~~of less~~  
5.14 ~~than three years~~, or an H-1b visa ~~valid initially issued or extended for a combined period~~  
5.15 less than three years of employment. Upon ~~notice to the association that the work permit~~  
5.16 ~~or visa extends~~ extension of the employment beyond the three-year period, the foreign  
5.17 citizens must be reported for membership ~~from the date of the extension~~ beginning the  
5.18 first of the month thereafter provided the monthly earnings as stated under subdivision 2a  
5.19 are met;

5.20 ~~(13)~~ (14) public hospital employees who elected not to participate as members  
5.21 of the association before 1972 and who did not elect to participate from July 1, 1988,  
5.22 to October 1, 1988;

5.23 ~~(14)~~ (15) except as provided in section 353.86, volunteer ambulance service  
5.24 personnel, as defined in subdivision 35, but persons who serve as volunteer ambulance  
5.25 service personnel may still qualify as public employees under subdivision 2 and may  
5.26 be members of the Public Employees Retirement Association and participants in the  
5.27 public employees retirement fund or the public employees police and fire fund, whichever  
5.28 applies, on the basis of compensation received from public employment service other than  
5.29 service as volunteer ambulance service personnel;

5.30 ~~(15)~~ (16) except as provided in section 353.87, volunteer firefighters, as defined  
5.31 in subdivision 36, engaging in activities undertaken as part of volunteer firefighter  
5.32 duties; provided that a person who is a volunteer firefighter may still qualify as a public  
5.33 employee under subdivision 2 and may be a member of the Public Employees Retirement  
5.34 Association and a participant in the public employees retirement fund or the public  
5.35 employees police and fire fund, whichever applies, on the basis of compensation received  
5.36 from public employment activities other than those as a volunteer firefighter;

6.1 ~~(16)~~ (17) pipefitters and associated trades personnel employed by Independent  
6.2 School District No. 625, St. Paul, with coverage under a collective bargaining agreement  
6.3 by the pipefitters local 455 pension plan who were either first employed after May 1,  
6.4 1997, or, if first employed before May 2, 1997, elected to be excluded under Laws 1997,  
6.5 chapter 241, article 2, section 12;

6.6 ~~(17)~~ (18) electrical workers, plumbers, carpenters, and associated trades personnel  
6.7 employed by Independent School District No. 625, St. Paul, or the city of St. Paul,  
6.8 who have retirement coverage under a collective bargaining agreement by the Electrical  
6.9 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,  
6.10 or the Carpenters Local 87 pension plan who were either first employed after May 1,  
6.11 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000,  
6.12 chapter 461, article 7, section 5;

6.13 ~~(18)~~ (19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
6.14 painters, allied tradesworkers, and plasterers employed by the city of St. Paul or  
6.15 Independent School District No. 625, St. Paul, with coverage under a collective  
6.16 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,  
6.17 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324  
6.18 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities  
6.19 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if  
6.20 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special  
6.21 Session chapter 10, article 10, section 6;

6.22 ~~(19)~~ (20) plumbers employed by the Metropolitan Airports Commission, with  
6.23 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,  
6.24 who either were first employed after May 1, 2001, or if first employed before May 2,  
6.25 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article  
6.26 10, section 6;

6.27 ~~(20)~~ (21) employees who are hired after June 30, 2002, to fill seasonal positions  
6.28 under subdivision 12b which are limited in duration by the employer to 185 consecutive  
6.29 calendar days or less in each year of employment with the governmental subdivision;

6.30 ~~(21)~~ (22) persons who are provided supported employment or work-study positions  
6.31 by a governmental subdivision and who participate in an employment or industries  
6.32 program maintained for the benefit of these persons where the governmental subdivision  
6.33 limits the position's duration to three years or less, including persons participating in a  
6.34 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
6.35 unemployment relief program where the training or work experience is not provided as a  
6.36 part of, or for, future permanent public employment;



7.1 ~~(22)~~ (23) independent contractors and the employees of independent contractors; ~~and~~  
7.2 ~~(23)~~ (24) reemployed annuitants of the association during the course of that  
7.3 reemployment; and

7.4 (25) persons appointed to serve on a board or commission of a governmental  
7.5 subdivision or instrumentality thereof.

7.6 (b) Any person performing the duties of a public officer in a position defined in  
7.7 subdivision 2a, paragraph (a), clause (3), is not an independent contractor nor an employee  
7.8 of an independent contractor.

7.9 **EFFECTIVE DATE.** This section is effective July 1, 2010, except that clause (25)  
7.10 is effective for persons first appointed after June 30, 2010.

7.11 Sec. 4. Minnesota Statutes 2008, section 353.01, subdivision 2d, is amended to read:

7.12 Subd. 2d. **Optional membership.** (a) Membership in the association is optional  
7.13 by action of the individual employee for the following public employees who meet the  
7.14 conditions set forth in subdivision 2a:

7.15 (1) members of the coordinated plan who are also employees of labor organizations  
7.16 as defined in section 353.017, subdivision 1, for their employment by the labor  
7.17 organization only, if they elect to have membership under section 353.017, subdivision 2;

7.18 (2) persons who are elected or persons who are appointed to elected positions other  
7.19 than local governing body elected positions who elect to participate by filing a written  
7.20 election for membership;

7.21 (3) members of the association who are appointed by the governor to be a state  
7.22 department head and who elect not to be covered by the general state employees retirement  
7.23 plan of the Minnesota State Retirement System under section 352.021;

7.24 (4) city managers as defined in section 353.028, subdivision 1, who do not elect to be  
7.25 excluded from membership in the association under section 353.028, subdivision 2; and

7.26 (5) employees of the Port Authority of the city of St. Paul on January 1, 2003,  
7.27 who were at least age 45 on that date, and who elected to participate by filing a written  
7.28 election for membership.

7.29 (b) Membership in the association is optional by action of the governmental  
7.30 subdivision for the employees of the following governmental subdivisions under the  
7.31 conditions specified:

7.32 (1) the Minnesota Association of Townships if the board of that association, at its  
7.33 option, certifies to the executive director that its employees who meet the conditions set  
7.34 forth in subdivision 2a are to be included for purposes of retirement coverage, in which  
7.35 case the status of the association as a participating employer is permanent;

8.1 (2) a county historical society if the county in which the historical society is located,  
8.2 at its option, certifies to the executive director that the employees of the historical society  
8.3 who meet the conditions set forth in subdivision 2a are to be considered county employees  
8.4 for purposes of retirement coverage under this chapter. The status as a county employee  
8.5 must be accorded to all similarly situated county historical society employees and, once  
8.6 established, must continue as long as a person is an employee of the county historical  
8.7 society; and

8.8 (3) Hennepin Healthcare System, Inc., a public corporation, with respect to  
8.9 employees other than paramedics, emergency medical technicians, and protection officers,  
8.10 if the corporate board establishes alternative retirement plans for certain classes of  
8.11 employees of the corporation and certifies to the association the applicable employees to  
8.12 be excluded from future retirement coverage.

8.13 (c) For employees who are covered by paragraph (a), clause (1), (2), or (3), or  
8.14 covered by paragraph (b), clause (1) or (2), if the necessary membership election is  
8.15 not made, the employee is excluded from retirement coverage under this chapter. For  
8.16 employees who are covered by paragraph (a), clause (4), if the necessary election is not  
8.17 made, the employee must become a member and have retirement coverage under this  
8.18 chapter. For employees specified in paragraph (b), clause (3), membership continues until  
8.19 the exclusion option is exercised for the designated class of employee.

8.20 (d) The option to become a member, once exercised under this subdivision, may not  
8.21 be withdrawn until the termination of public service as defined under subdivision 11a.

8.22 **EFFECTIVE DATE.** This section is effective July 1, 2010.

8.23 Sec. 5. Minnesota Statutes 2008, section 353.03, subdivision 1, is amended to read:

8.24 Subdivision 1. **Management; composition; election.** (a) The management of the  
8.25 public employees retirement fund is vested in an 11-member board of trustees consisting  
8.26 of ten members and the state auditor. The state auditor may designate a deputy auditor  
8.27 with expertise in pension matters as the auditor's representative on the board. The  
8.28 governor shall appoint five trustees to four-year terms, one of whom shall be designated to  
8.29 represent school boards, one to represent cities, one to represent counties, one who is a  
8.30 retired annuitant, and one who is a public member knowledgeable in pension matters. The  
8.31 membership of the association, including recipients of retirement annuities and disability  
8.32 and survivor benefits, shall elect five trustees for terms of four years, one of whom must  
8.33 be a member of the police and fire fund and one of whom must be a former member who  
8.34 met the definition of public employee under section 353.01, subdivisions 2 and 2a, for at  
8.35 least five years prior to terminating membership and who is receiving a retirement annuity

9.1 or a member who receives a disability benefit. Terms expire on January 31 of the fourth  
9.2 year, and positions are vacant until newly elected members are seated. Except as provided  
9.3 in this subdivision, trustees elected by the membership of the association must be public  
9.4 employees and members of the association.

9.5 (b) For seven days beginning October 1 of each year preceding a year in which  
9.6 an election is held, the association shall accept ~~at its office filings in person or by mail~~  
9.7 of candidates for the board of trustees. A candidate shall submit at the time of filing a  
9.8 nominating petition signed by 25 or more members of the association. No name may  
9.9 be withdrawn from nomination by the nominee after October 15. At the request of a  
9.10 candidate for an elected position on the board of trustees, the board shall ~~mail~~ provide  
9.11 a statement of up to 300 words prepared by the candidate to all persons eligible to vote  
9.12 in the election of the candidate. The board may adopt policies, ~~subject to review and~~  
9.13 ~~approval by the secretary of state under paragraph (c); and procedures~~ to govern the form  
9.14 and length of these statements, and the timing of mailings, and deadlines for submitting  
9.15 materials to be mailed. ~~The secretary of state shall resolve disputes between the board and~~  
9.16 ~~a candidate concerning application of these policies to a particular statement distributed to~~  
9.17 the eligible voters.

9.18 (c) By January 10 of each year in which elections are to be held, the board shall  
9.19 distribute ~~by mail to the members ballots listing~~ eligible voters the instructions and  
9.20 materials necessary to vote for the candidates seeking terms on the board of trustees.  
9.21 Eligible voters are the members, retirees, and other benefit recipients. No ~~member voter~~  
9.22 may vote for more than one candidate for each board position to be filled. A ~~ballot~~  
9.23 ~~indicating a vote for more than one person for any position is void.~~ No special marking  
9.24 may be used ~~on the ballot~~ to indicate incumbents. ~~Ballots~~ Votes cast by using paper ballots  
9.25 mailed to the association must be postmarked no later than January 31. Votes cast by using  
9.26 phone or other electronic means authorized under the board's procedures must be entered  
9.27 by the end of the day on January 31. The ballot envelopes must be so designated and the  
9.28 ~~ballots must be~~ design of the voting response media must be such that the votes cast are  
9.29 counted in a manner that ensures that each voter's vote is secret.

9.30 (d) A candidate who receives contributions or makes expenditures in excess of \$100,  
9.31 or has given implicit or explicit consent for any other person to receive contributions or  
9.32 make expenditures in excess of \$100 for the purpose of bringing about the candidate's  
9.33 election, shall file a report with the campaign finance and public disclosure board  
9.34 disclosing the source and amount of all contributions to the candidate's campaign. The  
9.35 campaign finance and public disclosure board shall prescribe forms governing these  
9.36 disclosures. Expenditures and contributions have the meaning defined in section 10A.01.

10.1 These terms do not include the mailing made by the association board on behalf of the  
10.2 candidate. A candidate shall file a report within 30 days from the day that the results of  
10.3 the election are announced. The Campaign Finance and Public Disclosure Board shall  
10.4 maintain these reports and make them available for public inspection in the same manner  
10.5 as the board maintains and makes available other reports filed with it.

10.6 (e) The secretary of state shall review and ~~approve~~ comment on the procedures  
10.7 defined by the board of trustees for conducting the elections specified in this subdivision,  
10.8 including board policies adopted under paragraph (b).

10.9 (f) The board of trustees and the executive director shall undertake their activities  
10.10 consistent with chapter 356A.

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

10.12 Sec. 6. Minnesota Statutes 2008, section 353.27, subdivision 4, is amended to read:

10.13 Subd. 4. **Employer reporting requirements; contributions; member status.**

10.14 (a) A representative authorized by the head of each department shall deduct employee  
10.15 contributions from the salary of each public employee who qualifies for membership  
10.16 under this chapter ~~and~~ or chapter 353D or 353E at the rate under section 353.27, 353.65,  
10.17 353D.03, or 353E.03, whichever is applicable, that is in effect on the date the salary is  
10.18 paid. The employer representative must also remit payment in a manner prescribed by  
10.19 the executive director for the aggregate amount of the employee contributions; and the  
10.20 required employer contributions and the additional employer contributions to be received  
10.21 by the association within 14 calendar days after each pay date. If payment is less than  
10.22 the amount required, the employer must subsequently pay the shortage amount to the  
10.23 association and collect reimbursement of any employee contribution shortage paid on  
10.24 behalf of a member through subsequent payroll withholdings from the wages of the  
10.25 employee. Payment of shortages in employee contributions and associated employer  
10.26 contributions, if applicable, must include interest at the rate under section 353.28,  
10.27 subdivision 5, if not received within 30 days following the date the amount was initially  
10.28 due under this section.

10.29 (b) The head of each department or the person's designee shall for each pay period  
10.30 submit to the association a salary deduction report in the format prescribed by the  
10.31 executive director. The report must be received by the association within 14 calendar days  
10.32 after each pay date or the employer will be assessed a fine of \$5 per calendar day until  
10.33 the association receives the required data. Data required to be submitted as part of salary  
10.34 deduction reporting must include, but are not limited to:

10.35 (1) the legal names and Social Security numbers of employees who are members;

11.1 (2) the amount of each employee's salary deduction;

11.2 (3) the amount of salary defined in section 353.01, subdivision 10, earned in the  
11.3 pay period from which each deduction was made and the salary amount earned by a  
11.4 reemployed annuitant under section 353.37, subdivision 1, or 353.371, subdivision 1, or  
11.5 by a disabled member under section 353.33, subdivision 7 or 7a;

11.6 (4) the beginning and ending dates of the payroll period covered and the date of  
11.7 actual payment; and

11.8 (5) adjustments or corrections covering past pay periods as authorized by the  
11.9 executive director.

11.10 ~~(b)~~ (c) Employers must furnish the data required for enrollment for each new  
11.11 or reinstating employee who qualifies for membership in the format prescribed by the  
11.12 executive director. The required enrollment data on new ~~employees~~ members must be  
11.13 submitted to the association prior to or concurrent with the submission of the initial  
11.14 employee salary deduction. The employer shall also report to the association all member  
11.15 employment status changes, such as leaves of absence, terminations, and death, and shall  
11.16 report the effective dates of those changes, on an ongoing basis for the payroll cycle in  
11.17 which they occur. If an employer fails to comply with the reporting requirements under  
11.18 this paragraph, the executive director may assess a fine of \$25 for each failure if the  
11.19 association staff has notified the employer of the noncompliance and attempted to obtain  
11.20 the missing data or form from the employer for a period of more than three months.

11.21 (d) The employer shall furnish data, forms, and reports as may be required by  
11.22 the executive director for proper administration of the retirement system. Before  
11.23 implementing new or different computerized reporting requirements, the executive  
11.24 director shall give appropriate advance notice to governmental subdivisions to allow time  
11.25 for system modifications.

11.26 ~~(e)~~ (e) Notwithstanding paragraph (a), the association may provide for less frequent  
11.27 reporting and payments for small employers.

11.28 (f) The executive director may establish reporting procedures and methods as  
11.29 required to review compliance by employers with the salary and contribution reporting  
11.30 requirements in this chapter. A review of the payroll records of a participating employer  
11.31 may be conducted by the association on a periodic basis or as a result of concerns known  
11.32 to exist within a governmental subdivision. An employer under review must extract  
11.33 requested data and provide records to the association after receiving reasonable advanced  
11.34 notice. Failure to provide requested information or materials will result in the employer  
11.35 being liable to the association for any expenses associated with a field audit, including  
11.36 staff salaries, administrative expenses and travel expenses.

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

12.2 Sec. 7. Minnesota Statutes 2009 Supplement, section 353.27, subdivision 7, is  
12.3 amended to read:

12.4 Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except  
12.5 as provided in paragraph (b), erroneous employee deductions and erroneous employer  
12.6 contributions and additional employer contributions for a person, who otherwise does not  
12.7 qualify for membership under this chapter, are considered:

12.8 (1) valid if the initial erroneous deduction began before January 1, 1990. Upon  
12.9 determination of the error by the association, the person may continue membership in the  
12.10 association while employed in the same position for which erroneous deductions were  
12.11 taken, or file a written election to terminate membership and apply for a refund upon  
12.12 termination of public service or defer an annuity under section 353.34; or

12.13 (2) invalid, if the initial erroneous employee deduction began on or after January 1,  
12.14 1990. Upon determination of the error, the association shall refund all erroneous employee  
12.15 deductions and all erroneous employer contributions as specified in paragraph (e). No  
12.16 person may claim a right to continued or past membership in the association based on  
12.17 erroneous deductions which began on or after January 1, 1990.

12.18 (b) Erroneous deductions taken from the salary of a person who did not qualify  
12.19 for membership in the association by virtue of concurrent employment before July 1,  
12.20 1978, which required contributions to another retirement fund or relief association  
12.21 established for the benefit of officers and employees of a governmental subdivision, are  
12.22 invalid. Upon discovery of the error, the association shall remove all invalid service and,  
12.23 upon termination of public service, the association shall refund all erroneous employee  
12.24 deductions to the person, with interest as determined under section 353.34, subdivision 2,  
12.25 and all erroneous employer contributions without interest to the employer. This paragraph  
12.26 has both retroactive and prospective application.

12.27 (c) Adjustments to correct employer contributions and employee deductions taken  
12.28 in error from amounts which are not salary under section 353.01, subdivision 10, must  
12.29 be made as specified in paragraph (e). The period of adjustment must be limited to the  
12.30 fiscal year in which the error is discovered by the association and the immediate two  
12.31 preceding fiscal years.

12.32 (d) If there is evidence of fraud or other misconduct on the part of the employee or  
12.33 the employer, the board of trustees may authorize adjustments to the account of a member  
12.34 or former member to correct erroneous employee deductions and employer contributions

13.1 on invalid salary and the recovery of any overpayments for a period longer than provided  
13.2 for under paragraph (c).

13.3 (e) Upon discovery of the receipt of erroneous employee deductions and employer  
13.4 contributions under paragraph (a), clause (2), or paragraph (c), the association must require  
13.5 the employer to discontinue the erroneous employee deductions and erroneous employer  
13.6 contributions reported on behalf of a member. Upon discontinuation, the association must:

13.7 (1) for a member, provide a refund ~~or credit to the employer~~ in the amount of the  
13.8 invalid employee deductions with interest on the invalid employee deductions at the rate  
13.9 specified under section 353.34, subdivision 2, from the received date of each invalid salary  
13.10 transaction through the date the credit or refund is made; ~~and the employer must pay the~~  
13.11 ~~refunded employee deductions plus interest to the member;~~

13.12 (2) for a former member who:

13.13 (i) is not receiving a retirement annuity or benefit, return the erroneous employee  
13.14 deductions to the former member through a refund with interest at the rate specified under  
13.15 section 353.34, subdivision 2, from the received date of each invalid salary transaction  
13.16 through the date the credit or refund is made; or

13.17 (ii) is receiving a retirement annuity or disability benefit, or a person who is  
13.18 receiving an optional annuity or survivor benefit, for whom it has been determined an  
13.19 overpayment must be recovered, adjust the payment amount and recover the overpayments  
13.20 as provided under this section; and

13.21 (3) return the invalid employer contributions reported on behalf of a member or  
13.22 former member to the employer by providing a credit against future contributions payable  
13.23 by the employer.

13.24 (f) In the event that a salary warrant or check from which a deduction for the  
13.25 retirement fund was taken has been canceled or the amount of the warrant or check  
13.26 returned to the funds of the department making the payment, a refund of the sum  
13.27 deducted, or any portion of it that is required to adjust the deductions, must be made  
13.28 to the department or institution.

13.29 (g) If the accrual date of any retirement annuity, survivor benefit, or disability benefit  
13.30 is within the limitation period specified in paragraph (c), and an overpayment has resulted  
13.31 by using invalid service or salary, or due to any erroneous calculation procedure, the  
13.32 association must recalculate the annuity or benefit payable and recover any overpayment  
13.33 as provided under subdivision 7b.

13.34 (h) Notwithstanding the provisions of this subdivision, the association may apply  
13.35 the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans  
13.36 Compliance Resolution System and not issue a refund of erroneous employee deductions

14.1 and employer contributions or not recover a small overpayment of benefits if the cost to  
14.2 correct the error would exceed the amount of the member refund or overpayment.

14.3 (i) Any fees or penalties assessed by the federal Internal Revenue Service for any  
14.4 failure by an employer to follow the statutory requirements for reporting eligible members  
14.5 and salary must be paid by the employer.

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

14.7 Sec. 8. Minnesota Statutes 2008, section 353.27, subdivision 10, is amended to read:

14.8 Subd. 10. **Employer exclusion reports.** (a) The head of a department shall annually  
14.9 furnish the executive director with an exclusion report listing only those employees in  
14.10 potentially PERA-eligible positions who were not reported as members of the association  
14.11 and who worked during the school year for school employees and calendar year for  
14.12 nonschool employees. The department head must certify the accuracy and completeness  
14.13 of the exclusion report to the association. The executive director shall prescribe the  
14.14 manner and forms, including standardized exclusion codes, to be used by a governmental  
14.15 subdivision in preparing and filing exclusion reports. The executive director shall also  
14.16 check the exclusion report to ascertain whether any omissions have been made by a  
14.17 department head in the reporting of new public employees for membership. The executive  
14.18 director may delegate an association employee under section 353.03, subdivision 3a,  
14.19 paragraph (b), clause (5), to conduct a field audit to review the payroll records of a  
14.20 governmental subdivision.

14.21 (b) If an employer fails to comply with the reporting requirements under this  
14.22 subdivision, the executive director may assess a fine of \$25 for each failure if the  
14.23 association staff has notified the employer of the noncompliance and attempted to obtain  
14.24 the missing data or form from the employer for a period of more than three months.

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

14.26 Sec. 9. Minnesota Statutes 2009 Supplement, section 353.371, subdivision 4, is  
14.27 amended to read:

14.28 Subd. 4. **Duration.** Postretirement option employment shall be for an initial period  
14.29 not to exceed one year. At the end of the initial period, the governing body has sole  
14.30 discretion to determine if the offer of a postretirement option position will be renewed,  
14.31 renewed with modifications, or terminated. Postretirement option employment may be  
14.32 renewed annually, ~~but may not be renewed after the individual attains retirement age as~~  
14.33 ~~defined in United States Code, title 42, section 416(l)~~ for up to four years.



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

15.2 Sec. 10. Minnesota Statutes 2008, section 353D.01, subdivision 2, is amended to read:

15.3 Subd. 2. **Eligibility.** (a) Eligibility to participate in the defined contribution plan  
15.4 is available to:

15.5 (1) elected local government officials of a governmental subdivision who elect to  
15.6 participate in the plan under section 353D.02, subdivision 1, and who, for the elected  
15.7 service rendered to a governmental subdivision, are not members of the Public Employees  
15.8 Retirement Association within the meaning of section 353.01, subdivision 7;

15.9 (2) physicians who, if they did not elect to participate in the plan under section  
15.10 353D.02, subdivision 2, would meet the definition of member under section 353.01,  
15.11 subdivision 7;

15.12 (3) basic and advanced life-support emergency medical service personnel employed  
15.13 by any public ambulance service that elects to participate under section 353D.02,  
15.14 subdivision 3;

15.15 (4) members of a municipal rescue squad associated with Litchfield in Meeker  
15.16 County, or of a county rescue squad associated with Kandiyohi County, if an independent  
15.17 nonprofit rescue squad corporation, incorporated under chapter 317A, performing  
15.18 emergency management services, and if not affiliated with a fire department or ambulance  
15.19 service and if its members are not eligible for membership in that fire department's or  
15.20 ambulance service's relief association or comparable pension plan;

15.21 (5) employees of the Port Authority of the city of St. Paul who elect to participate in  
15.22 the plan under section 353D.02, subdivision 5, and who are not members of the Public  
15.23 Employees Retirement Association under section 353.01, subdivision 7;

15.24 (6) city managers who elected to be excluded from the general employees retirement  
15.25 plan of the Public Employees Retirement Association under section 353.028 and who  
15.26 elected to participate in the public employees defined contribution plan under section  
15.27 353.028, subdivision 3, paragraph (b); ~~and~~

15.28 (7) volunteer or emergency on-call firefighters serving in a municipal fire department  
15.29 or an independent nonprofit firefighting corporation who are not covered by the public  
15.30 employees police and fire retirement plan and who are not covered by a volunteer  
15.31 firefighters relief association and who elect to participate in the public employees defined  
15.32 contribution plan;

15.33 (8) elected county sheriffs who are former members of the police and fire plan and  
15.34 who are receiving a retirement annuity as provided under section 353.651; and

16.1 (9) persons who are excluded from membership under section 353.01, subdivision  
 16.2 2b, paragraph (a), clause (25).

16.3 (b) For purposes of this chapter, an elected local government official includes  
 16.4 a person appointed to fill a vacancy in an elective office. Service as an elected local  
 16.5 government official only includes service for the governmental subdivision for which the  
 16.6 official was elected by the public at large. Service as an elected local government official  
 16.7 ceases and eligibility to participate terminates when the person ceases to be an elected  
 16.8 official. An elected local government official does not include an elected county sheriff  
 16.9 who must be a member of the police and fire plan as provided under chapter 353.

16.10 (c) Individuals otherwise eligible to participate in the plan under this subdivision  
 16.11 who are currently covered by a public or private pension plan because of their employment  
 16.12 or provision of services are not eligible to participate in the public employees defined  
 16.13 contribution plan.

16.14 (d) A former participant is a person who has terminated eligible employment or  
 16.15 service and has not withdrawn the value of the person's individual account.

16.16 **EFFECTIVE DATE.** This section is effective July 1, 2010.

16.17 Sec. 11. Minnesota Statutes 2008, section 353D.03, subdivision 1, is amended to read:

16.18 Subdivision 1. ~~Local government official contribution~~ **Contributions for eligible**  
 16.19 **participants.** ~~An~~ (a) The following classes of eligible elected local government official  
 16.20 participants who elects elect to participate in the public employees defined contribution  
 16.21 plan under section 353D.02 shall contribute an amount equal to five percent of salary as  
 16.22 defined in section 353.01, subdivision 10:

16.23 (1) ~~A participating~~ elected local government official's officials;

16.24 (2) physicians; and

16.25 (3) persons who are excluded from membership under section 353.01, subdivision  
 16.26 2b, clause (25).

16.27 (b) A participant's governmental subdivision shall contribute a matching amount.

16.28 **EFFECTIVE DATE.** This section is effective July 1, 2010.

16.29 Sec. 12. Minnesota Statutes 2008, section 353D.04, subdivision 1, is amended to read:

16.30 Subdivision 1. **Crediting of account contributions to participant accounts.** (a)  
 16.31 Contributions made by or on behalf of a ~~participating elected local government official or~~  
 16.32 ~~physician~~ participant under section 353D.03, subdivisions 1, 5, and 6, paragraph (a), must

17.1 be remitted to the Public Employees Retirement Association and credited to the individual  
17.2 account established for the participant

17.3 (b). ~~Ambulance service~~ Contributions as provided under section 353D.03,  
17.4 subdivision 3, and subdivision 6, paragraph (b), must be remitted on a regular basis to the  
17.5 association together with any member contributions paid or withheld. Those contributions  
17.6 must be credited to the individual account of each participating member.

17.7 **EFFECTIVE DATE.** This section is effective July 1, 2010.

17.8 Sec. 13. Minnesota Statutes 2008, section 353D.04, subdivision 2, is amended to read:

17.9 Subd. 2. **Authority to adopt policies correcting erroneous contributions.** The  
17.10 executive director may adopt policies and procedures regarding deductions taken totally  
17.11 or partially in error by the employer from the salary of an elected official.

17.12 **EFFECTIVE DATE.** This section is effective July 1, 2010.

17.13 Sec. 14. Minnesota Statutes 2009 Supplement, section 353F.02, subdivision 4, is  
17.14 amended to read:

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

17.16 (1) Bridges Medical Services;

17.17 (2) the City of Cannon Falls Hospital;

17.18 (3) the Chris Jenson Health and Rehabilitation Center in St. Louis County;

17.19 (4) Clearwater County Memorial Hospital doing business as Clearwater Health  
17.20 Services in Bagley;

17.21 ~~(4)~~ (5) the Dassel Lakeside Community Home;

17.22 (6) the Douglas County Hospital, with respect to the Mental Health Unit;

17.23 ~~(5)~~ (7) the Fair Oaks Lodge, Wadena;

17.24 ~~(6)~~ (8) the Glencoe Area Health Center;

17.25 ~~(7)~~ (9) Hutchinson Area Health Care;

17.26 ~~(8)~~ (10) the Lakefield Nursing Home;

17.27 ~~(9)~~ (11) the Lakeview Nursing Home in Gaylord;

17.28 ~~(10)~~ (12) the Luverne Public Hospital;

17.29 ~~(11)~~ (13) the Oakland Park Nursing Home;

17.30 ~~(12)~~ (14) the RenVilla Nursing Home;

17.31 ~~(13)~~ (15) the Rice Memorial Hospital in Willmar, with respect to the Department  
17.32 of Radiology and the Department of Radiation/Oncology;

17.33 ~~(14)~~ (16) the St. Peter Community Health Care Center;

- 18.1 ~~(15)~~ (17) the Waconia-Ridgeview Medical Center;
- 18.2 ~~(16)~~ (18) the Weiner Memorial Medical Center, Inc.; ~~and~~
- 18.3 (19) the Wheaton Community Hospital; and
- 18.4 ~~(17)~~ (20) the Worthington Regional Hospital.

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

18.6 Sec. 15. Minnesota Statutes 2008, section 353F.025, subdivision 1, is amended to read:

18.7 Subdivision 1. **Eligibility determination.** (a) The chief clerical officer of a  
 18.8 governmental subdivision may submit a resolution from the governing body to the  
 18.9 executive director of the Public Employees Retirement Association which supports  
 18.10 providing coverage under this chapter for employees of that governmental subdivision  
 18.11 who are privatized, and which states that the governing body will pay for actuarial  
 18.12 calculations, as further specified in paragraph (c).

18.13 (b) The governing body must also provide a copy of any applicable purchase or  
 18.14 lease agreement and any other information requested by the executive director to allow the  
 18.15 executive director to verify that under the proposed employer change, the new employer  
 18.16 does not qualify as a governmental subdivision under section 353.01, subdivision 6,  
 18.17 making the employees ineligible for continued coverage as active members of the general  
 18.18 employees retirement plan of the Public Employees Retirement Association.

18.19 (c) Following receipt of a resolution and a determination by the executive director  
 18.20 that the new employer is not a governmental subdivision, the executive director shall  
 18.21 direct the consulting actuary retained under section 356.214 to determine whether the  
 18.22 general employees retirement plan of the Public Employees Retirement Association, if  
 18.23 coverage under this chapter is provided, is expected to receive a net gain or a net loss if  
 18.24 privatization occurs, by determining whether. A net gain is expected if the actuarial  
 18.25 liability of the special benefit coverage provided under this chapter, if extended to the  
 18.26 applicable employees under the privatization, is less than the actuarial gain otherwise to  
 18.27 accrue to the plan. A net loss is expected if the actuarial accrued liability of the special  
 18.28 benefit coverage provided under this chapter, if extended to the applicable employees  
 18.29 under the privatization, is more than the actuarial gain otherwise to accrue to the plan. The  
 18.30 date of the actuarial calculations used to make this determination must be within one year  
 18.31 of the effective date, as defined in section 353F.02, subdivision 3.

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

18.33 Sec. 16. Minnesota Statutes 2008, section 353F.025, subdivision 2, is amended to read:

19.1 Subd. 2. **Recommendation to legislature.** (a) If the actuarial calculations under  
19.2 subdivision 1, paragraph (c), indicate that a net gain to the general employees retirement  
19.3 plan of the Public Employees Retirement Association is expected due to the privatization,  
19.4 or if paragraph (c) applies, the executive director shall forward a recommendation and  
19.5 supporting documentation to the chair of the Legislative Commission on Pensions and  
19.6 Retirement, the chair of the Governmental Operations, Reform, Technology and Elections  
19.7 Committee of the house of representatives, the chair of the State and Local Government  
19.8 Operations and Oversight Committee of the senate, and the executive director of the  
19.9 Legislative Commission on Pensions and Retirement. The recommendation must be in  
19.10 the form of an addition to the definition of "medical facility" under section 353F.02,  
19.11 subdivision 4, or to "other public employing unit" under section 353F.02, subdivision 5,  
19.12 whichever is applicable. The recommendation must be forwarded to the legislature before  
19.13 January 15 for the recommendation to be considered in that year's legislative session. The  
19.14 recommendation may be included as part of public pension administrative legislation  
19.15 under section 356B.05.

19.16 (b) If a medical facility or other public employing unit listed under section 353F.02,  
19.17 subdivision 4 or 5, fails to privatize within one year of the final enactment date of the  
19.18 legislation adding the entity to the applicable definition, its inclusion under this chapter  
19.19 is voided, and the executive director shall include in the proposed legislation under  
19.20 paragraph (a) a recommendation that the applicable entity be stricken from the definition.

19.21 (c) If the calculations under subdivision 1, paragraph (c), indicate a net loss, the  
19.22 executive director shall forward a recommendation that the privatization be included as an  
19.23 addition under paragraph (a) if the chief clerical officer of the applicable governmental  
19.24 subdivision submits a resolution from the governing body specifying that a lump sum  
19.25 payment will be made to the executive director equal to the net loss, plus interest. The  
19.26 interest must be computed using the preretirement interest rate assumption under section  
19.27 356.215, expressed as a monthly rate, from the date of the actuarial valuation from which  
19.28 the actuarial accrued liability data was used to determine the net loss in the actuarial study  
19.29 under subdivision 1, to the date of payment, with annual compounding. Payment must be  
19.30 made on or after the effective date under section 353F.02.

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

19.32 Sec. 17. Minnesota Statutes 2008, section 356.96, subdivision 2, is amended to read:

19.33 Subd. 2. **Right to review.** A determination made by the ~~administration chief~~  
19.34 administrative officer of a covered pension plan regarding a person's eligibility, benefits,

20.1 or other rights under the plan with which the person does not agree is subject to review  
20.2 under this section.

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

20.4 Sec. 18. Minnesota Statutes 2008, section 356.96, subdivision 3, is amended to read:

20.5 Subd. 3. **Notice of determination.** If the applicable chief administrative officer  
20.6 denies an application or a written request, modifies a benefit, or terminates a benefit  
20.7 of a person claiming a right or potential rights under a covered pension plan, the chief  
20.8 administrative officer shall notify that person through a written notice containing:

20.9 (1) a statement of the reasons for the determination;

20.10 (2) a notice that the person may petition the governing board of the covered pension  
20.11 plan for a review of the determination and that a person's petition for review must be filed  
20.12 in the administrative office of the covered pension plan within 60 days of the receipt  
20.13 of the written notice of the determination;

20.14 (3) a statement indicating that a failure to petition for review within 60 days  
20.15 precludes the person from contesting in any other administrative review or court procedure  
20.16 the issues determined by the chief administrative officer; and

20.17 (4) a statement indicating that all relevant materials, documents, affidavits, and other  
20.18 records that the person wishes to be reviewed in support of the petition must be filed with  
20.19 and received in the administrative office of the covered pension plan at least ~~30~~ 15 days  
20.20 before the date of the hearing under subdivision 10; and.

20.21 ~~(5) a copy of this section.~~

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

20.23 Sec. 19. Minnesota Statutes 2009 Supplement, section 356.96, subdivision 5, is  
20.24 amended to read:

20.25 Subd. 5. **Petition for review.** (a) A person who claims a right under subdivision 2  
20.26 may petition for a review of that decision by the governing board of the covered pension  
20.27 plan.

20.28 (b) A petition under this section must be sent to the chief administrative officer by  
20.29 mail and must be postmarked no later than 60 days after the person received the notice  
20.30 required by subdivision 3. The petition must include the person's statement of the reason  
20.31 or reasons that the person believes the decision of the chief administrative officer should  
20.32 be reversed or modified. The petition may include all documentation and written materials  
20.33 that the petitioner deems to be relevant. In developing a record for review by the board

21.1 when a decision is appealed, the ~~executive director~~ chief administrative officer may direct  
 21.2 that the applicant participate in a fact-finding session conducted by an administrative law  
 21.3 judge assigned by the Office of Administrative Hearings and, as applicable, participate in  
 21.4 a vocational assessment conducted by a qualified rehabilitation counselor on contract with  
 21.5 the applicable retirement system.

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

21.7 Sec. 20. Minnesota Statutes 2008, section 356.96, subdivision 7, is amended to read:

21.8 Subd. 7. **Notice of hearing.** (a) After receiving a petition, ~~and not less than 30~~  
 21.9 ~~calendar days from the date of the next regular board meeting,~~ the chief administrative  
 21.10 officer must schedule a timely review of the petition before the governing board of the  
 21.11 covered pension plan. The review must be scheduled to take into consideration any  
 21.12 necessary accommodations to allow the petitioner to participate in the governing board's  
 21.13 review.

21.14 (b) Not less than ~~15~~ 30 calendar days before the scheduled hearing date, the chief  
 21.15 administrative officer must provide by mail to the petitioner an acknowledgment of the  
 21.16 receipt of the person's petition and a follow-up notice of the time and place of the meeting  
 21.17 at which the governing board is scheduled to consider the petition and must provide a copy  
 21.18 of all relevant documents, evidence, summaries, and recommendations assembled by or  
 21.19 on behalf of the plan administration to be considered by the governing board.

21.20 (c) ~~Except as provided in subdivision 8, paragraph (e),~~ All documents and materials  
 21.21 that the petitioner wishes to be part of the record for review must be filed with the chief  
 21.22 administrative officer and must be received in the offices of the covered pension plan  
 21.23 at least ~~30~~ 15 days before the date of the meeting at which the petition is scheduled to  
 21.24 be heard.

21.25 (d) A petitioner, may request a continuance of a scheduled hearing if the request  
 21.26 is received by the chief administrative officer within ten calendar days of the scheduled  
 21.27 date of the applicable board meeting; ~~may request a continuance on a scheduled petition.~~  
 21.28 The chief administrative officer must reschedule the review within ~~60 days of the date~~  
 21.29 ~~of the continuance request~~ a reasonable time. Only one continuance may be granted to  
 21.30 any petitioner.

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

21.32 Sec. 21. Minnesota Statutes 2008, section 356.96, subdivision 8, is amended to read:

22.1 Subd. 8. **Record for review.** (a) All evidence, including all records, documents, and  
 22.2 affidavits in the possession of the covered pension plan of which the covered pension plan  
 22.3 desires to avail itself and be considered by the governing board, and all evidence which the  
 22.4 petitioner wishes to present to the governing board, including any evidence which would  
 22.5 otherwise be classified by law as "private," must be made part of the hearing record.

22.6 (b) ~~Not later than~~ The chief administrative officer must provide a copy of the record  
 22.7 to each member of the governing board at least seven days before the scheduled hearing  
 22.8 ~~date, the chief administrative officer must provide a copy of the record to each member~~  
 22.9 ~~of the governing board.~~

22.10 (c) ~~At least five days before the hearing, the petitioner may submit to the chief~~  
 22.11 ~~administrative officer, for submission to the governing board;~~ Any additional document,  
 22.12 affidavit, or other relevant information that ~~was not initially submitted with the petition~~  
 22.13 the petitioner requests be part of the record may be admitted with the consent of the  
 22.14 governing board.

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

22.16 Sec. 22. Laws 2009, chapter 169, article 4, section 49, is amended to read:

22.17 Sec. 49. **CITY OF DULUTH AND DULUTH AIRPORT AUTHORITY AND**  
 22.18 **CITY OF VIRGINIA; CORRECTING ERRONEOUS EMPLOYEE DEDUCTIONS,**  
 22.19 **EMPLOYER CONTRIBUTIONS AND ADJUSTING OVERPAID BENEFITS.**

22.20 Subdivision 1. **Application.** Notwithstanding any provisions of Minnesota Statutes,  
 22.21 section 353.27, subdivisions 7 and 7b, or Minnesota Statutes 2008, chapters 353 and  
 22.22 356, to the contrary, this section establishes the procedures by which the executive  
 22.23 director of the Public Employees Retirement Association shall adjust erroneous employee  
 22.24 deductions and employer contributions paid on behalf of active employees and former  
 22.25 members by the city of Duluth ~~and~~, by the Duluth Airport Authority, and by the city  
 22.26 of Virginia on amounts determined by the executive director to be invalid salary under  
 22.27 Minnesota Statutes, section 353.01, subdivision 10, reported between January 1, 1997,  
 22.28 and October 23, 2008, and for adjusting benefits that were paid to former members and  
 22.29 their beneficiaries based upon invalid salary amounts.

22.30 Subd. 2. **Refunds of employee deductions.** (a) The executive director shall refund  
 22.31 to active employees or former members who are not receiving retirement annuities or  
 22.32 benefits all erroneous employee deductions identified by the city of Duluth ~~or~~, by the  
 22.33 Duluth Airport Authority, or by the city of Virginia as deductions taken from amounts  
 22.34 determined to be invalid salary. The refunds must include interest at the rate specified in



23.1 Minnesota Statutes, section 353.34, subdivision 2, from the date each invalid employee  
23.2 deduction was received through the date each refund is paid.

23.3 (b) The refund payment for active employees must be sent to the ~~applicable~~  
23.4 ~~governmental subdivision which must pay the refunded employee deductions plus interest~~  
23.5 ~~to the active~~ home addresses of the members who are employees of the city of Duluth  
23.6 ~~or,~~ who are employees of the Duluth Airport Authority, or who are employees of the city  
23.7 of Virginia, as applicable.

23.8 (c) Refunds to former members must be mailed by the executive director of the  
23.9 Public Employees Retirement Association to the former member's last known address.

23.10 Subd. 3. **Benefit adjustments.** (a) For a former member who is receiving a  
23.11 retirement annuity or disability benefit, or for a person receiving an optional annuity or  
23.12 survivor benefit, the executive director must:

23.13 (1) adjust the annuity or benefit payment to the correct monthly benefit amount  
23.14 payable by reducing the average salary under Minnesota Statutes, section 353.01,  
23.15 subdivision 17a, by the invalid salary amounts;

23.16 (2) determine the amount of the overpaid benefits paid from the effective date of  
23.17 the annuity or benefit payment to the first of the month in which the monthly benefit  
23.18 amount is corrected;

23.19 (3) calculate the amount of employee deductions taken in error on invalid salary,  
23.20 including interest at the rate specified in Minnesota Statutes, section 353.34, subdivision 2,  
23.21 from the date each invalid employee deduction was received through the date the annuity  
23.22 or benefit is adjusted as provided under clause (1); and

23.23 (4) determine the net amount of overpaid benefits by reducing the amount of the  
23.24 overpaid annuity or benefit as determined in clause (2) by the amount of the erroneous  
23.25 employee deductions with interest determined in clause (3).

23.26 (b) If a former member's erroneous employee deductions plus interest determined  
23.27 under this section exceeds the amount of the person's overpaid benefits, the balance must  
23.28 be refunded to the person to whom the annuity or benefit is being paid.

23.29 (c) The executive director shall recover the net amount of all overpaid annuities or  
23.30 benefits as provided under subdivision 4.

23.31 Subd. 4. **Employer credits and obligations.** (a) The executive director shall  
23.32 provide a credit without interest to the city of Duluth ~~and,~~ to the Duluth Airport Authority,  
23.33 and to the city of Virginia, as applicable, for the amount of that governmental subdivision's  
23.34 erroneous employer contributions. The credit must first be used to offset the net amount of  
23.35 the overpaid retirement annuities and the disability and survivor benefits that remains after  
23.36 applying the amount of erroneous employee deductions with interest as provided under

24.1 subdivision 3, paragraph (a), clause (4). The remaining erroneous employer contributions,  
 24.2 if any, must be credited against future employer contributions required to be paid by  
 24.3 the applicable governmental subdivision. If the overpaid benefits exceed the employer  
 24.4 contribution credit, the balance of the overpaid benefits is the obligation of the city of  
 24.5 Duluth ~~or~~, the Duluth Airport Authority, or the city of Virginia, whichever is applicable.

24.6 (b) The Public Employees Retirement Association board of trustees shall determine  
 24.7 the period of time and manner for the collection of overpaid retirement annuities and  
 24.8 benefits, if any, from the city of Duluth ~~and~~, the Duluth Airport Authority, and the city of  
 24.9 Virginia.

24.10 **EFFECTIVE DATE.** (a) This section is effective for the city of Duluth the day after  
 24.11 the Duluth city council and the chief clerical officer of the city of Duluth timely complete  
 24.12 their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for  
 24.13 members who are, and former members who were, employees of the city of Duluth.

24.14 (b) This section is effective for the Duluth Airport Authority the day after the Duluth  
 24.15 Airport Authority and the chief clerical officer of the Duluth Airport Authority timely  
 24.16 complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2  
 24.17 and 3, for members who are, and former members who were, employees of the Duluth  
 24.18 Airport Authority.

24.19 (c) This section is effective for the city of Virginia the day after the Virginia  
 24.20 city council and the chief clerical officer of the city of Virginia timely complete their  
 24.21 compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, for members  
 24.22 who are, and former members who were, employees of the city of Virginia.

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

24.24 Sec. 23. Laws 2009, chapter 169, article 5, section 2, the effective date, is amended to  
 24.25 read:

24.26 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 24.27 and expires on June 30, ~~2011~~ 2014. Individuals must not be appointed to a postretirement  
 24.28 option position after that date.

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

24.30 Sec. 24. **REPEALER.**

24.31 (a) Minnesota Statutes 2008, sections 353.46, subdivision 1a; and 353D.03,  
 24.32 subdivision 2, are repealed.

25.1 (b) Minnesota Statutes 2008, section 353D.12, is repealed effective July 1, 2011.

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

**353.46 SAVINGS CLAUSES.**

Subd. 1a. **Purchase of allowable service; annuity.** A person who purchased allowable service in the Public Employees Retirement Association for a period of time including June 30, 1957, but was not in fact a member of the association on June 30, 1957, shall not be entitled to receive retirement annuity computed under Minnesota Statutes 1971, section 353.46, subdivision 1. This section shall have retroactive application to any such person receiving or found eligible by the district court to receive benefits calculated under Minnesota Statutes 1971, section 353.46, subdivision 1.

**353D.03 FUNDING OF PLAN.**

Subd. 2. **Physician contribution.** An eligible physician who elects to participate in the plan shall contribute an amount equal to five percent of salary as defined in section 353.01, subdivision 10. The employer shall contribute a matching amount.

**353D.12 CONTRIBUTIONS FOR PRIOR ELECTED SERVICE.**

Subdivision 1. **Eligibility; contributions.** An elected local government official who participates in the defined contribution plan under this chapter may make contributions to the plan for the service as an elected public officer rendered before June 30, 1991, that was not covered by a public or private employer contributory pension plan, including a plan administered by the public employees retirement association under chapter 353. An elected local government official may make contributions for prior elected service to the defined contribution plan even if eligibility criteria for the defined benefit plan under chapter 353 were not met at the time service was rendered. The association shall not accept contributions for prior elected service from a former elected official after the end of the tax year in which the elected official ceases to hold office. Employer contributions on behalf of the former elected official must be made to the association no later than 30 days after April 15 following the end of the tax year under section 415 of the federal Internal Revenue Code, as amended. Employee contributions must be made to the association no later than 30 days after the close of the limitation year under section 415 of the federal Internal Revenue Code, as amended.

Subd. 2. **Amount of prior service contributions.** (a) The employee purchase amount is that amount that the participating elected local government official specifies, but combined with subdivision 6 may not exceed in total the amount of the employee and employer contributions that would have been payable under section 353.27, subdivisions 2, 3, and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service and based on the rates in effect during the prior service, plus interest at an annual compound rate of six percent.

(b) In any year, the purchase amount to be paid in is subject to the limitation for defined contribution plans under section 415(c) of the federal Internal Revenue Code, as amended, or comparable contribution limitation set forth in the federal Internal Revenue Code, and applicable regulations and revenue rulings, remaining after subtracting the funding amounts under section 353D.03, paragraph (a), for that year.

Subd. 3. **Installment payments.** The purchase amount may be made in annual installments but may not exceed, combined with subdivision 6, in any installment the limitation set forth in subdivision 2, paragraph (a), or in total the limitation set forth in subdivision 2, paragraph (a).

Subd. 4. **Authorized rollovers.** To the extent allowed by federal law, the employee purchase amount may be made with funds distributed from: (1) a plan qualified under section 401(a) of the federal Internal Revenue Code, as amended; (2) an annuity qualified under section 403(a) of the federal Internal Revenue Code, as amended; (3) an individual retirement account used solely to receive a nontaxable rollover from that type of plan or annuity; (4) the state deferred compensation plan authorized under section 352.965 and qualified under section 457 of the federal Internal Revenue Code, as amended; or (5) another tax qualified plan or annuity that authorizes rollovers. The participating elected local government official shall supply sufficient written documentation that the transfer amounts are eligible for tax-free rollover treatment. An authorized tax-free rollover, plus any other purchase amount payments under this section, including subdivision 6, may not exceed the limitation in subdivision 2, paragraph (a). Notwithstanding any provision of state law or rule to the contrary, to the extent permitted under federal law, the employee purchase amount may be transferred from the state deferred compensation plan before the employee terminates public employment.

APPENDIX

Repealed Minnesota Statutes: LCPR10-008

Subd. 5. **Prior service and compensation documentation.** The participating elected local government official shall supply sufficient documentation of the person's prior uncredited service and compensation for which the purchase payment is made.

Subd. 6. **Employing unit payment.** The employing unit of the participating elected local government official shall pay the amount of the employer contributions that could have been payable under section 353.27, subdivisions 3 and 3a, based on the actual salary or compensation of the elected local government official from public sources during the prior service, plus interest at an annual compound rate of six percent. This amount combined with any employee purchase amount and any contributions under section 353D.03, paragraph (a), must in any year comply with the limitation set forth in subdivision 2, paragraph (a).