



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Susan Lenczewski, Executive Director
RE: LCPR16-002: TRA; 2016 Administrative Bill
DATE: February 2, 2016
ATTACHMENT: LCPR16-002

Summary of the 2016 TRA Administrative Bill

In bill draft LCPR16-002, the Teachers Retirement Association (TRA) is proposing a number of changes to statutory provisions governing the TRA plan and to statutory provisions governing all the pension plans. The changes that impact only TRA amend Chapter 354 and the changes that impact all the pension plans amend Chapter 356. One change to Minn. Stat. § 423A.02, Subd. 3, simply removes an obsolete reference to the Duluth Teachers Retirement Fund. The changes bring statutory language into conformity with actual practice, clarify language that is ambiguous or confusing and repeal provisions that are no longer needed. Commission staff worked closely with TRA staff to make the resulting statutory language as clear and concise as possible.

1. Section 1: Coverage of Charter School Directors (Minn. Stat. § 354.05, Subd. 2). This section clarifies language regarding coverage of charter school directors and incorporates explicit language intended to end any uncertainty over whether they are covered by TRA or PERA. TRA has covered charter school directors since April 2010; however, not every charter school has complied by reporting the school's director to TRA and making the required contributions. Other changes in this subdivision delete obsolete references to the Duluth school district (ISD No. 709) and to Minnesota State Colleges and Universities System (MnSCU).
2. Section 2: Definition of "Former Spouse" (Minn. Stat. § 354.05). This section adds a new definition of "former spouse" as subdivision 17a. This is part of the clarification of death benefit provisions described in items 7 and 8, below.
3. Sections 3: Criteria for Appointing an Executive Director (Minn. Stat. § 354.06, Subd. 2). This section revises the criteria for appointing an executive director, which is a function of the TRA Board of Trustees.
4. Section 4: Authorization for Deputy Executive Director (Minn. Stat. § 354.06, Subd. 2a). This section inserts language authorizing the executive director to appoint a deputy executive director, subject to board approval.
5. Section 5: Extension of Medical Leave and Denial of Disability Applications in Certain Circumstances (Minn. Stat. § 354.095). This section makes two changes:
 - First, it extends the permitted medical leave period from one to five years. We understand that TRA believes this change is necessary because it will assist teachers approaching retirement age who need to take leave for medical reasons, but who wish to be considered active for the period

of the leave. A member is entitled to receive service credit for each fiscal year of the leave upon payment of both the employee and employer contributions.

- Second, this section adds language that addresses a common scenario that arises when a teacher is on extended leave and wishes to receive benefits under a long-term disability insurance (LTD) policy offered through the school district and for which the teacher has been paying premiums. Most, if not all, of these policies require the teacher to apply for TRA disability benefits as a condition of eligibility to receive disability payments under the LTD policy. In many cases, the member does not wish to commence disability benefits from TRA. The new language requires the executive director to reject an application for TRA disability benefits if the sole reason the member is applying for such benefits is because the LTD policy requires the application.
6. Section 6: Change in Crediting Service (Minn. Stat. § 354.44, Subd. 9). This section makes a conforming change to reflect the current method of counting service, which is based on portions of a year, not days.
 7. Section 7: Payments upon the Death of a Former Spouse (Minn. Stat. § 354.45). This section adds new subdivision 3 that provides that, upon the death of a former spouse who was receiving a 15-year certain annuity or other guaranteed stream of payments, the remaining payments will be made to the former spouse's designated beneficiary or, if there is none, then to the former spouse's estate. "Former spouse" is the member's former spouse as a result of the dissolution of the marriage and a definition to that effect is being added to Minn. Stat. § 354.05 as noted in 2, above. This new provision is intended to address problems that have arisen over the years when TRA was forced, due to other Minnesota law, to make the remaining payments to the former spouse's estate. This can be administratively burdensome for TRA and the estate's beneficiaries, who may have to keep the estate open for many years in order to continue receiving the payments.
 8. Section 8: Payment Pursuant to a Designation of Multiple Beneficiaries (Minn. Stat. § 354.46, Subd. 6). This section clarifies that where there are multiple beneficiaries designated by a member, each beneficiary has the right to apply for the annuity separate from the others and TRA will not hold up payment pending receipt of applications from the other beneficiaries.
 9. Section 9: Eligibility for Disability Benefits (Minn. Stat. § 354.48, Subd. 1). This section clarifies that a member is not entitled to disability benefits if he or she has reached normal retirement age and removes the outdated minimum salary requirement.
 10. Section 10: Remittance of Contributions (Minn. Stat. § 354.52, Subd. 4). This section removes language that required TRA to wait sixty days after notifying a school district or charter school that it is delinquent in remitting required contributions, at which point TRA will contact Minnesota Management and Budget to have the delinquent amounts deducted from any state aid or appropriation amount payable to the school district or charter school. This change will allow TRA to collect delinquent payments more quickly when a school district or charter school is delinquent.
 11. Section 11: Data Reporting to TRA (Minn. Stat. § 354.52, Subd. 6). Employing units are required to report certain member data and other information to TRA by specified due dates. If the employing unit fails to provide the required information by the due date, the employing unit must pay TRA a fine of \$5 per day until the information is provided. This section eliminates the fine with respect to the requirement that beginning and ending dates for the school work year be provided to TRA on or

before June 30 of each fiscal year. We understand that TRA no longer needs this information and not all employers have established school calendars by the June 30 due date.

12. Sections 12 through 15: Annual Limits Imposed by the Federal Tax Code (Minn. Stat. § 356.635, Subd. 9a, 10, 11, 12). These sections make changes that will apply to all public pension plans. Public pension and retirement plans are subject to only a subset of the many limits and other requirements imposed by the federal Internal Revenue Code on tax-qualified defined benefit and defined contribution plans. The applicable limits include the following:

- An annual limit on the compensation that may be taken into account in computing a contribution to a defined contribution plan or in calculating a pension benefit (Code § 401(a)(17));
- An annual limit on the amount that may be contributed to a member's account in a defined contribution plan (Code § 415(c)); and
- An annual limit on the pension benefit that can be paid to a benefit recipient (Code § 415(b)).

Minnesota Statutes § 356.611 is entitled "Limitation on Public Employee Salaries for Pension Purposes" and subdivision 2 sets forth the annual compensation limit. In addition, this section also sets forth an incomplete description of the annual limits on contributions and benefits under Code § 415(b) and (c). Minnesota Statutes § 356.615 is entitled "Internal Revenue Code Compliance" and sets forth several other Code requirements, including the direct rollover and required minimum distribution requirements. In addition, this section also sets forth the annual limit on pension benefits, which duplicates and supplements the requirement set forth in section 356.611, subdivisions 3, 3a, 4 and 5.

In connection with the proposed addition of a new federal tax-related subdivision added as Sec. 16 of the bill, TRA and its attorney, working with Commission staff, is proposing to revise and restate the annual limits imposed by Internal Revenue Code § 415(b) and (c) as subdivisions 9a, 10, 11, and 12 in Minn. Stat. § 356.635, and by repealing the subdivisions on the same topic in Minn. Stat. § 356.611. Accordingly, the new subdivisions restate these Code requirements as follows:

- New Subd. 9a: Adds definitions relevant to the annual limits on contributions and benefits.
- Subd. 10: Sets forth the annual limit on pension benefits and provides for the adjustment of any benefit payable in a form other than a single life annuity to a single life annuity.
- Subd. 11: Sets forth the annual limit on annual additions to a member's account in a defined contribution plan.
- Subd. 12: Incorporates by reference Internal Revenue Code § 415(b) and (c), since the details of these Code sections are not included in the new subdivisions. There are details that will apply to commencement of benefits prior to normal retirement age, benefits payable to police and firefighters and disability and survivor benefits and provide some relief from the annual benefit limits. This is one of the few areas in the Tax Code governing pension plans that is permitted to be incorporated by reference and must be incorporated, unless all the applicable details are included elsewhere in the statutes.

13. Section 16: Correction of Plan Errors (Minn. Stat. § 356.635). The Internal Revenue Service has established a program called the "Employee Plans Compliance Resolution System" whereby a qualified retirement plan that has an error in operation or documentation is permitted to correct that error without risking having the plan be considered no longer tax-qualified, should the plan be

audited by the IRS. It is not uncommon for a qualified retirement plan, including the State's pension plans, to have operational and document errors. This section adds new subdivision 13 that explicitly incorporates the IRS' correction program and authorizes the executive director of a plan to take corrective action, including making distributions, recouping overpayments from members who receive overpayments or identifying sources of funds from which an overpayment might be reimbursed.

14. Section 17: State Aid Allocation (Minn. Stat. § 423A.02, Subd. 3). This section removes an obsolete reference to the Duluth Teachers Retirement Fund, which was merged into TRA.
15. Section 18: Repeal of Annual Limits Moved to Minn. Stat. § 356.636 (Minn. Stat. § 356.611, Subd. 3, 3a, 4, 5). This section repeals the subdivisions that have been incorporated into the new subdivisions added to Minn. Stat. § 356.635, as subdivisions 9a, 10, 11, and 12, which appear in the bill as Sections 12 through 15.

Staff Recommendation

Staff recommends approval of the TRA administrative bill.