



H.F. 2130
(Peterson, A.)

S.F. 1779
(Kubly)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Proposed special law
General Nature of Proposal: Permit disability application after three-year filing deadline
Date of Summary: March 27, 2007

Specific Proposed Changes

- Permit individual to apply for PERA-General disability after the three-year deadline for filing.

Policy Issues Raised by the Proposed Legislation

1. Cost to PERA-General.
2. Equitable considerations.
3. Past practice; the Commission has permitted waivers of deadline if circumstances are unique and compelling.

Potential Amendments

H2130-1A would revise the PERA-General disability application provision to allow application within four years of termination of service, rather than three years, and applies retroactively to apply to this specific individual



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: H.F. 2130 (Peterson, A.); S.F. 1779 (Kubly): PERA-General; Late Disability Benefit Application by Former Benson School District Employee

DATE: March 26, 2007

Summary of H.F. 2130 (Peterson, A.); S.F. 1779 (Kubly)

H.F. 2130 (Peterson, A.); S.F. 1779 (Kubly) would permit a former member of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) who was born on February 1, 1956, who terminated from active PERA membership when he terminated employment with Independent School District No. 777, Benson, on July 31, 2003, to apply for a PERA-General disability benefit notwithstanding the requirement in law that the individual apply within three years of termination.

Public Pension Problem of Richard Lindstrom

Richard Lindstrom became a PERA-General member on December 18, 1994, when he became employed by the city of Benson. He worked for the city until January 31, 1996. On October 1, 1996, Mr. Lindstrom was employed by Independent School District No. 777, Benson, with PERA coverage, and he remained in that employment until he terminated employment on July 31, 2003. In both cases, his primary employment was as a bus driver, although he also provided some service at a city ice rink. In December 2003, PERA sent him a statement that if he was disabled he had until three years after the termination to apply for PERA disability benefits. He eventually did contact PERA, but after the permitted time limit.

Mr. Lindstrom has indicated that he has a variety of health problems which he attributes to being a long-term smoker, to granite dust exposure (to which he was exposed while working for the railroad prior to his PERA-covered employment), and to diesel fumes (to which he was exposed while working on the railroad and as a PERA-covered school bus driver). Mr. Lindstrom has been declared disabled by the Railroad Retirement Board and by the Social Security Administration, and is receiving a benefit or has a settlement from those organizations. Mr. Lindstrom indicated that PERA did give him notice regarding the time limits to apply for PERA disability benefits, and that his failure to take action by the required deadline was his responsibility. Given that Mr. Lindstrom was covered by PERA for a relatively short time and with a limited salary, his PERA disability benefit, if he were to be permitted to apply and did qualify, would be modest, slightly over \$100 per month.

Background Information on Application Time Limits for Disability Benefits

Minnesota general employee retirement plans and Minnesota major statewide public safety and quasi-public safety retirement plans differ in any time limit that may be applicable for filing an application for a disability benefit. The following compares the applicable statutory provisions:

A. General Employee Retirement Plans

1. General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). Disability benefit application required to be filed within 180 days of the termination of state employment (Minnesota Statutes, Section 352.113, Subdivision 4, Paragraph (e)).
2. General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General). Disability benefit application required to be filed within three years of the termination of public employment (Minnesota Statutes, Section 353.33, Subdivision 2).
3. Teachers Retirement Association (TRA). Disability benefit application required to be filed within 180 days of the termination of teaching service (Minnesota Statutes, Section 354.48, Subdivision 2).
4. First Class City Teacher Retirement Fund Associations. No limitation on disability benefit applications (Minnesota Statutes, Section 354A.36).
5. Minneapolis Employees Retirement Fund (MERF). No limitation on disability benefit applications (Minnesota Statutes, Section 422A.18).

B. Public Safety Employee and Quasi-Public Safety Employee Retirement Plans.

1. MSRS Correctional State Employees Retirement Plan (MSRS-Correctional). No limitation on disability benefit application, but application is not permitted before State employment ends (Minnesota Statutes, Section 352.95, Subdivision 3).
2. State Patrol Retirement Plan. No limitation on disability benefit application (Minnesota Statutes, 352B.101).
3. Public Employees Police and Fire Retirement Plan (PERA-P&F). Disability benefit applications required to be filed within two years of the disability if the disability standard is the regular duties of a police officer or firefighter or within three years of the disability, with the disability standard set at the duties of the most recent police or fire department employment position (Minnesota Statutes, Section 353.656, Subdivision 8, Paragraphs (b) and (c)).
4. PERA Local Government Correctional Employees Retirement Plan (PERA-Correctional). Disability benefit application required to be filed within three years of the termination of public employment (Minnesota Statutes, Section 353E.06, Subdivision 4).

Background Information on PERA-General Disability

The General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) is a general employee plan, and its disability provision, which specifies standards, application procedures, and benefit amounts, is Minnesota Statutes, Section 353.33. General employee plans use a total and permanent disability standard, meaning that to be considered eligible for disability benefits under the plan the individual must be unable to perform any gainful employment, for a minimum period of at least one year, due to a medically determined physical or mental impairment. The individual must apply for PERA-General disability on forms provided by the association, must provide a report signed by a licensed physician, psychologist, or chiropractor to substantiate the disability claim, and must further authorize the release of any additional medical reports or documentation requested by PERA's Executive Director. The application could be made while the individual remains on sick leave or vacation, but the disability benefit would not be effective and could not commence while the individual is receiving salary or comparable compensation from the employer.

In PERA-General, individuals are permitted to make a disability benefit application up to three years after termination of covered service. This is considerably longer than in the similar Minnesota State Retirement System General Plan (MSRS-General) or in the statewide Teachers Retirement Association (TRA), which have a 180-day limit, but is shorter than the first class city teacher plans, which have no specified time limit.

PERA, like all the Minnesota public plans, provides disability benefits for total and permanent disability resulting from injury or illness that occurred while the individual is or was a plan active member. Therefore, an individual applying for PERA-General disability benefits would need to provide credible medical documentation that the disabling injury or disease occurred while the individual was a PERA active member. This becomes increasingly difficult as the time period between the end of PERA-covered employment and the application date lengthens. A medical professional may certify that the individual is now totally and permanently disabled, but that professional, and PERA and its medical advisor, may be unable to adequately substantiate that the individual met that standard several years previously, while the individual was an active PERA member, or that significant pre-existing conditions were evident at that earlier time period.

The PERA-General disability benefit is computed like a retirement annuity but without any reduction due to receipt prior to normal retirement age. If an individual's high-five average salary was \$20,000, and the individual had ten years of PERA-General-covered employment, the benefit would be \$3,400 per year. This is obtained by multiplying the high-five average salary (the average salary in the five consecutive years that provide the highest-average) times that accrual rate per year (which in PERA-General would be 1.7 percent per year) times the length of covered service. Rather than select an annuity covering only the life of the PERA member, the individual is permitted to elect an optional annuity, a joint-and-survivor annuity, which is often used to cover the life of the surviving spouse in addition to that of the primary annuitant. This would require a reduction in the monthly annuity amount, in recognition that the benefit may continue for a longer period than if the annuity is solely to cover the life of the disabled or retired PERA member. PERA-General disability recipients are subject to periodic medical review to determine whether the individual continues to meet PERA's disability standards. Benefits terminate if the individual is no longer considered to be disabled.

Discussion and Analysis

H.F. 2130 (Peterson, A.); S.F. 1779 (Kubly) would permit a certain former PERA-General plan member born on February 1, 1956, to apply for a PERA-General disability benefit notwithstanding the requirement in law that the individual apply within three years of termination.

The proposed legislation raises several pension and related public policy issues for Commission consideration and discussion, as follows:

- 1. Conformity with Applicable Commission Policy Principle. The legislation would provide a deadline extension to apply for disability benefits. The policy issue is the conformity of the draft proposed legislation with any applicable pension policy principle established by the Legislative Commission on Pensions and Retirement. The applicable pension policy principle is Principle 2.c.11., covering deadline extensions and waivers. The principle provides:

11. Deadline Extensions and Waivers

Deadline extensions or waivers should be permitted only if, on a case-by-case basis, it is determined that there is a sufficient equitable basis for the extension or waiver, the extension or waiver does not involve broader applicability than the pension plan members making the request, and that the extension or waiver is unlikely to constitute an inappropriate precedent for the future.

Deadline extensions or waivers are legislatively authorized waivers of time requirements relating to public pension coverage or public pension benefits. The various Minnesota public pension plans have numerous deadlines for exercising coverage options, making payments in lieu of member contribution deductions, repaying refunds, or applying for benefits. Like any administrative deadline, due to unfortunate occurrences, procrastination, or neglect a deadline may be missed and the remedy of a deadline extension or waiver sought. In the Commission policy principle, the Commission has emphasized both individual and group equities, in requiring that the extension be meritorious without overriding adverse individual considerations, that any broader application to individuals with comparable equitable considerations be gauged, and that no adverse future precedent will be created.

Deadlines exist in public pension plan provisions to provide closure in applications, payments, and elections, and to avoid the same "adverse election" or "election against the fund" phenomenon that occurs with purchases of prior service. Deadlines also function for administrative considerations and convenience, to keep paperwork moving smoothly. Grants of deadline extensions to individuals are comparatively rare, unlike purchases of prior service. Deadline extensions and waivers can allow an individual pension plan member to control circumstances, departing from generally applicable averages, and potentially increasing the actuarial accrued liability of the pension plan involved.

- 2. Cost. The issue is the cost to PERA-General. If the person is allowed to file for a PERA-General disability benefit, and if PERA finds that he does meet the standards necessary to receive a disability benefit, then paying this benefit will add to PERA-General liability. Presumably, PERA will be able to provide the Commission with that cost information. Since PERA-General currently has significant unfunded liability, any additional liability placed on this fund will increase that unfunded liability.
- 3. PERA-General Actuarial Condition. The issue is PERA-General's actuarial condition and the plan's ability to take on additional liability. The table below presents the plan's actuarial condition as of June 30, 2006, the date of the most recent actuarial report. PERA currently has over \$4.2 billion in unfunded liability and a contribution deficiency of 1.14 percent of payroll. The Legislature has recently taken steps to address PERA-General's actuarial condition through mandated contribution increases that will phase in over the next few years.

PERA-General 2006	
<u>Membership</u>	
Active Members	144,244
Service Retirees	50,320
Disabilitants	1,940
Survivors	6,818
Deferred Retirees	37,476
Nonvested Former Members	105,590
Total Membership	346,388
<u>Funded Status</u>	
Accrued Liability	\$16,737,756,758
Current Assets	\$12,495,207,148
Unfunded Accrued Liability	\$4,242,549,610
Funding Ratio	74.65%

PERA-General 2006		
<u>Financing Requirements</u>		
Covered Payroll		\$4,703,895,104
Benefits Payable		\$748,390,506
Normal Cost	7.78%	\$366,059,040
Administrative Expenses	0.20%	\$9,407,790
Normal Cost & Expense	7.98%	\$375,466,830
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Amortization	4.92%	\$231,431,639
Total Requirements	12.90%	\$606,898,469
Employee Contributions	5.63%	\$264,931,649
Employer Contributions	6.13%	\$288,515,428
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	0.00%	\$0
Total Contributions	11.76%	\$553,447,077
Total Requirements	12.90%	\$606,898,469
Total Contributions	11.76%	\$553,447,077
Deficiency (Surplus)	1.14%	\$53,451,392

4. Equitable Considerations. The policy issue is the existence of any equitable considerations that would favor or disfavor the deadline extension. The primary equitable consideration against the draft proposed legislation is that the individual acknowledges receiving a timely notice from PERA about deadlines for applying for disability, but he failed to act within the permitted timeframe. Equity arguments that favor permitting the deadline extension could be established through testimony.
5. Appropriate Approach: Special Legislation or General Legislation. The policy issue is whether or not Mr. Lindstrom's problem is unique to him, or is broader, requiring either amending the special legislation draft or using a general law approach.
6. Precedent. The policy issue is whether or not any precedent exists for the draft legislation and whether the draft legislation, if enacted, would constitute a precedent for further special legislation. There has been prior special legislation permitting late disability benefit applications. When the Commission has recommended provisions of this type to pass, there has been some justification which the Commission found compelling to justify the deadline waiver. The provisions are as follows:
 - Laws 2000, Chapter 461, Article 19, Section 1, permitted a former State Department of Economic Security employee who was disabled in 1994 to file a late disability benefit application with the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). Testimony in connection with the 2000 special legislation indicated that the state employee involved was misinformed about his disability benefit entitlement until he was employed part-time by the Minnesota Council on Disability.
 - Laws 2002, Chapter 392, Article 14, Section 9, permitted a former Blooming Prairie police officer who was injured while conducting traffic management at a highway accident site in 1997 to file a late disability benefit application with the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) or with the Public Employees Police and Fire Retirement Plan (PERA-P&F). Testimony in connection with the 2002 special legislation indicated that the failure of the Blooming Prairie employee to file a timely disability benefit application was due to depression and post-traumatic stress disorder resulting from the accident causing the disability.
 - Laws 2005, First Special Session, Chapter 1, Article 2, Section 159, permitted an individual, who was a Department of Natural Resources photo lab supervisor who terminated that employment in 1998, to apply for an MSRS-General disability benefit, notwithstanding the 180 day time limit in MSRS law. The provision did specifically require that the individual provide satisfactory proof that the individual became disabled while a state employee. This provision was never heard by the Commission, but was added to an Agriculture, Environment, and Natural Resources bill.
 - 1995 Session H.F. 688; S.F. 643. This bill would have permitted a teacher who was employed as a welding instructor at the Detroit Lakes vocational-technical institute before terminating in 1991, to apply for TRA disability benefits, notwithstanding the 180 days following terminating deadline in TRA law. The Commission heard this disability deadline extension request but took no action.

Potential Amendment H2130-1A: General Law Revision

Amendment H2130-1A is a delete-all amendment which would provide a general law change, revising PERA's disability eligibility provision, Section 353.33, Subdivision 2, to permit individuals to make application for PERA-General up to four years after termination, rather than three years, with language permitting retroactive application to include Mr. Lindstrom. If the Commission felt some length other than four years is appropriate, the time period could be revised by a simple verbal or written amendment. The Commission occasionally recommends revision of general law to address a problem brought to its attention by a plan participant, and includes restricted retroactive application of that revised provision to address the pension problem of that individual.

Amendment H2130-1A would raise many of the policy issues discussed previously in addition to potential added cost and risk to the plan if this leads to more disability benefit approvals. The Commission would need to be convinced that it is appropriate to further extend the deadline for filing a PERA disability benefit application from three years to four years. An additional impact of this change is that it would further widen the gap between what is permitted under PERA compared to MSRS and TRA. The Commission and Legislature have generally tried to keep those plans as comparable as possible. The issue of the permitted period of time to file a disability application following termination is one current area where these plans are not uniform.

A deadline for filing a disability claim, like that found in PERA, MSRS, or TRA, is intended to provide an acceptable window of opportunity to file a disability claim. Since a general plan disablitant must meet a total and permanent standard, that he or she is unable to provide gainful employment due to physical or mental injury or illness, it is presumed that the need for income would lead individuals who are truly disabled to file for disability quickly. A time limit also sets a dividing line between those situations where it is presumed to be practical for pension plan administrators to determine that any disabling injury or illness occurred while the individual was an active plan member, and those situations where it is not practical to make that determination due to the passage of time since the individual terminated.

The Minneapolis Employees Retirement Fund (MERF) and the first class city teacher plans apparently have no deadline for disability benefit application filing. Those plans would be improved if a deadline were enacted. Revising MERF law to keep it reasonably consistent with other plans has not been a legislative priority. The primary reason is that MERF was closed to new members in 1978 and is expected in the next several years to lose its remaining active membership to retirement. Regarding the first class city teacher plans, the Legislature consolidated one of the first class city teacher plans, the Minneapolis Teachers Retirement Fund Association (MTRFA), into TRA in 2006. One or both of the two remaining first class city teacher plans may follow in a few more years.

353.33 TOTAL AND PERMANENT DISABILITY BENEFITS.

Subdivision 1. **Age, service, and salary requirements.** A coordinated member who has at least three years of allowable service and becomes totally and permanently disabled before normal retirement age, and a basic member who has at least three years of allowable service and who becomes totally and permanently disabled is entitled to a disability benefit in an amount determined under subdivision 3. If the disabled person's public service has terminated at any time, at least two of the required three years of allowable service must have been rendered after last becoming an active member. A repayment of a refund must be made within six months after the effective date of disability benefits under subdivision 2 or within six months after the date of the filing of the disability application, whichever is later. No purchase of prior service and no payment made in lieu of salary deductions otherwise authorized under section 353.01, subdivision 16, may be made after the occurrence of the disability for which an application under this section is filed.

Subd. 2. **Applications; accrual of benefits.** Every claim or demand for a total and permanent disability benefit must be initiated by written application in the manner and form prescribed by the executive director showing compliance with the statutory conditions qualifying the applicant for a total and permanent disability benefit and filed with the executive director. A member or former member who became totally and permanently disabled during a period of membership shall file application for total and permanent disability benefits within three years next following termination of public service. This benefit begins to accrue the day following the commencement of disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid for more than the 90-day period, from the date salary ceased, whichever is later. No member is entitled to receive a disability benefit payment when there remains to the member's credit any unused annual leave or sick leave or under any other circumstances when, during the period of disability, there has been no impairment of the person's salary. Payment must not accrue beyond the end of the month in which entitlement has terminated. If the disabled member dies prior to negotiating the check for the month in which death occurs, payment is made to the surviving spouse, or if none, to the designated beneficiary, or if none, to the estate. An applicant for total and permanent disability benefits may file a retirement annuity application under section 353.29, subdivision 4, simultaneously with an application for total and permanent disability benefits. The retirement annuity application is void upon the determination of the entitlement for disability benefits by the executive director. If disability benefits are denied, the retirement annuity application must be initiated and processed.

Subd. 3. **Computation of benefits.** This disability benefit is an amount equal to the normal annuity payable to a member who has reached normal retirement age with the same number of years of allowable service and the same average salary, as provided in section 353.01, subdivision 17a, and section 353.29, subdivision 3.

A basic member shall receive a supplementary monthly benefit of \$25 to age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later.

If the disability benefits under this subdivision exceed the average salary as defined in section 353.01, subdivision 17a, the disability benefits must be reduced to an amount equal to the average salary.

Subd. 3b. **Optional annuity election.** A disabled member may elect to receive the normal disability benefit or an optional annuity under section 353.30, subdivision 3. The election of an optional annuity must be made prior to the commencement of payment of the disability benefit. The optional annuity must begin to accrue on the same date as provided for the disability benefit.

(1) If a person who is not the spouse of a member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under sections 353.31, subdivision 1, and 353.32, subdivision 1a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent children, if any, continue to be eligible for survivor benefits under section 353.31, subdivision 1, including the minimum benefit in section 353.31, subdivision 1a. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefits; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.31, subdivision 1a. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

Subd. 4. **Procedure to determine eligibility.** (a) The applicant shall provide an expert report signed by a licensed physician, psychologist, or chiropractor and the applicant must authorize the release of medical and health care evidence, including all medical records and relevant information from any source, to support the application for total and permanent disability benefits.

(b) The medical adviser shall verify the medical evidence and, if necessary for disability determination, suggest the referral of the applicant to specialized medical consultants.

(c) The association shall also obtain from the employer a certification of the member's past public service, the dates of any paid sick leave and vacation beyond the last working day and whether or not any sick leave or annual leave has been allowed.

(d) If, upon consideration of the medical evidence received and the recommendations of the medical adviser, it is determined by the executive director that the applicant is totally and permanently disabled within the meaning of the law, the association shall grant the person a disability benefit.

(e) An employee who is placed on leave of absence without compensation because of a disability is not barred from receiving a disability benefit.

Subd. 5. **Benefits paid under workers' compensation law.** Disability benefits paid shall be coordinated with any amounts received or receivable under workers' compensation law, such as temporary total, permanent total, temporary partial, permanent partial, or economic recovery compensation benefits, in either periodic or lump sum payments from the employer under applicable workers' compensation laws, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant. If the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater, the disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

Subd. 6. **Continuing eligibility for benefits.** The association shall determine eligibility for continuation of disability benefits and require periodic examinations and evaluations of disabled members as frequently as deemed necessary. The association shall require the disabled member to provide an expert report signed by a licensed physician, psychologist, or chiropractor and the disabled member shall authorize the release of medical and health care evidence, including all medical and health care records and information from any source, relating to an application for continuation of disability benefits. Disability benefits are contingent upon a disabled person's participation in a vocational rehabilitation evaluation if the executive director determines that the disabled person may be able to return to a gainful occupation. If a member is found to be no longer totally and permanently disabled, payments must cease the first of the month following the expiration of a 30-day period after the member receives a certified letter notifying the member that payments will cease.

Subd. 6a. **Medical adviser.** The executive director may contract with licensed physicians or physicians on the staff of the state commissioner of health, as designated by the commissioner, to be the medical adviser of the association.

Subd. 6b. **Duties of the medical adviser.** At the request of the executive director, the medical adviser shall designate licensed physicians, psychologists, or chiropractors to examine applicants for disability benefits and review the expert reports based upon these examinations to determine whether an applicant is totally and permanently disabled as defined in section 353.01, subdivision 19, disabled as defined in section 353.656, or eligible for continuation of disability benefits under subdivision 6. The medical examiner shall also review, at the request of the executive director, all medical and health care statements on behalf of an applicant for disability benefits, and shall report in writing to the executive director the conclusions and recommendations of the examiner on those matters referred for advice.

retirement age. If an optional annuity is elected, the election is effective on the date on which the person attains normal retirement age and the optional annuity begins to accrue on the first day of the month next following the month in which the person attains that age.

Subd. 12. **Basic disability survivor benefits.** If a basic member who is receiving a disability benefit under subdivision 3:

(1) dies before attaining age 65 or within five years of the effective date of the disability, whichever is later, the surviving spouse is entitled to receive a survivor benefit under section 353.31, unless the surviving spouse elected to receive a refund under section 353.32, subdivision 1;

(2) is living at age 65 or five years after the effective date of the disability, whichever is later, the basic member may continue to receive a normal disability benefit, or elect a joint and survivor optional annuity under section 353.31, subdivision 1b. The election of the joint and survivor optional annuity must occur within 90 days of attaining age 65 or of reaching the five-year anniversary of the effective date of the disability benefit, whichever is later. The optional annuity takes effect on the first day of the month following the month in which the person attains age 65 or reaches the five-year anniversary of the effective date of the disability benefit, whichever is later; or

(3) if there is a dependent child or children under clause (1) or (2), the dependent child is entitled to a dependent child benefit under section 353.31, subdivision 1b, paragraph (b).

Laws 2002, Ch. 392, Art. 14, Sec. 9

Sec. 9. [PERA-P&F; EXCEPTION TO DISABILITY APPLICATION DEADLINE.]

(a) Notwithstanding any provision of Minnesota Statutes, section 353.33, subdivision 2, to the contrary, an eligible person described in paragraph (b) is entitled to file a disability benefit application with the general employees retirement plan of the public employees retirement association or with the public employees police and fire retirement plan and, if otherwise qualified, to receive a disability benefit from one or both of those retirement plans.

(b) An eligible person is a person who:

(1) was born on February 8, 1970;

(2) was an employee of the city of Bagley from May 1, 1991, to May 31, 1992, and was covered by the coordinated program of the general employees retirement plan of the public employees retirement system;

(3) was employed as a police officer by the police department of the city of Blooming Prairie from January 9, 1995, to May 31, 1997, and was covered by the public employees police and fire retirement plan;

(4) was struck by a motor vehicle while assisting with traffic management at an accident site on interstate highway 35 in January 1997 resulting in various broken bones and other injuries, necessitating at least eight surgeries;

(5) was placed on medical leave by the city of Blooming Prairie on September 1, 1997, until January 1, 1998, upon termination of employment; and

(6) failed to timely apply for disability benefits due to the injuries which were diagnosed to have caused significant depression and posttraumatic stress disorder.

(c) This section expires one year after the date of final enactment.

Laws 2005, 1st Special Session, Ch. 1, Art. 2, Sec. 159

Sec. 159. [APPLICATION FOR DISABILITY BENEFITS.]

Subdivision 1. [ELIGIBLE PERSON.] For purposes of this section, an eligible person is a person who was employed by the Minnesota Department of Natural Resources as a photo lab supervisor beginning in April 1977 and ending in June 1998.

Subd. 2. [APPLICATION PROCEDURE.] Notwithstanding any contrary provision in Minnesota Statutes, section 352.113, or any other law, an eligible person may file an application for disability benefits from the Minnesota State Retirement System within 60 days of the effective date of this section. Upon filing of the application, the director must act on the application as if it had been filed within 180 days of termination of the person's employment with the Department of Natural Resources. The director may approve the disability benefit only if the eligible person establishes that the person became disabled while still a state employee. If the director approves the disability benefit, the benefit begins to accrue on the date it is approved.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

H.F. No. 688, as introduced - 79th Legislative Session (1995-1996) Posted on Aug 14, 1998

- 1.1 A bill for an act
1.2 relating to retirement; directing payment of
1.3 disability benefits to a certain disabled member of
1.4 the teachers retirement association.
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
1.6 Section 1. [TEACHER'S DISABILITY BENEFIT.]
1.7 Notwithstanding the 18-month limitation on applications for
1.8 total and permanent disability benefits contained in Minnesota
1.9 Statutes, section 354.48, subdivision 2, a member of the
1.10 teachers retirement association who was employed as a welding
1.11 instructor at the Detroit Lakes area vocational-technical
1.12 institute until May 31, 1991, and who is otherwise qualified for
1.13 total and permanent disability benefits, shall be paid benefits
1.14 in the amount provided by law commencing on the effective date
1.15 of this section.
1.16 Sec. 2. [EFFECTIVE DATE.]
1.17 Section 1 is effective the day following final enactment.

ARTICLE 19
VARIOUS INDIVIDUAL AND SMALL GROUP
PENSION PROVISIONS

Section 1. [MSRS-GENERAL; LATE DISABILITY BENEFIT
APPLICATION AUTHORIZED.]

(a) Notwithstanding any provision of Minnesota Statutes, section 352.113, subdivision 4, to the contrary, a person described in paragraph (b) is authorized to apply for a disability benefit from the general state employees retirement plan of the Minnesota state retirement system under Minnesota Statutes, section 352.113.

(b) An eligible person is a person who:

(1) was born on October 3, 1952;

(2) was employed by the department of economic security from August 1978 to December 1994;

(3) is disabled within the meaning of Minnesota Statutes, section 352.01, subdivision 17;

(4) began receiving social security disability insurance benefits in January 1995; and

(5) began part-time employment in January 1998 and continues in that employment with the Minnesota state council on disability.

(c) The eligible person under paragraph (b) must provide, in conjunction with the disability application, any relevant evidence that the executive director of the Minnesota state retirement system requires about the existence of a total and permanent disability as defined in Minnesota Statutes, section 352.01, subdivision 17, and about the date on which the disability occurred and its relationship to the termination of active service in December 1994.

(d) If the eligible person files a disability benefit application and if the eligible person provides sufficient evidence of disability and the occurrence of the disability under paragraph (c), the disability benefit becomes payable for the first month next following the application and applicable evidence. The disability benefit must be calculated under the laws in effect at the time that the eligible person terminated active service in December 1994. The disability benefit must include any applicable deferred annuities augmentation under Minnesota Statutes, section 352.72, subdivision 2.

(e) Nothing in this section may be deemed to exempt the eligible person from the partial reemployment of a disabilitant provision described in Minnesota Statutes, section 352.113, subdivision 7.

SF 643
LangsethState of Minnesota
HOUSE OF REPRESENTATIVESSEVENTY-NINTH
SESSION

HOUSE FILE No. 688

February 16, 1995

Authored by Dauner

Read First Time and Referred to the Committee on GOVERNMENTAL OPERATIONS

1 A bill for an act

2 relating to retirement; directing payment of
3 disability benefits to a certain disabled member of
4 the teachers retirement association.

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

6 Section 1. [TEACHER'S DISABILITY BENEFIT.]

7 Notwithstanding the 18-month limitation on applications for
8 total and permanent disability benefits contained in Minnesota
9 Statutes, section 354.48, subdivision 2, a member of the
10 teachers retirement association who was employed as a welding
11 instructor at the Detroit Lakes area vocational-technical
12 institute until May 31, 1991, and who is otherwise qualified for
13 total and permanent disability benefits, shall be paid benefits
14 in the amount provided by law commencing on the effective date
15 of this section.

16 Sec. 2. [EFFECTIVE DATE.]

17 Section 1 is effective the day following final enactment.

1.1 moves to amend H.F. No. 2130; S.F. No. 1779, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2006, section 353.33, subdivision 2, is amended to read:

1.4 Subd. 2. **Applications; accrual of benefits.** Every claim ~~or demand~~ for a total
1.5 and permanent disability benefit must be initiated by written application in the manner
1.6 and form prescribed by the executive director, showing compliance with the statutory
1.7 conditions qualifying the applicant for a total and permanent disability benefit, and must
1.8 be filed with the executive director. A member or former member who became totally
1.9 and permanently disabled during a period of membership shall file application for total
1.10 and permanent disability benefits within ~~three~~ four years ~~next following~~ after termination
1.11 of public service. This benefit begins to accrue the day following the commencement of
1.12 disability, 90 days preceding the filing of the application, or, if annual or sick leave is paid
1.13 for more than the 90-day period, from the date salary ceased, whichever is later. No
1.14 member is entitled to receive a disability benefit payment when there remains to the
1.15 member's credit any unused annual leave or sick leave or under any other circumstances
1.16 when, during the period of disability, there has been no impairment of the person's
1.17 salary. Payment must not accrue beyond the end of the month in which entitlement has
1.18 terminated. If the disabilitant dies prior to negotiating the check for the month in which
1.19 death occurs, payment is made to the surviving spouse, or if none, to the designated
1.20 beneficiary, or if none, to the estate. An applicant for total and permanent disability
1.21 benefits may file a retirement annuity application under section 353.29, subdivision 4,
1.22 simultaneously with an application for total and permanent disability benefits. The
1.23 retirement annuity application is void upon the determination of the entitlement for
1.24 disability benefits by the executive director. If disability benefits are denied, the retirement
1.25 annuity application must be initiated and processed.

2.1 **EFFECTIVE DATE.** (a) This section is effective the day after final enactment and
2.2 applies prospectively except as specified in paragraph (b).

2.3 (b) This section is retroactive to July 31, 2003, for a person who:

2.4 (1) was born on February 1, 1956;

2.5 (2) became a Public Employees Retirement Association general plan member on
2.6 December 18, 1994, while employed by the city of Benson from that date until January
2.7 31, 1996;

2.8 (3) was employed by Independent School District No. 777, Benson, with Public
2.9 Employees Retirement Association general plan coverage, from October 1, 1996 until
2.10 July 31, 2003;

2.11 (4) is disabled within the meaning of Minnesota Statutes, section 353.01, subdivision
2.12 19; and

2.13 (5) failed to apply for disability benefits under Minnesota Statutes, section 353.33, in
2.14 a timely manner following termination of covered employment."

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **2130**

March 14, 2007

Authored by Peterson, A.

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

A bill for an act

relating to retirement; Public Employees Retirement Association general plan;
authorizing a late application for disability benefits for a former employee.

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

Section 1. **PERA-GENERAL; LATE DISABILITY BENEFIT APPLICATION**

AUTHORIZED.

(a) Notwithstanding any provision of Minnesota Statutes, section 353.33, subdivision 2, to the contrary, a person described in paragraph (b) is authorized to apply for a disability benefit from the general employees retirement plan of the Public Employees Retirement Association under Minnesota Statutes, section 353.33.

(b) An eligible person is a person who:

(1) was born on February 1, 1956;

(2) became a Public Employees Retirement Association general plan member on December 18, 1994, until January 31, 1996, while employed by the city of Benson;

(3) was employed by Independent School District No. 777, Benson, with Public Employees Retirement Association general plan coverage, from October 1, 1996, until July 31, 2003;

(4) is disabled within the meaning of Minnesota Statutes, section 353.01, subdivision 19; and

(5) failed to apply for disability benefits under Minnesota Statutes, section 353.33, within the three-year time period permitted in that statute following termination of covered employment.

(c) The eligible person under paragraph (b) must provide, in conjunction with the disability application, any relevant evidence that the executive director of the Public

2.1 Employees Retirement Association requires about the existence of a total and permanent
2.2 disability as defined in Minnesota Statutes, section 353.01, subdivision 19, and about the
2.3 date on which the disability occurred and its relationship to the termination of active
2.4 service in July 2003.

2.5 (d) If the eligible person files a disability benefit application and if the eligible
2.6 person provides sufficient evidence of disability and the occurrence of the disability under
2.7 paragraph (c), to qualify for a disability benefit under Minnesota Statutes, section 353.33,
2.8 the disability benefit becomes payable on the first day of the first month next following the
2.9 approval of the application. The disability benefit must be calculated under the laws in
2.10 effect at the time the eligible person terminated active service in July 2003. The disability
2.11 benefit must include any applicable deferred annuities augmentation under Minnesota
2.12 Statutes, section 353.71, subdivision 2.

2.13 (e) Nothing in this section may be deemed to exempt the eligible person from the
2.14 partial reemployment of a disabilitant provision under Minnesota Statutes, section 353.33,
2.15 subdivision 7, or from the trial work period provision under Minnesota Statutes, section
2.16 353.33, subdivision 7a.

2.17 **EFFECTIVE DATE.** (a) This section is effective the day following final enactment.

2.18 (b) This section expires, if not utilized, on December 31, 2007.