



**TO:** Members of the Legislative Commission on Pensions and Retirement  
**FROM:** Susan Lenczewski, Executive Director  
**RE:** HFxxxx (Hornstein/Thissen); SFxxxx (Revisor #16-6647): MSRS; Fairview Privatized Employees' Pension Upon Return to Public Service  
**DATE:** March 21, 2016

**Summary of HFxxxx (Hornstein/Thissen); SFxxxx (Revisor #16-6647)**

The bill amends an exception to the enhanced augmentation benefit provided to Fairview employees under Minn. Stat. § 352F.04. Chapter 352F applies only to the group of Minnesota State Retirement System (MSRS) members whose employment was transferred from University of Minnesota Hospital and Clinic (“University Hospital”) to Fairview Hospital and Healthcare Services (“Fairview”) in 1996 when the assets and employees were spun-out of the University of Minnesota system and merged into Fairview. (These employees are referred to as “Fairview employees” in this memo).

Under Minn. Stat. § 352F.04, subdivision 2, a Fairview employee receives enhanced augmentation only until either of two situations arise: (i) the Fairview employee returns to service covered by one of the public pension plans, or (ii) the Fairview employee begins to receive an annuity from MSRS while still employed at Fairview. The bill transfers the first exception to new subdivision 3 and revises the benefit so that, when a Fairview employee returns to public service, he or she will continue to receive enhanced augmentation, with a modification: the Fairview employee will receive the greatest of three benefits, one of which is the MSRS annuity plus enhanced augmentation reduced by the value of the benefit earned after returning to public service.

**Note:** This draft bill is NOT the same draft bill heard at the Commission meeting on February 24, 2016. That bill, numbered LCPR16-016, amended enhanced augmentation by reducing it from 5.5% and 7.5% to 2%, in addition to making the same changes addressed in this draft bill Revisor #16-6647.

**Section-by-Section Explanation of HFxxxx (Hornstein/Thissen); SFxxxx (Revisor #16-6647)**

HFxxxx (Hornstein/Thissen); SFxxxx (Revisor #16-6647) amends to makes the following changes to Minnesota Statutes § 352F.04:

1. Section 1 of the bill amends subdivision 2, which sets forth two exceptions to the enhanced augmentation rates, by deleting the exception that ends enhanced augmentation when a Fairview employee returns to employment in a position covered by any of the pension plans for public employees, including MSRS, the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA). Fairview employees who return to public employment are now addressed in new subdivision 3, which is set forth in Section 2 of the bill. This section is retroactively effective to July 1, 2015.

2. Section 2 of the bill adds new subdivision 3, which provides that when a Fairview employee returns to public employment, he or she will receive one of three alternative pensions, whichever produces the largest monthly benefit. The three alternatives are:

- (1) The annuity plus enhanced augmentation, which the Fairview employee would have received had he or she not returned to public employment, reduced dollar for dollar by the pension the Fairview employee earned after returning to public employment.
- (2) A combined service annuity under Minnesota Statutes § 356.30, which takes into account the pension calculated under each plan in which the employee participates, but calculates the benefit under each plan using the employee's highest average pay for five consecutive years.
- (3) An annuity calculated using the method for "coverage by more than one fund" as set forth in Minnesota Statutes § 352.72.

Paragraph (b) of new subdivision 3 makes the new subdivision effective to any Fairview employee who begins to receive an annuity on or after July 1, 2015.

3. Section 3 of the bill will not be codified as part of Minn. Stat. § 352F.04 since it addresses how a Fairview employee will be paid the additional amount due because of the retroactive change in the calculation of the benefit of a Fairview employee upon return to public service. This is anticipated to be needed only in the case of one particular Fairview employee who began receiving an MSRS benefit after July 1, 2015. Under Section 3, the Fairview employee's benefit will be recalculated under new subdivision 3 and (i) the Fairview employee will begin to receive the larger pension payment as of the first payment after the effective date of the bill and (ii) the sum of the additional monthly amounts she would have received under new subdivision 3 since commencing her annuity will be paid in a lump sum with the first payment after the effective date of the bill.

## **Background**

Currently, when a Fairview employee returns to employment covered by one of the state pension plans, augmentation at the enhanced rates ends and the rate of augmentation drops to the current rate for other MSRS employees, which is 2%. The proposed change is targeted at situations where a short period of public employment ends the enhanced augmentation and becomes a disincentive to return to public employment. In the case of a Fairview employee who returns for only a short period of public service, such as, for example, as a substitute teacher, ceasing to receive the substantial benefits of enhanced augmentation might be viewed as unnecessarily harsh and may be interfering with the ability of employers to recruit Fairview employees into short-term or temporary positions. Where the period of subsequent public employment is longer, the combined service annuity or coverage by more than one fund annuity will likely result in a larger benefit than the augmented benefit in any case.

For example, assume a member worked for University Hospital for 10 years until being transferred to Fairview in 1996. By the time of the transfer, she had earned an MSRS deferred retirement benefit. The member then worked at Fairview for 5 more years, before taking a job in 2002 as a substitute teacher for six months covered by TRA. Thereafter, the member continued the rest of her career in the private sector.

Under current law, this Fairview employee would not be eligible for the enhanced augmentation rates after 2002, because of the six months of substitute teaching. She would have 5 years of 5.5% augmentation followed by many years of 2% augmentation, simply because she returned for a short period of public employment that earned her a small additional pension. Under the proposed legislation, she would continue to receive the enhanced augmentation, but the benefit plus augmentation will be offset by the small TRA pension she earned for six months of teaching service.

### **Considerations**

1. “Greatest of” Approach is More Consistent with the Treatment of Other Employees Who Return to Public Service. When other MSRS members return to employment covered by MSRS, they have the option to receive a combined service annuity or a “coverage by more than one fund” annuity. The member will elect the annuity that produces the larger pension. The bill makes the treatment of returning Fairview employees consistent with the treatment of other returning MSRS members.
2. Bill Removes Disincentive to Returning to Public Service. Fairview employees will no longer lose the enhanced augmentation when the return to public service, which we understand has resulted in some Fairview employees avoiding a return to public service since 1996. Removing the disincentive is beneficial for both the Fairview employees and public employers looking to fill open positions.

### **Attachment**

- HFxxxx (Hornstein/Thissen); SFxxxx (Revisor #16-6647)