



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Susan Lenczewski, Executive Director
RE: S.F. xxxx; H.F. 1471 (O'Driscoll): PERA Administrative Bill
DATE: February 20, 2017

Introduction

S.F. xxxx; H.F. 1471 (O'Driscoll) makes administrative or technical changes to the statutes governing the Public Employees Retirement Association (PERA). The changes that impact only the PERA plans amend Chapters 353 and 353F, and the changes that impact all the pension plans amend Chapter 356. 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 PERA staff to make the resulting statutory language as clear and concise as possible.

All sections in the bill take effect on July 1, 2017.

Section-by-Section Summary

Section 1: Coverage for foreign citizens clarified (*Minn. Stat. §353.01, Subd. 2b*).

This section clarifies the description of foreign citizens who are covered by PERA General. The changes include (i) replacing the reference to monthly earnings with annual salary to be consistent with changes in 2013 to define coverage thresholds using annual salary rather than monthly earnings, (ii) revising the reference to "H-1b work visa" to the more generic "work visa" and (iii) clarifying when membership in PERA General begins if the employee's work permit or work visa extends beyond three years.

Section 2: Definition of salary during a leave of absence (*Minn. Stat. §353.01, Subd. 10*).

This section refines the definition of salary taken into account during a leave of absence to state that if an employer spreads out the salary paid to a member over a period of leave, that salary will be used for pension purposes only if it is paid at the full-time rate. While employers may wish to spread out pay for various purposes, such as to maximize the period of medical insurance coverage for the member, PERA does not believe it is appropriate to recognize that pay for purposes of pension service credit. Other language changes clarify how compensation will be determined for contribution purposes when a member is on a leave of absence and receiving workers' compensation.

Section 3: Type of service needed for vesting purposes (*Minn. Stat. §353.01, Subd. 47*).

This section inserts new language to clarify that a member receives service credit for vesting purposes under the PERA General Employees Retirement Plan for each year of service covered by the General Plan; under the Local Government Correctional Service Retirement

Plan for service covered by the Correctional Plan; and under the Public Employees Police and Fire Retirement Plan for service covered by the Police and Fire Plan. This is not a change in the requirement but conforms the statute to established practice.

Section 4: Use of electronic signatures do not require board of trustees' authorization (*Minn. Stat. §353.03, Subd. 3*).

Chapter 325L of the Minnesota Statutes gives legal effect to electronic records and signatures as if the record or signature were written. Specifically, Minn. Stat. § 325L.07 provides the authority for PERA to accept electronic signatures in lieu of written signatures and recognize electronic records as if they were written records. Because Minnesota law already provides this authority, it is not necessary for the board of trustees to authorize the use of electronic signatures, as implied by continuing to keep this as a board duty. Section 4 of the bill deletes from the list of board duties the duty to authorize procedures for use of electronic signatures.

Sections 5: Applications to start pension payments may be in writing or other format (*Minn. Stat. §353.29, Subd. 4*).

This section makes changes to the provision regarding the application for an annuity to delete references to the application and proof of identity needing to be in writing.

Section 6: Annuity starting date (*Minn. Stat. §353.29, Subd. 7*).

This section clarifies when a pension can begin, by using the term “annuity starting date,” and adding language allowing for a retroactive annuity starting date of up to six months prior to the application date, as long as that date is after the last day of employment or retirement. The reduces the period of retroactivity from the current 12 months to 6 months and aligns PERA with MSRS and TRA, which both allow for retroactive annuity starting dates of up to six months.

Section 7: Right to repay a refund of employee contributions (*Minn. Stat. §353.35, Subd. 1*).

This section revises Subdivision 1 to clarify language and add the limitation that a person has a one-time right to repay a refund.

Section 8: Requirements for reduction of a pension upon reemployment in a PERA covered position or for a labor organization (*Minn. Stat. §353.37, Subd. 1*).

A retiree who is receiving an annuity may go back to work, but the retiree’s annuity will be reduced if the retiree’s earnings reach a certain specified threshold. Under Section 353.37, if a member who is receiving a pension from PERA returns to employment in a position covered by PERA or goes to work for a labor organization that represents employees in PERA-covered employment, the member’s pension is reduced depending on the amount of compensation earned. The member can earn as much as the federal Social Security threshold for reemployment, which is \$16,920 for 2017, for employment prior to normal retirement age, before the retiree’s pension becomes subject to the reduction. The member’s pension is reduced by 50% of the amount of earnings in excess of the maximum (or threshold) amount.

Section 8 of the bill clarifies that the pension reduction occurs only for employment in a PERA-covered position or for a labor organization representing employees in PERA-covered employment in recognition of the fact that PERA is not able to monitor earnings by retirees who return to positions covered by MSRS, TRA, or St. Paul Teachers Retirement Fund Association.

Sections 9-15: Rights and benefits of privatized former public employees (*Minn. Stat. §§ 353F.02, Subd. 5a; 353F.04, Subd. 2; 353F.05; 353F.057; 353F.06; 353F.07; and new 353F.09*).

Chapter 353F governs the rights and benefits of members who are not currently public employees, but were public employees at the time their public employer was privatized (that is, spun-off to become a non-public employer or where the operations were sold to a non-public employer). Since the privatization, some non-public employers have again been sold or sold their operations to another private entity. Language in Chapter 353F would have continued enhanced benefits for these employees beyond their employment with the initial privatized employer, to employment with “successor employers.” These benefits are expensive and PERA believes the legislature did not intend that enhanced benefits for privatized employees would extend beyond employment with the initial privatized employer.

These sections of the bill revise Chapter 353F to delete references to “successor employers,” with the change prospectively effective for privatizations and sales of privatized entities after June 30, 2017. Section 15 adds a new Section 353F.09 that states that benefits for privatized employees end when the privatized entity or its operations are sold again to another employer.

Section 16: Right to receive a proportionate annuity from more than one plan (*Minn. Stat. §356.32, Subd. 2*).

If a member has accrued a benefit under more than one plan, Section 356.32 states that the member has the right to an annuity from each of the plans based on the proportion of service under each plan. The list of plans subject to this requirement inadvertently failed to include the local government correctional service retirement plan administered by PERA.

Section 16 of the bill adds the local government correctional service retirement plan to the list of plans subject to the proportionate annuity requirement.

Section 17: Right to receive payment of amounts withheld from pension payments due to reemployment (*Minn. Stat. §356.47, Subd. 3*).

Section 356.47 states that a retiree is entitled to receive payment of the amount of his or her pension that has been withheld because the retiree went back to work and had earnings in excess of the maximum or threshold (see Section 8, above). The payment will be made in a lump sum no earlier than one year after the reemployment ends, upon application by the retiree. The retiree may elect a direct rollover to an IRA or another retirement plan, in accordance with the requirements for direct rollovers under the federal Internal Revenue Code.

Under these federal requirements, whenever a qualified retirement plan pays a benefit in a lump sum, the recipient is entitled to elect a direct rollover of that payment, except in certain limited circumstances, such as when the retiree has reached age 70½. The description of these requirements in Section 356.47, Subdivision 3, Paragraph (d), did not accurately state the federal requirements and can be replaced with a reference to the provisions in Section 356.635 that describe these requirements.

Section 17 of the bill deletes the current description of the federal requirements and inserts in its place a reference to Section 356.635, Subdivisions 3 through 7, which sets forth the federal requirements governing direct rollovers.