



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Susan Lenczewski, Executive Director
RE: S.F. 746 (Rosen); H.F. 721 (Murphy, M.): TRA Administrative Bill
DATE: February 20, 2017

Introduction

S.F. 746 (Rosen); S.F. 721 (Murphy, M.) makes administrative or technical changes to the statutes governing the Teachers Retirement Association (TRA). The changes impact only TRA and amend Chapter 354. 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.

All sections in the bill take effect on July 1, 2017, except Sections 2 and 6, which take effect on July 1, 2018, and Section 5, which takes effect immediately upon enactment.

Section-by-Section Summary

Section 1: Definition of teacher (*Minn. Stat. §354.05, Subd. 2*).

Section 1 makes a number of changes to the definition of “teacher.” Subdivision 2, Paragraph (a), specifies the categories of persons who are considered teachers and, therefore, are subject to pension coverage under TRA. Section 1 of the bill makes the following changes to Paragraph (a):

- Deletes a reference to “Independent School District No. 709,” which is the Duluth school district. The reference is no longer necessary because the Duluth Teachers Retirement Association has been merged into TRA and Duluth teachers are treated like all other teachers in the state, except for teachers in the St. Paul school district. Independent School District No. 625, for St. Paul, continues to have its own pension fund;
- Adds a paragraph that refers to the Perpich Center for Arts Education, but excludes any Perpich Center employee who was covered by the Minnesota State Retirement System (MSRS) General State Employees Retirement Plan on July 1, 2016. A recent internal audit by TRA revealed that many of the administrative employees at the Perpich Center were covered by the MSRS General Plan, when they should have been covered by TRA. The statutes, however, were not entirely clear on coverage of these employees. It was determined that while TRA coverage is more appropriate for these employees, in order to minimize disruption and inconvenience, any employees covered by MSRS on July 1, 2016, would continue with that coverage. Accordingly, this change and a corresponding change in the administrative bill for MSRS clarify that employees of the Perpich Center covered by MSRS as of July 1, 2016, will continue to be covered by MSRS, but that all others will be covered by TRA; and

- Adds a paragraph that refers to charter school directors and chief administrative officers, stating that they are covered by TRA, except that any directors or chief administrative officers who are covered by the PERA general employees retirement plan on July 1, 2017, shall continue to be covered by that plan. This section is intended to end any uncertainty over whether these individuals are covered by TRA or PERA. TRA has covered charter school directors since April 2010; however, not every charter school has complied by reporting its director or chief administrative officer to TRA and making the required contributions. (This provision had been approved by the Pension Commission last session and included in the vetoed 2016 omnibus pension bill.)

Section 1 also makes changes to paragraph (b) of subdivision 2, which sets forth the categories of persons that are not considered teachers and, therefore, are not subject to pension coverage under TRA. Section 1 of the bill makes the following changes to paragraph (b):

- Deletes the exclusion from coverage for certain part-time employees and customized trainers employed by the Minnesota State Colleges and Universities system (MnSCU or, as updated recently, Minnesota State) from TRA coverage;
- Deletes the exclusion for persons exempt from licensure under section 122A.30. Section 122A.30 exempts a person who teaches in a part-time vocational or career and technical education program from the licensing requirement; and
- Deletes a reference to “Independent School District No. 709,” for Duluth, a clean-up change. See the first bullet on page 1.

Section 2: Time period for applying for pension benefits (*Minn. Stat. §354.44, Subd. 3*).

Under subdivision 3 of section 354.44, a member can apply to begin a pension no earlier than 120 days before the member’s termination of employment. Section 2 revises subdivision 3 by lengthening the application period from 120 days to 180 days prior to termination of employment.

Section 3: Optional forms of annuity and benefits payable in the event of a member’s death (*Minn. Stat. §354.45, New Subd. 3*).

Section 3 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 or as otherwise ordered by a court. “Former spouse” is defined as a member’s former spouse as a result of the dissolution of the marriage. New subdivision 3 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. (This provision had been approved by the Pension Commission last session and included in the vetoed 2016 omnibus pension bill, but because TRA wished to make additional changes to this subdivision, it is included for approval in this year’s TRA administrative bill.)

Section 4: Late payment of contributions to TRA by school districts (*Minn. Stat. §354.512*).

If a school district or other employer fails to transmit contributions to TRA, TRA can notify Minnesota Management and Budget, and MMB will deduct the unpaid amount from any state aid or appropriation due to the employer and transmit it to TRA. Section 354.512 requires TRA to wait 60 days after notifying the employer before contacting MMB. Section 4 deletes the 60-day waiting requirement, allowing TRA to receive payment for missed or late contributions more quickly.

Section 5: Requirement that school districts provide salary information to TRA (*Minn. Stat. §354.52, Subd. 4d*).

School districts and other employers are required to report certain information to TRA by specified due dates. If the employer fails to provide the required information by the due date, the employer must pay TRA a fine of \$5 per day until the information is provided. This section eliminates 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, because TRA no longer needs this information and not all employers have established school calendars by the June 30 due date.

Section 6: Requirements regarding calculating the automatic annual increase on pensions accrued by teachers who have left employment before retirement age (*Minn. Stat. §354.55, Subd. 11*).

Section 6 deletes a requirement regarding how to calculate the automatic 2% annual increase on a pension for a former teacher (referred to as “augmentation”) in the case where the teacher had more than one period of service. The language of the provision is incomprehensible so relies heavily on TRA staff to interpret and apply the provision. According to TRA, the language created a substantial amount of manual estimate work, increased the potential for error, and rarely resulted in a higher monthly retirement benefit for the member.

Section 7: TRA coverage of part-time teachers (*Minn. Stat. §354.66, Subd. 2*).

Part-time teachers are covered by TRA and are required to contribute as if they were full-time employees, subject to payment to TRA of employer contributions as if the teacher were full-time. Section 7 clarifies requirements in subdivision 2 of section 354.66 regarding the agreement that must be in place between the teacher and the school district with regard to the part-time employment. Section 7 also permits TRA to waive a fine that would otherwise be imposed for failure to deliver the agreement to TRA according to the due date in the statute.

Section 8: Purchase of service credit for leaves of absence and strike periods (*Minn. Stat. §354.72, Subd.1*).

Section 8 deletes language (“without pay”) that limits the application of the procedures in this section 354.72 to only leaves that are unpaid. The deletion will permit the procedures to be applied in the case of leaves that are paid, such as when a teacher takes a sabbatical leave.