

Legislative Commission on Pensions and Retirement

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TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Susan Lenczewski, Executive Director

DATE: March 5, 2018

SUBJECT: H.F. 3145 (Newberger): In-service withdrawals from the PERA Defined Contribution Plan

ATTACHMENT: "PERA Defined Contribution Plan" fact sheet published on the PERA website

The Public Employees Defined Contribution Plan (PERA DCP) is a defined contribution plan established and governed by Chapter 353D and administered by PERA. A defined contribution plan provides a retirement benefit that is equal to the amounts contributed to an account plus investment earnings, in contrast to a defined benefit plan (also known as a pension plan), which provides a retirement benefit that is based on a formula that takes into account years of service, final average pay, and age at benefit commencement. The size of the benefit in a defined contribution plan depends on how the investments perform, whereas the size of the benefit in a defined benefit plan has nothing to do with investment performance.

The PERA DCP covers categories of employees that are not covered by one of the PERA pension plans. Employees eligible to participate in the PERA DCP include elected local government officials, physicians employed by a public employer, emergency medical service personnel employed by a public ambulance service, city managers, and volunteer or on-call firefighters.

If an employee elects to participate, the election is irrevocable. Mandatory employee contributions are deducted from the employee's pay at the applicable contribution rate specified in Minnesota Statutes section 353D.03 and the employer is required to make a matching contribution. Contributions are deposited in an account in the employee's name and the employee directs the investment of the account in an array of mutual funds made available by the State Board of Investment.

Under Minnesota Statutes section 353D.07, a participant may receive a distribution of his or her account in the Plan upon leaving public employment, disability, or death. Distribution is made in the form of a lump sum, which may be paid directly to the participant or transferred to an insurance company for the purchase of an annuity. If an employee becomes permanently and totally disabled, the employee may elect to receive distribution of his or her account in the form of equal monthly installments.

An employee who has attained at least age 65 is seeking a distribution of funds in his account in the Plan. Since the statutes governing the Plan do not currently provide for distributions while still employed by a public employer, the statute needs to be amended to allow for distribution while employed.

After consultation with PERA, the DCP administrator, it was determined that there was no administrative or legal impediment to allowing distributions while employed, as long as the employee was at least age 65. A new distribution provision could allow an employee to take all or a portion of his or her account in the Plan, no more frequently than once each calendar year and in an amount that is no less than \$5,000.

H.F. 3145 (Newberger) amends Minnesota Statutes, Section 353D.07, to add this new distribution option, which is set forth as new subdivision 6.

In addition to adding this new distribution option, a number of clarifying changes are being made to this section. Clarifying changes include:

- adding language permitting a participant or surviving spouse to elect that a lump sum distribution be made in a direct rollover to an IRA or another retirement plan, as required by federal law;
- removing references to “retirement” that may be confusing since a distribution is permitted upon termination of employment at any age, making the concept of retirement irrelevant;
- replacing “withdrawal” with “distribution” since both are used in this statute, they have the same meaning, and using consistent terminology may avoid confusion; and
- removing the limit on the amount that may be distributed to a participant upon disability and allowing a disabled participant to elect a lump sum of his or her entire account and to defer taking a distribution to any date elected by the participant.

FACT SHEET

PERA Defined Contribution Plan

The Defined Contribution Plan (DCP) is a tax-qualified retirement savings program in which the member chooses how the employee and employer contributions are to be invested. This is done by designating a percentage of total contributions to be placed in one or more of seven accounts of the Minnesota Supplemental Investment Fund administered by the Minnesota State Board of Investment. Total contributions plus investment performance determine the ultimate benefit, which is paid as a lump sum upon withdrawal.

Employers must carefully determine the plan coverage for new employees and workers who move from one employment category to another because the PERA contribution rates, benefit payments, and Social Security withholding, may vary in each plan. As with decisions you make about overall PERA eligibility, members may appeal your selection of plan coverage. Minnesota Statutes contain detailed descriptions of the eligibility requirements for each of the retirement plans administered by PERA.

There are no minimum salary requirements for DCP membership (with one exception) and participation is optional on the part of the individual. However, the DCP is exclusively for elected local officials, physicians, city managers, and volunteer ambulance or rescue squad personnel as follows:

- **Elected Officials** – With the exception of a sheriff,* any person elected to a local governmental position by the public or appointed to fill a vacant elected position may join the DCP. It was established in 1990 and currently has over 4400 members. Elected officials may start and stop participation at any time during their tenure in office. If an official is re-elected to the same office without a break in service, DCP membership is continuous. If an elected position changes to a non-elected position, the DCP membership of the incumbent must be discontinued.

Officials who chose DCP coverage have the Social Security tax withheld from their salary if either of these applies:

NOTE: Medicare is withheld if elected after March 31, 1986.

- a. The elected official has met the membership requirements of the Coordinated Plan, even though he or she did not choose such coverage.

b. A modification to Minnesota’s Social Security Section 218 Agreement has been executed by PERA on behalf of your governmental subdivision and its elected officials. Effective June 2, 2006, any local subdivision may request a modification to Minnesota’s federal-state agreement to provide Social Security coverage to its DCP-covered elected official positions.

- **Physicians** – Physicians may join the DCP if they are employees of a government subdivision, not independent contractors. If the physician chooses not to join the DCP within the first 90 days of employment, the employer must then enroll the physician in the Coordinated Plan when annual earnings are expected to exceed \$5,100. Once a physician chooses to join the DCP, the decision is irrevocable. This plan now covers about 30 physicians.

DCP-covered physicians pay Social Security unless their annual wage never exceed \$5,100. Medicare is withheld if employment began after March 31, 1986.

- **City Managers/Administrators** – Laws effective in 2006 allow city managers to join PERA’s DCP as an alternative to the Coordinated Plan or the plan administered by the International City Managers Association. The person may enroll in the DCP at any time during employment provided he/she is not paying into the Coordinated Plan for this position. A city manager may revoke the choice of DCP coverage at any time.

DCP-covered city managers pay Social Security taxes unless their annual wage is not expected to exceed \$5,100. Medicare withholding applies if employment began after March 31, 1986.

- **Volunteer Ambulance Service** – Governmental subdivisions that have a volunteer ambulance service may make a revocable election to participate in the DCP. Once the ambulance service joins the DCP, its basic or advanced life support personnel may optionally enroll. Both ambulance personnel paid for their service with wages and personnel who are volunteer or largely uncompensated may participate, as long as the individuals do not contribute to another public or private pension plan for this service. Currently, we have just over 650 members of this DCP.

These DCP members do not pay Social Security if the combined PERA employer and employee contributions are 7.5% or more of the person’s compensation. Medicare withholding must occur if employment began after March 31, 1986.

- **Volunteer or On-Call Firefighters** – State laws passed in 2006 provide that certain volunteer or emergency on-call firefighters who serve as members of a municipal fire department or an independent nonprofit firefighting corporation may elect to participate in the DCP administered by PERA.

Any independent nonprofit firefighting corporation wishing to extend DCP coverage for its eligible firefighters must contact PERA to obtain a questionnaire to determine its eligibility to participate in the DCP.

- **Individuals appointed to a board or commission of a governmental subdivision** A statutory change in 2010 enables the DCP option to individuals who are appointed after June 30, 2010 to a board or commission (such as a Joint Powers Board, Planning Commission or Parks Board) and earnings exceed \$425 in any one calendar month.

* Legislation passed in 2010 allows elected County Sheriffs receiving a retirement benefit from PERA Police and Fire Plan to participate in the DCP.