



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director <sup>EB</sup>  
RE: Summary of the 2004 Legislative Session Pension Provisions  
DATE: July 2, 2004

This memo summarizes the 2004 Legislative Session pension provisions. Most of the legislation was contained in the Legislative Commission on Pensions and Retirement omnibus pension bill (S.F. 676, the Fourth Engrossment), which was enacted as Laws 2004, Chapter 267. Provisions which eliminated the actuary retained by the Legislative Commission on Pensions and Retirement and replaced that actuary with an actuary to be retained jointly by the larger Minnesota public pension fund administrations was passed separately and enacted as Laws 2004, Chapter 223. A few miscellaneous provisions are found in other chapters.

The first major section, Fund-Specific Legislation, summarizes all pension-related legislation for individual plans and for plans of a specific category, such as the first class city teacher plans, local police and paid fire plans, or volunteer fire plans. The second major section, General Pension Provisions, summarizes pension legislation applying to all public plans or to miscellaneous plan groupings. The third major section, Miscellaneous Provisions, describes the actuarial service changes, and also mentions legislation which in some cases is not related directly to pension plan law but which is of interest to Commission members and public sector retirees.

## I. FUND-SPECIFIC LEGISLATION

### A. Minnesota State Retirement System (MSRS)

#### **General State Employees Retirement Plan (MSRS-General)**

1. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan's salary definition. *Laws 2004, Chapter 267, Article 2, Section 1. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
2. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan's military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The time period to make a purchase begins when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 1. Source: Commission Amendment*
3. Disabilitants: Temporary Reemployment Benefit Reduction Waiver. Any reduction or termination of disability benefits due to gainful employment from which earnings are equal to or more than the employee's salary the date of disability or the salary currently paid to similar

positions is waived for the first six months of the employment. Effective until July 1, 2006. *Laws 2004, Chapter 267, Article 8, Section 3. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

4. Clarification of Death Before Termination of Service Refund Provision. The MSRS-General death before termination of service refund provision is clarified, and will include interest compounded daily rather than annually. *Laws 2004, Chapter 267, Article 9, Section 2. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
5. Clarification of Death After Termination of Service Refund Provision. The MSRS-General death after termination of service refund provision is clarified, and will include interest compounded daily rather than annually. *Laws 2004, Chapter 267, Article 9, Section 3. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
6. Revision of Interest Payment Requirements on Refunds. Refunds to terminating employees who request a refund will include six percent interest compounded daily from the date the contribution was made until the date on which the refund is paid, rather than a refund with interest based on monthly or fiscal year balances. *Laws 2004, Chapter 267, Article 9, Section 4. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
7. Change in Refund Waiting Period, Deferred Annuity Provision. A vested member who has left covered employment may select a refund, in lieu of a deferred annuity, upon termination of service, rather than a minimum of 30 days after termination of service. *Laws 2004, Chapter 267, Article 9, Section 5. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
8. Special Law Provision: Election by Survivor; Transfer from MSRS-General to MSRS-Unclassified. A personal representative of the estate of a person who was born on March 26, 1942, was employed by the House of Representatives for several years, and was later employed by the Senate shortly before her death, may elect to transfer prior contributions from MSRS-General to MSRS-Unclassified, for purposes of receiving a death benefit under Section 352D.075. *Laws 2004, Chapter 267, Article 16, Section 3. Source: House Ways and Means Committee and Senate Finance Committee Amendments drawn from S.F. 3041 (Betzold).*
9. MSRS Full Actuarial Value Military Service Credit Provision Revised and Extended. The MSRS full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 1 and 7. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*
10. Revision of MSRS DOT Pilots Early Retirement Reduction Waiver. This provision applies solely to Department of Transportation pilots. The MSRS provision that waives early retirement reductions if the pilot retires at age 62 or later remains in effect, despite a change in the mandatory pilot retirement age from age 62 to age 65 under revised department of transportation policy documents. *Laws 2004, Chapter 267, Article 7, Section 1. Source: H.F. 2541 (Beard); S.F. 2556 (Murphy).*

#### **Legislators Retirement Plan**

1. Revised Interest Compounding Procedure. A refund taken from the Legislator's Retirement Plan will include interest compounded daily, rather than annually, and repayment of refund interest requirements are clarified. *Laws 2004, Chapter 267, Article 9, Section 1. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

#### **Correctional State Employees Retirement Plan (MSRS-Correctional)**

1. Several Positions at Minnesota Correctional Facility-Rush City Added to Plan. The Corrections Discipline Unit Supervisor, Dental Hygienist, and Psychologist 2 at the Minnesota Correctional Facility-Rush City are added to the MSRS-Correctional Plan, providing that that at least 75 percent of the employee's working time is spent in direct contact with inmates, and the Commissioner of Corrections certifies that to the MSRS Executive Director. *Laws 2004, Chapter 267, Article 1, Section 1. Source: House Ways and Means Committee and Senate Finance Committee Amendments.*

2. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The change in the MSRS-General military leave provision described above in the MSRS-General section also applies to this plan.
3. Duty-Related and Non-Duty-Related Disability Eligibility Provisions Clarified. The duty-related and non-duty-related disability benefit eligibility provisions are clarified by indicating that the individual must be expected to be unable to perform the duties of the position for at least one year in order to be eligible for disability benefits. *Laws 2004, Chapter 267, Article 8, Sections 5 and 6. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold)*.

#### **Unclassified State Employees Retirement Program (MSRS-Unclassified)**

1. Repealer of TRA Basic Member MSRS-Unclassified Program Exclusion. Minnesota Statutes, Section 352D.02, Subdivision 5, a provision which prohibited any TRA basic member from participating in the MSRS-Unclassified Program unless the individual terminates from TRA-covered employment and at least 30 days have expired before becoming employed in an MSRS-Unclassified covered position, is repealed. (The provision became obsolete because TRA no longer has any basic members.) *Laws 2004, Chapter 267, Article 1, Section 9. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold)*.
2. Disability Benefit Provision Revised to Permit More Flexible Payout Options. More flexibility is created for partial payouts in disability situations by permitting any portion of the account value to be paid or transferred in a lump sum, rather than a full payout or payout of half of the account value, with the remainder being annuitized. *Laws 2004, Chapter 267, Article 8, Section 14. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold)*.
3. Surviving Spouse Benefit Provision Revised to Permit More Flexible Payout Options. More flexibility is created for partial payouts to surviving spouses by permitting any portion of the account value to be paid or transferred in a lump sum, rather than only a full payout or payout of half of the account value, with the remainder being annuitized, and by permitting a survivor annuity to commence anytime, rather than only when the recipient is age 55 or older, and by permitting election of a surviving spouse term-certain annuities of 5, 10, 15, or 20 years. *Laws 2004, Chapter 267, Article 9, Sections 12 and 13.*
4. Beneficiary Refund Provision Revised to Apply if No Surviving Spouse. The Unclassified Program refund beneficiary provision is revised to apply only if there is no surviving spouse. *Laws 2004, Chapter 267, Article 9, Section 14. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold)*.
5. Special Law Provision: Election by Survivor; Transfer from MSRS-General to MSRS-Unclassified. A personal representative of the estate of a person who was born on March 26, 1942, was employed by the House of Representatives for several years, and was later employed by the Senate shortly before her death, may elect to transfer prior contributions from MSRS-General to MSRS-Unclassified for purposes of receiving an Unclassified Program death benefit (Section 352D.075). *Laws 2004, Chapter 267, Article 16, Section 3. Source: House Ways and Means Committee and Senate Finance Committee Amendments drawn from S.F. 3041 (Betzold)*.

#### **State Patrol Retirement Plan**

1. State Patrol Retirement Plan Average Monthly Salary Definition Revised. The State Patrol Plan average monthly salary definition is clarified by stating it applies to salary upon which contributions were made to the plan, and that salary means salary as defined in MSRS-General law. (Given the revision in MSRS-General's salary definition regarding grievance awards and legal settlements, those new limitations will apply to the State Patrol Retirement Plan.) *Laws 2004, Chapter 267, Article 2, Section 2. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold)*.
2. Military Leave Provision Added to the Plan to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). A military leave of absence/break in service provision, conforming to USERRA requirements, is added to the plan. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer

contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase payment period begins on the date the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 2. Source: Commission Amendment.*

3. Disability Eligibility Provisions Clarified. The duty-related and non-duty-related disability benefit eligibility provisions are clarified by indicating that the individual must be expected to be unable to perform the employment duties for at least one year in order to be eligible for disability benefits. *Laws 2004, Chapter 267, Article 8, Sections 8 and 9. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
4. Disabilitant Optional Annuity Clarification. The State Patrol Plan disabilitant optional annuity provision is clarified by indicating that the election must be made in writing on a form prescribed by the Executive Director. *Laws 2004, Chapter 267, Article 8, Section 12. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
5. Disabilitant to Retirement Status Provision, Transfer Date Defined. The State Patrol Plan provision, specifying when an individual transfers from disabilitant status to retirement status, is clarified by adding a definition of transfer date, which is the end of the month in which the disabilitant becomes age 65 or the five-year anniversary of the effective date of the disability benefit, whichever is later. *Laws 2004, Chapter 267, Article 8, Section 13. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
6. Revised Interest Treatment on Refunds. Any terminated employee refund or death refunds will include interest (six percent) compounded daily, rather than annually. *Laws 2004 Chapter 267, Article 9, Section 7. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
7. Clarification of Surviving Spouse Benefits. The State Patrol Plan surviving spouse/dependent child benefit provision is revised to clarify surviving spouse benefits, as follows:
  - a. If a vested active member dies before retirement age (age 55), the surviving spouse is eligible to receive a benefit equal to 50 percent of the deceased member's average monthly salary, and when the member would have turned age 55, the surviving spouse may receive the second half of a joint and survivor annuity, if that provides a greater benefit.
  - b. If vested member dies on or after age 55 the surviving spouse is eligible to receive a benefit equal to 50 percent of the deceased member's average monthly salary or the second half of a joint and survivor annuity, whichever provides a greater benefit.
  - c. If a non-vested active members dies, the surviving spouse receives a benefit equal to 50 percent of the average monthly salary.
  - d. If a disabilitant dies while receiving a disability benefit (or prior to commencement of that benefit) and an optional annuity was not elected, the surviving spouse is eligible to receive the benefits specified in (a) above.
  - e. If a vested deferred member dies, the surviving spouse is eligible to receive the second half of a 100 percent joint and survivor annuity, commencing no sooner than the date the deceased annuitant would have attained age 55.
  - f. If a non-vested ex-member who did not take a refund dies, the surviving spouse is entitled to a refund plus six percent interest compounded daily.
  - g. If a surviving spouse or dependent children are entitled to benefits under workers' compensation law due to the events which caused the employee's death, the annuities described above must not be reduced due to those workers' compensation benefits.

The benefits as stated above are intended as clarification of existing law. If the provisions increase, modify, impair, or diminish the benefits as stated in existing law, the Executive Director shall provide draft remedial legislation and inform the Chairs of the Legislative

Commission on Pensions and Retirement, the House Governmental Operations Committee, and the Senate Governmental Operations Committee, and the Executive Director of the Legislative Commission on Pensions and Retirement. *Laws 2004, Chapter 267, Article 9, Sections, 6, 8, 9, 10, 11, and 26. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

8. State Patrol Retirement Plan Full Actuarial Value Military Service Credit Provision Revised and Extended. The MSRS State Patrol Plan full actuarial value military service credit provision is revised by eliminating the prohibition against a purchase if the individual is entitled to a current or deferred military pension, and the provision is extended from May 16, 2004, to May 16, 2006. *Laws 2004, Chapter 267, Article 17, Sections 2 and 7. Source: Commission Amendment to H.F. 2449 (Rukavina); S.F. 2340 (Murphy).*

### **Judges Retirement Plan**

1. Military Leave Provision Added to the Plan to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). A military leave of absence/break in service provision, conforming to USERRA requirements, is added to the plan. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer (court administrator) will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase period begins when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 8. Source: Commission Amendment.*
2. Repeal of Obsolete Probate Court Provision. An obsolete probate court disability provision which required an application to the Governor for disability benefits, rather than to MSRS, and an investigation by the Governor, is repealed. *Laws 2004, Chapter 267, Article 8, Section 41. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
3. Increased Interest Rate Paid on Refunds. The interest rate on a refund is increased from five percent to six percent, making the refund interest rate in this plan comparable to other MSRS defined benefit plans. Interest will be compounded daily. Consistent with general policy for interpreting statutory changes, the increased interest rate will apply only to cases where the judge terminates service on or after the effective date of the provision (July 1, 2004). Repayment of refund language is clarified by specifying the time period over which interest will be computed. *Laws 2004, Chapter 267, Article 9, Sections 23 and 26. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*

### **MSRS Privatized Employees Chapter (Chapter 352F)**

1. MSRS Privatized Employees Chapter Revised to Clarify Application of Surviving Spouse, Dependent Children Benefits. A section is added clarifying that surviving spouse and dependent children provisions of MSRS-General law (as stated in law at the time of the privatization) apply to privatized employees covered by this chapter. *Laws 2004, Chapter 267, Article 9, Section 15. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*

### **B. Public Employees Retirement Association (PERA)**

#### **General Employee Retirement Plan (PERA-General)**

1. Temporary Position Definition is Clarified. The definition of “temporary position” is clarified by stating that a position is not temporary if the position extends beyond six months and PERA’s salary threshold for membership is met or exceeded. *Laws 2004, Chapter 267, Article 1, Sections 2 and 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*

2. Reference to “Business Year” Removed from Seasonal Position Definition. Language relating to “business year,” an obsolete term, is stricken from the seasonal position definition. *Laws 2004, Chapter 267, Article 1, Section 4. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
3. Salary for Pension Purposes Can Exclude Grievance Awards and Legal Settlements. Grievance awards and legal settlements can be included in salary for pension purposes only if the situation is reviewed by the Executive Director and the amounts are determined to be consistent with the plan’s salary definition. PERA’s salary definition is further revised by clarifying that salary for pension purposes can not exceed federal law compensation limits for pension purposes, or limits provided in state statute (Section 356.611). This provision would also apply to members of PERA-P&F and the PERA Local Correctional Plan. *Laws 2004, Chapter 267, Article 2, Section 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
4. Military Leave Provision Revised to Conform to the Uniformed Services Employment and Reemployment Act (USERRA). The plan’s military leave of absence provision is amended to conform to USERRA requirements. Individuals who have a break in service to perform uniformed service for the United States, and who return to the employer upon termination of that service, may receive service credit in the pension plan by paying the employee contributions the individual would have made during the break period. Those contributions are to be based on the average salary the individual would have received during the leave or break period, or if that can not be determined, based on the annual salary rate during the 12-month period prior to the leave or break in service. The employer will pay the corresponding employer contributions and 8.5 percent interest on both the employee and employer contributions. The service credit purchase can not exceed five years unless a longer purchase period is required under United States Code. The purchase can made during a period starting when the individual returns to employment covered by the plan and has a duration of three times the length of the uniformed service period, but not to be less than one year nor to exceed five years. If the employee makes only a partial payment the service credit is prorated. A service credit purchase is not allowed if the individual separated from uniformed service under less than honorable conditions. *Laws 2004, Chapter 267, Article 3, Section 3. Source: Commission Amendment.*
5. Clarification of Reemployed Annuitant Reallocations. The PERA reemployed annuitant provision is revised by removing language made obsolete by changes in Social Security law. As revised, no reemployed annuitant reallocations will apply after an individual reaches normal retirement age under Social Security law (between age 65 and 67, depending upon date of birth). *Laws 2004, Chapter 267, Article 7, Sections 2 and 3. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
6. Disabilitant Partial Reemployment Provisions Clarified. The PERA partial reemployment provision is clarified by indicating it applies in situations where the disabilitant has income from employment that is not substantial gainful employment, rather than “resumes a gainful occupation.” *Laws 2004, Chapter 267, Article 8, Section 18. Source: H.F. 890 (Smith); S.F. 676 (Betzold).*
7. Disabilitants: Temporary Reemployment Benefit Reduction Waiver. Any reduction or termination of disability benefits due to gainful employment from which earnings are equal to or more than the employee’s salary at the date of disability or the salary currently paid to similar positions is waived for the first six months of the employment. No contributions can be made to the retirement plan during this six-month period unless the member waives the disability benefit. An individual may only use this provision once. The provision sunsets on July 1, 2006. *Laws 2004, Chapter 267, Article 8, Section 19. Source: Commission Amendment.*
8. Repealed: Provision Dealing with One-Time 1987 Disability Benefit Change. An obsolete PERA provision which authorized an increase in disability benefits for any PERA member who prior to July 1, 1987, had disability benefits reduced due to receipt of workers’ compensation benefits, is repealed. *Laws 2004, Chapter 267, Article 8, Section 41. Source: H.F. 1430 (Smith); S.F. 1460 (Betzold).*
9. Lake Johanna Volunteer Fire Department, Inc., Added to the PERA Governmental Subdivision Provision. Lake Johanna Volunteer Fire Department, Incorporated, is added to PERA’s governmental subdivision provision. The change makes this organization a public employer for PERA purposes, allowing employees of the association who meet other PERA requirements to be members of PERA plans, either the General Plan or PERA-P&F, as applicable given the

