



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director *EB*  
RE: Summary of 2008 Legislative Session Pension Legislation  
DATE: July 1, 2008

This memo summarizes the 2008 Legislative Session pension provisions. Nearly all of the pension provisions passed in the Omnibus Retirement Bill, H.F. 3082 (Murphy, M.), enacted as Laws 2008, Chapter 349, but a few pension-related provisions appeared Revisor's bills or in other substantive bills.

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, mentions legislation which is not related directly to pension plan law but which is of interest to Legislative Commission on Pensions and Retirement members and public sector retirees.

## I. FUND-SPECIFIC LEGISLATION

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

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

1. Conforming Revision: Death While Active or Deferred Surviving Spouse Benefit Provision. Consistent with the revised M.S., Sec. 356.46, making joint-and-survivor optional annuities mandatory unless waived by the spouse, the MSRS-General death while active or deferred surviving spouse benefit provision (M.S., Sec. 352.12, Subd. 2) is revised to require spousal consent for any employee request that a survivor benefit be paid to a designated beneficiary other than the spouse. *Laws 2008, Ch. 349, Art. 4, Sec. 1. Source: H.F. 2451 (Nelson); S. F. 2266 (Wergin)*
2. Coverage for Minnesota Government Engineers Council Employees. The included employee provision is revised to provide coverage to Minnesota Government Engineers Council employees. *Laws 2008, Ch. 349, Art. 5, Sec. 1. Source: Commission amendment (Betzold)*
3. MSRS Leave of Absence Service Credit Purchase Methodology Provision Revised. The MSRS-General service credit for leaves of absence purchase provision is revised to also cover situations where the individual terminates employment during or at the end of a leave. In such cases, the individual is authorized to purchase the leave period, or portion of the period, as applicable, within 30 days of termination. *Laws 2008, Ch. 349, Art. 5, Sec. 2. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
4. MSRS Duties and Powers of MSRS Board Provision Reorganized. The MSRS duties and powers of the board provision is organized into paragraphs and language dealing with the employment classification of the executive director and assistant director is moved to the executive director provision. *Laws 2008, Ch. 349, Art. 5, Sec. 3. Source: Amendment to H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
5. MSRS Executive Director Provision Revised. The MSRS executive director provision is revised by moving language into this provision dealing with the executive director and assistant director employment classifications and salaries. *Laws 2008, Ch. 349, Art. 5, Sec. 4. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
6. MSRS Miscellaneous Refund Provision Revised by Removing Application Delay Requirement. A miscellaneous refund provision (M.S., Sec. 352.22, Subd. 10) dealing with those who shift coverage to other plans is revised by removing a requirement that a refund application can not be made until 30 days have elapsed since termination of MSRS-General plan coverage, making the provision consistent with other MSRS refund provisions which no longer have a delay requirement. *Laws 2008, Ch. 349, Art. 5, Sec. 5. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*

7. MSRS-General to MSRS-Correctional Past Service Credit Transfer Provision Clarified. The post-June 30, 2007, provision for transferring past coverage in situations where a position has been transferred from MSRS-General to MSRS-Correctional is clarified and reorganized, without changing the combined total amount of the required transfer in order to keep both MSRS-General and MSRS-Correctional unharmed. *Laws 2008, Ch. 349, Art. 5, Sec. 6.* *Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
8. Revisor Bill: Technical Corrections to MSRS-General Provisions. Three technical corrections to MSRS-General provisions appeared in a Revisor's Bill, as follows:
  - M.S., Sec. 352.01, Subd. 2b, the excluded employee provision, is revised by correcting a citation.
  - M.S., Sec. 352.03, Subd. 11, a legal advisor provision, is revised by correcting a cross-reference.
  - M.S., Sec. 352.119, Subd. 3, a benefit escalation provision, is revised by removing a cross reference to a repealed provision.

*Laws 2008, Ch. 277, Art. 1, Sections 73 to 75. Source: H.F. 3928 (Olin); S.F. 3674 (Moua)*

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

1. Conforming Revision: Death While Active or Deferred Surviving Spouse Benefit Provision. Consistent with the revised Section 356.46, making joint-and-survivor optional annuities mandatory unless waived by the spouse, the MSRS-Correctional death while active or deferred surviving spouse benefit provision (M.S., Sec. 352.931, Subd. 1) is revised to require spousal consent for any employee request that this spousal coverage provision not apply and that a benefit should instead be paid to a designated beneficiary other than the spouse. *Laws 2008, Ch. 349, Art. 4, Sec. 2. Source: H.F. 2451 (Nelson); S.F. 2266 (Wergin)*
2. MSRS-General to MSRS-Correctional Past Service Credit Transfer Provision Clarified. The post-June 30, 2007, provision for transferring past coverage in situations where a position has been transferred from MSRS-General to MSRS-Correctional is clarified and reorganized, without changing the combined total amount of the required transfer in order to keep both MSRS-General and MSRS-Correctional unharmed. *Laws 2008, Ch. 349, Art. 5, Sec. 6.* *Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
3. Positions Added to Correctional Plan. The positions "general maintenance worker lead" and "painter lead" are added to the positions eligible for Correctional Plan coverage providing the employee has at least 75 percent inmate or patient contact. The painter lead position is placed in the plan for prospective service only. An eligible individual or individuals in the general maintenance worker lead position are authorized to have MSRS-Correctional coverage back to December 1, 2007, if the individual elects that retroactive coverage and makes the contributions necessary to have that service transferred from MSRS-General to MSRS-Correctional. *Laws 2008, Ch. 349, Art. 6, Sec. 1-2. Source: H.F. 3082 (Murphy, M.); S.F. 2720 (Betzold)*

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

1. MSRS Unclassified Program Surviving Spouse Term Certain Annuity Authority Revised. The MSRS-Unclassified surviving spouse death while active or deferred term certain provision is revised by removing authority to provide five- or six-year term certain annuities, and by authorizing payment of a ten-year term certain annuity, consistent with revisions made in other MSRS and PERA plans in recent years. *Laws 2008, Ch. 349, Art. 5, Sec. 13. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
2. Maximum Annual Contribution Limitation Provision Created. For federal compliance purposes, a maximum annual contribution limitation provision is added to Chapter 356, stating that for the PERA Defined Contribution Plan and MSRS-Unclassified, total annual contributions can not exceed 100 percent of compensation, or \$40,000 as adjusted for inflation by the Secretary of the Treasury, whichever is less. *Laws 2008, Ch. 349, Article 5, Section 34. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
3. Special Law: State Lottery Employee Marital Property Division. A state lottery employee born on July 19, 1953, may elect to have that person's MSRS-Unclassified account divided as provided in a marital property division decree, prior to the date the individual terminates state

employment. If the election is made, the spouse of the eligible employee may withdraw the cash value allocated to that former spouse or elect to leave that amount on deposit in the Supplemental Investment Fund. The lottery employee, if he or she later chooses to transfer coverage to MSRS-General, will receive prorated service credit based on the share of the account remaining after the division of MSRS-Unclassified assets. *Laws 2008, Ch. 349, Art. 16, Sec. 11. Source: Commission amendment LCPR08-027 (Kahn)*

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

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

1. Conforming Change: PERA Optional Annuity Form Authorization Provision. Consistent with new mandatory joint-and-survivor requirements unless waived by the spouse (Minnesota Statutes, Section 356.46, as revised) the PERA optional annuity form authorization provision and death while active or deferred surviving spouse benefit provision are revised to require a joint-and-survivor annuity unless waived by the spouse. *Laws 2008, Ch. 349, Art. 4, Sec. 3-4. Source: H.F. 2451 (Nelson); S. F. 2266 (Wergin)*
2. Revised Excluded Employee Provision. The PERA excluded employee provision is revised by clarifying that the exclusion of physicians and pharmacists serving in degree, intern, or residency programs includes those working in clinics, and not just in hospitals. *Laws 2008, Ch. 349, Art. 5, Sec. 14. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
3. Revised Salary Definition. The PERA definition of salary is revised by:
  - Clarifying that salary includes employer contributions to certain supplemental plans (laborers industrial pension fund, plumbers and pipefitters pension fund, and international union of operating engineers) if all contributions to the supplemental plan must be made by the employer and if an agreement between the parties establishes that the contribution will either result in a mandatory reduction of the employee's wage or is in lieu of additional wages; and
  - Stating that salary does not include amounts paid from a federal or state grant which specifically prohibits grant proceeds from being used to make pension plan contributions, unless the contributions are made from other unrestricted sources.*Laws 2008, Ch. 349, Art. 5, Sec. 15. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
4. Revised Termination of Public Service Definition. The PERA termination of public service definition is revised by stating that a termination is not valid if, prior to termination of service, the member has a verbal or written agreement to return to a government subdivision as an employee, independent contractor, or employee of an independent contractor. *Laws 2008, Ch. 349, Art. 5, Sec. 16. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
5. Leave of Absence Service Credit Purchase Methodology Provision Revised. The PERA leaves of absence service credit purchase provision is revised by basing the salary used to compute contributions on the average monthly salary during the six months prior to the leave, rather than the hourly salary rate upon return from the leave; by permitting payment within 30 days of termination if an individual terminates rather than returning from a leave; and by requiring that in cases where a full actuarial value payment is required (situations where the payment is not made within one year of the end of the leave), payment can not be made after termination of service. *Laws 2008, Ch. 349, Art. 5, Sec. 18. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
6. Clarification of Permissible Payment Period, Periods Before Initial Coverage Date. A clarifying statement is added to PERA's provision covering purchases of service for eligible periods prior to the date an entity receives written notice that its members must be covered by PERA, stating that, notwithstanding language in the full actuarial value service credit purchase methodology provision, payment for a service credit purchase may be made any time before termination of service. *Laws 2008, Ch. 349, Art. 5, Sec. 20. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
7. Revision in Workers' Compensation Benefit Coordination Provision. Workers' compensation permanent partial disability payments and retraining payments may not be offset from PERA-General disability payments. *Laws 2008, Ch. 349, Art. 5, Sec. 21. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*

8. Technical Correction: Revision of Board Duties Provision. In a bill dissolving the Department of Employee Relations and moving its operations to other agencies, the PERA board duties and powers provision (M.S. 2007 Supplement, Sec. 353.03, Subd. 3) is revised by removing reference to the Department of Employee Relations. *Laws 2008, Ch. 204, Sec. 40. Source: H.F. 3308 (Pelowski); S.F. 3202 (Rest)*
9. Special Law: Rochester City Council Member Permitted to Commence PERA-General Annuity. A Rochester city council member who elected PERA-General coverage for that service and who also was a Rochester school district employee, is permitted to commence a PERA-General retirement annuity based on the school district service after terminating from the school district. The individual must either take a refund of employee contributions to PERA for the elected service, or have all contributions related to the elected service plus six percent interest transferred from PERA-General to the PERA Defined Contribution Plan. *Laws 2008, Ch. 349, Art. 16, Sec. 1. Source: S.F. 1643 (Senjem)*
10. Special Law: St. Paul Public Works Employee Permitted to Withdraw Retirement Annuity and Apply for Disability. A St. Paul Public Works employee born in 1949 is authorized to withdraw a PERA-General retirement annuity and apply for disability. If the individual does not meet the total and permanent disability standard necessary to qualify for PERA disability, the retirement annuity is reinstated. *Laws 2008, Ch. 349, Art. 16, Sec. 2. Source: H.F. 3311 (Atkins); S.F. 2469 (Metzen)*
11. Special Law: Glencoe/Silver Lake Annuitant Waiver of Repayment Requirement. Because of error by PERA, a person born in 1944 who terminated employment as manager of grounds and transportation for the Glencoe/Silver Lake school district on September 30, 2003, is not required to repay any annuity amounts received. The individual had relied upon erroneous information provided by PERA about separation from service requirements applicable to independent contractors and their employees when he became employed in October 2003 as an employee of an independent contractor providing bus service to the district. *Laws 2008, Ch. 349, Art. 16, Sec. 7. Source: H.F. 3567 (Shimanski); S.F. 3150 (Dille)*
12. Special Law: St. Paul City Employee Service Credit Purchase. A person born on March 25, 1960, who qualified for PERA-General coverage as a St. Paul employee in May 1982 but was not reported by the city for coverage until April 1984, is permitted to purchase service credit for the May 1982 through November 1984 period. The individual shall pay the employee contributions that would have been made plus 8.5 percent interest, and the city will pay the remainder of the full actuarial value of the purchase payment. *Laws 2008, Ch. 349, Art. 16, Sec. 8. Source: H.F. 3508 (Hausman); S.F. 3188 (Anderson)*

#### **Local Government Correctional Employees Retirement Plan (PERA-Correctional)**

1. Conforming Revision: Death While Active or Deferred Surviving Spouse Benefit Provision. Consistent with new requirements making joint-and-survivor optional annuities mandatory unless waived by the spouse, the PERA-Correctional death while active or deferred surviving spouse benefit provision is revised to require spousal consent for any employee election to have a survivor benefit paid to a designated beneficiary other than the spouse. *Laws 2008, Ch. 349, Art. 4, Sec. 6. Source: H.F. 2451 (Nelson); S.F. 2266 (Wergin)*

#### **PERA Privatized Employees Chapter (Chapter 353F)**

1. Various Privatized Healthcare Facilities Removed or Added to PERA Privatization Chapter. The Kanabec Hospital, Northfield Hospital, and Renville County Hospital in Olivia are removed from the privatization chapter because the expected privatizations failed to occur. The Department of Radiology and the Department of Radiation/Oncology in Rice Memorial Hospital in Willmar, and Worthington Regional Hospital are added to the privatization chapter, pending local approval. *Laws 2008, Ch. 349, Art. 5, Sec. 26, and Art. 7. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold) – facilities removed; H.F. 2589 (Hamilton); S.F. 2501 (Vickerman) – Worthington Regional Hospital; H.F. 3021 (Juhnke); S.F. 2855 (Gimse) – Rice Memorial Hospital Departments*
2. New Certification/Decertification Procedure. Rather than continuing the current process where the Commission considers individual bills for each entity seeking to be included in the PERA privatization chapter, the governmental subdivision will submit a resolution to the PERA

Executive Director asking for inclusion. If the actuarial work indicates that PERA-General will not receive a loss, PERA will include the entity in draft legislation. If an entity fails to privatize within one year, its inclusion under the chapter will be voided. *Laws 2008, Ch. 349, Art. 5, Sec. 27. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*

3. Clearwater County Extension of Time to File Local Approval. Clearwater County is given an extension to January 1, 2009, to file local approval of the legislation that added Clearwater County Memorial Hospital to the privatization chapter. *Laws 2008, Ch. 349, Art. 5, Sec. 3. Source: Amendment to H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*

### **Public Employees Police and Fire Retirement Plan (PERA-P&F)**

1. Conforming Revision: Death While Active or Deferred Surviving Spouse Benefit Provision. Consistent with new mandatory joint-and-survivor annuities unless waived by the spouse, the PERA-P&F death while active or deferred surviving spouse benefit provision is revised to require spousal consent before an employee can request a survivor benefit be paid to a designated beneficiary other than the spouse. *Laws 2008, Ch. 349, Art. 4, Sec. 5. Source: H.F. 2451 (Nelson); S.F. 2266 (Wergin)*
2. Revision in Workers' Compensation Benefit Coordination Provision. Workers' compensation permanent partial disability payments and retraining payments may not be offset from PERA-P&F disability payments. *Laws 2008, Ch. 349, Art. 5, Sec. 23. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
3. Revision of Tribal Police Officer PERA-P&F Inclusion Provision. Given revisions in federal law, tribal police officers can be members of PERA-P&F without the need for an Internal Revenue Service ruling. *Laws 2008, Ch. 349, Art. 5, Sec. 22. Source: House/Senate Finance Committees amendments*
4. Duty Disability Benefit Improvement. The PERA-P&F duty disability benefit is increased from 60 percent of the high-five average salary to 60 percent of the high-five salary plus an additional three percent of the high-five for each year of service in excess of 20 years, retroactive to July 1, 2007. *Laws 2008, Ch. 349, Art. 12, Sec. 1. Source: Amendment to H.F. 3713 (Nelson); S.F. 3405 (Betzold)*
5. Special Law: Temporary Exemption from Reemployed Annuitant Exempt Earnings Limitations, Metropolitan Airports Commission Police. Metropolitan Airports Commission police officers are exempt from the PERA-P&F reemployed annuitant exempt earnings limitations for calendar year 2009. *Laws 2008, Ch. 349, Art. 3, Sec. 11. Source: H.F. 4131 (Smith)*
6. Special Law: Transfer of Service Credit to PERA-P&F, Maple Grove Fire Inspector. An individual employed as a full-time fire inspector by Maple Grove on April 2, 1990, with PERA-General coverage, whose work included daytime response to fire calls, and who was transferred to PERA-P&F by city council action effective January 1, 1996, is permitted to transfer past service from April 1990 through the end of 1995 to PERA-P&F. The individual must pay the employee contribution rate differential between the PERA-General and PERA-P&F employee contribution rates applied to salary, plus 8.5 percent interest from the approximate midpoint of the period (August 1, 1993). If this payment is made, the employer must pay an amount to PERA-P&F equal to the present value of the difference between the value of a combined service annuity given coverage to date, and an annuity in which all the fire inspector service is covered by PERA-P&F, after subtracting an additional transfer being made to PERA-P&F, an amount equal to twice the employee contributions made to PERA-General with interest. *Laws 2008, Ch. 349, Art. 16, Sec. 3. Source: H.F. 3242 (Peppin); S.F. 3127 (Limmer)*
7. Special Law: Enhanced Disability Benefit Provided to Minneapolis Bomb Squad Member with Traumatic Brain Injury. A PERA-P&F member injured on February 9, 2005, while working as a police officer on Minneapolis Bomb Squad, resulting in traumatic brain injury, will receive a total and permanent PERA-P&F disability of 75 percent of high-five salary rather than the benefit provided in general law. *Laws 2008, Ch. 349, Art. 16, Sec. 6. Source: Amendment to H.F. 4117 (Holberg); S.F. 3803 (Pariseau)*

## Public Employees Defined Contribution Plan

1. PERA Defined Contribution Plan Investment Option Provision Revised by Eliminating Investment Choice Effective Dates. Because the PERA Defined Contribution Plan will be moving to daily valuation of its investments, permitting share prices of investments to be quickly determined, the investment option provision is revised by removing statements that the effective date for any investment option choices are effective the first of the month. *Laws 2008, Ch. 349, Art. 5, Sec. 24. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
2. Federal Compliance Provisions. Several federal compliance provisions were added:
  - Definitions of designated beneficiary, distribution calendar year, member account balance, required beginning date, and valuation calendar year are added to the plan.
  - Required minimum distribution requirements are specified. If the member is living, the individual's entire account must be distributed to the member in a lump sum by age 70 years and six months, or April 1 of the calendar year following the calendar year in which the member terminates service, whichever is later. Provision is made for distributing the account to the spouse or designated beneficiaries if the member is deceased.
  - The federal compensation limit provision in Chapter 356 (M.S., Sec. 356.611), is clarified by making these federal limitations applicable to the PERA Defined Contribution Plan.
  - A maximum annual contribution limitation provision is added to Chapter 356, stating that total annual contributions to the PERA Defined Contribution Plan or the MSRS-Unclassified Program cannot exceed 100 percent of compensation or \$40,000, as adjusted by the Secretary of the Treasury, whichever is less.

*Laws 2008, Ch. 349, Art. 5, Sec. 25, 33, and 34.*
3. Special Law: St. Paul School Board Members Permitted to Make Prior Contributions to the PERA Defined Contribution Plan. Four St. Paul School Board members, born in 1955, 1957, 1960, and 1969, respectively, are permitted to make contributions to the PERA Defined Contribution Plan equal to five percent of salary earned between the date school board membership commenced and the date the individual was enrolled in the PERA Defined Contribution Plan, plus interest from the midpoint of the uncovered period. If the employee makes payment, the school board will pay a matching amount. *Laws 2008, Ch. 349, Art. 16, Sec. 9. Source: H.F. 228 (Paymar); S.F. 266 (Cohen)*

## C. Teachers Retirement Association (TRA)

1. Revised Reemployed Annuitant Exempted Income Provision. The exempt income limit for reemployed TRA annuitants who provide service to TRA-covered school districts is increased to \$46,000, rather than being tied to the Social Security exempt income limits, before part of the annuity is transferred to a savings account. No deferral requirement applies once Social Security normal retirement age is reached. *Laws 2008, Ch. 349, Art. 3, Sec. 8. Source: H.F. 3415 (Pelowski); S.F. 3531 (Larson)*
2. Return to Work Agreements. Before terminating service, teachers who are at least age 62 may enter into an agreement with a school district to return to work. The teacher can then terminate service and commence receiving a retirement annuity. Participation, time worked, and duration of the reemployment must be mutually agreeable to the employee and employer. No further service credit can be earned for this employment and contributions for this service are prohibited. This new provision does not apply to MnSCU employees. TRA's termination of teaching service definition is also revised for consistent with this new treatment. *Laws 2008, Ch. 349, Art. 3, Sec. 7 and 9. Source: H.F. 3415 (Pelowski); S.F. 3531 (Larson)*
3. TRA Family Leave Payment Provision Revised. The family leave provision is revised to require payment under the general TRA leave payment provision, M.S., Sec. 354.72. *Laws 2008, Ch. 349, Art. 5, Sec. 28. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*
4. Conforming Change, TRA Benefit Computation Procedure for Certain Basic Members. A TRA benefit computation provision applicable to certain basic members is revised by striking a reference to a repealed provision. *Laws 2008, Ch. 349, Art. 5, Sec. 29. Source: H.F. 3798 (Murphy, M.); S.F. 3324 (Betzold)*

