



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director EB

RE: Amendment LCPR06-BA009: Wrongful Discharge Annuity Repayment and Disability Treatment

DATE: March 23, 2006

#### Summary of Amendment LCPR06-BA009

Amendment LCPR06-BA009 would revise the wrongful discharge provision applicable to most of the larger defined benefit plans, Section 356.50, by adding subdivisions specifying annuity repayment procedures and disability treatment following reinstatement. The new subdivisions state that if the individual started to receive an annuity from a plan and the individual is later reinstated following a determination of wrongful discharge, the individual may repay annuity payments received within 60 days of the wrongful discharge determination. If the annuity amounts are not repaid, the returning worker will be treated for retirement plan purposes as a reemployed annuitant. If an individual who is reinstated took a refund following the termination, and does not repay that refund, then if the individual later is awarded a disability benefit, the benefit will be computed solely based on the service following the initial reinstatement, and the individual forfeits eligibility for a higher minimum disability benefit that might otherwise apply under plan law.

#### Background

Minnesota Statutes, Section 356.50, was enacted in 1992, following a case where an individual was determined to be wrongfully discharged and was required to be reinstated. Section 356.50 specified the procedures that would allow the individual to receive service credit for the period of wrongful discharge, if the award did not include any compensation to cover the value of lost service credit that occurred due to the improper discharge. Basically, the statute requires the employee to make the employee contributions that otherwise would have occurred. The employer must make the corresponding employer contributions plus 8.5 percent interest on the employee and employer amounts.

The plans to which Section 356.50 applies are the combined service annuity plans, which are all the Minnesota State Retirement System (MSRS) plans, including the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified); the Public Employees Retirement Association (PERA) defined benefit plans, the Teachers Retirement Association (TRA), the first class city teacher plans, and the Minneapolis Employees Retirement Fund (MERF).

The PERA Executive Director is seeking to amend Section 356.50 to add procedures specifying what will occur if an individual commences receipt of an annuity from the plan that covered the individual, if that individual is later reinstated due to a wrongful discharge determination. Under the proposed treatment, the individual will be given an opportunity to repay the annuity amounts received. If they are repaid, the individual will again be treated as an active member of the plan. If the individual does not repay the annuity amounts, the individual will continue to receive the annuity but he or she will be treated as a reemployed annuitant, subject to reemployed annuitant laws. As a reemployed annuitant, the individual will not be treated as an active plan member and will not earn any additional service credit for the employment. If the individual's reemployed earnings are sufficiently high, depending upon existing plan law, the individual may have a portion of the annual annuity amount deferred and transferred to an interest bearing account (with six percent interest) to be paid upon reaching age 65, or approximately 13 months after terminating from the reemployment, whichever is later. The treatment of amounts in excess of reemployed earnings limits is found in Section 356.47.

The other change that the PERA Executive Director is seeking is to specify disability treatment of a reinstated individual. Under the proposed treatment, if an individual started receiving an annuity and does not repay that annuity, presumably the individual is not eligible for any of the plan's disability provisions because the individual is a reemployed annuitant, not an active plan member. If the individual took a refund and does not repay that refund, the individual terminates all rights related to the service that occurred prior to the discharge. Therefore, if the reinstated individual later is declared to be disabled, the proposed language requires that the disability benefit will be computed solely on the service provided after

the wrongful discharge reinstatement. The language further specifies that if a plan has a minimum disability benefit provision, that provision does not apply and the benefit will be computed based solely on the applicable high-five salary, the actual years of service provided following the reinstatement, and the accrual rate.

### Concern Raised by PERA

The language in the amendment (page 2, lines 21 to 28) which waives any minimum benefit that would otherwise apply, is an effort to avoid situations that may be deemed abusive. PERA Executive Director Mary Vanek has stated that she is concerned about the Public Employees Police and Fire Retirement Plan (PERA-P&F). That plan provides a minimum line of duty disability benefit of 60 percent of the high-five average salary. That is equivalent to a 20-year service pension. The benefit is higher if the individual has more than 20 years of service. In that case, the benefit would be computed based on the individual's actual salary. Similarly, the minimum non-duty disability benefit is equivalent to a 15-year pension. Ms. Vanek is concerned that under existing law, an individual might have a wrongful discharge and take a refund of the employee contributions plus interest, which could be quite a large amount if the individual had a lengthy career. Upon reinstatement, the individual could refuse to repay the refund. However, following reinstatement that individual could be declared to be disabled and receive a minimum 20- or 15-year disability benefit, depending upon whether the disability is duty-related or non-duty related. Ms. Vanek's argument is that the individual should not get both a refund and this generous disability treatment. The refund should be repaid. If it is not repaid, the individual should receive a disability benefit computed solely on the service following the reinstatement, and the generous minimum disability benefits of the plan should not apply.

This same concern can be raised in any plan which provides minimum disability benefits not based on the individual's actual service credit. The PERA Local Government Correctional Employees Retirement Plan (PERA-Correctional) provides a minimum duty disability equal to a 25-year pension, and a minimum non-duty disability benefit equal to a ten-year pension. Similarly, the MSRS State Patrol Retirement Plan provides a minimum duty disability equal to a 20-year pension, and minimum non-duty disability equal to a 15-year service pension. The MSRS Correctional State Employees Retirement Plan (MSRS-Correctional) provides a minimum duty-related disability pension equal to a 20-year-and-ten-month service pension, while the minimum non-duty related disability benefit in that plan is equal to a 15-year pension.

Police, fire, and correctional employee plans provide high minimum disability benefits to provide incentive for these employees to diligently perform the duties required of the position, despite danger, knowing that if the individual is disabled, the individual and the family will receive adequate income. In contrast, general employee plans do not have minimum disability benefits. Any benefit is computed based on the individual's actual length of service. A general employee who becomes disabled after short service will have a benefit computed on that actual service, and the amount will not be significant. A general employee with five years of service and a \$30,000 high-five average salary would receive a benefit of 1.7 percent of the high-five for each year of service, which is a total annual benefit from the plan of \$2,550, or \$212.50 per month.

In the last several years, PERA and MSRS have become quite involved in trying to control the cost of the public safety and correctional employee plans. Disability claims have been much higher than previously assumed in actuarial work, and this has led to changes in disability assumptions used in actuarial studies and in the plan cost estimates that result. PERA began a legislative effort to revise its PERA-P&F plan disability benefit determination provisions a few years ago, and that effort continues. MSRS similarly is interested in controlling disability costs in its State Patrol and Correctional State Employees Plans.

### Discussion and Analysis

Amendment LCPR06-BA009 would revise the wrongful discharge provision applicable to most of the larger defined benefit plans, Section 356.50, by adding subdivisions specifying annuity repayment procedures and disability treatment following reinstatement. The new subdivisions state that if the individual started to receive an annuity from a plan and the individual is later reinstated following a determination of wrongful discharge, the individual may repay annuity payments received within 60 days of the wrongful discharge determination. If the annuity amounts are not repaid, the returning worker will be treated for retirement plan purposes as a reemployed annuitant. If an individual who is reinstated took a refund following the termination, and does not repay that refund, then if the individual later is awarded a disability benefit, the benefit will be computed solely based on the service following the initial reinstatement, and the individual forfeits eligibility for a higher minimum disability benefit that might otherwise apply under plan law.

Policy issue raises by the proposal are:

1. Procedural Concern. The concern is that by considering this amendment; police, fire, and correctional employee groups may not have adequate notice that this issue is under consideration. It may have been better if this matter had been introduced as a bill. That may have provided better notice to interested parties who may wish to testify on this matter.
2. Need for Change. The issue is whether the Commission concludes that the situation Ms. Vanek describes is an abuse or loophole, and worthy of legislative remedy. The Commission may wish to have Ms. Vanek testify, and possible the directors from some or the other plans that would be impacted by this change.
3. Alternative Solution. The issue is whether a remedy to this perceived problem should be dealt with in the context of wrongful discharge situations or more globally in various plan refund or disability provisions. Although the situation that concerns Ms. Vanek arose in the context of a wrongful discharge situation, a similar situation can arise whenever a correctional or public safety officer terminates from employment, takes a refund, and later becomes employed again in a position covered by the same public plan and does not repay the refund. Following the new employment, the individual could become disabled and would qualify for the public safety plan's generous minimum disability provisions, plus keep all the money obtained by the refund. If getting a refund and a large minimum disability benefit is deemed abusive, then it may be better dealt with within the disability benefit provisions of the various plans. The Commission may wish to consider adding language to the disability benefit provisions of any plan which provides a minimum disability provision, stating that the minimum disability benefit is not payable if the individual does not repay all past refunds taken from the plan. Alternatively, a new provision could be added to Chapter 356, applicable to all combined service annuity plans, stating that requirement.
4. Proper Scope. If the Commission decides that some form of legislative change is needed, an issue is whether this should be done for all plans or just the PERA public safety and correctional plans. An argument for doing this change for all applicable plans is that all the correctional plans and public safety plans provide minimum disability benefits, and the concerns raised by the PERA Executive Director should be equally valid in these other plans.
5. Payment Timing Questions. One question is whether 60 days provides sufficient time for an individual to repay any annuity amounts received during the wrongful discharge period (page 2, line 16). The Commission may wish to consider a longer or shorter period. Another question is whether language needs to be added regarding time limits for repaying a refund. Perhaps language is needed stating that the refund must be repaid before the disabling event occurs, or before the disability benefit is awarded. Otherwise, plans may have to recompute disability benefits based on refunds repaid after the disability benefit commences. Some of these plans allow individuals to repay refunds for several months after a disability occurs.

## Minnesota Statutes 2005, 352.115

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Subd. 10. **Reemployment of annuitant.** (a) If any retired employee again becomes entitled to receive salary or wages from the state, or any employer who employs state employees as that term is defined in section 352.01, subdivision 2, other than salary or wages received as a temporary employee of the legislature during a legislative session, the annuity or retirement allowance shall cease when the retired employee has earned an amount equal to the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403, in any calendar year. If the retired employee has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the retired employee shall be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) The balance of the annual retirement annuity after cessation must be handled or disposed of as provided in section 356.47.

(c) The annuity must be resumed when state service ends, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of that calendar year, and payment must again end when the retired employee has earned the applicable reemployment earnings maximum specified in this subdivision. If the retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance must be resumed during the period of sick leave.

(d) No payroll deductions for the retirement fund may be made from the earnings of a reemployed retired employee.

(e) No change shall be made in the monthly amount of an annuity or retirement allowance because of the reemployment of an annuitant.

# Minnesota Statutes 2005, 353.37

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## 353.37 Reemployment of annuitant.

Subdivision 1. **Salary maximums.** The annuity of a person otherwise eligible for an annuity under this chapter must be suspended under subdivision 2 or reduced under subdivision 3, whichever results in the higher annual annuity amount, if the person reenters public service as a nonelective employee of a governmental subdivision in a position covered by this chapter or returns to work as an employee of a labor organization that represents public employees who are association members under this chapter and salary for the reemployment service exceeds the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal Old Age, Survivors and Disability Insurance Program as set by the secretary of health and human services under United States Code, title 42, section 403, in any calendar year. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum salary for the person is equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

Subd. 1a. Repealed, 1981 c 180 s 18

Subd. 1b. **Retirement age.** For purposes of this section, "retirement age" means retirement age as defined in United States Code, title 42, section 416(1).

Subd. 2. MS 1971 Repealed, 1973 c 753 s 85

Subd. 2. **Suspension of annuity.** The association shall suspend the annuity on the first of the month after the month in which the salary of the reemployed annuitant exceeds the maximums set in subdivision 1, based only on those months in which the annuitant is actually employed in nonelective public service in a position covered under this chapter or employment with a labor organization that represents public employees who are association members under this chapter. An annuitant who is elected to public office after retirement may hold office and receive an annuity otherwise payable from the association.

Subd. 3. MS 1971 Repealed, 1973 c 753 s 85

Subd. 3. **Reduction of annuity.** The association shall reduce the amount of the annuity of a person who has not reached the retirement age by one-half of the amount in excess of the applicable reemployment income maximum under subdivision 1.

There is no reduction upon reemployment, regardless of income, for a person who has reached the retirement age.

Subd. 3a. **Disposition of suspension or reduction amount.** The balance of the annual retirement annuity after suspension or the amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

Subd. 4. **Resumption of annuity.** The association shall resume paying a full annuity to the reemployed annuitant at the start of each calendar year until the salary exceeds the maximums under subdivision 1, or on the first of the month following termination of employment which resulted in the suspension of the annuity. The executive director may adopt policies regarding the suspension and reduction of annuities under this section.

Subd. 5. **Effect on annuity.** Except as provided under this section, public service performed by an annuitant subsequent to retirement under this chapter does not increase or decrease the amount of an annuity. The annuitant shall not make any further contributions to the association's defined benefit plan by reason of this subsequent public service.

## Minnesota Statutes 2005, 353.656

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### 353.656 Disability benefits.

Subdivision 1. **In line of duty; computation of benefits.** A member of the police and fire plan who becomes disabled and physically unfit to perform duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which has or is expected to render the member physically or mentally unable to perform the duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, for a period of at least one year, shall receive disability benefits during the period of such disability. The benefits must be in an amount equal to 60 percent of the "average salary" as defined in section 353.01, subdivision 17a, plus an additional percent specified in section 356.315, subdivision 6, of that average salary for each year of service in excess of 20 years. If the disability under this subdivision occurs before the member has at least five years of allowable service credit in the police and fire plan, the disability benefit must be computed on the "average salary" from which deductions were made for contribution to the police and fire fund.

Subd. 1a. **Optional annuity election.** A disabled member of the police and fire fund may elect to receive the normal disability benefit or an optional annuity as provided in section 353.30, subdivision 3. The election of an optional annuity may be made prior to commencement of payment of the disability benefit or as specified under subdivision 6a. The optional annuity shall begin to accrue on the same date as provided for the disability benefit.

(1) If the person who is not the spouse of the member is named as beneficiary of the joint and survivor optional annuity, the person is eligible to receive the annuity only if the spouse, on the disability application form prescribed by the executive director, permanently waives the surviving spouse benefits under section 353.657, subdivisions 2 and 2a. If the spouse of the member refuses to permanently waive the surviving spouse coverage, the selection of a person other than the spouse of the member as a joint annuitant is invalid.

(2) If the spouse of the member permanently waives survivor coverage, the dependent child or children, if any, continue to be eligible for survivor benefits, including the minimum benefit under section 353.657, subdivision 3. The designated optional annuity beneficiary may draw the monthly benefit; however, the amount payable to the dependent child or children and joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, the benefit of the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the 70 percent maximum family benefit amount.

(3) If the spouse is named as the beneficiary of the joint and survivor optional annuity, the spouse may draw the monthly benefit; however, the amount payable to the dependent child or children and the joint annuitant must not exceed the 70 percent maximum family benefit under section 353.657, subdivision 3. If the maximum is exceeded, each dependent child will receive ten percent of the member's specified average monthly salary, and the benefit to the joint annuitant must be reduced to the amount necessary so that the total family benefit does not exceed the

70 percent maximum family benefit amount. The joint and survivor optional annuity must be restored to the surviving spouse, plus applicable postretirement adjustments under section 356.41, as the dependent child or children become no longer dependent under section 353.01, subdivision 15.

**Subd. 2. Benefits paid under workers' compensation law.**

If a member, as described in subdivision 1, is injured under circumstances which entitle the member to receive benefits under the workers' compensation law, the member shall receive the same benefits as provided in subdivision 1, with disability benefits paid reimbursed and future benefits reduced by all periodic or lump sum amounts paid to the member under the workers' compensation law, after deduction of amount of attorney fees, authorized under applicable workers' compensation laws, paid by a disabilitant if the total of the single life annuity actuarial equivalent disability benefit and the workers' compensation benefit exceeds: (1) the salary the disabled member received as of the date of the disability or (2) the salary currently payable for the same employment position or an employment position substantially similar to the one the person held as of the date of the disability, whichever is greater. The disability benefit must be reduced to that amount which, when added to the workers' compensation benefits, does not exceed the greater of the salaries described in clauses (1) and (2).

**Subd. 2a. Reduction restored; overpayment. A**

disabled member who is eligible to receive a disability benefit under subdivision 2 as of June 30, 1987, and whose disability benefit amount had been reduced prior to July 1, 1987, as a result of the receipt of workers' compensation benefits, must have the disability benefit payment amount restored, as of July 1, 1987, calculated in accordance with subdivision 2. However, a disabled member is not entitled to receive retroactive repayment of any disability benefit amounts lost before July 1, 1987, as a result of the reduction required before that date because of the receipt of workers' compensation benefits.

Any disability benefit overpayments made before July 1, 1987, and occurring because of the failure to reduce the disability benefit payment to the extent required because of the receipt of workers' compensation benefits, may be collected by the association through the reduction of disability benefit or annuity payment made on or after July 1, 1987, until the overpayment is fully recovered.

**Subd. 3. Nonduty disability benefit.** Any member of the police and fire plan who becomes disabled after not less than one year of allowable service because of sickness or injury occurring while not on duty as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, and by reason of that sickness or injury the member has been or is expected to be unable to perform the duties as a police officer, firefighter, or paramedic as defined under section 353.64, subdivision 10, for a period of at least one year, is entitled to receive a disability benefit. The benefit must be paid in the same manner as if the benefit were paid under section 353.651. If a disability under this subdivision occurs after one but in less than 15 years of allowable service, the disability benefit must be the same as though the member had at least 15 years service. For a member who is employed as a full-time firefighter by the Department of Military Affairs of the state of Minnesota, allowable service as a full-time state Military Affairs Department firefighter credited by the Minnesota State Retirement System may be used in meeting the minimum allowable service requirement of this subdivision.

## Minnesota Statutes 2005, 354.44

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Subd. 5. **Resumption of teaching service after retirement.** (a) Any person who retired under the provisions of this chapter and has thereafter resumed teaching in any employer unit to which this chapter applies is eligible to continue to receive payments in accordance with the annuity except that annuity payments must be reduced during the calendar year immediately following any calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-half of the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

(c) After a person has reached the Social Security full retirement age, no reemployment income maximum is applicable regardless of the amount of income.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes, but is not limited to:

(1) all income for services performed as a consultant or an independent contractor for an employer unit covered by the provisions of this chapter; and

(2) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in an employer unit with approximately the same number of pupils and at the same level as the position occupied by the person who resumes teaching service.



## Minnesota Statutes 2005, 354A.31

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Subd. 3. **Resumption of teaching after commencement of a retirement annuity.** (a) Any person who retired and is receiving a coordinated program retirement annuity under the provisions of sections 354A.31 to 354A.41 or any person receiving a basic program retirement annuity under the governing sections in the articles of incorporation or bylaws and who has resumed teaching service for the school district in which the teachers retirement fund association exists is entitled to continue to receive retirement annuity payments, except that annuity payments must be reduced during the calendar year immediately following the calendar year in which the person's income from the teaching service is in an amount greater than the annual maximum earnings allowable for that age for the continued receipt of full benefit amounts monthly under the federal old age, survivors, and disability insurance program as set by the secretary of health and human services under United States Code, title 42, section 403. The amount of the reduction must be one-third the amount in excess of the applicable reemployment income maximum specified in this subdivision and must be deducted from the annuity payable for the calendar year immediately following the calendar year in which the excess amount was earned. If the person has not yet reached the minimum age for the receipt of Social Security benefits, the maximum earnings for the person must be equal to the annual maximum earnings allowable for the minimum age for the receipt of Social Security benefits.

(b) If the person is retired for only a fractional part of the calendar year during the initial year of retirement, the maximum reemployment income specified in this subdivision must be prorated for that calendar year.

(c) After a person has reached the age of 70, no reemployment income maximum is applicable regardless of the amount of any compensation received for teaching service for the school district in which the teachers retirement fund association exists.

(d) The amount of the retirement annuity reduction must be handled or disposed of as provided in section 356.47.

(e) For the purpose of this subdivision, income from teaching service includes: (i) all income for services performed as a consultant or independent contractor; or income resulting from working with the school district in any capacity; and (ii) the greater of either the income received or an amount based on the rate paid with respect to an administrative position, consultant, or independent contractor in the school district in which the teachers retirement fund association exists and at the same level as the position occupied by the person who resumes teaching service.

(f) On or before February 15 of each year, each applicable employing unit shall report to the teachers retirement fund association the amount of postretirement income as defined in this subdivision, earned as a teacher, consultant, or independent contractor during the previous calendar year by each retiree of the teachers retirement fund association for teaching service performed after retirement. The report must be in a format approved by the executive secretary or director.

## Minnesota Statutes 2005, 356.47

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### **356.47 Disposition of amount in excess of reemployed annuitant earnings limitations.**

Subdivision 1. **Application.** This section applies to the balance of annual retirement annuities on the amount of retirement annuity reductions after reemployed annuitant earnings limitations for retirement plans governed by section 352.115, subdivision 10; 353.37; 354.44, subdivision 5; or 354A.31, subdivision 3.

Subd. 2. **Record keeping; reporting.** The chief administrative officer of each retirement plan shall keep records for each reemployed annuitant of the amount of the annuity reduction. This amount must be reported to each member at least once each year.

Subd. 3. **Payment.** (a) Upon the retired member attaining the age of 65 years or upon the first day of the month next following the month occurring one year after the termination of the reemployment that gave rise to the limitation, whichever is later, and the filing of a written application, the retired member is entitled to the payment, in a lump sum, of the value of the person's amount under subdivision 2, plus interest at the compound annual rate of six percent from the date that the amount was deducted from the retirement annuity to the date of payment.

(b) The written application must be on a form prescribed by the chief administrative officer of the applicable retirement plan.

(c) If the retired member dies before the payment provided for in paragraph (a) is made, the amount is payable, upon written application, to the deceased person's surviving spouse, or if none, to the deceased person's designated beneficiary, or if none, to the deceased person's estate.

(d) In lieu of the direct payment of the person's amount under subdivision 2, on or after the payment date under paragraph (a), if the federal Internal Revenue Code so permits, the retired member may elect to have all or any portion of the payment amount under this section paid in the form of a direct rollover to an eligible retirement plan as defined in section 402(c) of the federal Internal Revenue Code that is specified by the retired member. If the retired member dies with a balance remaining payable under this section, the surviving spouse of the retired member, or if none, the deceased person's designated beneficiary, or if none, the administrator of the deceased person's estate may elect a direct rollover under this paragraph.

HIST: 2002 c 392 art 11 s 37; 1Sp2005 c 8 art 3 s 7

1.1 ..... moves to amend S.F. No. ....; H.F. ...., as follows:

1.2 Page ..., after line ..., insert:

1.3 "Sec. .... Minnesota Statutes 2004, section 356.50, is amended to read:

1.4 **356.50 SERVICE AND SALARY CREDIT FROM BACK PAY AWARDS IN**  
1.5 **THE EVENT OF WRONGFUL DISCHARGE; ANNUITY AND DISABILITY**  
1.6 **TREATMENT.**

1.7 Subd. 1. Application. (a) A person who is wrongfully discharged from public  
1.8 employment that gave rise to coverage by a public employee pension plan enumerated  
1.9 in section 356.30, subdivision 3, is entitled to obtain allowable service credit from the  
1.10 applicable public employee pension plan for the applicable period caused by the wrongful  
1.11 discharge.

1.12 (b) A person is wrongfully discharged for purposes of this section if:

1.13 (1) the person has been determined by a court of competent jurisdiction, ~~or by an~~  
1.14 arbitrator in binding arbitration, the commissioner of veterans affairs, or by a board,  
1.15 commission, or panel acting under Minnesota Statutes, section 197.46, whichever applies,  
1.16 to have been wrongfully discharged from public employment;

1.17 (2) the person received an award of back pay with respect to that discharge; and

1.18 (3) the award does not include any amount for any lost or interrupted public pension  
1.19 plan coverage.

1.20 Subd. 2. Service credit procedure. ~~(e)~~(a) To obtain the public pension plan  
1.21 allowable service credit, the eligible person under subdivision 1 shall pay the required  
1.22 member contribution amount. The required member contribution amount is the member  
1.23 contribution rate or rates in effect for the pension plan during the period of service covered  
1.24 by the back pay award, applied to the unpaid gross salary amounts of the back pay award  
1.25 including unemployment insurance, workers' compensation or wages from other sources  
1.26 which reduced the back award. No contributions shall be made under this clause for  
1.27 compensation covered by a public pension plan listed in section 356.30, subdivision 3,

2.1 for employment during the removal period. The person shall pay the required member  
 2.2 contribution amount within 60 days of the date of receipt of the back pay award, ~~within~~  
 2.3 ~~60 days of April 14, 1992~~, or within 60 days of a billing from the retirement fund,  
 2.4 whichever is later.

2.5 ~~(d)~~(b) The public employer who wrongfully discharged the public employee must  
 2.6 pay an employer contribution on the back pay award. The employer contribution must be  
 2.7 based on the employer contribution rate or rates in effect for the pension plan during the  
 2.8 period of service covered by the back pay award, applied to the salary amount on which  
 2.9 the member contribution amount was determined under paragraph ~~(e)~~(a). Interest on both  
 2.10 the required member and employer contribution amount must be paid by the employer at  
 2.11 the annual compound rate of 8.5 percent per year, expressed monthly, between the date the  
 2.12 contribution amount would have been paid to the date of actual payment. The employer  
 2.13 payment must be made within 30 days of the payment under paragraph ~~(e)~~(a).

2.14 Subd. 3. **Employer reporting.** The employer must report to the executive director  
 2.15 of the applicable pension plan that a person has been determined to be wrongfully  
 2.16 discharged and the employer must provide a copy of the written order or decision.

2.17 Subd. 4. **Annuity repayment.** Notwithstanding subdivisions 1 and 2, if after being  
 2.18 discharged, the person commences receipt of an annuity from the applicable plan, and it is  
 2.19 later determined that the person was wrongfully discharged, the person shall repay the  
 2.20 annuity received in a lump sum within 60 days of receipt of the back pay award. If the  
 2.21 annuity is not repaid, the person is not entitled to reinstatement in the applicable plan as  
 2.22 an active member, is not authorized to make payments under subdivision 2, paragraph  
 2.23 (a), and for subsequent employment with the employer, the person shall be treated as  
 2.24 a reemployed annuitant.

2.25 Subd. 5. **Disability treatment.** If a person is wrongfully discharged and prior to  
 2.26 reinstatement takes a refund of employee contributions under the applicable plan's refund  
 2.27 provision and fails to repay that refund, then notwithstanding other law to the contrary, if  
 2.28 the person applies for a disability benefit and is approved for that benefit, the disability  
 2.29 benefit amount must be computed solely on the years of covered service provided  
 2.30 after reinstatement, the individual's salary for benefit computation purposes, and the  
 2.31 applicable plan accrual rates, rather than receiving a minimum disability benefit amount, if  
 2.32 applicable, specified in plan law."

2.33 Page ..., after line ..., insert:

2.34 "Sec. .... **EFFECTIVE DATE.**

2.35 Section ... is effective the day following final enactment."

- 3.1 Renumber the sections in sequence and correct the internal references
- 3.2 Amend the title accordingly