



**S.F. 2474**  
(Betzold)

**H.F. 2739**  
(Murphy, M.)

### **Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	PERA Plans
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Chapter 353
<i>General Nature of Proposal:</i>	Purchase of salary credit procedure in certain partial salary situations and exclusion of overtime pay in service credit purchase procedure.
<i>Date of Summary:</i>	February 9, 2010

### **Specific Proposed Changes**

- The PERA provision for purchasing service and salary credit during period of workers' compensation where the individual is receiving partial payment from the employer (Minn. Stat., Sec. 353.01, Subd. 40) is moved, and revised by excluding overtime pay from the salary used to compute the contributions. The revised procedure will also apply to partial paid medical leaves, and a new proposed partial paid leave due to a budgetary or salary savings programs offered or mandated by a governmental subdivision. Payment is based on the contribution rates in the applicable PERA plan (PERA-General, PERA-P&F, or PERA-Correctional) and the difference between salary received during the leave or break in service and the salary received, excluding overtime, during the six-month period prior to the leave or break in service.
- The PERA service credit purchase procedure (Minn. Stat., Sec. 353.0161, Subd. 2) used for computing contributions for various other leave forms is revised by excluding overtime pay when determining the salary used to compute contributions required when purchasing service credit for leaves of absence when payment is made within one year of returning from a leave.

### **Policy Issues Raised by the Proposed Legislation**

1. Sufficient need for change.
2. Identification of problem.
3. Possible harm without adequate justification.
4. Inconsistency with salary definition.
5. Justification for inconsistency between salary treatment in various PERA leaves.
6. Inconsistency between plan systems.
7. Uncertain impact of plan funding.
8. Actuarial condition of various PERA plans.

### **Potential Amendments**

#### Technical Amendment:

- Amendment S2474-A1 clarifies the title of section 2.

#### Substantive Amendments:

- Amendment S2474-A2 adds a revision of PERA's periodic, repetitive leave provision, a leave form that was not included in the bill draft, by excluding overtime pay (more consistent treatment across PERA forms of leave).
- Amendment S2474-A3, an alternative to A2, revises PERA's periodic, repetitive leave provision and PERA's USERRA-compliant military leave/break-in-service provision by excluding overtime pay. These were not included in the bill draft (more consistent treatment across PERA forms of leave).
- Amendment S2474-A4 drops the revisions to the generalized leave payment procedure, limiting the no-overtime prohibition to the revised temporary workers' compensation and new part-paid medical leave and budgetary, salary savings leaves. If this amendment is used, presumably the A1 or A2 amendments would not be used.
- Amendment S2474-A5, an alternative to all other amendments, revises the bill so that the only leave/break-in service salary/service credit purchase procedure that will exclude overtime pay is the temporary workers' compensation salary/service credit purchase provision.

- Amendment S2474-A6, an alternative to all other amendments, revises the bill so that the bill is restricted to revising the temporary workers' compensation payment period and creating the new part-paid medical leave and part-paid budgetary/salary savings leaves. These would not exclude use of overtime.

#### Coverage and/or Disability Benefit Eligibility Amendments

- Amendment S2474-A7, a delete-everything amendment, excludes from coverage by any PERA plan any retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010.
- Amendment S2474-A8, an alternative to A7, is a delete-everything amendment which excludes from PERA-P&F coverage any disabilitants or retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010.
- Amendment S2474-A9 is a delete-everything amendment which excludes from any PERA defined benefit plan any retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010, but it gives these excluded employees an option to elect Public Employees Defined Contribution (PEDC) plan coverage.
- Amendment S2474-A10 is comparable to A9 but applies to both service retirees and disabilitants from other public safety plans.
- Amendment S2474-A11 continues permitting individuals who are receiving benefits from other public safety plans to access PERA-P&F for employment with a PERA employing unit, but would exclude them from PERA-P&F disability benefit eligibility.
- Amendment S2474-A12 continues permitting individuals who are receiving benefits from other public safety plans to access PERA-P&F for employment with a PERA employing unit, but would exclude them from PERA-P&F disability benefit eligibility unless the disability meets the total and permanent standard.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 2474 (Betzold); H.F. 2739 (Murphy, M.): PERA Plans; Purchase of Salary Credit Procedure in Certain Partial Salary Situations and Exclusion of Overtime Pay in Service Credit Purchase Procedure

DATE: February 8, 2010

Summary of S.F. 2474 (Betzold); H.F. 2739 (Murphy, M.)

S.F. 2474 (Betzold); H.F. 2739 (Murphy, M.) makes the following changes:

1. The Public Employees Retirement Association (PERA) provision for purchasing service and salary credit during period of workers' compensation where the individual is receiving partial payment from the employer (Minnesota Statutes, Section 353.01, Subdivision 40) is replaced with a new section which differs by excluding overtime pay from the salary used to compute the contributions, and by expanding the procedure to also apply to partial paid medical leaves, and partial paid leaves due to a budgetary or salary savings programs offered or mandated by a governmental subdivision. Payment is based on the contribution rates in the applicable PERA plan (PERA-General, PERA-P&F, or PERA-Correctional) and the difference between salary received during the leave or break in service and the salary received, excluding overtime, during the six-month period prior to the leave or break in service.
2. The PERA service credit purchase procedure (Minnesota Statutes, Section 353.0161, Subdivision 2) used for computing contributions for various other leave forms is revised by excluding overtime pay when determining the salary used to compute contributions required when purchasing service credit for leaves of absence when payment is made within one year of returning from a leave.

Discussion and Analysis

The attached memo dated September 28, 2009, from PERA Executive Director Mary Vanek indicates that PERA seeks to revise payment terms for many of its leave of absence or partial pay service credit purchase provisions. An issue for the Commission is whether the problems PERA seeks to address warrant legislative action, and whether the proposed solutions adequately address these concerns. In some cases, alternative approaches may be necessary.

PERA has concluded that its current law contains an inequity regarding partial pay medical leaves compared to partial pay workers' compensation situations, and PERA seeks to address these inequities. Ms. Vanek notes that some PERA members on medical leaves of absence may be drawing partial rather than full sick leave pay from the employer. Under existing PERA law they are not permitted to purchase salary credit in the plan for the difference between the salary received and the normal pay. Current law permits purchases of service/salary credit for medical leaves (and parental and personal leaves) only if the leave is unpaid. In contrast, under current law individuals receiving temporary workers' compensation payments and partial pay from the employer are permitted to make contributions to receive additional service/salary credit, by making contributions to the plan based on the difference between salary received and normal full salary. PERA proposes more comparable treatment between these groups, while also limiting the salary for contribution purposes to salary without overtime pay.

PERA also seeks to create an additional mechanism to permit individuals on a voluntary or mandated furlough, due to local government budget problems, to obtain service/salary credit in applicable PERA plan. This new procedure could be used when the employer declines to cover what would normally be the employer contribution amount. There is a provision in PERA law (PERA's periodic, repetitive leave provision, Minnesota Statutes, Section 353.01, Subdivision 16, Paragraph (a), Clause (5)) which could be used to provide service credit for some voluntary or mandated furloughs, but the periodic, repetitive leave provision requires the employer to cover the employer contribution amount. Ms. Vanek indicates that some employers, seeking to maximize their salary savings, are placing employees on furloughs but not permitting use of the periodic/repetitive leave provision. Under the proposal in this draft, an alternate to the periodic, repetitive leave is provided which could be used to obtain service/salary credit by having the employee pay both the employee and employer contribution amounts. The contributions will be based on salary without overtime.

Finally, PERA proposes to exclude overtime pay from the salary used to compute contributions to obtain service/salary credit for most other PERA leaves (personal, parental, family, and unpaid medical leaves).

The September 28, 2009, PERA memo mentions the case of a PERA-P&F member whose salary included considerable overtime pay prior to becoming injured. That pre-injury total salary was approximately \$100,000. The individual was placed in a light duty position paying about \$65,000 per year for a 40-hour week, and the individual is receiving temporary workers' compensation benefits to bring his total salary to \$100,000. The individual seeks to make contributions to PERA-P&F under its workers'-compensation-partial-pay provision, based on the \$100,000 combination of current salary and workers' compensation benefits (equivalent to his prior salary including overtime). This treatment is authorized under current law. Ms. Vanek indicates the individual also qualifies for a duty disability under PERA-P&F law, and making contributions on the higher salary will enhance his disability benefit by increasing the high-five average salary upon which it is computed. This specific workers' compensation/disability situation involves an individual who retired with a retirement benefit from the Minneapolis Police Relief Association (MPRA). At age 56, the individual then went to work for the Metropolitan Transit Authority (MTA) as a police officer. MTA public safety positions are covered by PERA-P&F. The officer was assigned to the Gang Strike Task Force, and with less than five years of PERA-P&F covered service, he or she was injured. Under existing law the person qualifies for a PERA-P&F duty disability benefit. PERA duty disability benefits are 60 percent of the individual's high-five average salary (the equivalent of a 20-year service pension) plus an additional three percent of the high-five average salary for each year of service, if any, in excess of 20 years. In the case of this particular police officer, he or she has received considerably salary from the MTA, continues to receive the full MPRA service pension, plus he or she will receive through the PERA-P&F disability provision a disability benefit equivalent to a 20-year PERA-P&F service pension.

Basing the contributions, for the workers'-compensation- partial-pay provision, on salary without overtime pay will somewhat lower the high-five average salary used to compute the disability benefit, and thus somewhat lessen PERA's liability. However, the particular case which raised PERA's concern may not be covered by the proposed policy change, since the effective date on the provision is not retroactive.

The PERA-proposed solution to situations of this type may largely miss the mark. A more basic question is whether some of these individuals should have any access to PERA-P&F disability provisions or any access to PERA-P&F coverage at all. PERA-P&F has considerable liability related to this individual, far in excess of the contributions received due to the MTA service. In contrast, if this individual had retired from PERA-P&F and then went back to work as an MTA police officer, PERA would have no liability related to the MTA service because the individual would have no pension coverage for that service and no access to PERA-P&F disability benefits.

If individuals who already have a retirement annuity from another paid employee public pension plan continue to be eligible for PERA-P&F coverage due to public safety employment with a PERA-covered employer, the Commission may wish to consider restricting eligibility to PERA-P&F disability benefits, particularly to individuals who meet a position-specific definition of disability rather than a total and permanent standard typical of general employee plans. Individuals who provide minimal service prior to becoming injured are treated most favorably under these provisions. They receive a disability benefit that is far more generous than the retirement benefit accrued given their service. In contrast, plan members who have already provided 20 years or more of covered service receive a disability benefit equal to the accrued service pension.

PERA-P&F disability provisions provide assurance to police officers and firefighters, from the first day they are on the job, that they and their families will have adequate financial resources if they are injured while performing the hazardous duties required given their profession. The short-service group, the group treated most generously under these provisions, includes the youngest police officers and paid firefighters, and that group may need and deserve the most income protection. But the group also includes some of the oldest employees--police officers who retired from another public safety plan and returned to public safety employment in a position covered by PERA-P&F, whose needs and circumstances may not justify providing the equivalent of a 20-year service pension.

Also, current PERA-P&F disability provisions permit individuals to qualify for and commence disability benefits even after the plan's normal retirement age for a retirement annuity is reached. The retired MPRA member referred to in Ms. Vanek's memo was age 56 when he or she started the MTA employment. That is a year older than the normal retirement age, age 55, in the PERA-P&F plan. Perhaps individuals who enter PERA-P&F coverage near or after the plan's normal retirement age should not be eligible for disability benefits from the plan, at least not computed as the equivalent of a 20-year

service pension. An alternative is to simply provide a retirement benefit based on the length of service provided.

Finally, the situation suggests that the normal retirement age used in at least some public safety plans is too low. The Commission's Pension Policy Statement indicates that normal retirement age in a plan should be set with reference to the employability limit of plan members, with attention paid to the nature of the work plan members are expected to perform. Because of the hazardous nature of public safety employment, public safety plans have lower normal retirement ages than general employee plans. The MPRA and the Minneapolis Firefighter Relief Association (MFRA) have a normal retirement age of 50. MPRA retirees who retire with full benefits from that plan and then move to police work covered by other public plans suggest that age 50 is too low for a normal retirement age. However, these two Minneapolis plans were closed to new members in 1980, and few active members remain, limiting the need to consider revisions in those plans. For PERA-P&F and the State Patrol Plan, the normal retirement age is age 55, although members can take an early retirement starting at age 50. Again, many individuals move on to some other employment, including public safety employment, following retirement from these two state plans.

S.F. 2474 (Betzold); H.F. 2739 (Murphy, M.) adds a new section to PERA statutes replacing the similar service/salary credit purchase workers' compensation provision, based on that provision but differing by excluding overtime pay from the salary used to compute the contributions, and by expanding the procedure to also apply to partial paid medical leave, and partial paid leaves due to a budgetary or salary savings programs offered or mandated by a governmental subdivision. Payment will be based on the contribution rates in the applicable PERA plan (PERA-General, PERA-P&F, or PERA-Correctional) and the difference between the partial salary received during the leave or break in service and the salary, excluding overtime, received during the six-month period prior to the leave or break in service. The draft also revises the PERA service credit purchase procedure (Minnesota Statutes, Section 353.0161, Subdivision 2) used for computing contributions for various other leave forms by excluding overtime pay when determining the salary used to compute contributions to receive the service/salary credit when payment is made within one year of returning from a leave.

The bill draft raises numerous pension policy issues as follows:

1. Sufficient Need for Change. The issue is whether there is sufficient need for change. In considering this, the Commission may wish to break this into three parts, because PERA is attempting to address three substantive areas through this drafting.

First, is there sufficient need or reason to use salary without overtime pay to compute contributions to purchase service credit in PERA plans for most forms of leave (including the newly proposed budget furloughs) rather than salary with overtime as in current law?

Second, is there sufficient need for the newly proposed budget furlough leave provisions, given that other existing leave forms could handle at least some of these situations?

Third, is there sufficient need to address design problems with PERA-P&F disability eligibility? If so, does the proposed use of salary without overtime to compute contributions while on workers' compensation adequately address the situation, or are other actions needed?

2. Identification of Problem. The issue is the need to clearly identify the problem so a solution can be developed which directly addresses it. The fundamental problem does not appear to be the current law inclusion of overtime pay in salary for leave/break-in-service contribution purposes. Rather, the core problem appears to be the eligibility provisions for PERA-P&F's disability benefits, and/or eligibility provisions for plan coverage. There may not be adequate time this session to fully explore these topics. Perhaps individuals who are entering the plan, who are close to the plan's normal retirement age (age 55) or already older than that age, should not have access to PERA-P&F disability provisions. As an alternative long-term solution, the Commission may wish to consider prohibiting retirees of other Minnesota public safety plans from having PERA-P&F coverage if the individual takes public safety employment with a PERA-covered employer. This would treat these individuals the same as a PERA-P&F annuitant who accepts employment in a public safety position with a PERA-covered employer. Despite working for a PERA-covered employer, these reemployed annuitants do not have pension plan coverage for the new employment. The Commission may also wish to consider whether similar changes are needed in the MSRS State Patrol plan.
3. Possible Harm Without Adequate Justification. Members from various PERA plans who use parental, family, and personal leaves may argue they are harmed by these changes because the high-five average salary is lowered, and that there was no good policy justification warranting the changes.

4. Inconsistency with Salary Definition. The issue is the inconsistency of this proposal with PERA's salary definition. PERA's definition of salary (Minnesota Statutes, Section 353.01, Subdivision 10) is the basis upon which all PERA-covered employing units compute the employee and employer contributions transmitted to PERA, and upon which all annuity benefits are computed, since they are based on salary. PERA's salary definition does include overtime pay. However, in this proposal contributions to receive service/salary credit for the various leaves covered in the draft must be based on salary excluding overtime. This inconsistency warrants discussion. Why should deductions taken from an employee's paycheck be based on salary with overtime, while contributions made to purchase a leave are to be based on salary (before the leave or upon returning) without overtime?
5. Justification for Inconsistency between Salary Treatment in Various PERA Leaves. The issue is that different leave/break-in-service provisions within PERA will use different definitions of salary. The revised payment procedures in this draft (those that cover unpaid personal, parental, family, and medical leaves, and partial pay medical or budgetary leaves, and partial paid periods of workers' compensation) will base contributions on salary without overtime. However, periodic/repetitive leaves (Minnesota Statutes, Section 353.01, Subdivision 16, Clause (5)), and Uniformed Service Employment and Reemployment Rights Act (USERRA)-compliant military leaves or breaks in service (Minnesota Statutes, Section 353.01, Subdivision 16, Clause (7)) will continue to use salary including overtime.
6. Inconsistency Between Plan Systems. The issue is that using salary exclusive of overtime in some PERA leave, break-in-service provisions (or all PERA leave/break-in-service provisions if revised by an amendment to do so) will create inconsistency between PERA plans and the comparable MSRS, TRA, and first class city teacher plans, all of which would use salary including overtime in their leave service credit purchase provisions.
7. Uncertain Impact of Plan Funding. The issue is the uncertain impact on PERA plan funding. The PERA proposal to base contributions, for many of its leave service credit purchase provisions, on salary without overtime is an effort to contain the benefits that may result when the years or months being purchased appear in the high-five computation used to determine the benefit. While there will be some containment of benefits payable, PERA will also receive less money through contributions for service credit. In cases where the years or months being purchased appear in the high-five, there is likely to be a gain to PERA. But many leave of absence service credit purchases will be for years which will not be in the high five. In those cases this proposed treatment will harm PERA. It is not clear which effect will predominate.
8. Actuarial Condition of Various PERA Plans. The issue is the actuarial condition of the various PERA plans. An actuarial presentation based on July 1, 2009 for PERA-General, PERA-P&F, and PERA-Correctional follow.

	PERA-General 2009		PERA-Correctional 2009		PERA-P&F 2009	
<u>Membership</u>						
Active Members		142,097		3,715		11,035
Service Retirees		56,948		267		5,213
Disabilitants		2,075		101		838
Survivors		7,036		18		1,380
Deferred Retirees		43,645		1,683		1,280
Nonvested Former Members		<u>122,434</u>		<u>1,525</u>		<u>911</u>
Total Membership		374,235		7,309		20,657
<u>Funded Status</u>						
Accrued Liability		\$18,799,416,000		\$229,383,000		\$6,296,274,000
Current Assets		<u>\$13,158,490,000</u>		<u>\$217,577,000</u>		<u>\$5,239,855,000</u>
Unfunded Accrued Liability		\$5,640,926,000		\$11,806,000		\$1,056,419,000
Funding Ratio	69.99%		94.85%		83.22%	
<u>Financing Requirements</u>						
Covered Payroll		\$5,130,307,000		\$172,770,000		\$786,887,000
Benefits Payable		\$863,910,000		\$2,836,000		\$310,099,000
Normal Cost	7.82%	\$400,956,000	13.26%	\$22,904,000	22.07%	\$173,703,000
Administrative Expenses	0.20%	\$10,261,000	0.13%	\$227,000	0.13%	\$1,023,000
Amortization	<u>7.53%</u>	<u>\$386,312,000</u>	<u>0.64%</u>	<u>\$1,109,000</u>	<u>7.79%</u>	<u>\$61,298,000</u>
Total Requirements	7.53%	\$386,312,000	0.64%	\$1,109,000	7.79%	\$61,298,000
Employee Contributions	6.00%	\$307,819,000	5.83%	\$10,073,000	9.40%	\$73,967,000
Employer Contributions	<u>6.88%</u>	<u>\$352,965,000</u>	<u>8.75%</u>	<u>\$15,117,000</u>	<u>14.10%</u>	<u>\$110,951,000</u>
Total Contributions	12.88%	\$660,784,000	14.58%	\$25,190,000	23.50%	\$184,918,000
Total Requirements	7.53%	\$386,312,000	0.64%	\$1,109,000	7.79%	\$61,298,000
Total Contributions	<u>12.88%</u>	<u>\$660,784,000</u>	<u>14.58%</u>	<u>\$25,190,000</u>	<u>23.50%</u>	<u>\$184,918,000</u>
Deficiency (Surplus)	(5.35%)	(\$274,472,000)	(13.94%)	(\$24,081,000)	(15.71%)	(\$123,620,000)

## Potential Amendments for Commission Consideration

### Technical Amendments:

- **Amendment S2474-A1** is a technical amendment, clarifying the title of section 2 by inserting “SALARY” after “PERIODS”. It can be used with amendments A2 through A6.

### Substantive Amendments:

- **Amendment S2474-A2** would add to the draft a revision of PERA’s periodic, repetitive leave provision, a leave form that was not included in the bill draft, by excluding overtime pay. This creates more consistency in treatment across PERA leave forms.
- **Amendment S2474-A3**, an alternative to the A2 amendment, would revise PERA’s periodic, repetitive leave provision and PERA’s USERRA-compliant military leave/break-in-service provision by excluding overtime pay. These were not included in the bill draft. This creates consistency in treatment across PERA leave forms. A concern is that making this revision to the USERRA-compliant provision might be viewed as not compliant with USERRA by failing to treat these military personnel sufficiently similar to an individual who did not serve.
- **Amendment S2474-A4** drops the revisions to the generalized leave payment procedure, thus limiting the no-overtime prohibition to the revised temporary workers’ compensation and new part-paid medical leave and budgetary, salary savings leaves. If the Commission is interested in using this amendment, presumably it would not want to use the A1 or A2 amendments.
- **Amendment S2474-A5** is an alternative to all other amendments. It revises the bill so that the only leave/break-in service salary/service credit purchase procedure that will exclude overtime pay is the temporary workers’ compensation salary/service credit purchase provision. An argument for this revision is that this seems to be the only service/salary credit purchase provision where any concern has been raised. However, this will do little to address the underlying failure in law to either restrict access to PERA-P&F coverage in general, or more specifically restrict access to PERA-P&F disability provisions.
- **Amendment S2474-A6** is an alternative to all other amendments. It revises the bill so that the bill is restricted to revising the temporary workers’ compensation payment period and creating the new part-paid medical leave and part-paid budgetary/salary savings leaves. These would not exclude use of overtime.

## Coverage and/or Disability Benefit Eligibility Amendments

The following amendments are substantively different from the previous amendments by addressing issues of who should be eligible for PERA-P&F coverage and/or PERA-P&F disability benefits, rather than by trying limit or fine-tune the salary used to compute contributions for salary credit purchases. The Commission may wish to consider adopting any one of the following amendments as a stopgap measure, until time permits more comprehensive revisions to be considered.

- **Amendment S2474-A7** is a delete-everything amendment which excludes from coverage by any PERA plan any retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010. For purposes of exclusion from active employee status, this treats the individuals as though they were PERA-P&F annuitants. Under current law, a PERA-P&F retiree who returns to employment with a PERA-covered employer is excluded from being an active member of a PERA plan.
- **Amendment S2474-A8**, an alternative to the A7 amendment, is a delete-everything amendment which excludes from PERA-P&F coverage any disabilitants or retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010.
- **Amendment S2474-A9** is a delete-everything amendment which excludes from any PERA defined benefit plan any retirees from another paid public safety plan first employed by a governmental subdivision after June 30, 2010, but it gives these excluded employees an option to elect Public Employees Defined Contribution (PEDC) plan coverage. This provides these individuals with some coverage for the employment but when they terminate employment due to disability or retirement the individual is entitled only to the value of their account. This is similar to the treatment which the Commission recently recommended for inclusion in its omnibus bill for any PERA-P&F retiree who is later elected to a county sheriff position.

- **Amendment S2474-A10** is comparable to the A9 amendment but it applies to both service retirees and disabilitants from other public safety plans.
- **Amendment S2474-A11** would continue permitting individuals who are receiving benefits from other public safety plans to access PERA-P&F for employment with a PERA employing unit, but would exclude them from PERA-P&F disability benefit eligibility.
- **Amendment S2474-A12** would continue permitting individuals who are receiving benefits from other public safety plans to access PERA-P&F for employment with a PERA employing unit, but would exclude them from PERA-P&F disability benefit eligibility unless the disability meets the total and permanent standard generally applicable to general employee plans.



## **Background Information on Recent Revisions in Purchase of Service Credit for Leave Provisions, Other than Military Service Leaves**

### 2007 Revisions

In 2007 (Laws 2007, Chapter 134, Article 2, various sections), the Commission and the Legislature revised Public Employees Retirement Association (PERA), Minnesota State Retirement System (MSRS), and Teachers Retirement Association (TRA) law to create more consistent procedures for charging for purchases of service and salary credit for the various leave or break-in-service provisions found in the laws of these plan systems. The new procedures were intended to reduce damage to plan funds from service credit purchase provisions. Procedures in prior law too often subsidized the purchaser to the detriment of the employers and other plan members. As revised in 2007, payments received more than one year after the end of the leave or break in service must be at full actuarial value. In PERA and MSRS, if payment was made within one year of the leave or break in service, the person must make a payment based on salary upon returning from the leave or break in service and the applicable contribution rates for the plan. In TRA, the payment was based on the contribution rates and salary when the leave or break in service commenced. In all three systems the payment must include monthly interest equivalent to the 8.5 percent annual interest earnings assumption of the plans. The employee is responsible for making full payment, although the employing unit is permitted to make partial payment on behalf of the employee.

These new procedures applied to nearly all forms of leave except Uniformed Service Employment and Reemployment Rights Act (USERRA)-compliant military leaves or breaks-in-service, which are covered by separate payment procedures.

- For TRA, the new payment procedure passed as Laws 2007, Chapter 134, Article 2, Section 41, and was coded as Minnesota Statutes, Section 354.72. That TRA payment procedure applied to TRA purchases of service/salary credit for strike periods, and for authorized parental leaves, extended leaves of absence, medical leaves, and family leaves. TRA sabbatical leaves, which require partial payment of salary during the leave, and USERRA leaves are treated under separate provisions.
- For MSRS, the new payment procedure passed as Laws 2007, Chapter 134, Article 2, Section 5, and was coded as Minnesota Statutes, Section 352.017. The MSRS payment procedure applied to purchases of service/salary credit for all authorized leaves other than USERRA-compliant military leaves or breaks in service.
- For PERA, the new payment procedure passed as Laws 2007, Chapter 134, Article 2, Section 18, and was coded as Minnesota Statutes, Section 353.0161. The PERA payment procedure applied to purchases of service/salary credit for all authorized leaves without pay (personal, parental, family, or medical leaves) other than USERRA-compliant military leaves or breaks in service.

### 2008 Revisions

In 2008 the leave payment provisions enacted or revised in 2007 were further revised by Laws 2008, Chapter 349, Article 5.

- For MSRS, language was added clarifying that payment cannot be made after an individual terminates service. The one-year window for making contributions-plus-interest payments begins when the individual returns to employment following the leave, rather than from the end of the leave. Finally, language was added specifying treatment if the individual terminates employment during the leave. If that occurs, the individual can receive service/salary credit for the portion of the leave prior to termination if payment is made within 30 days of termination.
- Comparable changes were made in PERA's provision, but a further change also occurred. For the payment-within-one-year procedure, the payment was revised to be based on salary during the six-month period prior to the leave or break, rather than salary, upon returning. PERA indicated it was easier to administer if salary was based on salary prior to the leave, but this may have the effect of slightly reducing the contributions PERA would receive, assuming salary can be expected to increase slightly over time due to seniority, or if wages are increased in full or partial compensation for inflation.
- For TRA, the changes were more extensive and unfortunately the revisions expanded opportunity to shortchange the fund while purchasing service credit. As revised, payment for service credit for a leave or strike period can be made without interest if made by the end of the fiscal year (June 30) of

the leave or strike period. That waiving of interest on leaves or strike periods that end before June 30 harms the fund. Interest is charged if payment is received after June 30 of the fiscal year and prior to the following June 30, with a full actuarial value payment being required thereafter. For individuals who terminate service, rather than the 30-day window following termination to make payment, as was added to MSRS and PERA law, language was added to the TRA provision permitting payments to be made any time prior to "the effective date of retirement." Under that language a deferred member could make payment months or years after terminating service.

**DATE:** September 28, 2009

**TO:** Ed Burek

**FROM:** Mary Most Vanek

**PHONE:** (651) 296-8358

**SUBJECT:** Purchasing Salary Credit for Furloughs, etc.

*State of Minnesota*

*PERA*

Public Employees Retirement Association

*Office Memorandum*


The accompanying document forwarded to you is the language we are proposing to address a few issues:

1. We have received inquiries about purchasing salary credit from members who are on medical leaves of absence due to illnesses or injuries that are not work related and for which they may be drawing partial sick leave while receiving some form of short or long term disability benefit payments. They, however, are not allowed to purchase the difference between their normal salary and the reduced salary received through partial sick leave pay – which is available to those receiving temporary workers' comp benefits under 353.01, subdivision 40. We have added language to this section to provide for the payment of contributions to retain salary levels during a period of up to twelve months of partially paid authorized medical leave. We have limited this suggested purchase to "up to twelve months" to align with the subdivision 16 (a) (4) allowable service provisions that allow for "service credit" purchases for unpaid medical leaves which are limited to twelve months.

2. When the enactment of section 353.01, subdivision 40 was advocated by representatives of the Police and Fire members, I was not aware that temporary workers' compensation benefits are tied to actual compensation paid prior to the period of workers' comp, which means they are tied to compensation that includes overtime. We recently have been dealing with a Police and Fire member who had been receiving about \$100,000 in compensation with overtime before being injured. He was placed in a light duty position paying about \$65,000 per year for a full 40 hour work week, and he is receiving temporary workers' comp benefits to account for his pre-injury earnings of about \$100,000. He has asked to pay contributions on the salary differential to ensure the salary on which his duty disability benefit is based includes the higher salary.

We can't alter the terms of how workers' comp determines the level of benefit to be paid in a situation like this, but we believe we should limit the payment to compensation without overtime.

3. I'm sure you are aware that many local units of government are asking for voluntary, or mandating, furloughs to help get through this current economic situation. Our members cannot purchase salary credit to



maintain their salaries unless the governing body authorizes the use of our periodic repetitive leave provision under section 353.01, subdivision 16 (a) (5). This provision requires the employer to pay the employer contribution if an employee chooses to make the employee contribution to keep salary whole during a period reducing employees' hours, as authorized by the employer. Not all employers are using this provision of our law, wanting to maximize the salary savings provided by the furloughs.

The language changes we are requesting are intended to allow members to keep their salaries whole during furlough periods mandated or offered for salary savings purposes. The members would be required to make both the employee and employer contribution payments on the salary differential.

Let me know when you have time to discuss this. I assume this will be treated as "policy" and not part of a package of administrative provisions.

**Minnesota Statutes, Section 353.01, Subdivision 16**

Subd. 16. [Allowable service; limits and computation.] (a) "Allowable service" means:

(1) service during years of actual membership in the course of which employee deductions were withheld from salary and contributions were made at the applicable rates under section 353.27, 353.65, or 353E.03;

(2) periods of service covered by payments in lieu of salary deductions under sections 353.27, subdivision 12, and 353.35;

(3) service in years during which the public employee was not a member but for which the member later elected, while a member, to obtain credit by making payments to the fund as permitted by any law then in effect;

(4) a period of authorized leave of absence with pay from which deductions for employee contributions are made, deposited, and credited to the fund;

(5) a period of authorized personal, parental, or medical leave of absence without pay, including a leave of absence covered under the federal Family Medical Leave Act, that does not exceed one year, and for which a member obtained service credit for each month in the leave period by payment under section 353.0161 to the fund made in place of salary deductions. An employee must return to public service and render a minimum of three months of allowable service in order to be eligible to make payment under section 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the employee must be granted allowable service credit for the purchased period;

(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the rate of 8.5 percent a year, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus 8.5 percent interest, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;

(7) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary or seasonal layoff;

(8) a period during which a member is absent from employment by a governmental subdivision by reason of service in the uniformed services, as defined in United States Code, title 38, section 4303(13), if the member returns to public service with the same governmental subdivision upon discharge from service in the uniformed service within the time frames required under United States Code, title 38, section 4312(e), provided that the member did not separate from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions. The service is credited if the member pays into the fund equivalent employee contributions based upon the contribution rate or rates in effect at the time that the uniformed service was performed multiplied by the full and fractional years being purchased and applied to the annual salary rate. The annual salary rate is the average annual salary during the purchase period that the member would have received if the member had continued to be employed in covered employment rather than to provide uniformed service, or, if the determination of that rate is not reasonably certain, the annual salary rate is the member's average salary rate during the 12-month period of covered employment rendered immediately preceding the period of the uniformed service. Payment of the member equivalent contributions must be made during a period that begins with the date on which the individual returns to public employment and that is three times the length of the military leave period, or within five years of the date of discharge from the military service, whichever is less. If the determined

payment period is less than one year, the contributions required under this clause to receive service credit may be made within one year of the discharge date. Payment may not be accepted following 30 days after termination of public service under subdivision 11a. If the member equivalent contributions provided for in this clause are not paid in full, the member's allowable service credit must be prorated by multiplying the full and fractional number of years of uniformed service eligible for purchase by the ratio obtained by dividing the total member contributions received by the total member contributions otherwise required under this clause. The equivalent employer contribution, and, if applicable, the equivalent additional employer contribution must be paid by the governmental subdivision employing the member if the member makes the equivalent employee contributions. The employer payments must be made from funds available to the employing unit, using the employer and additional employer contribution rate or rates in effect at the time that the uniformed service was performed, applied to the same annual salary rate or rates used to compute the equivalent member contribution. The governmental subdivision involved may appropriate money for those payments. The amount of service credit obtainable under this section may not exceed five years unless a longer purchase period is required under United States Code, title 38, section 4312. The employing unit shall pay interest on all equivalent member and employer contribution amounts payable under this clause. Interest must be computed at a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the break in service to the end of the month in which the payment is received. Upon payment, the employee must be granted allowable service credit for the purchased period; or

(9) a period specified under subdivision 40.

(b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for state officers and employees displaced by the Community Corrections Act, chapter 401, and transferred into county service under section 401.04, "allowable service" means the combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and section 352.01, subdivision 11.

(c) For a public employee who has prior service covered by a local police or firefighters relief association that has consolidated with the Public Employees Retirement Association or to which section 353.665 applies, and who has elected the type of benefit coverage provided by the public employees police and fire fund either under section 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable service" is a period of service credited by the local police or firefighters relief association as of the effective date of the consolidation based on law and on bylaw provisions governing the relief association on the date of the initiation of the consolidation procedure.

(d) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(e) MS 2002 [Expired]

**Minnesota Statutes, Section 353.01, Subdivisions 40 to 46**

Subd. 40. [Reduced salary during period of workers' compensation.] (a) A member who is receiving temporary workers' compensation payments related to the member's service to the public employer and who either is receiving a reduced salary from the employer during that period or is receiving no salary from the employer during that period is entitled to receive allowable service and salary credit for the period of time that the member is receiving the workers' compensation payments upon making the payments specified in this subdivision.

(b) The differential salary amount is the difference between the average rate of salary received by the member, if any, during the period of time that the member is collecting temporary workers' compensation payments and the average rate of salary of the member on which contributions to the applicable plan were made during the period of the last six months of covered employment occurring immediately before beginning to collect the temporary workers' compensation payments, applied to the member's normal employment period, measured in hours or otherwise, as applicable.

(c) To receive eligible service credit, the member shall pay an amount equal to the applicable employee contribution rate under section 353.27, subdivision 2; 353.65, subdivision 2; or 353E.03, subdivision 1, as applicable, multiplied by the differential salary amount; plus an employer equivalent payment equal to the applicable employer contribution rate in section 353.27, subdivision 3; 353.65, subdivision 3; or 353E.03, subdivision 2, as applicable, multiplied by the differential salary amount; plus, if applicable, an equivalent employer additional amount equal to the additional employer contribution rate in section 353.27, subdivision 3a, multiplied by the differential salary amount.

(d) The employer may, by appropriate action of its governing body and documented in its official records, pay the employer equivalent contributions and, as applicable, the equivalent employer additional contributions on behalf of the member.

(e) Payment under this subdivision must include interest on the contribution amount or amounts, whichever applies, at an 8.5 percent annual rate, prorated for applicable months from the date on which the temporary workers' compensation payments terminate to the date on which the payment or payments are received by the executive director. Payment under this subdivision must be completed within one year after the termination of the temporary workers' compensation payments to the member, or within 20 days after the termination of public service by the employee under subdivision 11a, whichever is earlier.

Subd. 41. [Duty disability.] "Duty disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the public employees police and fire plan, and that is the direct result of an injury incurred during, or a disease arising out of, the performance of normal duties or the actual performance of less frequent duties, either of which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the public employees police and fire plan.

Subd. 42. [Less frequent duties.] "Less frequent duties" means tasks which are designated in the applicant's job description as either required from time to time or as assigned, but which are not carried out as part of the normal routine of the applicant's job.

Subd. 43. [Line of duty death.] "Line of duty death" means a death that occurs while performing or as a direct result of performing normal or less frequent duties which are specific to protecting the property and personal safety of others and that present inherent dangers that are specific to the positions covered by the public employees police and fire plan.

Subd. 44. [Normal duties.] "Normal duties" means specific tasks which are designated in the applicant's job description and which the applicant performs on a day-to-day basis, but do not include less frequent duties which may be requested to be done by the employer from time to time.

Subd. 45. [Not line of duty death.] For purposes of survivor benefits under the public employees police and fire plan, a "not line of duty death" is any death not specified under subdivision 43.

Subd. 46. [Regular disability.] "Regular disability," physical or psychological, means a condition that is expected to prevent a member, for a period of not less than 12 months, from performing the normal duties of the position held by a person who is a member of the public employees police and fire plan, and which results from a disease or an injury that arises from any activities while not at work, or while at work and performing those normal or less frequent duties that do not present inherent dangers that are specific to the occupations covered by the public employees police and fire plan.

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Page 2, line 8, after "PERIODS" insert "SALARY"



1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Page 1, after line 8, insert:

1.3 "Section 1. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 16,  
1.4 is amended to read:

1.5 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"  
1.6 means:

1.7 (1) service during years of actual membership in the course of which employee  
1.8 deductions were withheld from salary and contributions were made at the applicable rates  
1.9 under section 353.27, 353.65, or 353E.03;

1.10 (2) periods of service covered by payments in lieu of salary deductions under  
1.11 sections 353.27, subdivision 12, and 353.35;

1.12 (3) service in years during which the public employee was not a member but for  
1.13 which the member later elected, while a member, to obtain credit by making payments to  
1.14 the fund as permitted by any law then in effect;

1.15 (4) a period of authorized leave of absence with pay from which deductions for  
1.16 employee contributions are made, deposited, and credited to the fund;

1.17 (5) a period of authorized personal, parental, or medical leave of absence without  
1.18 pay, including a leave of absence covered under the federal Family Medical Leave Act,  
1.19 that does not exceed one year, and for which a member obtained service credit for each  
1.20 month in the leave period by payment under section 353.0161 to the fund made in place of  
1.21 salary deductions. An employee must return to public service and render a minimum of  
1.22 three months of allowable service in order to be eligible to make payment under section  
1.23 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the  
1.24 employee must be granted allowable service credit for the purchased period;

1.25 (6) a periodic, repetitive leave that is offered to all employees of a governmental  
1.26 subdivision. The leave program may not exceed 208 hours per annual normal work cycle  
1.27 as certified to the association by the employer. A participating member obtains service  
1.28 credit by making employee contributions in an amount or amounts based on the member's  
1.29 average salary, excluding overtime pay, that would have been paid if the leave had not  
1.30 been taken. The employer shall pay the employer and additional employer contributions  
1.31 on behalf of the participating member. The employee and the employer are responsible  
1.32 to pay interest on their respective shares at the rate of 8.5 percent a year, compounded  
1.33 annually, from the end of the normal cycle until full payment is made. An employer shall  
1.34 also make the employer and additional employer contributions, plus 8.5 percent interest,  
1.35 compounded annually, on behalf of an employee who makes employee contributions but  
1.36 terminates public service. The employee contributions must be made within one year

2.1 after the end of the annual normal working cycle or within 30 days after termination of  
2.2 public service, whichever is sooner. The executive director shall prescribe the manner and  
2.3 forms to be used by a governmental subdivision in administering a periodic, repetitive  
2.4 leave. Upon payment, the member must be granted allowable service credit for the  
2.5 purchased period;

2.6 (7) an authorized temporary or seasonal layoff under subdivision 12, limited to three  
2.7 months allowable service per authorized temporary or seasonal layoff in one calendar year.  
2.8 An employee who has received the maximum service credit allowed for an authorized  
2.9 temporary or seasonal layoff must return to public service and must obtain a minimum of  
2.10 three months of allowable service subsequent to the layoff in order to receive allowable  
2.11 service for a subsequent authorized temporary or seasonal layoff;

2.12 (8) a period during which a member is absent from employment by a governmental  
2.13 subdivision by reason of service in the uniformed services, as defined in United States  
2.14 Code, title 38, section 4303(13), if the member returns to public service with the same  
2.15 governmental subdivision upon discharge from service in the uniformed service within  
2.16 the time frames required under United States Code, title 38, section 4312(e), provided  
2.17 that the member did not separate from uniformed service with a dishonorable or bad  
2.18 conduct discharge or under other than honorable conditions. The service is credited if the  
2.19 member pays into the fund equivalent employee contributions based upon the contribution  
2.20 rate or rates in effect at the time that the uniformed service was performed multiplied  
2.21 by the full and fractional years being purchased and applied to the annual salary rate.  
2.22 The annual salary rate is the average annual salary during the purchase period that the  
2.23 member would have received if the member had continued to be employed in covered  
2.24 employment rather than to provide uniformed service, or, if the determination of that  
2.25 rate is not reasonably certain, the annual salary rate is the member's average salary rate  
2.26 during the 12-month period of covered employment rendered immediately preceding the  
2.27 period of the uniformed service. Payment of the member equivalent contributions must  
2.28 be made during a period that begins with the date on which the individual returns to  
2.29 public employment and that is three times the length of the military leave period, or  
2.30 within five years of the date of discharge from the military service, whichever is less. If  
2.31 the determined payment period is less than one year, the contributions required under  
2.32 this clause to receive service credit may be made within one year of the discharge date.  
2.33 Payment may not be accepted following 30 days after termination of public service under  
2.34 subdivision 11a. If the member equivalent contributions provided for in this clause are  
2.35 not paid in full, the member's allowable service credit must be prorated by multiplying  
2.36 the full and fractional number of years of uniformed service eligible for purchase by the

3.1 ratio obtained by dividing the total member contributions received by the total member  
 3.2 contributions otherwise required under this clause. The equivalent employer contribution,  
 3.3 and, if applicable, the equivalent additional employer contribution must be paid by the  
 3.4 governmental subdivision employing the member if the member makes the equivalent  
 3.5 employee contributions. The employer payments must be made from funds available to  
 3.6 the employing unit, using the employer and additional employer contribution rate or  
 3.7 rates in effect at the time that the uniformed service was performed, applied to the same  
 3.8 annual salary rate or rates used to compute the equivalent member contribution. The  
 3.9 governmental subdivision involved may appropriate money for those payments. The  
 3.10 amount of service credit obtainable under this section may not exceed five years unless a  
 3.11 longer purchase period is required under United States Code, title 38, section 4312. The  
 3.12 employing unit shall pay interest on all equivalent member and employer contribution  
 3.13 amounts payable under this clause. Interest must be computed at a rate of 8.5 percent  
 3.14 compounded annually from the end of each fiscal year of the leave or the break in service  
 3.15 to the end of the month in which the payment is received. Upon payment, the employee  
 3.16 must be granted allowable service credit for the purchased period; or

3.17 (9) a period specified under subdivision 40.

3.18 (b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for  
 3.19 state officers and employees displaced by the Community Corrections Act, chapter 401,  
 3.20 and transferred into county service under section 401.04, "allowable service" means the  
 3.21 combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and  
 3.22 section 352.01, subdivision 11.

3.23 (c) For a public employee who has prior service covered by a local police or  
 3.24 firefighters relief association that has consolidated with the Public Employees Retirement  
 3.25 Association or to which section 353.665 applies, and who has elected the type of benefit  
 3.26 coverage provided by the public employees police and fire fund either under section  
 3.27 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable  
 3.28 service" is a period of service credited by the local police or firefighters relief association  
 3.29 as of the effective date of the consolidation based on law and on bylaw provisions  
 3.30 governing the relief association on the date of the initiation of the consolidation procedure.

3.31 (d) No member may receive more than 12 months of allowable service credit in a  
 3.32 year either for vesting purposes or for benefit calculation purposes.

3.33 (e) MS 2002 [Expired]

3.34 **EFFECTIVE DATE.** This section is effective the date following final enactment."

3.35 Renummer the sections in sequence

3.36 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Page 1, after line 8, insert:

1.3 "Section 1. Minnesota Statutes 2009 Supplement, section 353.01, subdivision 16,  
1.4 is amended to read:

1.5 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"  
1.6 means:

1.7 (1) service during years of actual membership in the course of which employee  
1.8 deductions were withheld from salary and contributions were made at the applicable rates  
1.9 under section 353.27, 353.65, or 353E.03;

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1.11 sections 353.27, subdivision 12, and 353.35;

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1.14 the fund as permitted by any law then in effect;

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3.23 (c) For a public employee who has prior service covered by a local police or  
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3.29 as of the effective date of the consolidation based on law and on bylaw provisions  
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3.31 (d) No member may receive more than 12 months of allowable service credit in a  
3.32 year either for vesting purposes or for benefit calculation purposes.

3.33 (e) MS 2002 [Expired]

3.34 **EFFECTIVE DATE.** This section is effective the day following final enactment."

3.35 Renummer the sections in sequence

3.36 Amend the title accordingly

- 1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:
- 1.2 Page 1, delete section 1
- 1.3 Renumber the sections in sequence
- 1.4 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Page 1, delete section 1

1.3 Page 2, line 20, delete ", excluding overtime,"

1.4 Page 2, after line 23, insert:

1.5 "(d) If the salary credit period is a period where the member was receiving temporary  
1.6 workers' compensation payments related to the member's service with the public employer,  
1.7 the differential salary amount computed under paragraph (c) must exclude overtime pay."

1.8 Page 2, line 24, delete "(d)" and insert "(e)"

1.9 Page 2, line 33, delete "(e)" and insert "(f)"

1.10 Page 3, line 1, delete "(f)" and insert "(g)"

1.11 Page 3, line 9, delete "(g)" and insert "(h)"

1.12 Page 3, line 16, delete "(h)" and insert "(i)"

1.13 Renumber the sections in sequence

1.14 Amend the title accordingly



- 1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:
- 1.2 Page 1, delete section 1
- 1.3 Page 2, line 20, delete "excluding overtime,"
- 1.4 Renumber the sections in sequence
- 1.5 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to  
1.4 read:

1.5 Subd. 2b. **Excluded employees.** The following public employees are not eligible  
1.6 to participate as members of the association with retirement coverage by the public  
1.7 employees retirement plan, the local government correctional employees retirement plan  
1.8 under chapter 353E, or the public employees police and fire retirement plan:

1.9 (1) public officers, other than county sheriffs, who are elected to a governing body,  
1.10 or persons who are appointed to fill a vacancy in an elective office of a governing body,  
1.11 whose term of office commences on or after July 1, 2002, for the service to be rendered  
1.12 in that elective position;

1.13 (2) election officers or election judges;

1.14 (3) patient and inmate personnel who perform services for a governmental  
1.15 subdivision;

1.16 (4) except as otherwise specified in subdivision 12a, employees who are hired for  
1.17 a temporary position as defined under subdivision 12a, and employees who resign from  
1.18 a nontemporary position and accept a temporary position within 30 days in the same  
1.19 governmental subdivision;

1.20 (5) employees who are employed by reason of work emergency caused by fire,  
1.21 flood, storm, or similar disaster;

1.22 (6) employees who by virtue of their employment in one governmental subdivision  
1.23 are required by law to be a member of and to contribute to any of the plans or funds  
1.24 administered by the Minnesota State Retirement System, the Teachers Retirement  
1.25 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers  
1.26 Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police  
1.27 or firefighters relief association governed by section 69.77 that has not consolidated  
1.28 with the Public Employees Retirement Association, or any local police or firefighters  
1.29 consolidation account who have not elected the type of benefit coverage provided by the  
1.30 public employees police and fire fund under sections 353A.01 to 353A.10, or any persons  
1.31 covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees  
1.32 police and fire plan benefit coverage. This clause must not be construed to prevent a person  
1.33 from being a member of and contributing to the Public Employees Retirement Association  
1.34 and also belonging to and contributing to another public pension plan or fund for other  
1.35 service occurring during the same period of time. A person who meets the definition of  
1.36 "public employee" in subdivision 2 by virtue of other service occurring during the same

2.1 period of time becomes a member of the association unless contributions are made to  
2.2 another public retirement fund on the salary based on the other service or to the Teachers  
2.3 Retirement Association by a teacher as defined in section 354.05, subdivision 2;

2.4 (7) persons who are members of a religious order and are excluded from coverage  
2.5 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the  
2.6 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),  
2.7 as amended through January 1, 1987, if no irrevocable election of coverage has been made  
2.8 under section 3121(r) of the Internal Revenue Code of 1954, as amended;

2.9 (8) employees of a governmental subdivision who have not reached the age of  
2.10 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
2.11 basis at an accredited school, college, or university in an undergraduate, graduate, or  
2.12 professional-technical program, or a public or charter high school;

2.13 (9) resident physicians, medical interns, and pharmacist residents and pharmacist  
2.14 interns who are serving in a degree or residency program in public hospitals or clinics;

2.15 (10) students who are serving in an internship or residency program sponsored  
2.16 by an accredited educational institution;

2.17 (11) persons who hold a part-time adult supplementary technical college license who  
2.18 render part-time teaching service in a technical college;

2.19 (12) except for employees of Hennepin County or Hennepin Healthcare System,  
2.20 Inc., foreign citizens working for a governmental subdivision with a work permit of less  
2.21 than three years, or an H-1b visa valid for less than three years of employment. Upon  
2.22 notice to the association that the work permit or visa extends beyond the three-year period,  
2.23 the foreign citizens must be reported for membership from the date of the extension;

2.24 (13) public hospital employees who elected not to participate as members of the  
2.25 association before 1972 and who did not elect to participate from July 1, 1988, to October  
2.26 1, 1988;

2.27 (14) except as provided in section 353.86, volunteer ambulance service personnel,  
2.28 as defined in subdivision 35, but persons who serve as volunteer ambulance service  
2.29 personnel may still qualify as public employees under subdivision 2 and may be members  
2.30 of the Public Employees Retirement Association and participants in the public employees  
2.31 retirement fund or the public employees police and fire fund, whichever applies, on the  
2.32 basis of compensation received from public employment service other than service as  
2.33 volunteer ambulance service personnel;

2.34 (15) except as provided in section 353.87, volunteer firefighters, as defined in  
2.35 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties;  
2.36 provided that a person who is a volunteer firefighter may still qualify as a public

3.1 employee under subdivision 2 and may be a member of the Public Employees Retirement  
3.2 Association and a participant in the public employees retirement fund or the public  
3.3 employees police and fire fund, whichever applies, on the basis of compensation received  
3.4 from public employment activities other than those as a volunteer firefighter;

3.5 (16) pipefitters and associated trades personnel employed by Independent School  
3.6 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
3.7 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,  
3.8 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
3.9 241, article 2, section 12;

3.10 (17) electrical workers, plumbers, carpenters, and associated trades personnel  
3.11 employed by Independent School District No. 625, St. Paul, or the city of St. Paul,  
3.12 who have retirement coverage under a collective bargaining agreement by the Electrical  
3.13 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,  
3.14 or the Carpenters Local 87 pension plan who were either first employed after May 1,  
3.15 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000,  
3.16 chapter 461, article 7, section 5;

3.17 (18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
3.18 painters, allied tradesworkers, and plasterers employed by the city of St. Paul or  
3.19 Independent School District No. 625, St. Paul, with coverage under a collective  
3.20 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,  
3.21 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324  
3.22 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities  
3.23 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if  
3.24 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special  
3.25 Session chapter 10, article 10, section 6;

3.26 (19) plumbers employed by the Metropolitan Airports Commission, with coverage  
3.27 under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either  
3.28 were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to  
3.29 be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

3.30 (20) employees who are hired after June 30, 2002, to fill seasonal positions under  
3.31 subdivision 12b which are limited in duration by the employer to 185 consecutive calendar  
3.32 days or less in each year of employment with the governmental subdivision;

3.33 (21) persons who are provided supported employment or work-study positions  
3.34 by a governmental subdivision and who participate in an employment or industries  
3.35 program maintained for the benefit of these persons where the governmental subdivision  
3.36 limits the position's duration to three years or less, including persons participating in a

4.1 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
4.2 unemployment relief program where the training or work experience is not provided as a  
4.3 part of, or for, future permanent public employment;

4.4 (22) independent contractors and the employees of independent contractors; ~~and~~

4.5 (23) reemployed annuitants of the association during the course of that  
4.6 reemployment; and

4.7 (24) service retirees from any other police or paid fire plan first employed by a  
4.8 governmental subdivision after June 30, 2010.

4.9 **EFFECTIVE DATE.** This section is effective July 1, 2010."

4.10 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to  
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1.17 a temporary position as defined under subdivision 12a, and employees who resign from  
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1.19 governmental subdivision;

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1.21 flood, storm, or similar disaster;

1.22 (6) employees who by virtue of their employment in one governmental subdivision  
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2.35 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties;  
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4.9 **EFFECTIVE DATE.** This section is effective July 1, 2010."

4.10 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

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3.14 or the Carpenters Local 87 pension plan who were either first employed after May 1,  
3.15 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000,  
3.16 chapter 461, article 7, section 5;

3.17 (18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
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 4.3 part of, or for, future permanent public employment;

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4.5 (23) reemployed annuitants of the association during the course of that  
 4.6 reemployment; and

4.7 (24) service retirees from any other police or paid fire plan first employed by a  
 4.8 governmental subdivision after June 30, 2010.

4.9 **EFFECTIVE DATE.** This section is effective July 1, 2010.

4.10 Sec. 2. Minnesota Statutes 2008, section 353D.01, subdivision 2, is amended to read:

4.11 Subd. 2. **Eligibility.** (a) Eligibility to participate in the defined contribution plan  
 4.12 is available to:

4.13 (1) elected local government officials of a governmental subdivision who elect to  
 4.14 participate in the plan under section 353D.02, subdivision 1, and who, for the elected  
 4.15 service rendered to a governmental subdivision, are not members of the Public Employees  
 4.16 Retirement Association within the meaning of section 353.01, subdivision 7;

4.17 (2) physicians who, if they did not elect to participate in the plan under section  
 4.18 353D.02, subdivision 2, would meet the definition of member under section 353.01,  
 4.19 subdivision 7;

4.20 (3) basic and advanced life-support emergency medical service personnel employed  
 4.21 by any public ambulance service that elects to participate under section 353D.02,  
 4.22 subdivision 3;

4.23 (4) members of a municipal rescue squad associated with Litchfield in Meeker  
 4.24 County, or of a county rescue squad associated with Kandiyohi County, if an independent  
 4.25 nonprofit rescue squad corporation, incorporated under chapter 317A, performing  
 4.26 emergency management services, and if not affiliated with a fire department or ambulance  
 4.27 service and if its members are not eligible for membership in that fire department's or  
 4.28 ambulance service's relief association or comparable pension plan;

4.29 (5) employees of the Port Authority of the city of St. Paul who elect to participate in  
 4.30 the plan under section 353D.02, subdivision 5, and who are not members of the Public  
 4.31 Employees Retirement Association under section 353.01, subdivision 7;

4.32 (6) city managers who elected to be excluded from the general employees retirement  
 4.33 plan of the Public Employees Retirement Association under section 353.028 and who  
 4.34 elected to participate in the public employees defined contribution plan under section  
 4.35 353.028, subdivision 3, paragraph (b); ~~and~~

5.1 (7) volunteer or emergency on-call firefighters serving in a municipal fire department  
5.2 or an independent nonprofit firefighting corporation who are not covered by the public  
5.3 employees police and fire retirement plan and who are not covered by a volunteer  
5.4 firefighters relief association and who elect to participate in the public employees defined  
5.5 contribution plan; and

5.6 (8) individuals receiving a service retirement benefit or annuity from any police or  
5.7 paid fire plan other than the public employees police and fire plan, and first employed by  
5.8 a governmental subdivision in a public safety position after June 30, 2010, who elect to  
5.9 participate in the plan under section 353D.02, subdivision 8.

5.10 (b) For purposes of this chapter, an elected local government official includes  
5.11 a person appointed to fill a vacancy in an elective office. Service as an elected local  
5.12 government official only includes service for the governmental subdivision for which the  
5.13 official was elected by the public at large. Service as an elected local government official  
5.14 ceases and eligibility to participate terminates when the person ceases to be an elected  
5.15 official. An elected local government official does not include an elected county sheriff.

5.16 (c) Individuals otherwise eligible to participate in the plan under this subdivision  
5.17 who are currently covered by a public or private pension plan because of their employment  
5.18 or provision of services are not eligible to participate in the public employees defined  
5.19 contribution plan.

5.20 (d) A former participant is a person who has terminated eligible employment or  
5.21 service and has not withdrawn the value of the person's individual account.

5.22 **EFFECTIVE DATE.** This section is effective July 1, 2010.

5.23 Sec. 3. Minnesota Statutes 2008, section 353D.02, is amended by adding a subdivision  
5.24 to read:

5.25 **Subd. 8. Eligible public safety employees.** Eligible public safety employees  
5.26 under section 353D.01, subdivision 2, clause (8), may elect to participate in the defined  
5.27 contribution plan within 90 days of commencing employment with a government  
5.28 subdivision under section 353.01, subdivision 6, by filing a membership application on  
5.29 a form prescribed by the executive director of the association authorizing contributions  
5.30 to be deducted from the employee's salary. Participation begins on the first day of the  
5.31 pay period for which the contributions were deducted. An election to participate in the  
5.32 defined contribution plan is irrevocable.

5.33 **EFFECTIVE DATE.** This section is effective July 1, 2010."

5.34 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 353.01, subdivision 2b, is amended to  
1.4 read:

1.5 Subd. 2b. **Excluded employees.** The following public employees are not eligible  
1.6 to participate as members of the association with retirement coverage by the public  
1.7 employees retirement plan, the local government correctional employees retirement plan  
1.8 under chapter 353E, or the public employees police and fire retirement plan:

1.9 (1) public officers, other than county sheriffs, who are elected to a governing body,  
1.10 or persons who are appointed to fill a vacancy in an elective office of a governing body,  
1.11 whose term of office commences on or after July 1, 2002, for the service to be rendered  
1.12 in that elective position;

1.13 (2) election officers or election judges;

1.14 (3) patient and inmate personnel who perform services for a governmental  
1.15 subdivision;

1.16 (4) except as otherwise specified in subdivision 12a, employees who are hired for  
1.17 a temporary position as defined under subdivision 12a, and employees who resign from  
1.18 a nontemporary position and accept a temporary position within 30 days in the same  
1.19 governmental subdivision;

1.20 (5) employees who are employed by reason of work emergency caused by fire,  
1.21 flood, storm, or similar disaster;

1.22 (6) employees who by virtue of their employment in one governmental subdivision  
1.23 are required by law to be a member of and to contribute to any of the plans or funds  
1.24 administered by the Minnesota State Retirement System, the Teachers Retirement  
1.25 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers  
1.26 Retirement Fund Association, the Minneapolis Employees Retirement Fund, or any police  
1.27 or firefighters relief association governed by section 69.77 that has not consolidated  
1.28 with the Public Employees Retirement Association, or any local police or firefighters  
1.29 consolidation account who have not elected the type of benefit coverage provided by the  
1.30 public employees police and fire fund under sections 353A.01 to 353A.10, or any persons  
1.31 covered by section 353.665, subdivision 4, 5, or 6, who have not elected public employees  
1.32 police and fire plan benefit coverage. This clause must not be construed to prevent a person  
1.33 from being a member of and contributing to the Public Employees Retirement Association  
1.34 and also belonging to and contributing to another public pension plan or fund for other  
1.35 service occurring during the same period of time. A person who meets the definition of  
1.36 "public employee" in subdivision 2 by virtue of other service occurring during the same

2.1 period of time becomes a member of the association unless contributions are made to  
2.2 another public retirement fund on the salary based on the other service or to the Teachers  
2.3 Retirement Association by a teacher as defined in section 354.05, subdivision 2;

2.4 (7) persons who are members of a religious order and are excluded from coverage  
2.5 under the federal Old Age, Survivors, Disability, and Health Insurance Program for the  
2.6 performance of service as specified in United States Code, title 42, section 410(a)(8)(A),  
2.7 as amended through January 1, 1987, if no irrevocable election of coverage has been made  
2.8 under section 3121(r) of the Internal Revenue Code of 1954, as amended;

2.9 (8) employees of a governmental subdivision who have not reached the age of  
2.10 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time  
2.11 basis at an accredited school, college, or university in an undergraduate, graduate, or  
2.12 professional-technical program, or a public or charter high school;

2.13 (9) resident physicians, medical interns, and pharmacist residents and pharmacist  
2.14 interns who are serving in a degree or residency program in public hospitals or clinics;

2.15 (10) students who are serving in an internship or residency program sponsored  
2.16 by an accredited educational institution;

2.17 (11) persons who hold a part-time adult supplementary technical college license who  
2.18 render part-time teaching service in a technical college;

2.19 (12) except for employees of Hennepin County or Hennepin Healthcare System,  
2.20 Inc., foreign citizens working for a governmental subdivision with a work permit of less  
2.21 than three years, or an H-1b visa valid for less than three years of employment. Upon  
2.22 notice to the association that the work permit or visa extends beyond the three-year period,  
2.23 the foreign citizens must be reported for membership from the date of the extension;

2.24 (13) public hospital employees who elected not to participate as members of the  
2.25 association before 1972 and who did not elect to participate from July 1, 1988, to October  
2.26 1, 1988;

2.27 (14) except as provided in section 353.86, volunteer ambulance service personnel,  
2.28 as defined in subdivision 35, but persons who serve as volunteer ambulance service  
2.29 personnel may still qualify as public employees under subdivision 2 and may be members  
2.30 of the Public Employees Retirement Association and participants in the public employees  
2.31 retirement fund or the public employees police and fire fund, whichever applies, on the  
2.32 basis of compensation received from public employment service other than service as  
2.33 volunteer ambulance service personnel;

2.34 (15) except as provided in section 353.87, volunteer firefighters, as defined in  
2.35 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties;  
2.36 provided that a person who is a volunteer firefighter may still qualify as a public



3.1 employee under subdivision 2 and may be a member of the Public Employees Retirement  
3.2 Association and a participant in the public employees retirement fund or the public  
3.3 employees police and fire fund, whichever applies, on the basis of compensation received  
3.4 from public employment activities other than those as a volunteer firefighter;

3.5 (16) pipefitters and associated trades personnel employed by Independent School  
3.6 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the  
3.7 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,  
3.8 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter  
3.9 241, article 2, section 12;

3.10 (17) electrical workers, plumbers, carpenters, and associated trades personnel  
3.11 employed by Independent School District No. 625, St. Paul, or the city of St. Paul,  
3.12 who have retirement coverage under a collective bargaining agreement by the Electrical  
3.13 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,  
3.14 or the Carpenters Local 87 pension plan who were either first employed after May 1,  
3.15 2000, or, if first employed before May 2, 2000, elected to be excluded under Laws 2000,  
3.16 chapter 461, article 7, section 5;

3.17 (18) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,  
3.18 painters, allied tradesworkers, and plasterers employed by the city of St. Paul or  
3.19 Independent School District No. 625, St. Paul, with coverage under a collective  
3.20 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,  
3.21 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324  
3.22 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities  
3.23 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if  
3.24 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special  
3.25 Session chapter 10, article 10, section 6;

3.26 (19) plumbers employed by the Metropolitan Airports Commission, with coverage  
3.27 under a collective bargaining agreement by the Plumbers Local 34 pension plan, who either  
3.28 were first employed after May 1, 2001, or if first employed before May 2, 2001, elected to  
3.29 be excluded under Laws 2001, First Special Session chapter 10, article 10, section 6;

3.30 (20) employees who are hired after June 30, 2002, to fill seasonal positions under  
3.31 subdivision 12b which are limited in duration by the employer to 185 consecutive calendar  
3.32 days or less in each year of employment with the governmental subdivision;

3.33 (21) persons who are provided supported employment or work-study positions  
3.34 by a governmental subdivision and who participate in an employment or industries  
3.35 program maintained for the benefit of these persons where the governmental subdivision  
3.36 limits the position's duration to three years or less, including persons participating in a

4.1 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or  
4.2 unemployment relief program where the training or work experience is not provided as a  
4.3 part of, or for, future permanent public employment;

4.4 (22) independent contractors and the employees of independent contractors;~~and~~

4.5 (23) reemployed annuitants of the association during the course of that  
4.6 reemployment; and

4.7 (24) service retirees and disabilitants from any other police or fire plan first  
4.8 employed by a governmental subdivision after June 30, 2010.

4.9 **EFFECTIVE DATE.** This section is effective July 1, 2010.

4.10 Sec. 2. Minnesota Statutes 2008, section 353D.01, subdivision 2, is amended to read:

4.11 Subd. 2. **Eligibility.** (a) Eligibility to participate in the defined contribution plan  
4.12 is available to:

4.13 (1) elected local government officials of a governmental subdivision who elect to  
4.14 participate in the plan under section 353D.02, subdivision 1, and who, for the elected  
4.15 service rendered to a governmental subdivision, are not members of the Public Employees  
4.16 Retirement Association within the meaning of section 353.01, subdivision 7;

4.17 (2) physicians who, if they did not elect to participate in the plan under section  
4.18 353D.02, subdivision 2, would meet the definition of member under section 353.01,  
4.19 subdivision 7;

4.20 (3) basic and advanced life-support emergency medical service personnel employed  
4.21 by any public ambulance service that elects to participate under section 353D.02,  
4.22 subdivision 3;

4.23 (4) members of a municipal rescue squad associated with Litchfield in Meeker  
4.24 County, or of a county rescue squad associated with Kandiyohi County, if an independent  
4.25 nonprofit rescue squad corporation, incorporated under chapter 317A, performing  
4.26 emergency management services, and if not affiliated with a fire department or ambulance  
4.27 service and if its members are not eligible for membership in that fire department's or  
4.28 ambulance service's relief association or comparable pension plan;

4.29 (5) employees of the Port Authority of the city of St. Paul who elect to participate in  
4.30 the plan under section 353D.02, subdivision 5, and who are not members of the Public  
4.31 Employees Retirement Association under section 353.01, subdivision 7;

4.32 (6) city managers who elected to be excluded from the general employees retirement  
4.33 plan of the Public Employees Retirement Association under section 353.028 and who  
4.34 elected to participate in the public employees defined contribution plan under section  
4.35 353.028, subdivision 3, paragraph (b);~~and~~

5.1 (7) volunteer or emergency on-call firefighters serving in a municipal fire department  
5.2 or an independent nonprofit firefighting corporation who are not covered by the public  
5.3 employees police and fire retirement plan and who are not covered by a volunteer  
5.4 firefighters relief association and who elect to participate in the public employees defined  
5.5 contribution plan; and

5.6 (8) individuals receiving a service retirement or disability benefit from any police or  
5.7 paid fire plan other than the public employees police and fire plan, and first employed by  
5.8 a governmental subdivision in a public safety position after June 30, 2010, who elect to  
5.9 participate in the plan under section 353D.02, subdivision 8.

5.10 (b) For purposes of this chapter, an elected local government official includes  
5.11 a person appointed to fill a vacancy in an elective office. Service as an elected local  
5.12 government official only includes service for the governmental subdivision for which the  
5.13 official was elected by the public at large. Service as an elected local government official  
5.14 ceases and eligibility to participate terminates when the person ceases to be an elected  
5.15 official. An elected local government official does not include an elected county sheriff.

5.16 (c) Individuals otherwise eligible to participate in the plan under this subdivision  
5.17 who are currently covered by a public or private pension plan because of their employment  
5.18 or provision of services are not eligible to participate in the public employees defined  
5.19 contribution plan.

5.20 (d) A former participant is a person who has terminated eligible employment or  
5.21 service and has not withdrawn the value of the person's individual account.

5.22 **EFFECTIVE DATE.** This section is effective July 1, 2010.

5.23 Sec. 3. Minnesota Statutes 2008, section 353D.02, is amended by adding a subdivision  
5.24 to read:

5.25 **Subd. 8. Eligible public safety employees.** Eligible public safety employees  
5.26 under section 353D.01, subdivision 2, clause (8), may elect to participate in the defined  
5.27 contribution plan within 90 days of commencing employment with a government  
5.28 subdivision under section 353.01, subdivision 6, by filing a membership application on  
5.29 a form prescribed by the executive director of the association authorizing contributions  
5.30 to be deducted from the employee's salary. Participation begins on the first day of the  
5.31 pay period for which the contributions were deducted. An election to participate in the  
5.32 defined contribution plan is irrevocable.

5.33 **EFFECTIVE DATE.** This section is effective July 1, 2010."

5.34 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 353.656, is amended by adding a  
1.4 subdivision to read:

1.5 Subd. 1c. **Restriction of benefit eligibility.** Notwithstanding other subdivisions  
1.6 within this section, a member who is receiving a service pension or disability benefit from  
1.7 any other paid public safety plan is ineligible for disability benefits under this section.

1.8 **EFFECTIVE DATE.** This section applies to disabling events occurring on or  
1.9 after July 1, 2010."

1.10 Amend the title accordingly

1.1 ..... moves to amend S.F. No. 2474; H.F. No. 2739, as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2008, section 353.656, is amended by adding a  
1.4 subdivision to read:

1.5 Subd. 1c. **Restriction of benefit eligibility.** Notwithstanding other subdivisions  
1.6 within this section, a member who is receiving a service pension or disability benefit from  
1.7 any other paid public safety plan is ineligible for disability benefits under this section,  
1.8 unless the disabling condition qualifies as a total and permanent duty disability under  
1.9 subdivision 1a.

1.10 **EFFECTIVE DATE.** This section applies to disabling events occurring on or  
1.11 after July 1, 2010."

1.12 Amend the title accordingly

**Senator Betzold introduced—**

**S.F. No. 2474:** Referred to the Committee on State and Local Government Operations and Oversight.

1.1 A bill for an act  
1.2 relating to retirement; Public Employees Retirement Association; purchase of  
1.3 salary credit procedures in certain partial salary situations; adding new partial  
1.4 salary credit purchase authority for partial paid medical leaves and budgetary  
1.5 leaves; amending Minnesota Statutes 2008, section 353.0161, subdivision 2;  
1.6 proposing coding for new law in Minnesota Statutes, chapter 353; repealing  
1.7 Minnesota Statutes 2008, section 353.01, subdivision 40.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 353.0161, subdivision 2, is amended to  
1.10 read:

1.11 Subd. 2. **Purchase procedure.** (a) An employee covered by a plan specified in  
1.12 subdivision 1 may purchase credit for allowable service in that plan for a period specified  
1.13 in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c),  
1.14 whichever applies. The employing unit, at its option, may pay the employer portion of the  
1.15 amount specified in paragraph (b) on behalf of its employees.

1.16 (b) If payment is received by the executive director within one year from the date the  
1.17 member returned to work following the authorized leave, or within 30 days after the date  
1.18 of termination of public service if the member did not return to work, the payment amount  
1.19 is equal to the employee and employer contribution rates specified in law for the applicable  
1.20 plan at the end of the leave period, or at termination of public service, whichever is earlier,  
1.21 multiplied by the employee's average monthly salary, excluding overtime, upon which  
1.22 deductions were paid during the six months, or portion thereof, before the commencement  
1.23 of the leave of absence and by the number of months of the leave of absence for which  
1.24 the employee wants allowable service credit. Payments made under this paragraph must

2.1 include compound interest at a monthly rate of 0.71 percent from the last day of the leave  
2.2 period until the last day of the month in which payment is received.

2.3 (c) If payment is received by the executive director after one year, the payment  
2.4 amount is the amount determined under section 356.551. Payment under this paragraph  
2.5 must be made before the date the person terminates public service under section 353.01,  
2.6 subdivision 11a.

2.7 EFFECTIVE DATE. This section is effective the day following final enactment.

2.8 Sec. 2. [353.0162] REDUCED SALARY PERIODS CREDIT PURCHASE.

2.9 (a) A member may purchase additional salary credit for a period specified in this  
2.10 section.

2.11 (b) The applicable period is a period during which the member is receiving a reduced  
2.12 salary from the employer while:

2.13 (1) receiving temporary workers' compensation payments related to the member's  
2.14 service to the public employer;

2.15 (2) on an authorized medical leave of absence; or

2.16 (3) on an authorized partial paid leave of absence as a result of a budgetary or salary  
2.17 savings program offered or mandated by a governmental subdivision.

2.18 (c) The differential salary amount is the difference between the average monthly  
2.19 salary received by the member during the period of reduced salary under this section and  
2.20 the average monthly salary of the member, excluding overtime, on which contributions  
2.21 to the applicable plan were made during the period of the last six months of covered  
2.22 employment occurring immediately before the period of reduced salary, applied to the  
2.23 member's normal employment period, measured in hours or otherwise, as applicable.

2.24 (d) To receive eligible salary credit, the member shall pay an amount equal to  
2.25 the applicable employee contribution rate under section 353.27, subdivision 2; 353.65,  
2.26 subdivision 2; or 353E.03, subdivision 1, as applicable, multiplied by the differential  
2.27 salary amount; plus an employer equivalent payment equal to the applicable employer  
2.28 contribution rate in section 353.27, subdivision 3; 353.65, subdivision 3; or 353E.03,  
2.29 subdivision 2, as applicable, multiplied by the differential salary amount; plus, if  
2.30 applicable, an equivalent employer additional amount equal to the additional employer  
2.31 contribution rate in section 353.27, subdivision 3a, multiplied by the differential salary  
2.32 amount.

2.33 (e) The employer may, by appropriate action of its governing body and documented  
2.34 in its official records, pay the employer equivalent contributions and, as applicable, the  
2.35 equivalent employer additional contributions on behalf of the member.

3.1 (f) Payment under this section must include interest on the contribution amount  
3.2 or amounts, whichever applies, at an 8.5 percent annual rate, prorated for applicable  
3.3 months from the date on which the period of reduced salary specified under this section  
3.4 terminates to the date on which the payment or payments are received by the executive  
3.5 director. Payment under this section must be completed within the earlier of 30 days from  
3.6 termination of public service by the employee under section 353.01, subdivision 11a, or  
3.7 one year after the termination of the period specified in paragraph (b), as further restricted  
3.8 under this section.

3.9 (g) The period for which additional allowable salary credit may be purchased is  
3.10 limited to the period during which the person receives temporary workers' compensation  
3.11 payments, or for those business years in which the governmental subdivision offers or  
3.12 mandates a budget or salary savings program, as certified to the executive director by a  
3.13 resolution of the governing body of the governmental subdivision. For an authorized  
3.14 medical leave of absence, the period for which allowable salary credit may be purchased  
3.15 must not exceed 12 consecutive months of authorized medical leave.

3.16 (h) To purchase salary credit for a subsequent period of temporary workers'  
3.17 compensation benefits or subsequent authorized medical leave of absence, the member  
3.18 must return to public service and render a minimum of three months of allowable service.

3.19 **EFFECTIVE DATE.** This section is effective July 1, 2010. Purchase of reduced  
3.20 salary credit may be made for a period mandated or offered by a governmental subdivision  
3.21 for purposes of budget or salary savings on or after July 1, 2009, upon enactment of  
3.22 this section.

3.23 **Sec. 3. REPEALER.**

3.24 Minnesota Statutes 2008, section 353.01, subdivision 40, is repealed.

3.25 **EFFECTIVE DATE.** This section is effective July 1, 2010.