Explanation of Chapter 353F and Associated Issues

Legislative Commission on Pensions and Retirement

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October 19 – 20, 2011

Chapter 353F

- Enacted for PERA in 1999
- Modeled after 1996 enactment of Chapter 352F for MSRS-covered employees
- Applies to only one employer formerly under MSRS
- Applies to 23 former local government employers formerly under PERA
- Additional local government entities currently in process to become non-governmental

Prior to 1999

- Assumption of ownership/management of public hospitals, nursing facilities, and other governmental agencies by a private entity resulted in the termination of active PERA membership for employees

- For PERA-covered employees, this meant no additional service credits could be earned, and their high-five average salaries were frozen as of the date of privatization, but vested members received the plan’s augmentation rates – treated like any other deferred member of PERA.

Prior to 1999

- In some cases, special legislation was enacted extending to privatized employees benefit provisions not otherwise available to terminating public employees, i.e.:
  - Refunds of employee, and employer, contributions plus interest, including the directive for PERA to send employer contribution refund only to an IRA set up by the individual
  - Voluntary continued participation in PERA – allowed for St. Paul Ramsey Hospital (now Regions Hospital)
  - New employer or former employer directed to set up comparable plan (Olmsted County Hospital), or
  - New employer or former employer directed to match employee refund and deposit into an IRA (tax problems)

353F.01 Purpose and Intent

"…to ensure, to the extent possible, that persons employed at public medical facilities and other public employing units who are privatized and consequently are excluded from retirement coverage … will be entitled to receive future retirement benefits … commensurate with the prior contributions made by them or made on their behalf upon the privatization of the medical facility or other public employing unit."

Two concerns with 353F

- As originally intended, the cost of the enhanced termination benefits are no longer covered by the anticipated actuarial gain PERA would have realized
- Individuals who were entitled to the enhanced augmentation rates, who move to other MN pension plan covered service, lose the benefit of the higher augmentation rates – PERA has no way of tracking those individuals and is now seeing some who made retirement plans, but who will not receive the expected benefits

353F Provisions

- Deferred pensions grow at accelerated rate

Normal Deferred Rate*	353F Rate (1999)	353F Rate (2006)
3% to age 55	5.5% to age 55	4.0% to age 55
5% thereafter	7.5% thereafter	6.0% thereafter

- Employees who continue under new ownership continue to earn service toward qualification for Rule of 90 (if hired prior to 7/1/89), but service is not included in the benefit calculation

- *No enhanced benefit if employee is also employed by another public employer or reenters public service at a later date*

- Immediate vesting

- Extended benefits must result in no financial harm to PERA General Plan (as determined by actuarial study)

* Before January 1, 2012; former members deferred before January 1, 2012, will begin to accrue 1 percent as of that date to date of retirement; active members who leave PERA-covered service after December 31, 2011 receive 0 percent

Example of a cost analysis in which 353F works as intended

Cedarview Nursing Home – Steele County

		Actuarial Accrued Liability As of July 1, 2009
1.	Ongoing PERA membership	$ 4,501,399
2.	Regular termination benefits	3,846,441
3.	Enhanced termination benefits under Chapter 353F	4,291,241

Since the cost under #3 is less than the cost under #1, the enhanced termination benefits under Chapter 353F are approved and provided to these employees. Instead of realizing a $655 K gain, PERA will instead only realize a $210 K gain if individuals take the best benefit available to them.

Examples of Deferred Pensions

Deferred / privatized at age 55 -- pension drawn at age 65

Prior to 2010 Sustainability Legislation

	Normal Deferred Member (5%)	Deferred Member Under 353F (6%)
Age 55	$1,000/month	$1,000/month
Age 65	$1,629/month	$1,791/month

2011 (Under provision effective 1/1/2012 for current deferred)

	Normal Deferred Member (1%)	Deferred Member Under 353F (6%)
Age 55	$1,000/month	$1,000/month
Age 65	$1,105/month	$1,791/month

After 12/31/2011

	Normal Deferred Member (0%)	Deferred Member Under 353F (6%)
Age 55	$1,000/month	$1,000/month
Age 65	$1,000/month	$1,791/month

2010 Sustainability Bill
changes playing field

- Termination benefit features and annual post-retirement adjustments made coverage of new facilities under 353F a net loss (more costly than continued active membership)

- Employers normally unable to make up difference to make coverage under 353F a viable option today

- Currently the following PERA-covered employers are exploring or have already moved to non-governmental status
  - Sunrise Nursing Home, Lake County (effective 12/31/2010)
  - Virginia Regional Medical Center, City of Virginia (studying)
  - St. Michael Hospital, City of Sauk Centre (studying)
  - Clearwater County Memorial Hospital (Clearwater Health Services)

  [Clearwater's initial attempts did not get implemented, but there is a preliminary agreement with Sanford Health to take over January or February 1, 2012)

Questions

- Should future privatized facilities have members' deferred pensions calculated under current law for general PERA membership;

- at a higher rate, but lower than now provided in 353F; and

- should any new deferral rates apply to current privatized members prospectively, as provided for regular termination of PERA covered employment?

Note:
PERA asked Representative Smith and Senator Rosen to introduce (by request) HF 1759 and SF 1181 to get this issue before the LCPR; bill as introduced represents the position taken by the PERA Board of Trustees to extend the same augmentation rates (1 percent for privatizations effective in 2011 and before January 1, 2012 and 0 percent for any privatizations effective after December 31, 2011, but retain Rule of 90 provision and immediate vesting)

Alternative Augmentation Rates Reviewed

Current Law Actuarial Analysis for Sunrise Nursing Home in Lake County

Status of Employees	Actuarial Accrued Liability (7/1/2010)
Ongoing PERA Membership	$1,713,491 (a)
Terminated Vested Members — assumes current General Plan provisions with pre-1/1/2012 termination	$1,330,597
Terminated Vested Members — with current enhanced benefit provisions of 353F	$1,920,293** (c)

Options for LCPR to consider using Sunrise Nursing Home data

Alternative 1: 1% augmentation for all years of privatization	$1,275,685
Alternative 2: 2% augmentation for all years of privatization	$1,386,397

** Unless the county or new employer would pay the difference between (a) and (c), benefits cannot be extended.

Additional Issue

- When an employee who remained with a privatized entity leaves before retirement and accrues credit with a subsequent employer covered by PERA or one of the other Minnesota plans, all enhanced augmentation is lost
- While this provision is included in PERA literature, those employees have not routinely checked with PERA and do not learn of the impact on benefit until after making the move

Additional Issue (cont.)

Example of losing eligibility for higher augmentation rates

Member was part of privatized employer subject to 7.5 and 5.5 percent augmentation rates, but left employment with the hospital and taught on a very part-time basis, accruing service credit under TRA. Member retired effective October 1, 2011.

PERA Benefit under 353F	TRA stand-alone benefit	Total
$ 2,878	$ 25	$2,903
PERA Benefit w/o 353F	TRA stand-alone benefit	
$2,635	$25	$2,660
PERA Benefit w/o 353F But with Combined Service	TRA/Combined Service	
$2,179	$51	$2,230

Benefits shown as single life options; joint and survivor benefit payment amounts not included in example.

Additional Issue (cont.)

Example of losing eligibility for higher augmentation rates

Member was part of privatized employer subject to 7.5 and 5.5 percent augmentation rates, but left employment with the privatized hospital and moved to employment with a different hospital that is still governmental and participating in PERA. Benefit amounts are estimated and are projected to ages shown.

PERA Benefit under 353F	Age 59	Age 60
	$ 1,096	$ 1,250
PERA Benefit w/o 353F	$ 782	$ 875
PERA Benefit w/o 353F, but Calculated as two separate Benefits under current law*	$ 925	$ 1,036

*Benefit with service up through privatization date is calculated with augmentation rates under regular PERA law; new service with new employer is calculated separately and the two benefit amounts are added together to determine monthly pension at retirement. Benefits calculated on current high five average salary; if salary earned during current coverage period is higher, these benefit estimates would be understated.