



**S.F. 276**  
(Pappas)

**H.F. 344**  
(Nelson)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* PERA Privatized Employee Chapter (353F)  
*Relevant Provisions of Law:* Minnesota Statutes, Chapter 353F  
*General Nature of Proposal:* Substituting PERA approval for legislative approval of privatizations for inclusion in chapter 353F  
*Date of Summary:* February 14, 2013

**Specific Proposed Changes**

- Substitutes PERA approval for legislative approval of privatizations for inclusion in Ch. 353F
- Adds 30-day separation requirement from privatized employer to draw an annuity.
- Specifies treatment for employees who are simultaneously employed by public employer and a privatized employer.

**Policy Issues Raised by the Proposed Legislation**

1. Whether there is sufficient justification to remove the legislative approval requirements.
2. Whether the Legislature will receive sufficient documentation that PERA is following proper approval procedures.
3. Need for a length of termination requirement to draw an annuity.
4. Whether proposed treatment of employees who are simultaneously employed by public employer and a privatized employer is fair.

**Potential Amendments**

- S0276-1A is a technical amendment to clarify the privatized former public employer definition section.
- S0276-2A removes language specifying treatment of employees who are simultaneously employed by public employer and a privatized employer.
- S0276-3A specifies that, for each privatization, the Legislature must receive copy of the actuarial report and actuary's findings regarding each privatization.
- S0276-4A moves 30-day separation requirement to a separate new section.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director **EB**

RE: S.F. 276 (Pappas); H.F. 344 (Nelson): PERA Privatized Employee Chapter; Removing Legislative Approval Requirements, Revising Certain Eligibility Requirements; Making Various Administrative Changes

DATE: February 14, 2013

## General Summary of S.F. 276 (Pappas); H.F. 344 (Nelson)

S.F. 276 (Pappas); H.F. 344 (Nelson) amends various sections of Minnesota Statutes, Chapter 353E, the Public Employees Retirement Association (PERA) privatized public hospital chapter, by substituting a requirement of PERA approval for inclusion under this chapter instead of legislative approval; by making conforming changes; by requiring a 30 day separation from the privatized employer to satisfy termination of service requirements to draw a PERA annuity; and by eliminating from privatization chapter coverage anyone who continues to be covered by PERA due to employment with another government subdivision.

## Section-by-Section Summary

A section-by-section summary of S.F. 276 (Pappas); H.F. 344 (Nelson) is attached.

## Background Information

- Background information on the historical development of the PERA privatization chapter, Minnesota Statutes, Chapter 353F, is contained in **Attachment A**.

## Discussion and Analysis

The fundamental change in the bill is to eliminate the need for any legislative approval to add former public employing units which have been privatized to PERA's privatized employee chapter.

Years ago, any privatized PERA employing unit which wanted to have the privatized employees included in PERA's privatization chapter had to have a bill introduced to add it to the list in statute. In some years the Commission and Legislature might heard several of these bills. Procedures were revised a few years ago to streamline that process to take far less legislative time. PERA's privation chapter was changed so that PERA reviewed each of these requests and evaluated them using the same criteria that the Commission and Legislature had previously developed for approving or denying privatization chapter inclusion requests. The first criterion or standard is a finding from PERA's actuary that including the privatization in the privatization chapter will not create a loss to PERA by eliminating all the gain to that would otherwise occur due from terminating these privatized employees as public employees. This requirement was recently modified by permitting the prior public employer or the new privatized employer to agree to pay PERA a lump sum to eliminate any net loss which the actuary has concluded would otherwise occur. The second criterion is that the public employer or new privatized employer must agree to pay for the actuarial services; PERA is not permitted to cover that cost. Rather than the Legislature being presented with several privatization bills, all the privatizations which meet the Commission's standards as determined by PERA are handled through a single section included in its administrative bill.

Through this bill, PERA is proposing to eliminate this remaining legislative involvement. PERA's determination that the applicable criteria are met will be sufficient to have the entity be given the treatments prescribed in the PERA privatization chapter. Notification and supporting documentation will be transmitted to the LCPR and to legislative committees responsible for governmental operations. For further public disclosure, PERA will maintain a list of entities covered by its privation chapter on the PERA website and will include the list in its financial reports.

Most of the bill is conforming amendments to the general change indicated above, but there are two other provisions worth mentioning, since they can be considered as substantive changes. One is Section 3 (lines 2.12 to 2.17), which is new language which is meant to address the situation where an individual simultaneously has two (or more) PERA-covered employers, and then one of them is privatized and included in the PERA privatization chapter. PERA is proposing that that individual would be excluded from coverage under the privatization chapter. The Commission may wish to explore the implications of this through testimony from PERA's executive director. The second is new language on page 7, lines 14 to 18. For individuals covered by PERA-General, there is a 30-day break-in-service requirement for any termination to be considered valid for purposes of commencing an annuity (Minn. Stat. Sec. 353.01, Subd. 11a). PERA is adding that same requirement in its privatization chapter.

S.F. 276 (Pappas); H.F. 344 (Nelson) raises a number of pension and related public policy issues for consideration by the Commission, as follows:

1. Need for Change. An issue is whether there is sufficient need to change the current procedure. The process has been streamlined considerably in recent years so that all privatization chapter inclusion requests are handled through a single section in PERA's administrative bill. Thus, very little legislative time is currently involved, so any savings of legislative time due to the proposal currently before the Commission will be minimal. The bill enhances PERA and PERA Board authority while diminishing that of the Legislature. One argument for the change is that it would eliminate, for privatized employees, uncertainty and possible delay. Under the bill, if PERA's review indicates that the standards have been met, the privatized employees know that they are included under PERA's privatized employee chapter and have the benefit enhancements and protections offered by that chapter. Currently, the employees must wait for the passage of a legislative bill, which can take months or more than a year if the Legislature does not hear PERA's administrative bill in a given year, or if the bill is vetoed.
2. Sufficient Documentation for Legislature. An issue is whether sufficient documentation will be sent to the Commission and legislative committees to be assured that PERA is following proper procedure for approval or denial of these requests. Page 3, lines 16 to 24, indicate that "notice and supporting documentation" will be sent to the LCPR and relevant legislative committees, with no specification regarding what constitutes adequate and proper documentation. The Commission may wish to consider an amendment requiring the documentation to include the actuary's report and findings.
3. Length of Termination Requirement for Qualifying for PERA Annuity. New language is proposed on page 7, lines 14 to 18, specifying that to qualify to receive an annuity, the privatized individual must terminate from service with the privatized employer for at least 30 days. This raises two issues. The first issue is whether the Commission agrees that this is a proper requirement. The Commission may wish to consider that this proposed requirement is consistent with law applicable to PERA-General members. The same requirement is contained in the PERA-General chapter, in the "termination of public service" definition (Minn. Stat. Sec. 353.01, Subd. 11). The language in the PERA-General chapter is an attempt to guard against sham terminations, where there is a brief termination solely for purposes of drawing an annuity. If the termination is for less than 30 days, PERA would declare that the PERA-General member is still an active employee, not a retiree. So the proposed language in the PERA privatization chapter is fully consistent with existing law language in the PERA-General chapter, chapter 353. The second issue, assuming the Commission is comfortable with this "30-day" language, is the placement of the language. The language is proposed for placement in a reemployed annuitant earnings limitation provision. It might be preferable to move that language to its own new section.
4. Proposed Treatment of Individuals Simultaneously Employed by Government Unit and Privatized Employer. The policy issue is the fairness of the proposed treatment for those who have two employers, one a governmental unit and the other a privatized employer. In new language (lines 2.12-2.17), PERA is proposing that the person be excluded from coverage under the PERA Privatization chapter. The Commission may wish to hear testimony from the PERA executive director on the implications of this language, specifically the impact it will have on the individual's eventually annuity.

#### Potential Amendments for Commission Consideration

**S0276-1A** revises Section 2 of the bill by removing the word "public" on page 1, line 21. This is a technical amendment for the Commission's consideration. The Commission may wish to hear brief testimony from PERA's Executive Director on whether she supports this change. The concern is that these entities being referred to have been privatized; they are no longer public employers. Referring to them as a "public employing unit" may create confusion.

**S0276-2A** revises Section 3 by removing the language proposing treatment of individuals who are simultaneously employed by both a PERA-covered employing unit and a privatized employer. This amendment can be used if the Commission is concerned about the stated treatment.

**S0276-3A** revises Section 5, the provision being transformed into a requirement for reporting to the Legislature about the PERA-approved privatizations, by specifying that the supporting documentation must include the actuary's report on the privatization including the actuary's findings.

**S0276-4A** moves the proposed 30-day separation from service requirement in Section 11 (page 7) to a new proposed section. If the Commission were to conclude that the separation should be for some period other than 30 days, the Commission can consider a verbal amendment to S0276-4A. If Amendment S0276-4A is not used, the Commission could consider a verbal amendment to page 7, line 17, of the bill by deleting "30" and inserting a different number of days.

Section-by-Section Summary of S.F. 276 (Pappas); H.F. 344 (Nelson)

| Sec. | Pg.Ln | Stat. Provision       | Plan                | Summary  |
|------|-------|-----------------------|---------------------|--|
| 1    | 1.11  | 353F.02, Subd. 3      | PERA Privatizations | Clarifies the "effective date" definition by revising it to "effective date of privatization"  |
| 2    | 1.8   | 353F.02, New Subd. 4a | PERA Privatizations | New definition provision defining "privatized former public employer" to mean a medical facility or other employing unit which was a governmental employer, but which has now been privatized and whose employees are certified for inclusion under the PERA privatization chapter.  |
| 3    | 2.1   | 353F.02, Subd. 6      | PERA Privatizations | The definition of "terminated medical facility or other public employing unit employee" is revised to apply to "privatized former public employees," and language is added stating that a person who remains covered by PERA-General due to simultaneous employment with a privatized employer and another employer who remains a governmental subdivision is not eligible for coverage under the PERA privatization chapter.  |
| 4    | 2.19  | 353F.025, Subd. 1     | PERA Privatizations | The eligibility determination provision is clarified.  |
| 5    | 3.11  | 353F.025, Subd. 2     | PERA Privatizations | The privatization recommendation to the Legislature provision is revised to have PERA make determinations of which privatizations are to be included in the chapter, using the same criteria which the Commission has used in these determinations, rather than requiring legislative approval of each privatization. PERA must forward notice of new inclusions to the LCPR and government operations committees, and include a list of included privatizations on the PERA website and in the PERA financial report. |
| 6    | 4.20  | 353F.03               | PERA Privatizations | A conforming change to use new terminology for privatized employers and employees is made in the vesting rule provision.   |
| 7    | 4.28  | 353F.04               | PERA Privatizations | The privatization augmentation provision is revised by making conforming changes, and by clarifying when the increased augmentation rates no longer apply due to reemployment with a governmental employer.  |
| 8    | 6.6   | 353F.05               | PERA Privatizations | Conforming changes are made in the early retirement service credit use provision.  |
| 9    | 6.28  | 353F.051              | PERA Privatizations | Conforming changes are made in a disability eligibility provision.   |
| 10   | 7.2   | 353F.052              | PERA Privatizations | Conforming changes are made in the surviving spouse, dependent child benefit eligibility provision.  |
| 11   | 7.11  | 353F.06               | PERA Privatizations | The reemployed annuitant earnings limitation provision is clarified to apply to reemployment with any privatized entity, and a 30 day separation from service requirement to be eligible to draw an annuity is added.  |
| 12   | 7.25  | 353F.07               | PERA Privatizations | Conforming changes are made in effect-on-refund provision.   |
| 13   | 8.6   | 353F.08               | PERA Privatizations | Conforming changes are made in a counseling services provision.  |
| 14   | 8.15  | Repealer              | PERA Privatizations | Sec. 353F.02, Subd. 4-5, a list of medical facilities and other public employing units covered by the chapter, and 353.025, Subd. 3, a privatization date of application provision, are repealed.  |

**Background Information on the  
Historical Development of the PERA Privatization Chapter  
Minnesota Statutes, Chapter 353F**

1. Legislative History Concerning PERA Membership for Public Hospital and Related Employees.

Prior to 1963, employees of public hospitals and related health facilities were covered by the Public Employees Retirement Association (PERA) on a mandatory basis. Legislation enacted in 1951 required every person who received compensation for services performed which was paid in whole or in part from governmental revenue to be a member of PERA as a condition of the acceptance of or the continuance in public employment, including public hospital, nursing home, and extended health care facility employees (Laws 1951, Ch. 22, Sec. 10). Only public employees who were elected public officials, or who attained the age of 60 years at the time of employment or who were required to contribute to a local public pension fund or who were employed by a governmental unit which was previously never covered by PERA, were excluded. For elected public officials and employees who had attained the age of 60 years at the time of employment, membership was optional at the election of the employee. For employees who were employed by a governmental unit which was never previously covered by PERA, membership was optional at the election of the governmental subdivision through the adoption of the appropriate resolution.

In 1963, legislation was enacted which made PERA membership optional for public hospital employees (Laws 1963, Ch. 793, Sec. 3, Subd. 5, now coded as Minn. Stat. Sec. 355.72, Subd. 5). In 1963, there was no PERA Coordinated Program and no PERA-covered employees had Social Security coverage by virtue of their public employment. The 1963 legislation made public hospital employees eligible for Social Security coverage, authorizing a separate Social Security employee referendum and Social Security agreement with the federal government. Each public hospital was treated as an individual unit for purposes of the referendum. Public hospital employees were given the option of having coverage by Social Security in lieu of PERA Basic Program coverage, or retaining the PERA Basic Program coverage, or having reduced PERA coverage (under a predecessor to the PERA Coordinated Program) and Social Security coverage. The Legislative Commission on Pensions and Retirement, then an interim commission entitled the "Interim Commission on Employee Retirement Systems," was not reestablished by the 1961 Legislature, did not function during the 1961-1962 interim or the 1963 legislative session consequently, and did not study or recommend these changes applicable to public hospital employees.

In 1967, the authority for public hospital employees to retain or terminate PERA coverage at their option was revoked (Laws 1967, Ch. 687, Sec. 22). The Commission was reestablished on an interim basis by the 1963 and 1965 Legislatures and the Commission did study and recommend this change in the optional membership for public hospital employees.

The question of optional PERA membership for public hospital employees also arose in 1969 concerning a specific public hospital, the Duluth Miller Memorial Hospital. Special legislation adopted during the 1969 legislative session, redefining the powers and duties of the directors of the hospital, included a provision which was alleged by the hospital to have given its employees the option to be members of PERA or not (Laws 1969, Ch. 224, Subd. 1). The question was resolved by an opinion of the Attorney General, which held that the Duluth Miller Memorial Hospital employees did not have the right to terminate PERA membership by virtue of the special legislation because of constitutional defects related to the manner in which the legislation was enacted, and the general policy of the legislature towards public hospital employees expressed in the 1967 general legislation on the subject (Opinion of the Attorney General to PERA dated November 10, 1971).

In 1973, PERA law was amended to specifically provide that public hospital employees are included within the definition of "public employee" and are members of PERA (Laws 1973, Ch. 753, Sec. 4). In 1975, PERA law was amended to remove one additional exception to PERA membership applicable to hospital districts by providing that only public hospital districts which were organized or reorganized pursuant to Laws 1959, Chapter 570, prior to July 1, 1975, would be excluded from the definition of "governmental subdivision," which determines PERA coverage in part (Laws 1975, Ch. 102, Sec. 1). The exclusion for public hospital districts which were organized or reorganized pursuant to the 1959 legislation was added to PERA in 1959 (Laws 1959, Ch. 650, Sec. 2). Employees of public hospital districts which were organized or reorganized pursuant to the 1959 hospital organization legislation had retirement coverage solely from Social Security (Laws 1959, Ch. 633).

2. Pre-1999 Retirement Plan Treatment for Public Employees Affected by Public Health Care Facility Privatizations. There has been a trend among health care facilities to convert from public sector ownership to private sector or quasi-public sector ownership. These conversions have involved selling, leasing, or transferring the facility, and transferring the existing employees to that reorganized health care facility.

The privatization of health care facilities is occurring both among large and small hospitals, clinics, and related health care providers. The privatizations typically increase organizational flexibility and reduce various costs to remain financially competitive. One area of potential savings is that of retirement coverage by PERA, or other public pension plan, which may be eliminated by the privatization.

When a privatization occurs, the employees may no longer qualify as public employees for PERA pension purposes. When this occurs, membership in PERA terminates, and retirement benefit coverage problems may emerge.

Under current PERA law, three years of PERA coverage is required for vesting for employees hired before July 1, 2010, and five years is required for partial or total vesting for employees hired after June 30, 2010. For employees who terminate PERA membership without vesting, no deferred retirement annuity right typically is available. The member may elect a refund of accumulated member contributions with 6% interest, or the individual may leave the contributions at PERA, perhaps in the expectation that the individual will change employment in the future and again become a covered public employee. For a vested employee who terminates PERA membership with at least three years of service, there is a choice between a deferred retirement annuity right and a refund. The deferred retirement annuity is augmented by 3% per year under age 55 and 5% per year thereafter until retirement or 2.5% per year until retirement, depending on the date of hire, and no augmentation for members terminating after December 31, 2011.

When a privatization occurs and employees lose the right to continue coverage by the public plan, all of the employees are impacted. The employee may be terminated from employment at the time of the sale, transfer, or reorganization. Those employees will lose both continued employment and continued retirement coverage. For employees who remain employed after transfer to the newly organized health care facility, the privatization interrupts their benefit coverage. If there is no pension plan established by the privatized health care facility, the employees will suffer a loss of overall benefit coverage beyond Social Security. If a plan is provided by the new employer, portability problems between the old and new plan are likely.

Before 1999, the Legislature dealt with health care privatizations numerous times and has used several different treatments to address pension coverage issues. At times, in addition to any benefit that the employee may have been eligible for under a public pension plan, the individual was offered an alternative of an enhanced refund (employee plus employer contributions) plus interest. On at least one occasion, the individuals were permitted to remain in PERA, although that practice has not been favored in more recent years.

The following is a summary of treatments used since 1984 and before 1999.

- In 1984, relating to the privatization of the Owatonna City Hospital, legislation allowed the affected employees to receive a deferred retirement annuity with at least five years of service or to receive a refund of employee and employer contributions, plus interest at 6% compounded annually.
- In 1986, relating to the St. Paul Ramsey Medical Center reorganization, legislation allowed only a delayed right to withdraw from PERA and receipt of a refund of only member contributions plus interest at 5% compounded.
- In 1987, relating to the Albany Community Hospital and the Canby Community Hospital, legislation allowed the affected employees to receive a deferred retirement annuity with a five-year vesting period or to receive a refund of both employee and employer contributions, plus compound annual interest at 6%.
- In 1988, relating to the Gillette Children's Hospital employees, legislation continued the membership of the affected employees in the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), but excluded new employees from public pension plan coverage.
- In 1994, relating to the St. Paul Ramsey Medical Center again, legislation continued the PERA membership of existing employees who were PERA members unless the employee elected to terminate PERA membership before July 1, 1995.

- In 1995 through 1997, two approaches have been used with respect to hospital privatizations:
  - a. Public Pension Plan Membership Discontinuation with Local Employer Option. In the first model, continuing PERA coverage ends for all employees as of the time of the transfer of the health care facility to the new ownership. The new health care entity may provide a “PERA-like” plan for individuals who are transferred with the facility and remain as employees of the new entity. For individuals who are terminated at the time of the transfer, and who were not vested in PERA, the city may match any refund with interest that the individual receives from PERA. This model was used with the Olmsted County Medical Center privatization (1995), the Itasca County Medical Center (1995 and 1996), and Jackson Medical Center, Melrose Hospital, Pine Villa Nursing Home, and the Tracy Municipal Hospital and Clinic (1997), and the Glencoe Area Health Center (1998).
  - b. Special Continuing Public Pension Plan Rights after Membership Discontinuation. In the second model, termination of coverage by the public plan occurs at the time of the privatization, but the employees who terminated coverage were permitted deferred annuities (even those that were not vested) from the public plan with an augmentation rate that exceeded that used under general law, and the employees were allowed to use service with the new organization to meet age/service requirements for qualifying for the Rule of 90 under the public plan. This approach was used in 1996 for the University of Minnesota Hospital-Fairview merger. The plan that had previously provided coverage to the transferred employees was the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General).
- 3. Precedent for the PERA Privatization Law. In 1996, the Fairview and University Hospitals merged and employees at University Hospital who had been covered members of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) were not permitted to continue as active members of that public plan because the new employer was not a public entity. Special treatment was proposed and enacted for these former public employees (coded as Ch. 352F, University Hospital Employee Retirement), including deferred annuity augmentation rates in excess of that offered to other terminated employees. The Fairview/University Hospital model for treating privatizations was later used when some similar situations arose for General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) privatized employees. Enacted in 1999, Minnesota Statutes, Chapter 353F, has been used in recent years to deal with PERA-covered public employer privatizations, either due to a sale or lease to a private sector company or nonprofit corporation, or due to reorganization that changes a public employer into a 501(c)(3) nonprofit corporation.
- 4. Minnesota Statutes, Chapter 353F, the PERA Privatization Provision, as Enacted in 1999. In 1999, three pieces of proposed legislation were introduced relating to the privatization of public hospitals:
  - H.F. 551 (Mulder); S.F. 707 (Lesewski): PERA; Luverne Hospital privatization;
  - H.F. 1027 (Molnau); S.F. 912 (Robling): PERA; Ridgeview Medical Center privatization; and
  - H.F. 1842 (Swenson); S.F. 1694 (Frederickson): PERA; Glencoe Public Hospital privatization.

The bills were heard by the Commission on February 26, 1999, and March 25, 1999. The bills proposed replicating the 1996 Fairview-University of Minnesota Hospitals merger MSRS-General legislation. The Commission ultimately decided to create a single coded law rather than three special local laws from the three bills, which was Minnesota Statutes, Section 353F. PERA did testify on the initial two bills as neutral on the proposed legislation so long as the actuarial experience gain to PERA-General from the privatization and the removal of members from plan coverage was not exceeded by the actuarial accrued liability of the enhancements in the privatization legislation.

The PERA privatization chapter provisions passed as Laws 1999, Chapter 222, Article 1, and contained the following provisions:

- a. Section 353F.01, Purpose and Intent Section, addresses the needs of PERA-General covered employees who are terminated from the plan due to the privatization of their employing unit.
- b. Section 353F.02, Definitions, defines important terms and the employers and employees who are to be covered under this chapter, including:
  - (1) Effective Date. The treatment provided under this chapter begins on the “effective date,” defined as the date the employing unit is privatized.

- (2) Covered Employers: “Medical Facility” and “Other Public Employing Unit.” A privatized entity is included under this chapter if the employing unit is listed in the definitions under “medical facility” or “other public employing unit.” The medical facilities or other public employing units included under the chapter when enacted in 1999 are Glencoe Area Health Center, Luverne Public Hospital, Waconia-Ridgeview Medical Center, and Metro II, a joint powers organization.
- (3) Eligible Employees: “Terminated Medical Facility or Other Public Employing Unit Employee” defines the employees of the privatized employing unit who are to receive the prescribed treatment. Eligible employees are those who were active PERA-General members immediately prior to the covered privatization.
- c. Enhanced Benefits. Certain benefits beyond those authorized for PERA terminated employees are extended to privatized employees who are included under the chapter. These enhanced benefits are:
- (1) Section 353F.03, Waiver of Vesting Requirements. The normal vesting period is waived, so any privatized employee would be entitled to eventually receive an annuity, notwithstanding general law regarding vesting requirements. When enacted in 1999, the PERA-General vesting requirement that would otherwise have applied was three years of service.
- (2) Section 353F.04, Increased Deferred Annuity Augmentation Rate. For the period between the date of privatization and the date of eventual retirement, the privatized employee’s deferred PERA retirement annuity will increase at the rate of 5.5% rather than 3% until January 1 of the year in which the individual turns age 55 and at the rate of 7.5% rather than 5% thereafter until retirement. However, some restrictions apply:
- These rates are no longer applicable for any time after the terminated medical facility or other public employing unit again becomes covered by any plan included in the combined service annuity provision; and
  - these rates do not apply if the individual begins receipt of a PERA retirement annuity while remaining employed with the privatized employer.
- (3) Section 353F.05, Rule of 90 Eligibility with Post-Privatization Service. For purposes of qualifying for the Rule of 90 (combination of age and total service credit totals at least 90), privatized employees will be able to count future privatized service with the privatized entity for eligibility purposes, but not for benefit computation purposes.
- d. Application, Interpretation of PERA-General Law. The chapter included a few sections clarifying how certain provisions of PERA-General law apply to privatized employees, as follows:
- (1) Section 353F.06, Application of Reemployed Annuitant Earnings Limitations. For purposes of PERA law, the privatized medical facility will be treated as a PERA employing unit for purposes of application of PERA’s reemployed annuitant earnings limitation provision. If the person leaves service with the privatized employer and commences receipt of a PERA annuity, and the employee becomes reemployed with that privatized medical facility, PERA’s reemployed annuitant earnings limitation provision will apply.
- (2) Section 353F.07, Application of Refund Provision. In lieu of an eventual PERA annuity, an eligible privatized employee may take a refund (with 6% interest) any time after beginning employment under the privatized employing unit. The refund may not be repaid unless the person again begins PERA-covered employment or employment covered by any other plan included under the combined service annuity provision.
- e. Section 353F.08, Counseling Services. PERA and the privatized employer must provide counseling services to privatized employees regarding PERA benefit provisions within 90 days of the start of privatized employment. The effective date provision for the article reflected a policy which the Commission continued to follow in later years when new entities were proposed for addition to the privatization chapter. First, some entity other than PERA (either the old or new employing unit) had to pay for the actuarial work needed to determine the impact on PERA if the privatized entity was adding to the privatization chapter. Second, the actuarial work had to indicate that PERA would not suffer an actuarial loss if the privatization was added. The effective date provision stated that the addition of Metro II would be effective if these conditions were met. For the other three privatization included in the 1999 legislation, the actuarial work had been completed in time for the Commission to make the determination that the applicable standards were met.



5. Later Revisions of Minnesota Statutes, Chapter 353F. The following is a description of the changes that have occurred in the PERA privatization chapter since its 1999 enactment:
- In 2000 (Laws 2000, Ch. 461, Art. 9), the St. Paul Civic Center privatization was added to the chapter, if the actuarial work indicated PERA would not suffer an actuarial loss.
  - In 2001 (1<sup>st</sup> Spec. Sess. Laws 2001, Ch. 10, Art. 9, Sec. 2), new Section 353F.051, Continuation of Disability Coverage, was added. Following a covered privatization, a privatized employee who suffers total and permanent disability can apply for PERA-General disability benefits if the person had a medically documented pre-existing condition prior to the privatization. The disability benefit will augment from the date of termination of PERA-General coverage due to the privatization until the accrual date of the disability benefit. A comparable provision was also added to the MSRS privatization chapter.
  - In 2002 (Laws 2002, Ch. 392, Art. 5), Kanabec Hospital was added to the chapter, if the actuarial work indicated PERA would not suffer an actuarial loss. Note: There were several efforts to privatize the Kanabec Hospital, but apparently privatization did not occur. The 2002 addition therefore became ineffective and Kanabec Hospital was dropped from the list. It was again added in 2004, but that privatization again failed to occur and it was dropped from the list in 2008.
  - In 2003 (Laws 2003, Ch. 12, Art. 5), Renville County Hospital was added to the chapter, if the actuarial work indicated PERA would not suffer an actuarial loss. Note: Renville County Hospital was dropped from the list in 2008 because the privatization failed to occur.
  - In 2004 (Laws 2004, Ch. 267, Art. 12, Sec. 1, 4), Fair Oaks Lodge (Wadena), Kanabec Hospital, RenVilla Nursing Home, and St. Peter Community Healthcare Center were added to the chapter if the actuarial work indicated PERA would not suffer an actuarial loss.
  - Also in 2004 (Laws 2004, Ch. 267, Art. 9, Sec. 16), and the provisions in PERA-General covering annuities and refunds applicable to surviving spouses and dependent children (Minn. Stat. Sec. 353.32) made applicable to the survivors of a terminated medical facility or other public employing unit employee.
  - In 2005 (1<sup>st</sup> Spec. Sess. Laws 2005, Ch. 8, Art. 6, Sec. 1, 4), Bridges Medical Services, Hutchinson Area Health Care, and Northfield Hospital were added to the chapter, if the actuarial work indicated PERA would not suffer an actuarial loss. Note: Northfield Hospital was dropped from the list in 2008 because the privatization failed to occur.
  - In 2006 (Laws 2006, Ch. 271, Art. 5, Sec. 2, 5), City of Cannon Falls Hospital, Clearwater Health Services in Bagley, and Dassel Lakeside Bridges Medical Services were added to the chapter, if the actuarial work indicated PERA would not suffer an actuarial loss.
  - Also in 2006 (Laws 2006, Ch. 271, Art. 5, Sec. 3), revisions were made in the deferred annuities augmentation rates, as follows:
    - (1) New Privatizations Reduced Deferred Augmentation Rates. For any privatizations occurring on or after January 1, 2007, the deferred annuity augmentation rate will be 4.0% (rather than 5.5%) through the year in which the individual attains age 55, and 6.0% (rather than 7.5%) thereafter until retirement.
    - (2) Drafting Revision. The section was divided into subdivisions, one dealing with enhanced augmentation and the other covering exceptions.
    - (3) Possible Revision in Treatment for Those Who Again Become Active Employees Covered by PERA or Another Combined Service Annuity Plan. Under the revision, the enhanced augmentation rates do not apply if the terminated medical facility or other public employing unit employee becomes an active member of any combined service annuity plan, rather than the enhanced augmentation rates are no longer applicable for any time after the terminated medical facility or other public employing unit employee becomes an active member of any combined service annuity plan.
  - In 2007 (Laws 2007, Ch. 134, Art. 5, Sec. 1), The Lakefield Nursing Home, Lakeview Nursing Home in Gaylord, and the Oakland Park Nursing Home were added to the medical facility definition, if the actuarial work indicated PERA would not suffer an actuarial loss.

- Also in 2007 (Laws 2007, Ch. 134, Art. 5, Sec. 2), The enhanced deferred annuities augmentation provision was revised by extending the rates generally applicable to pre-January 1, 2007, privatizations (deferred annuity augmentation of 5.5% through the year in which the individual attains age 55, and 7.5% thereafter until retirement), to Hutchinson Area Health Care, if that privatization occurred before January 1, 2008.
  - In 2008 (Laws 2008, Ch. 349, Art. 5, Sec. 26-27, and Art. 7), Kanabec Hospital, Northfield Hospital, and Renville County Hospital in Olivia were removed from the privatization chapter because the privatizations failed to occur. The Department of Radiology and the Department of Radiation/Oncology in Rice Memorial Hospital in Willmar, and Worthington Regional Hospital were added to the privatization chapter if the actuarial work indicated PERA would not suffer an actuarial loss.
  - Also in 2008 (Laws 2008, Ch. 349, Art. 5, Sec. 27), Rather than continuing with individual bills for each privatization and having the Commission determine whether the actuarial work for the given privatization indicates no expected loss to PERA, a new procedure was created which will have PERA determine whether these standards are met, and will have PERA submit a single bill covering all those privatizations which meet the standards. The submitted bill will also void any previously approved additions where the entity failed to privatize within one year.
  - In 2009 (Laws 2009, Ch. 169, Art. 4, Sec. 20), using the certification process enacted in 2008, Weiner Memorial Medical Center was added to the privatization chapter.
  - In 2010 (Laws 2010, Ch. 359, Art. 5, Sec. 17), using the certification process, Chris Jenson Health and Rehabilitation Center in St. Louis County, the Douglas County Hospital Mental Health Unit, and Wheaton Community Hospital were added to the privatization chapter.
  - Also in 2010 (Laws 2010, Ch. 359, Art. 5, Sec. 18-19), the certification/ decertification procedure enacted in 2008 was revised to permit inclusion in the chapter, despite actuarial work indicating an expected loss to PERA, if the employer makes a lump sum payment to PERA to eliminate the expected loss, and PERA was authorized to include recommendations for inclusion/decertifying of privatizations in its administrative legislation.
6. Application of the PERA Privatization Law. To date, the PERA privatization chapter applies to the following privatizations:
- Bridges Medical Services
  - City of Cannon Falls Hospital
  - Chris Jenson Health and Rehabilitation Center in St. Louis County
  - Clearwater County Memorial Hospital d/b/a Clearwater Health Services in Bagley
  - Dassel Lakeside Community Home
  - Douglas County Hospital, with respect to the Mental Health Unit
  - Fair Oaks Lodge, Wadena
  - Glencoe Area Health Center
  - Hutchinson Area Health Care
  - Lakefield Nursing Home
  - Lakeview Nursing Home in Gaylord
  - Luverne Public Hospital
  - Oakland Park Nursing Home
  - RenVilla Nursing Home
  - Rice Memorial Hospital in Willmar, with respect to the Dept. of Radiology and Dept. of Radiation/ Oncology
  - St. Peter Community Health Care Center
  - Waconia-Ridgeview Medical Center
  - Weiner Memorial Medical Center, Inc.
  - Wheaton Community Hospital
  - Worthington Regional Hospital
  - Metro II, a joint powers organization formed under Minn. Stat. Sec. 471.59
  - St. Paul Civic Center Authority

When a PERA privatization occurs, the privatized employees are excluded from continued PERA-General coverage as active employees because the employees are no longer public employees. For purposes of the pension plan they are considered to be terminated employees although many of them may continue in the same employment, but with a new privatized employer.

# 2012 Minnesota Statutes

## 353.01 DEFINITIONS.

### Subd. 11a. Termination of public service.

(a) "Termination of public service" occurs (1) when a member resigns or is dismissed from public service by the employing governmental subdivision and the employee does not, within 30 days of the date the employment relationship ended, return to an employment position in the same governmental subdivision; or (2) when the employer-employee relationship is severed due to the expiration of a layoff under subdivision 12 or 12c.

(b) The termination of public service must be recorded in the association records upon receipt of an appropriate notice from the governmental subdivision.

(c) A termination of public service does not occur if, prior to termination of service, the member has an agreement, verbal or written, to return to a governmental subdivision as an employee, independent contractor, or employee of an independent contractor.

1.1 ..... moves to amend S.F. No. 276; H.F. No. 344, as follows:

1.2 Page 1, line 21, delete "public"

- 1.1 ..... moves to amend S.F. No. 276; H.F. No. 344, as follows:
- 1.2 Page 2, line 3, delete "(a)"
- 1.3 Page 2, delete lines 12 to 17

1.1 ..... moves to amend S.F. No. 276; H.F. No. 344, as follows:

1.2 Page 3, line 17, after "documentation" insert ", including a copy of the actuary's  
1.3 report and findings, "

1.1 ..... moves to amend S.F. No. 276; H.F. No. 344, as follows:

1.2 Page 7, after line 10, insert:

1.3 "Sec. 11. [353F.057] TERMINATION FROM SERVICE REQUIREMENT.

1.4 Upon termination of service from the privatized former public employer or any  
1.5 successor entity after the effective date of privatization, a privatized former public  
1.6 employee must separate from any employment relationship with the privatized former  
1.7 public employer or any successor entity for at least 30 days to qualify to receive a  
1.8 retirement annuity under this chapter.

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

1.10 Page 7, delete lines 14 to 18 and insert "If a privatized former public employee  
1.11 satisfies the separation from service requirement in section 353F.057 and thereafter"

1.12 Renumber the sections in sequence

1.13 Amend the title accordingly

SENATE  
STATE OF MINNESOTA  
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 276

(SENATE AUTHORS: PAPPAS)

| DATE       | D-PG | OFFICIAL STATUS  |
|------------|------|--|
| 02/06/2013 | 160  | Introduction and first reading<br>Referred to State and Local Government |

1.1 A bill for an act  
 1.2 relating to retirement; Public Employees Retirement Association privatization  
 1.3 chapter; removing legislative approval requirements; modifying legislative  
 1.4 notification requirements; clarifying privatized public hospital pension benefit  
 1.5 eligibility; making various administrative changes; amending Minnesota Statutes  
 1.6 2012, sections 353F.02, subdivisions 3, 6, by adding a subdivision; 353F.025,  
 1.7 subdivisions 1, 2; 353F.03; 353F.04; 353F.05; 353F.051, subdivision 1; 353F.052;  
 1.8 353F.06; 353F.07; 353F.08; repealing Minnesota Statutes 2012, sections 353F.02,  
 1.9 subdivisions 4, 5; 353F.025, subdivision 3.

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

1.11 Section 1. Minnesota Statutes 2012, section 353F.02, subdivision 3, is amended to read:

1.12 Subd. 3. **Effective date of privatization.** "Effective date of privatization" means  
 1.13 the date that the operation of ~~the~~ a medical facility or other public employing unit is  
 1.14 assumed by another employer or the date that ~~the~~ a medical facility or other public  
 1.15 employing unit is purchased by another employer and active membership in the Public  
 1.16 Employees Retirement Association consequently terminates.

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

1.18 Sec. 2. Minnesota Statutes 2012, section 353F.02, is amended by adding a subdivision  
 1.19 to read:

1.20 Subd. 4a. **Privatized former public employer.** "Privatized former public  
 1.21 employer" means a medical facility or other public employing unit formerly included in  
 1.22 the definition of governmental subdivision under section 353.01, subdivision 6, that is  
 1.23 privatized and whose employees are certified for participation under this chapter.

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



2.1 Sec. 3. Minnesota Statutes 2012, section 353F.02, subdivision 6, is amended to read:

2.2 Subd. 6. ~~Terminated medical facility or other~~ Privatized former public  
 2.3 ~~employing unit employee.~~ "Terminated medical facility or other (a) "Privatized former  
 2.4 ~~public employing unit employee"~~ means a person who:

2.5 (1) was employed by the privatized former public employer on the day before the  
 2.6 ~~effective date by the medical facility or other public employing unit of privatization;~~ or

2.7 (2) terminated employment with the ~~medical facility or other~~ privatized former  
 2.8 ~~public employing unit employer~~ on the day before the effective date; and

2.9 (3) was a participant in the general employees retirement plan of the Public  
 2.10 Employees Retirement Association at the time of termination of employment with the  
 2.11 ~~medical facility or other~~ privatized former public employing unit employer.

2.12 (b) "Privatized former public employee" does not mean a person who, on the day  
 2.13 before the effective date of privatization, was simultaneously employed with the privatized  
 2.14 former public employer and by a governmental subdivision under section 353.01,  
 2.15 subdivision 6, and who, after the effective date of privatization, continues to accrue  
 2.16 service credit under section 353.01, subdivision 16, through simultaneous employment  
 2.17 with a governmental subdivision.

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

2.19 Sec. 4. Minnesota Statutes 2012, section 353F.025, subdivision 1, is amended to read:

2.20 Subdivision 1. **Eligibility determination.** (a) The chief clerical officer of a  
 2.21 governmental subdivision may submit a resolution from the governing body to the  
 2.22 executive director of the Public Employees Retirement Association which supports  
 2.23 providing coverage under this chapter for employees of that governmental subdivision  
 2.24 who are privatized, and which states that the governing body will pay for actuarial  
 2.25 calculations, as further specified in paragraph (c).

2.26 (b) The governing body must also provide a copy of any applicable purchase or  
 2.27 lease agreement and any other information requested by the executive director to allow the  
 2.28 executive director to verify that under the proposed employer change, the new employer  
 2.29 does not qualify as a governmental subdivision under section 353.01, subdivision 6,  
 2.30 making the employees ineligible for continued coverage as active members of the general  
 2.31 employees retirement plan of the Public Employees Retirement Association.

2.32 (c) Following receipt of a resolution and a determination by the executive director  
 2.33 that the new employer is not a governmental subdivision, the executive director shall  
 2.34 direct the consulting actuary retained under section 356.214 to determine whether the  
 2.35 general employees retirement plan of the Public Employees Retirement Association, if

3.1 coverage under this chapter is provided, is expected to receive a net gain or a net loss if  
 3.2 privatization occurs. A net gain is expected if the actuarial liability of the special benefit  
 3.3 coverage provided under this chapter, if extended to the applicable employees under the  
 3.4 privatization, is less than the actuarial gain otherwise to accrue to the plan. A net loss is  
 3.5 expected if the actuarial accrued liability of the special benefit coverage provided under  
 3.6 this chapter, if extended to the applicable employees under the privatization, is more than  
 3.7 the actuarial gain otherwise to accrue to the plan. The date of the actuarial calculations  
 3.8 used to make this determination must be within one year of the effective date, ~~as defined~~  
 3.9 ~~in section 353F.02, subdivision 3~~ of privatization.

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

3.11 Sec. 5. Minnesota Statutes 2012, section 353F.025, subdivision 2, is amended to read:

3.12 Subd. 2. ~~Recommendation to legislature~~ Reporting privatizations. (a) If the  
 3.13 actuarial calculations under subdivision 1, paragraph (c), indicate ~~that privatization can~~  
 3.14 be approved because a net gain to the general employees retirement plan of the Public  
 3.15 Employees Retirement Association is expected due to the privatization, or if paragraph (e)  
 3.16 (b) applies, the executive director shall, following acceptance of the actuarial calculations  
 3.17 by the board of trustees, forward a recommendation notice and supporting documentation  
 3.18 ~~to the chair of the Legislative Commission on Pensions and Retirement, the chair of the~~  
 3.19 ~~Governmental Operations, Reform, Technology and Elections Committee of the house of~~  
 3.20 ~~representatives, the chair of the State and Local Government Operations and Oversight~~  
 3.21 ~~Committee of the senate, and the executive director of the Legislative Commission~~  
 3.22 on Pensions and Retirement and the chairs and the ranking minority members of the  
 3.23 committees with jurisdiction over governmental operations in the house of representatives  
 3.24 and senate. The recommendation must be in the form of an addition to the definition of  
 3.25 "medical facility" under section 353F.02, subdivision 4, or to "other public employing  
 3.26 unit" under section 353F.02, subdivision 5, whichever is applicable. The recommendation  
 3.27 must be forwarded to the legislature before January 15 for the recommendation to be  
 3.28 considered in that year's legislative session. The recommendation may be included as part  
 3.29 of public pension administrative legislation under section 356B.05.

3.30 (b) ~~If a medical facility or other public employing unit listed under section 353F.02,~~  
 3.31 ~~subdivision 4 or 5, fails to privatize within one year of the final enactment date of the~~  
 3.32 ~~legislation adding the entity to the applicable definition, its inclusion under this chapter is~~  
 3.33 ~~voided, and the executive director shall include in the subsequent proposed legislation under~~  
 3.34 ~~paragraph (a) a recommendation that the applicable entity be stricken from the definition.~~

4.1           (e) ~~(b)~~ If the calculations under subdivision 1, paragraph (c), indicate a net loss, the  
 4.2 executive director shall ~~forward a recommendation~~ recommend to the board of trustees  
 4.3 that the privatization be ~~included as an addition under paragraph (a)~~ approved if the chief  
 4.4 clerical officer of the applicable governmental subdivision submits a resolution from  
 4.5 the governing body specifying that a lump sum payment will be made to the ~~executive~~  
 4.6 ~~director~~ Public Employees Retirement Association equal to the net loss, plus interest.  
 4.7 The interest must be computed using the applicable ultimate preretirement interest rate  
 4.8 assumption under section 356.215, subdivision 8, expressed as a monthly rate, from the  
 4.9 date of the actuarial valuation from which the actuarial accrued liability data was used to  
 4.10 determine the net loss in the actuarial study under subdivision 1, to the date of payment,  
 4.11 with annual compounding. Payment must be made on or after the effective date ~~defined~~  
 4.12 ~~under section 353F.02~~ of privatization.

4.13           (c) The Public Employees Retirement Association must maintain a list that includes  
 4.14 the names of all privatized former public employers in the association's comprehensive  
 4.15 annual financial report and on the association's Web site. Annually by March 1, the  
 4.16 association must submit to the executive director of the Legislative Commission on  
 4.17 Pensions and Retirement the names of any privatized former public employers approved  
 4.18 since the publication of the previous fiscal year's comprehensive annual financial report.

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

4.20           Sec. 6. Minnesota Statutes 2012, section 353F.03, is amended to read:

4.21           **353F.03 VESTING RULE FOR CERTAIN EMPLOYEES.**

4.22           Notwithstanding any provision of chapter 353 to the contrary, a ~~terminated medical~~  
 4.23 ~~facility or other~~ privatized former public employing unit employee is eligible to receive a  
 4.24 retirement annuity under section 353.29 of the edition of Minnesota Statutes published  
 4.25 in the year before the year in which the privatization occurred, without regard to the  
 4.26 requirement specified in section 353.01, subdivision 47.

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

4.28           Sec. 7. Minnesota Statutes 2012, section 353F.04, is amended to read:

4.29           **353F.04 AUGMENTATION INTEREST RATES FOR ~~TERMINATED~~**  
 4.30 **~~MEDICAL OR OTHER PRIVATIZED FORMER PUBLIC EMPLOYING UNIT~~**  
 4.31 **~~FACILITY EMPLOYEES.~~**

4.32           Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a  
 4.33 ~~terminated medical facility or other~~ privatized former public employing unit employee is

5.1 subject to augmentation under section 353.71, subdivision 2, of the edition of Minnesota  
 5.2 Statutes published in the year in which the privatization occurred, except that the rate of  
 5.3 augmentation is as specified in this subdivision.

5.4 (b) This paragraph applies if the ~~legislation adding the medical facility or other~~  
 5.5 ~~employing unit to section 353F.02, subdivision 4 or 5, as applicable, effective date of~~  
 5.6 ~~privatization was enacted before July 26, 2005, and became effective before January 1,~~  
 5.7 ~~2008, for the Hutchinson Area Health Care on or before January 1, 2007, for all other~~  
 5.8 ~~medical facilities and all other employing units~~ and also applies to Hutchinson Area Health  
 5.9 Care with a privatization effective date of January 1, 2008. For a ~~terminated medical~~  
 5.10 ~~facility or other privatized former public employing unit~~ employee, the augmentation  
 5.11 rate is 5.5 percent compounded annually until January 1 following the year in which the  
 5.12 person attains age 55. From that date to the effective date of retirement, the augmentation  
 5.13 rate is 7.5 percent compounded annually.

5.14 (c) If paragraph (b) is not applicable, and if the effective date of the privatization is  
 5.15 before January 1, 2011, the augmentation rate is four percent compounded annually until  
 5.16 January 1, following the year in which the person attains age 55. From that date to the  
 5.17 effective date of retirement, the augmentation rate is six percent compounded annually.

5.18 (d) If the effective date of the privatization is after December 31, 2010, the applicable  
 5.19 augmentation rate depends on the result of computations specified in section 353F.025,  
 5.20 subdivision 1. If those computations indicate no loss or a net gain to the fund of the  
 5.21 general employees retirement plan of the Public Employees Retirement Association, the  
 5.22 augmentation rate is 2.0 percent compounded annually until the effective date of retirement.  
 5.23 If the computations under that subdivision indicate a net loss to the fund if a 2.0 percent  
 5.24 augmentation rate is used, but a net gain or no loss if a 1.0 percent rate is used, then the  
 5.25 augmentation rate is 1.0 percent compounded annually until the effective date of retirement.

5.26 (e) ~~The term "effective date of the privatization" as used in this subdivision means~~  
 5.27 ~~the "effective date" as defined in section 353F.02, subdivision 3.~~

5.28 Subd. 2. **Exceptions.** The increased augmentation rates specified in subdivision  
 5.29 1 do not apply if ~~the terminated medical facility or other~~ to a privatized former public  
 5.30 employing unit employee:

5.31 (1) beginning the first of the month in which the privatized former public employee  
 5.32 becomes covered again by a retirement plan enumerated in section 356.30, subdivision 3, if  
 5.33 the employee continues to be covered and accrues at least six months of credited service; or

5.34 (2) beginning the first of the month after a privatized former public employee  
 5.35 terminates service with the successor entity; or

6.1 ~~(2)~~ (3) if the person begins receipt of a retirement annuity while employed by  
 6.2 the employer which assumed operations of or purchased the medical facility or other  
 6.3 privatized former public employing unit or purchased the medical facility or other public  
 6.4 employing unit employer.

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

6.6 Sec. 8. Minnesota Statutes 2012, section 353F.05, is amended to read:

6.7 **353F.05 AUTHORIZATION FOR ADDITIONAL ALLOWABLE SERVICE**  
 6.8 **FOR EARLY RETIREMENT PURPOSES.**

6.9 (a) For the purpose of determining eligibility for early retirement benefits provided  
 6.10 under section 353.30, subdivision 1a, of the edition of Minnesota Statutes published in  
 6.11 the year before the year in which the privatization occurred, and notwithstanding any  
 6.12 provision of chapter 353, to the contrary, the years of allowable service for a ~~terminated~~  
 6.13 ~~medical facility or other~~ privatized former public employing unit employee who transfers  
 6.14 employment on the effective date of privatization and does not apply for a refund of  
 6.15 contributions under section 353.34, subdivision 1, of the edition of Minnesota Statutes  
 6.16 published in the year before the year in which the privatization occurred, or any similar  
 6.17 provision, includes service with the successor employer to the ~~medical facility or other~~  
 6.18 privatized former public employing unit employer following the effective date. The  
 6.19 successor employer shall provide any reports that the executive director of the Public  
 6.20 Employees Retirement Association may reasonably request to permit calculation of  
 6.21 benefits.

6.22 (b) To be eligible for early retirement benefits under this section, the individual must  
 6.23 separate from service with the successor to the privatized former public employer ~~to the~~  
 6.24 ~~medical facility~~. The ~~terminated eligible individual~~ privatized former public employee, or  
 6.25 an individual authorized to act on behalf of that ~~individual~~ employee, may apply for an  
 6.26 annuity following application procedures under section 353.29, subdivision 4.

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

6.28 Sec. 9. Minnesota Statutes 2012, section 353F.051, subdivision 1, is amended to read:

6.29 Subdivision 1. **Eligibility.** A ~~terminated medical facility or other~~ privatized former  
 6.30 public employing unit employee who is totally and permanently disabled under Minnesota  
 6.31 Statutes 1998, section 353.01, subdivision 19, and who had a medically documented  
 6.32 preexisting condition of the disability before the termination of coverage, may apply for  
 6.33 a disability benefit.

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

7.2 Sec. 10. Minnesota Statutes 2012, section 353F.052, is amended to read:

7.3 **353F.052 APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD**  
7.4 **PROVISION.**

7.5 Notwithstanding any provisions of law to the contrary, subdivisions within section  
7.6 353.32 of the edition of Minnesota Statutes published in the year before the year in which  
7.7 a privatization occurred, applicable to the surviving spouse or dependent children of a  
7.8 former member as defined in section 353.01, subdivision 7a, apply to the survivors of a  
7.9 ~~terminated medical facility or other~~ privatized former public employing unit employee.

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

7.11 Sec. 11. Minnesota Statutes 2012, section 353F.06, is amended to read:

7.12 **353F.06 APPLICATION OF REEMPLOYED ANNUITANT EARNINGS**  
7.13 **LIMITATIONS.**

7.14 Upon termination of service from the privatized former public employer or any  
7.15 successor entity after the effective date of privatization, a privatized former public  
7.16 employee must separate from any employment relationship with the privatized former  
7.17 public employer or any successor entity for at least 30 days to qualify to receive a  
7.18 retirement annuity under this chapter. If the privatized former public employee thereafter  
7.19 resumes employment with the privatized former public employer or any successor entity  
7.20 or a governmental subdivision under section 353.01, subdivision 6, the reemployed  
7.21 annuitant earnings limitations of section 353.37 apply to any service by a terminated  
7.22 medical facility or other public employing unit employee as an employee of the successor  
7.23 employer to the medical facility.

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

7.25 Sec. 12. Minnesota Statutes 2012, section 353F.07, is amended to read:

7.26 **353F.07 EFFECT ON REFUND.**

7.27 Notwithstanding any provision of chapter 353 to the contrary, ~~terminated medical~~  
7.28 ~~facility or other~~ privatized former public employing unit employees may receive a refund  
7.29 of employee accumulated contributions plus interest as provided in section 353.34,  
7.30 subdivision 2, at any time after the transfer of employment to the successor employer of  
7.31 the ~~terminated medical facility or other~~ privatized former public employing unit employer.

8.1 If a ~~terminated medical facility or other privatized former public employing unit~~ employee  
8.2 has received a refund from a pension plan listed in section 356.30, subdivision 3, the  
8.3 person may not repay that refund unless the person again becomes a member of one of  
8.4 those listed plans and complies with section 356.30, subdivision 2.

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

8.6 Sec. 13. Minnesota Statutes 2012, section 353F.08, is amended to read:

8.7 **353F.08 COUNSELING SERVICES.**

8.8 The ~~medical facility or other privatized former public employing unit employer and~~  
8.9 the executive director of the Public Employees Retirement Association shall provide  
8.10 ~~terminated medical facility or other privatized former public employing unit~~ employees  
8.11 with counseling on their benefits available under the general employees retirement plan  
8.12 of the Public Employees Retirement Association during ~~the 90 days following a period~~  
8.13 mutually agreed upon before or after the effective date of privatization.

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

8.15 Sec. 14. **REPEALER.**

8.16 Minnesota Statutes 2012, sections 353F.02, subdivisions 4 and 5; and 353F.025,  
8.17 subdivision 3, are repealed.

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

**353F.02 DEFINITIONS.**

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) Bridges Medical Services;
- (2) Cedarview Care Center in Steele County;
- (3) the City of Cannon Falls Hospital;
- (4) the Chris Jenson Health and Rehabilitation Center in St. Louis County;
- (5) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;
- (6) the Dassel Lakeside Community Home;
- (7) the Douglas County Hospital, with respect to the Mental Health Unit;
- (8) the Fair Oaks Lodge, Wadena;
- (9) the Glencoe Area Health Center;
- (10) Hutchinson Area Health Care;
- (11) the Lakefield Nursing Home;
- (12) the Lakeview Nursing Home in Gaylord;
- (13) the Luverne Public Hospital;
- (14) the Oakland Park Nursing Home;
- (15) the RenVilla Nursing Home;
- (16) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;
- (17) the St. Peter Community Health Care Center;
- (18) the Traverse Care Center in Traverse County;
- (19) the Waconia-Ridgeview Medical Center;
- (20) the Weiner Memorial Medical Center, Inc.;
- (21) the Wheaton Community Hospital; and
- (22) the Worthington Regional Hospital.

Subd. 5. **Other public employing unit.** "Other public employing unit" means:

- (1) Metro II, a joint powers organization formed under section 471.59; and
- (2) the St. Paul Civic Center authority.

**353F.025 CERTIFICATION AND DECERTIFICATION OF MEDICAL FACILITIES AND OTHER PUBLIC EMPLOYING UNITS.**

Subd. 3. **Date of application.** For any privatization added to this chapter after May 28, 2008, the first date of coverage is the effective date as defined in section 353F.02, subdivision 3.