



S.F. 100/S.F. 277
(Johnson)/(Pappas)

H.F. 495/H.F. 342
(Sanders)/(Nelson)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA, PERA-MERF Division, PERA-P&F, PERA Privatizations
Relevant Provisions of Law: Minnesota Statutes, Chapters 353, 353F, 356
General Nature of Proposal: Revise student worker exclusions duration; administrative changes
Date of Summary: February 14, 2013

Specific Proposed Changes: S.F. 277; H.F. 342

- The duration of certain student membership exclusions is revised. (SF100/HF495; SF277/HF342, Sec. 1)
- To comply with USERRA requirements, PERA's military service credit purchase provision is revised by removing the prohibition against use of overtime salary. (Sec. 2)
- An average salary definition is created for computing PERA-P&F surviving spouse and dependent child benefits. (Sec. 3, 10-12)
- The PERA designated beneficiary definition is clarified by defining designated beneficiary to include a trust or estate, and by explicitly authorizing a person legally authorized to act on behalf of the member or former member to designate beneficiaries;
- The PERA refund provision is revised by specifying that a 4% interest rate will be used when PERA refunds erroneous employee deductions. (Sec. 7)
- To address IRS concerns, the MERF Division benefits provision is revised by explicitly stating age and service requirements for MERF Division formula retirement annuities. (Sec. 8-9)
- The name of Clearwater Health Services in Bagley is changed to Cornerstone Nursing and Rehab Center, and Lake County Sunrise Home is added to the PERA privatization chapter. (Sec. 13)
- An IRS compliance benefit commencement age provision in Chapter 356 is revised to specify that individual consent is not required if distribution commencement is required by law. (Sec. 14)

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of the continuation of student/employee exclusions (Sec. 1).
2. Possible dependent child benefit improvement/PERA-P&F actuarial condition (Sec. 12).
3. Unclear meaning of "health reasons" in the revised dependent child provision (Sec. 10, 12).
4. Privatization revisions; possible conflict with S.F. 276/H.F. 344 (Sec. 13).
5. IRS compliance benefit commencement provision; support by other plan administrators.

Potential Amendments

Technical Amendment:

S0277-5A adds an effective date provision to Sections 13 and 14, specifying that the provisions are effective the day following final enactment.

Substantive Amendments:

S0277-1A reduces the maximum age of excluded full-time students who are also providing service to a public employment unit from age 23, the age in current law, to a different age, presumably lower, to be set by the Commission.

S0277-2A, which could be used with S0277-1A, revises the maximum period of exclusion by students employed by government subdivisions who are in internships, work-study, or residency programs from a maximum duration of five years to a different maximum duration to be selected by the Commission, presumably lower.

S0277-3A, an alternative to amendments S0277-1A and -2A, removes all full-time student employee exemptions and all exemptions for internship, residency programs, and work-study programs, other than physician interns.

S0277-4A revises the PERA-P&F dependent child benefit provision so that salary used to compute the benefit is the salary over the last six months of service, without correction for a reduction in salary base due to providing part-time instead of full time service due to health reasons.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: S.F. 100 (Johnson); H.F. 495 (Sanders): PERA; Revising Time Limits for Certain Coverage Exclusions;
S.F. 277 (Pappas); H.F. 342 (Nelson): PERA; Administrative Provisions
DATE: February 13, 2013

General Summary of S.F. 100 (Johnson); H.F. 495 (Sanders)

S.F. 100 (Johnson); H.F. 495 (Sanders) revises Minnesota Statutes, Section 353.01, Subdivision 2b, the Public Employees Retirement Association (PERA) excluded employee provision, by changing the duration of exclusion from PERA for individuals employed by governmental subdivisions who are in work-study programs. Individuals will be excluded from coverage if the position is for five years or less, rather than three years or less.

General Summary of S.F. 277 (Pappas); H.F. 342 (Nelson)

S.F. 277 (Pappas); H.F. 342 (Nelson) amends portions of Minnesota Statutes, Chapters 353, 353F, and 356, by making changes largely of an administrative nature and primarily for the plans governed by the PERA, including the following:

- The PERA excluded employee provision is revised by changing the duration of certain student exclusions. Student employees in a work-study program will be excluded from coverage if the position is for five years or less, rather than three years or less; and a five-year limit is placed on exclusion from coverage for students in intern or residency programs, other than physician interns. (Sec. 1)
- The Uniformed Service Employment and Reemployment Rights Act (USERRA)-compliant military service credit purchase provision is revised by removing the prohibition against use of overtime salary. This change is being made so that the procedure complies with federal Uniformed USERRA requirements. (Sec. 2)
- The PERA-P&F surviving spouse and dependent child benefit provisions are revised and an average salary definition is created to be used in computing those benefits. (Sec. 3, 10-12)
- The PERA designated beneficiary definition is clarified by defining designated beneficiary to include a trust or estate; by explicitly authorizing a person legally authorized to act on behalf of the member or former member to designate beneficiaries; by requiring that the designation be made on a form prescribed by the executive director; and by specifying that the form must be received prior to the death of the member;
- The PERA refund provision is revised by clarifying procedure language and by specifying that a 4% interest rate will be used when PERA refunds erroneous employee deductions. (Sec. 7)
- The MERF division benefits provision is revised by clarifying the provision and by explicitly stating age and service requirements for MERF Division formula retirement annuities. (Sections 8 and 9 are an attempt to address Internal Revenue Service (IRS) concerns. For reasons that are not entirely clear, the IRS insists that a statement regarding the right to a benefit at retirement age or normal retirement age needs to be added to the MERF Division section). (Sec. 8-9)
- The PERA privatization chapter medical facility inclusion provision (Minn. Stat. Sec. 353F.02, Subd. 4), by revising the name of Clearwater Health Services in Bagley, Clearwater County, to Cornerstone Nursing and Rehab Center, and by adding Lake County Sunrise Home. (Sec. 13)
- An IRS compliance provision specifying the ages at which retirement benefits for those no longer employed must commence is revised by adding a paragraph specifying that consent of the individual is not required if a distribution is required to commence by law. (Sec. 14)

Section-By-Section Summary of S.F. 277 (Pappas); H.F. 342 (Nelson)

A section-by-section summary of S.F. 277 (Pappas); H.F. 342 (Nelson) is attached.

Discussion and Analysis

Since the statutory revision contained in S.F. 100 (Johnson); H.F. 495 (Sanders) also appears in S.F. 277 (Pappas); H.F. 342 (Nelson), staff suggests that the Commission focus on S.F. 277 (Pappas); H.F. 342 (Nelson).

S.F. 277 (Pappas); H.F. 342 (Nelson) revises the duration of certain student exclusions, removes the prohibition against the use of overtime salary in the military service credit purchase provision, creates an average salary definition for the computation of PERA-P&F surviving spouse and dependent child benefits, clarifies the designated beneficiary definition, revises the erroneous receipts or disbursements provision by clarifying the language and by specifying a 4% interest rate for erroneous employee deduction refunds, specifies age and service requirements for MERF Division annuities, adds Lake County Sunrise Home to the PERA Privatization chapter, and adds a specification to an IRA compliance provision that individual consent is not required if a distribution is required to commence by law.

S.F. 277 (Pappas); H.F. 342 (Nelson) raises a number of pension and related public policy issues for consideration by and possible discussion by the Commission, as follows:

1. Continuation of Student/Employee Exclusions (Sec. 1). The policy issue is whether changes should go beyond the revisions proposed in the bill by eliminating some or all of these student worker exclusions. Under the proposed legislation, student employees in a work-study program will be excluded from coverage if the position is for five years or less, rather than three years or less; and a five-year limit is placed on exclusion from coverage for students in intern or residency programs.

An argument for reducing or eliminating student employee exclusions is that it would help plan funding, and would provide coverage from the beginning of their public employment for any student workers who continue in public employment. However, most individuals in these positions are retained for a short duration and do not continue in public employment. If more or all student workers were covered by the plan, the employee and employer contributions would help PERA funding because a turnover gain would occur when individuals leave the plan and are provided with only a refund of employee contributions plus interest. Excluding short-term workers or student workers from public plans is fairly common. The Teachers Retirement Association (TRA) excludes some part-time teachers or customized trainers. The Minnesota State Retirement System (MSRS) excludes interns hired for six months or less, and trainee employees. The proposed PERA exclusions, however, for interns and student workers is for a much longer duration, five years.

A counter-argument that can be made for continuing existing law or lengthening student employee exclusions is that some of these positions are created by local governments but funded by federal programs, and the federal programs forbid program money from being used to pay retirement contributions. Other training positions are created using local money, or money provided by a federal program lacking a restriction against using program money to pay retirement contributions. But in either case, finding available funds to pay retirement contributions would reduce the number of training positions that can be created. Thus, a tradeoff is created between the interest of these training/intern programs and the needs of the pension fund.

2. Possible Dependent Child Benefit Improvement (Sec. 12). The policy issue is whether the revised dependent child provision in Section 12 creates a benefit improvement for certain dependent children, because of the language found on page 15, starting on line 15. That paragraph of new language specifies that if the member shifted from full-time employment to part-time employment during the last year of employment because of health reasons, the average salary used to compute the surviving child benefits must be based on the full-time salary rate rather than the part-time rate. That paragraph appears to represent a change in policy. Commission staff is not aware of any similar language in existing law that applied to these dependent child benefits. In contrast, that language, creating a possible higher salary base if the employee shifted from full-time to part-time in the last year of employment due to health reasons, did exist in the surviving spouse provision. It would appear that under existing law, if the employee shifted from full-time to part-time in the last year of employment due to health reasons, the salary used to compute the surviving spouse benefit could be higher than the salary used to compute the benefit for any dependent children. This may reflect a prior drafting error rather than intended policy.

The Commission may wish to hear from Mary Vanek, PERA Executive Director, regarding how PERA defined salary when computing PERA-P&F surviving spouse and surviving children benefits when the employee had shifted to part-time from full-time work due to health reasons. It may be that in practice the same salary definition has been used for both surviving spouse and surviving child benefits. If that is the case, then the proposal now before the Commission would codify existing

practice, although that practice may not have been fully consistent with current law, and the current drafting will not add any liabilities to the plan beyond those inherent in PERA's existing policy.

3. Actuarial Condition of PERA-P&F; Impact of the Revised Dependent Child Provision on Plan Cost (Sec. 12). If revised dependent child provision is a benefit improvement, although a very modest one, policy issues include the current actuarial condition of the PERA-P&F plan and the impact of the revised benefit. The plan has a sizable contribution deficiency. Presumably Ms. Vanek can provide Commission members with an indication of any added cost impact, however modest.

PERA-P&F FY2012		
<u>Membership</u>		
Active Members		10,865
Service Retirees		6,463
Disabilitants		1,095
Survivors		1,848
Deferred Retirees		1,303
Nonvested Former Members		<u>971</u>
Total Membership		22,545
<u>Funded Status</u>		
Accrued Liability		\$7,403,295,000
Current Assets		<u>\$5,797,868,000</u>
Unfunded Accrued Liability		\$1,605,427,000
Funding Ratio	78.31%	
<u>Financing Requirements</u>		
Covered Payroll		\$807,180,000
Benefits Payable		\$386,208,000
Normal Cost	20.56%	\$165,955,000
Administrative Expenses	0.11%	\$888,000
Amortization	<u>12.70%</u>	<u>\$102,512,000</u>
Total Requirements	33.37%	\$269,355,000
Employee Contributions	9.60%	\$77,489,000
Employer Contributions	14.40%	\$116,234,000
Employer Add'l Cont.	1.43%	\$11,559,000
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>
Total Contributions	25.43%	\$205,282,000
Total Requirements	33.37%	\$269,355,000
Total Contributions	<u>25.43%</u>	<u>\$205,282,000</u>
Deficiency (Surplus)	7.94%	\$64,073,000

4. Unclear Meaning of "Health Reasons" in the Revised Dependent Child Provision (Sec. 10, 12). The existing law surviving spouse benefit provision includes a statement that the salary base for computing the benefit may be higher if the member shifted from full-time to part-time employment in the final year of service due to "health reasons." Under the current drafting, that term will also be used for dependent child benefits. The issue is that the term is never clearly defined; there is no clear specified standard in law. It is also not clear what role, if any, the employer plays in determining whether that standard is met. The Commission may wish to hear from Ms. Vanek regarding what standard or criteria are used to determine whether a given case qualifies under "health reasons." The Commission may also wish to ask whether an employer certification is required.
5. Privatization Revisions; Possible Conflict with Other Legislation (Sec. 13). The revisions to Section 13 being recommended by PERA follow from legislation enacted a few years ago which revised the approval process for adding privatized employee groups to the PERA privatized employee chapter, Minnesota Statutes, Chapter 353F. This chapter provides certain enhanced benefits not offered to most terminated employees, if PERA's actuary determines that placing a privatized employee group under this chapter would not eliminate all the gain PERA would otherwise receive due to the privatization. Under prior law each privatized employee group needed to have a legislator introduce a bill to add the group to the list of those eligible for Chapter 353F. When hearing these bills, the Commission applied standards which, if met, led to the Commission recommending that the bill should pass. Those standards were, first, that the public employer or new private employee, rather than the pension fund, must cover the cost of the actuarial work, and second, that the actuarial work indicates that PERA would not suffer a loss as a result of the inclusion. To simplify this approval/inclusion process, the process was revised in 2008 so that PERA, rather than the

Commission, would apply these criteria, and PERA would then forward to the Commission legislation to be included in the PERA administrative bill, a provision to include for coverage all those entities which had met the standards. This removed the need for, at times, several separate bills, simplifying the Commission's work.

Section 13 represents PERA recommendation to the Legislature, regarding the new privation which met the Commission's standards, as found in law (Minnesota Statutes, Section 353F.025).

The Commission may wish to be aware that in other legislation which may be introduced this session, PERA is recommending doing away with the requirement to list each of these accepted privatized organizations in statute. The list would be replaced by a statement that this chapter covers privatized employees where the privatization met the standard of no net loss to PERA. If that proposal were to pass and also the current one now before the Commission, it would cause a conflict, most likely causing this provision to be noted in a statutory footnote. To avoid that, action could be taken either during this session or the next to avoid that conflict.

6. IRS Compliance Benefit Commencement Provision; Support for the Proposal by Other Plan Administrators (Sec. 14). Since the section of statutes proposed for revision appears in Minnesota Statutes, Chapter 356, which governs all plans rather than being specific to PERA, the issue is whether pension plan administrators for the other plans are in agreement that specifying that consent of the individual is not required if a distribution is required to commence by law is appropriate. The Commission may wish to ask if there are any administrators for other plans who object to this provision.

If the Commission were to conclude that the provision is flawed and should be removed, that could be accomplished by a verbal amendment to remove Section 14 on page 16. However, the clarification provided by Section 14 does appear to be reasonable. In general, a person who will receive a benefit payment or distribution must give consent for the benefit to commence, but if a specific final date for commencement is mandated by federal code, the individual has no authority to block it, and waiving consent requirements appears to be a reasonable clarification.

Potential Amendments for Commission Consideration

Amendment S0277-1A reduces the maximum age of excluded full-time students who are also providing service to a public employment unit from age 23, the age in current law, to a different age, presumably lower, to be set by the Commission.

Amendment S0277-2A, which could be used with S0277-1A, revises the maximum period of exclusion by students employed by government subdivisions who are in internships, work-study, or residency programs from a maximum duration of five years to a different maximum duration to be selected by the Commission, presumably lower.

Amendment S0277-3A, an alternative to amendments S0277-1A and -2A, removes all full-time student employee exemptions and all exemptions for internship, residency programs, and work-study programs, other than physician interns.

Amendment S0277-4A revises the PERA-P&F dependent child benefit provision so that salary used to compute the benefit is the salary over the last six months of service, without correction for a reduction in salary base due to providing part-time instead of full time service due to health reasons.

Technical Amendment S0277-5A adds an effective date provision to Sections 13 and 14, specifying that the provisions are effective the day following final enactment.

Section-by-Section Summary of S.F. 277 (Pappas); H.F. 342 (Nelson)

Sec.	Pg.Ln	Stat. Provision	Plan	Summary
1	1.12	353.01; Subd. 2b	PERA	Student employees in a work-study program will be excluded from PERA coverage if the position is for five years or less, rather than three years or less; and a five-year limit is placed on exclusion from coverage for students in intern or residency programs.
2	5.1	353.01, Subd. 16	PERA	Removes the prohibition against use of overtime salary from the USERRA-compliant military service credit purchase provision.
3	8.6	353.01, Subd. 17a	PERA-P&F	Revises the definition of average salary by including a new paragraph, moved from another section, defining average salary for purposes of computing PERA-P&F surviving spouse and dependent child benefits as the average salary over the last six months of allowable service, and if employment was part-time, the average salary must be prorated based on the actual number of hours worked.
4	8.23	353.01, Subd. 29	PERA	Clarifies the PERA designated beneficiary definition by defining designated beneficiary to include a trust or estate; by explicitly authorizing a person legally authorized to act on behalf of the member or former member to designate beneficiaries; by requiring that the designation be made on a form prescribed by the executive director; and by specifying that the form must be received prior to the death of the member.
5	9.4	353.27, Subd. 7	PERA	Clarifies the language of the PERA erroneous receipts or disbursements provision.
6	11.16	353.34, Subd. 1	PERA	Eliminates an unnecessary clause from the PERA refund or deferred annuity provision.
7	11.33	353.34, Subd. 2	PERA	Specifies that a 4% interest rate will be used to refund erroneous employee deductions.
8	12.16	353.50, Subd. 3	MERF Division	Benefit computation language being moved to a benefits subdivision is stricken in a service credit and benefit transfer provision.
9	12.32	353.50, Subd. 6	MERF Division	The MERF Division benefits provision is revised by clarifying the provision; by stating that active members of the MERF division must meet eligibility requirements stated in MERF statutes in order to qualify for benefits, and by stating statutes specifying how to compute the benefits; and by explicitly stating age and service requirements for MERF Division formula retirement annuities.
10	13.21	353.657, Subd. 2	PERA-P&F	Removes surviving spouse benefit computation language no longer needed due to the creation of an average salary definition in Section 3, and makes other conforming changes
11	14.7	353.657, Subd. 2a	PERA-P&F	Removes a cross-reference to a repealed provision in the death while eligible survivor benefit provision.
12	15.9	353.657, Subd. 3	PERA-P&F	Removes language from the dependent child provision which is no longer needed due to creating an average salary definition and clarifies the computation for part-time employees, when the part-time employment was due to health reasons.
13	15.27	353F.02 Subd. 4	PERA Privatizations	Revises the name of Clearwater Health Services in Bagley, Clearwater County, to Cornerstone Nursing and Rehab Center, and adds Lake County Sunrise Home to the list of privatized facilities.
14	16.22	356.635, Subd. 1	Public pension plans, generally	An IRS compliance provision specifying ages at which retirement benefits for those no longer employed must commence is clarified by adding a paragraph specifying that consent of the individual is not required if a distribution is required to commence by law.

MINNEAPOLIS EMPLOYEES RETIREMENT FUND# 001

List of Noted Items regarding the Form 5300 application

We have sent a copy of this letter to each of your two representatives as indicated in the power of attorney that accompanied the Form 5300 application.

1. Sections 353.01 Subdivision 37(a) of the Plan should be amended to provide that an employee's right to his or her normal retirement benefit is nonforfeitable on attainment of normal retirement age (NRA), as defined in Code section 411(a)(8) and in accordance with Rev. Rul. 66-11. IRC sections 411(a), 411(a)(8) and Regs. section 1.411(a)-7(b). For other than Qualified Public Safety Employees, the current safe harbor maximum vesting requirement would be a 15 year cliff or a 5 to 20 graded schedule. Anything else would have to be considered on a case by case basis and will require more discussion and review. While Section 353.01 subd. 47(b)(1) provides a 3 cliff vesting schedule, the Plan doesn't clearly provide that an employee's right to his or her normal retirement benefit is nonforfeitable on attainment of the NRA. If this interpretation is not accurate, please explain and cite the appropriate plan provision. Otherwise, please justify the provisions so that we may properly consider them or else provide an appropriate amendment in accordance with Rev. Rul. 66-11 & IRC 411(e)(2) [which indicates that Plans must comply with vesting requirements resulting from the application of sections 401(a)(4) and 401(a)(7) as in effect on 9/1/74.] & pre-ERISA regulations of 1.401-1(b); Rev. Rul. 66-11 & IRC 411(e)(2). IRC sections 401(a)(7) as in effect on 9/1/74 & pre-ERISA regulations of 1.401-1(b). If the plan provides for full vesting at NRA, the IRS could favorably close the case. Otherwise, the Plan needs to provide for the "magical words" as under the plan terms not everyone would be vested at NRA. The Plan would not need the "Magical words" [that "an employee's right to his or her normal retirement benefits are nonforfeitable on attainment of normal retirement age"] if the Plan clearly provides that, in all cases, all Participants will be 100% vested by the time the Participant reaches NRA.

Or else, the Plan will not satisfy any safe harbor. Under those circumstances, the Form 5300 application case will need to either be set aside and/or receive special review by the coordinators and await further discussion and decision making.

2. Also, please verify whether or not any of the previous proposed amendments to this Plan are still to be treated as proposed. If any of those proposals have been enacted, please indicate that that is the case. If any have been defeated, rejected or otherwise canceled, please indicate that that is the case and why the change is no longer needed.

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 100

(SENATE AUTHORS: JOHNSON and Petersen, B.)

DATE	D-PG	OFFICIAL STATUS
01/24/2013	91	Introduction and first reading Referred to State and Local Government

1.1 A bill for an act
 1.2 relating to retirement; changing the durational time limit for certain public
 1.3 employees excluded from participation as members of the Public Employee
 1.4 Retirement Association; amending Minnesota Statutes 2012, section 353.01,
 1.5 subdivision 2b.

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

1.7 Section 1. Minnesota Statutes 2012, section 353.01, subdivision 2b, is amended to read:

1.8 Subd. 2b. **Excluded employees.** (a) The following public employees are not eligible
 1.9 to participate as members of the association with retirement coverage by the general
 1.10 employees retirement plan, the local government correctional employees retirement plan
 1.11 under chapter 353E, or the public employees police and fire retirement plan:

1.12 (1) persons whose salary from one governmental subdivision never exceeds \$425 in
 1.13 a month;

1.14 (2) public officers who are elected to a governing body, city mayors, or persons who
 1.15 are appointed to fill a vacancy in an elective office of a governing body, whose term of office
 1.16 commences on or after July 1, 2002, for the service to be rendered in that elective position;

1.17 (3) election officers or election judges;

1.18 (4) patient and inmate personnel who perform services for a governmental
 1.19 subdivision;

1.20 (5) except as otherwise specified in subdivision 12a, employees who are hired for
 1.21 a temporary position as defined under subdivision 12a, and employees who resign from
 1.22 a nontemporary position and accept a temporary position within 30 days in the same
 1.23 governmental subdivision;

1.24 (6) employees who are employed by reason of work emergency caused by fire,
 1.25 flood, storm, or similar disaster;

2.1 (7) employees who by virtue of their employment in one governmental subdivision
2.2 are required by law to be a member of and to contribute to any of the plans or funds
2.3 administered by the Minnesota State Retirement System, the Teachers Retirement
2.4 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers
2.5 Retirement Fund Association, or any police or firefighters relief association governed by
2.6 section 69.77 that has not consolidated with the Public Employees Retirement Association,
2.7 or any local police or firefighters consolidation account who have not elected the type of
2.8 benefit coverage provided by the public employees police and fire fund under sections
2.9 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6,
2.10 who have not elected public employees police and fire plan benefit coverage. This clause
2.11 must not be construed to prevent a person from being a member of and contributing to
2.12 the Public Employees Retirement Association and also belonging to and contributing to
2.13 another public pension plan or fund for other service occurring during the same period
2.14 of time. A person who meets the definition of "public employee" in subdivision 2 by
2.15 virtue of other service occurring during the same period of time becomes a member of the
2.16 association unless contributions are made to another public retirement fund on the salary
2.17 based on the other service or to the Teachers Retirement Association by a teacher as
2.18 defined in section 354.05, subdivision 2;

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

2.24 (9) employees of a governmental subdivision who have not reached the age of
2.25 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time
2.26 basis at an accredited school, college, or university in an undergraduate, graduate, or
2.27 professional-technical program, or a public or charter high school;

2.28 (10) resident physicians, medical interns, and pharmacist residents and pharmacist
2.29 interns who are serving in a degree or residency program in public hospitals or clinics;

2.30 (11) students who are serving in an internship or residency program sponsored
2.31 by an accredited educational institution;

2.32 (12) persons who hold a part-time adult supplementary technical college license who
2.33 render part-time teaching service in a technical college;

2.34 (13) except for employees of Hennepin County or Hennepin Healthcare System, Inc.,
2.35 foreign citizens who are employed by a governmental subdivision under a work permit, or
2.36 an H-1b visa initially issued or extended for a combined period less than three years of

3.1 employment. Upon extension of the employment beyond the three-year period, the foreign
3.2 citizens must be reported for membership beginning the first of the month thereafter
3.3 provided the monthly earnings threshold as provided under subdivision 2a is met;

3.4 (14) public hospital employees who elected not to participate as members of the
3.5 association before 1972 and who did not elect to participate from July 1, 1988, to October
3.6 1, 1988;

3.7 (15) except as provided in section 353.86, volunteer ambulance service personnel, as
3.8 defined in subdivision 35, but persons who serve as volunteer ambulance service personnel
3.9 may still qualify as public employees under subdivision 2 and may be members of the
3.10 Public Employees Retirement Association and participants in the general employees
3.11 retirement plan or the public employees police and fire plan, whichever applies, on the
3.12 basis of compensation received from public employment service other than service as
3.13 volunteer ambulance service personnel;

3.14 (16) except as provided in section 353.87, volunteer firefighters, as defined in
3.15 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,
3.16 but a person who is a volunteer firefighter may still qualify as a public employee under
3.17 subdivision 2 and may be a member of the Public Employees Retirement Association and
3.18 a participant in the general employees retirement plan or the public employees police
3.19 and fire plan, whichever applies, on the basis of compensation received from public
3.20 employment activities other than those as a volunteer firefighter;

3.21 (17) pipefitters and associated trades personnel employed by Independent School
3.22 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the
3.23 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,
3.24 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter
3.25 241, article 2, section 12;

3.26 (18) electrical workers, plumbers, carpenters, and associated trades personnel who
3.27 are employed by Independent School District No. 625, St. Paul, or the city of St. Paul,
3.28 who have retirement coverage under a collective bargaining agreement by the Electrical
3.29 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,
3.30 or the pension plan applicable to Carpenters Local 87 who were either first employed after
3.31 May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under
3.32 Laws 2000, chapter 461, article 7, section 5;

3.33 (19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,
3.34 painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul
3.35 or Independent School District No. 625, St. Paul, with coverage under a collective
3.36 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,

4.1 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324
4.2 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities
4.3 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if
4.4 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special
4.5 Session chapter 10, article 10, section 6;

4.6 (20) plumbers who are employed by the Metropolitan Airports Commission, with
4.7 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,
4.8 who either were first employed after May 1, 2001, or if first employed before May 2,
4.9 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article
4.10 10, section 6;

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

4.14 (22) persons who are provided supported employment or work-study positions by a
4.15 governmental subdivision and who participate in an employment or industries program
4.16 maintained for the benefit of these persons where the governmental subdivision limits the
4.17 position's duration to ~~three years or less~~ up to five years, including persons participating in
4.18 a federal or state subsidized on-the-job training, work experience, senior citizen, youth,
4.19 or unemployment relief program where the training or work experience is not provided
4.20 as a part of, or for, future permanent public employment;

4.21 (23) independent contractors and the employees of independent contractors;

4.22 (24) reemployed annuitants of the association during the course of that
4.23 reemployment; and

4.24 (25) persons appointed to serve on a board or commission of a governmental
4.25 subdivision or an instrumentality thereof.

4.26 (b) Any person performing the duties of a public officer in a position defined in
4.27 subdivision 2a, paragraph (a), clause (3), is not an independent contractor and is not an
4.28 employee of an independent contractor.

1.1 moves to amend S.F. No. 277; H.F. No. 342, as follows:

1.2 Page 2, line 29, strike "23" and insert "..."

1.1 moves to amend S.F. No. 277; H.F. No. 342, as follows:

1.2 Page 2, line 34, delete "five" and insert "....."

1.3 Page 4, line 23, delete "five" and insert "....."

- 1.1 moves to amend S.F. No. 277; H.F. No. 342, as follows:
- 1.2 Page 2, strike lines 28 to 31
- 1.3 Page 2, line 32, strike "(10)" and insert "(9)"
- 1.4 Page 2, lines 34 to 35, delete the new language and strike the old language
- 1.5 Page 3, line 1, strike "(12)" and insert "(10)"
- 1.6 Page 3, line 3, strike "(13)" and insert "(11)"
- 1.7 Page 3, line 9, strike "(14)" and insert "(12)"
- 1.8 Page 3, line 12, strike "(15)" and insert "(13)"
- 1.9 Page 3, line 19, strike "(16)" and insert "(14)"
- 1.10 Page 3, line 26, strike "(17)" and insert "(15)"
- 1.11 Page 3, line 31, strike "(18)" and insert "(16)"
- 1.12 Page 4, line 3, strike "(19)" and insert "(17)"
- 1.13 Page 4, line 12, strike "(20)" and insert "(18)"
- 1.14 Page 4, line 17, strike "(21)" and insert "(19)"
- 1.15 Page 4, lines 20 to 26, delete the new language and strike the old language
- 1.16 Page 4, line 27, strike "(23)" and insert "(20)"
- 1.17 Page 4, line 28, strike "(24)" and insert "(21)"
- 1.18 Page 4, line 30, strike "(25)" and insert "(22)"

- 1.1 moves to amend S.F. No. 277; H.F. No. 342, as follows:
- 1.2 Page 15, delete lines 15 to 20
- 1.3 Page 15, line 21, delete "(c)" and insert "(b)"

1.1 moves to amend S.F. No. 277; H.F. No. 342, as follows:

1.2 Page 16, after line 21, insert:

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

1.4 Page 16, after line 30, insert:

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

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 277

(SENATE AUTHORS: PAPPAS)

DATE	D-PG	OFFICIAL STATUS
02/06/2013		Introduction and first reading Referred to State and Local Government

1.1 A bill for an act
 1.2 relating to retirement; Public Employees Retirement Association; clarifying
 1.3 coverage of student employees and extending duration of excluded work-study
 1.4 positions; revising military service credit purchase provision for consistency with
 1.5 federal code; clarifying average salary for benefit purposes; clarifying MERF
 1.6 division benefit eligibility; adding Lake County Sunrise Home to privatization
 1.7 chapter; making other administrative changes; amending Minnesota Statutes
 1.8 2012, sections 353.01, subdivisions 2b, 16, 17a, 29; 353.27, subdivision 7;
 1.9 353.34, subdivisions 1, 2; 353.50, subdivisions 3, 6; 353.657, subdivisions 2, 2a,
 1.10 3; 353F.02, subdivision 4; 356.635, subdivision 1.

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

1.12 Section 1. Minnesota Statutes 2012, section 353.01, subdivision 2b, is amended to read:

1.13 Subd. 2b. **Excluded employees.** (a) The following public employees are not eligible
 1.14 to participate as members of the association with retirement coverage by the general
 1.15 employees retirement plan, the local government correctional employees retirement plan
 1.16 under chapter 353E, or the public employees police and fire retirement plan:

1.17 (1) persons whose salary from one governmental subdivision never exceeds \$425 in
 1.18 a month;

1.19 (2) public officers who are elected to a governing body, city mayors, or persons who
 1.20 are appointed to fill a vacancy in an elective office of a governing body, whose term of office
 1.21 commences on or after July 1, 2002, for the service to be rendered in that elective position;

1.22 (3) election officers or election judges;

1.23 (4) patient and inmate personnel who perform services for a governmental
 1.24 subdivision;

1.25 (5) except as otherwise specified in subdivision 12a, employees who are hired for
 1.26 a temporary position as defined under subdivision 12a, and employees who resign from

2.1 a nontemporary position and accept a temporary position within 30 days in the same
2.2 governmental subdivision;

2.3 (6) employees who are employed by reason of work emergency caused by fire,
2.4 flood, storm, or similar disaster;

2.5 (7) employees who by virtue of their employment in one governmental subdivision
2.6 are required by law to be a member of and to contribute to any of the plans or funds
2.7 administered by the Minnesota State Retirement System, the Teachers Retirement
2.8 Association, the Duluth Teachers Retirement Fund Association, the St. Paul Teachers
2.9 Retirement Fund Association, or any police or firefighters relief association governed by
2.10 section 69.77 that has not consolidated with the Public Employees Retirement Association,
2.11 or any local police or firefighters consolidation account who have not elected the type of
2.12 benefit coverage provided by the public employees police and fire fund under sections
2.13 353A.01 to 353A.10, or any persons covered by section 353.665, subdivision 4, 5, or 6,
2.14 who have not elected public employees police and fire plan benefit coverage. This clause
2.15 must not be construed to prevent a person from being a member of and contributing to
2.16 the Public Employees Retirement Association and also belonging to and contributing to
2.17 another public pension plan or fund for other service occurring during the same period
2.18 of time. A person who meets the definition of "public employee" in subdivision 2 by
2.19 virtue of other service occurring during the same period of time becomes a member of the
2.20 association unless contributions are made to another public retirement fund on the salary
2.21 based on the other service or to the Teachers Retirement Association by a teacher as
2.22 defined in section 354.05, subdivision 2;

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

2.28 (9) employees of a governmental subdivision who have not reached the age of
2.29 23 and are enrolled on a full-time basis to attend or are attending classes on a full-time
2.30 basis at an accredited school, college, or university in an undergraduate, graduate, or
2.31 professional-technical program, or a public or charter high school;

2.32 (10) resident physicians, medical interns, and pharmacist residents and pharmacist
2.33 interns who are serving in a degree or residency program in public hospitals or clinics;

2.34 (11) students who are serving for up to five years in an internship or residency program
2.35 sponsored by a governmental subdivision, including an accredited educational institution;

3.1 (12) persons who hold a part-time adult supplementary technical college license who
3.2 render part-time teaching service in a technical college;

3.3 (13) except for employees of Hennepin County or Hennepin Healthcare System, Inc.,
3.4 foreign citizens who are employed by a governmental subdivision under a work permit, or
3.5 an H-1b visa initially issued or extended for a combined period less than three years of
3.6 employment. Upon extension of the employment beyond the three-year period, the foreign
3.7 citizens must be reported for membership beginning the first of the month thereafter
3.8 provided the monthly earnings threshold as provided under subdivision 2a is met;

3.9 (14) public hospital employees who elected not to participate as members of the
3.10 association before 1972 and who did not elect to participate from July 1, 1988, to October
3.11 1, 1988;

3.12 (15) except as provided in section 353.86, volunteer ambulance service personnel, as
3.13 defined in subdivision 35, but persons who serve as volunteer ambulance service personnel
3.14 may still qualify as public employees under subdivision 2 and may be members of the
3.15 Public Employees Retirement Association and participants in the general employees
3.16 retirement plan or the public employees police and fire plan, whichever applies, on the
3.17 basis of compensation received from public employment service other than service as
3.18 volunteer ambulance service personnel;

3.19 (16) except as provided in section 353.87, volunteer firefighters, as defined in
3.20 subdivision 36, engaging in activities undertaken as part of volunteer firefighter duties,
3.21 but a person who is a volunteer firefighter may still qualify as a public employee under
3.22 subdivision 2 and may be a member of the Public Employees Retirement Association and
3.23 a participant in the general employees retirement plan or the public employees police
3.24 and fire plan, whichever applies, on the basis of compensation received from public
3.25 employment activities other than those as a volunteer firefighter;

3.26 (17) pipefitters and associated trades personnel employed by Independent School
3.27 District No. 625, St. Paul, with coverage under a collective bargaining agreement by the
3.28 pipefitters local 455 pension plan who were either first employed after May 1, 1997, or,
3.29 if first employed before May 2, 1997, elected to be excluded under Laws 1997, chapter
3.30 241, article 2, section 12;

3.31 (18) electrical workers, plumbers, carpenters, and associated trades personnel who
3.32 are employed by Independent School District No. 625, St. Paul, or the city of St. Paul,
3.33 who have retirement coverage under a collective bargaining agreement by the Electrical
3.34 Workers Local 110 pension plan, the United Association Plumbers Local 34 pension plan,
3.35 or the pension plan applicable to Carpenters Local 87 who were either first employed after

4.1 May 1, 2000, or, if first employed before May 2, 2000, elected to be excluded under
4.2 Laws 2000, chapter 461, article 7, section 5;

4.3 (19) bricklayers, allied craftworkers, cement masons, glaziers, glassworkers,
4.4 painters, allied tradesworkers, and plasterers who are employed by the city of St. Paul
4.5 or Independent School District No. 625, St. Paul, with coverage under a collective
4.6 bargaining agreement by the Bricklayers and Allied Craftworkers Local 1 pension plan,
4.7 the Cement Masons Local 633 pension plan, the Glaziers and Glassworkers Local L-1324
4.8 pension plan, the Painters and Allied Trades Local 61 pension plan, or the Twin Cities
4.9 Plasterers Local 265 pension plan who were either first employed after May 1, 2001, or if
4.10 first employed before May 2, 2001, elected to be excluded under Laws 2001, First Special
4.11 Session chapter 10, article 10, section 6;

4.12 (20) plumbers who are employed by the Metropolitan Airports Commission, with
4.13 coverage under a collective bargaining agreement by the Plumbers Local 34 pension plan,
4.14 who either were first employed after May 1, 2001, or if first employed before May 2,
4.15 2001, elected to be excluded under Laws 2001, First Special Session chapter 10, article
4.16 10, section 6;

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

4.20 (22) persons who are provided supported employment or work-study positions by a
4.21 governmental subdivision and who participate in an employment or industries program
4.22 maintained for the benefit of these persons where the governmental subdivision limits
4.23 the position's duration up to three five years or less, including persons participating in a
4.24 federal or state subsidized on-the-job training, work experience, senior citizen, youth, or
4.25 unemployment relief program where the training or work experience is not provided as a
4.26 part of, or for, future permanent public employment;

4.27 (23) independent contractors and the employees of independent contractors;

4.28 (24) reemployed annuitants of the association during the course of that
4.29 reemployment; and

4.30 (25) persons appointed to serve on a board or commission of a governmental
4.31 subdivision or an instrumentality thereof.

4.32 (b) Any person performing the duties of a public officer in a position defined in
4.33 subdivision 2a, paragraph (a), clause (3), is not an independent contractor and is not an
4.34 employee of an independent contractor.

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

5.1 Sec. 2. Minnesota Statutes 2012, section 353.01, subdivision 16, is amended to read:

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

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

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

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

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

5.14 (5) a period of authorized personal, parental, or medical leave of absence without
5.15 pay, including a leave of absence covered under the federal Family Medical Leave Act,
5.16 that does not exceed one year, and for which a member obtained service credit for each
5.17 month in the leave period by payment under section 353.0161 to the fund made in place of
5.18 salary deductions. An employee must return to public service and render a minimum of
5.19 three months of allowable service in order to be eligible to make payment under section
5.20 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the
5.21 employee must be granted allowable service credit for the purchased period;

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

6.1 used by a governmental subdivision in administering a periodic, repetitive leave. Upon
6.2 payment, the member must be granted allowable service credit for the purchased period;

6.3 (7) an authorized temporary or seasonal layoff under subdivision 12, limited to three
6.4 months allowable service per authorized temporary or seasonal layoff in one calendar year.

6.5 An employee who has received the maximum service credit allowed for an authorized
6.6 temporary or seasonal layoff must return to public service and must obtain a minimum of
6.7 three months of allowable service subsequent to the layoff in order to receive allowable
6.8 service for a subsequent authorized temporary or seasonal layoff;

6.9 (8) a period during which a member is absent from employment by a governmental
6.10 subdivision by reason of service in the uniformed services, as defined in United States
6.11 Code, title 38, section 4303(13), if the member returns to public service with the same
6.12 governmental subdivision upon discharge from service in the uniformed service within the
6.13 time frames required under United States Code, title 38, section 4312(e), provided that
6.14 the member did not separate from uniformed service with a dishonorable or bad conduct
6.15 discharge or under other than honorable conditions. The service must be credited if the
6.16 member pays into the fund equivalent employee contributions based upon the contribution
6.17 rate or rates in effect at the time that the uniformed service was performed multiplied
6.18 by the full and fractional years being purchased and applied to the annual salary rate.
6.19 The annual salary rate is the average annual salary, ~~excluding overtime pay~~, during the
6.20 purchase period that the member would have received if the member had continued to
6.21 be employed in covered employment rather than to provide uniformed service, or, if
6.22 the determination of that rate is not reasonably certain, the annual salary rate is the
6.23 member's average salary rate, ~~excluding overtime pay~~, during the 12-month period of
6.24 covered employment rendered immediately preceding the period of the uniformed service.
6.25 Payment of the member equivalent contributions must be made during a period that begins
6.26 with the date on which the individual returns to public employment and that is three times
6.27 the length of the military leave period, or within five years of the date of discharge from
6.28 the military service, whichever is less. If the determined payment period is less than
6.29 one year, the contributions required under this clause to receive service credit may be
6.30 made within one year of the discharge date. Payment may not be accepted following 30
6.31 days after termination of public service under subdivision 11a. If the member equivalent
6.32 contributions provided for in this clause are not paid in full, the member's allowable
6.33 service credit must be prorated by multiplying the full and fractional number of years of
6.34 uniformed service eligible for purchase by the ratio obtained by dividing the total member
6.35 contributions received by the total member contributions otherwise required under this
6.36 clause. The equivalent employer contribution, and, if applicable, the equivalent additional

7.1 employer contribution must be paid by the governmental subdivision employing the
7.2 member if the member makes the equivalent employee contributions. The employer
7.3 payments must be made from funds available to the employing unit, using the employer
7.4 and additional employer contribution rate or rates in effect at the time that the uniformed
7.5 service was performed, applied to the same annual salary rate or rates used to compute the
7.6 equivalent member contribution. The governmental subdivision involved may appropriate
7.7 money for those payments. The amount of service credit obtainable under this section may
7.8 not exceed five years unless a longer purchase period is required under United States Code,
7.9 title 38, section 4312. The employing unit shall pay interest on all equivalent member and
7.10 employer contribution amounts payable under this clause. Interest must be computed at a
7.11 rate of 8.5 percent compounded annually from the end of each fiscal year of the leave or the
7.12 break in service to the end of the month in which the payment is received. Upon payment,
7.13 the employee must be granted allowable service credit for the purchased period; or

7.14 (9) a period specified under section 353.0162.

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

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

7.29 (d) No member may receive more than 12 months of allowable service credit in a
7.30 year either for vesting purposes or for benefit calculation purposes. For an active member
7.31 who was an active member of the former Minneapolis Firefighters Relief Association
7.32 on December 29, 2011, "allowable service" is the period of service credited by the
7.33 Minneapolis Firefighters Relief Association as reflected in the transferred records of the
7.34 association up to December 30, 2011, and the period of service credited under paragraph
7.35 (a), clause (1), after December 30, 2011. For an active member who was an active member
7.36 of the former Minneapolis Police Relief Association on December 29, 2011, "allowable

8.1 service" is the period of service credited by the Minneapolis Police Relief Association as
 8.2 reflected in the transferred records of the association up to December 30, 2011, and the
 8.3 period of service credited under paragraph (a), clause (1), after December 30, 2011.

8.4 (e) MS 2002 [Expired]

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

8.6 Sec. 3. Minnesota Statutes 2012, section 353.01, subdivision 17a, is amended to read:

8.7 Subd. 17a. **Average salary.** (a) "Average salary," ~~for purposes of calculating a~~
 8.8 ~~retirement annuity under section 353.29, subdivision 3 unless otherwise specified,~~ means
 8.9 an amount equivalent to the average of the highest salary of the member, police officer,
 8.10 or firefighter, whichever applies, upon which employee contributions were paid for any
 8.11 five successive years of allowable service, based on dates of salary periods as listed on
 8.12 salary deduction reports. Average salary must be based upon all allowable service if
 8.13 this service is less than five years.

8.14 (b) "Average salary" may not include any reduced salary paid during a period
 8.15 in which the employee is entitled to benefit payments from workers' compensation for
 8.16 temporary disability, unless the average salary is higher, including this period.

8.17 (c) "Average salary," for purposes of calculating benefits for a surviving spouse or
 8.18 dependent children under section 353.657, subdivision 2 or 3, means the average of the
 8.19 full-time monthly base salary rate in effect during the last six months of allowable service.
 8.20 If the employment during the last six months of allowable service was part-time, the
 8.21 average salary must be prorated based on the actual number of hours worked.

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

8.23 Sec. 4. Minnesota Statutes 2012, section 353.01, subdivision 29, is amended to read:

8.24 Subd. 29. **Designated beneficiary.** "Designated beneficiary" means the person or,
 8.25 organization, trust, or estate designated by a member, former member, ~~disabilitant, or~~
 8.26 ~~retired member in writing, signed and filed with the association before the death of the~~
 8.27 ~~member, former member, disabilitant, or retired member,~~ or a person legally authorized
 8.28 to act on behalf of the member or former member to receive a refund of the balance of
 8.29 the member's or former member's accumulated deductions after death. A beneficiary
 8.30 designation is valid if it is made in the form prescribed by the executive director and
 8.31 is received by the association on or before the date of death of the member or former
 8.32 member. If a beneficiary designation is deemed to be invalid for any reason, any remaining

9.1 balance of the member's or former member's accumulated deductions are subject to the
 9.2 provisions of section 353.32, subdivisions 4 and 5.

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

9.4 Sec. 5. Minnesota Statutes 2012, section 353.27, subdivision 7, is amended to read:

9.5 Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except
 9.6 as provided in paragraph (b), erroneous employee deductions and erroneous employer
 9.7 contributions and additional employer contributions to the general employees retirement
 9.8 plan of the Public Employees Retirement Association or to the public employees police
 9.9 and fire retirement plan for a person who otherwise does not qualify for membership
 9.10 under this chapter, are considered:

9.11 (1) valid if the initial erroneous deduction began before January 1, 1990. Upon
 9.12 determination of the error by the association, the person may continue membership in the
 9.13 association while employed in the same position for which erroneous deductions were
 9.14 taken, or file a written election to terminate membership and apply for a refund upon
 9.15 termination of public service or defer an annuity under section 353.34; or

9.16 (2) invalid, if the initial erroneous employee deduction began on or after January 1,
 9.17 1990. Upon determination of the error, the association shall refund all erroneous employee
 9.18 deductions and all erroneous employer contributions as specified in paragraph (e). No
 9.19 person may claim a right to continued or past membership in the association based on
 9.20 erroneous deductions which began on or after January 1, 1990.

9.21 (b) Erroneous deductions taken from the salary of a person who did not qualify
 9.22 for membership in the general employees retirement plan of the Public Employees
 9.23 Retirement Association or in the public employees police and fire retirement plan by
 9.24 virtue of concurrent employment before July 1, 1978, which required contributions to
 9.25 another retirement fund or relief association established for the benefit of officers and
 9.26 employees of a governmental subdivision, are invalid. Upon discovery of the error,
 9.27 allowable service credit for all invalid service is forfeited and, upon termination of public
 9.28 service, the association shall refund all erroneous employee deductions to the person, with
 9.29 interest as determined under section 353.34, subdivision 2, and all erroneous employer
 9.30 contributions without interest to the employer. This paragraph has both retroactive and
 9.31 prospective application.

9.32 (c) Adjustments to correct employer contributions and employee deductions taken
 9.33 in error from amounts which are not salary under section 353.01, subdivision 10, must
 9.34 be made as specified in paragraph (e). The period of adjustment must be limited to the

10.1 fiscal year in which the error is discovered by the association and the immediate two
 10.2 preceding fiscal years.

10.3 (d) If there is evidence of fraud or other misconduct on the part of the employee or
 10.4 the employer, the board of trustees may authorize adjustments to the account of a member
 10.5 or former member to correct erroneous employee deductions and employer contributions
 10.6 on invalid salary and the recovery of any overpayments for a period longer than provided
 10.7 for under paragraph (c).

10.8 (e) Upon discovery of the receipt of erroneous employee deductions and employer
 10.9 contributions under paragraph (a), clause (2), or paragraph (c), the association must require
 10.10 the employer to discontinue the erroneous employee deductions and erroneous employer
 10.11 contributions reported on behalf of a member. Upon discontinuation, the association must:

10.12 (1) for a member, provide a refund in the amount of the invalid employee deductions
 10.13 with interest on the invalid employee deductions at the rate specified under section 353.34,
 10.14 subdivision 2, from the received date of each invalid salary transaction through the date
 10.15 the credit or refund is made;

10.16 (2) for a former member who:

10.17 (i) is not receiving a retirement annuity or benefit, return the erroneous employee
 10.18 deductions to the former member through a refund with interest at the rate specified under
 10.19 section 353.34, subdivision 2, from the received date of each invalid salary transaction
 10.20 through the date the credit or refund is made; or

10.21 (ii) is receiving a retirement annuity or disability benefit, or a person who is
 10.22 receiving an optional annuity or survivor benefit, for whom it has been determined an
 10.23 overpayment must be recovered, adjust the payment amount and recover the overpayments
 10.24 as provided under this section; and

10.25 (3) return the invalid employer contributions reported on behalf of a member or
 10.26 former member to the employer by providing a credit against future contributions payable
 10.27 by the employer.

10.28 (f) In the event that a salary warrant or check from which a deduction for the
 10.29 retirement fund was taken has been canceled or the amount of the warrant or check
 10.30 returned to the funds of the department making the payment, a refund of the sum
 10.31 deducted, or any portion of it that is required to adjust the deductions, must be made
 10.32 to the department or institution.

10.33 (g) If the ~~accrual date of any~~ association discovers that a retirement annuity, survivor
 10.34 benefit, or disability benefit is within the limitation period specified in paragraph (c), and
 10.35 ~~an overpayment has resulted~~ has been incorrectly calculated by using invalid service or
 10.36 salary, or due to any erroneous calculation procedure, the association must recalculate

11.1 the annuity or benefit payable and ~~recover any~~ begin payment of the corrected annuity or
 11.2 benefit effective the first of the month following discovery of the error. Any overpayment
 11.3 resulting from the incorrect calculation must be recovered as provided under subdivision
 11.4 7b, if the accrual date, or any adjustment in the amount of the annuity or benefit calculated
 11.5 after the accrual date, except adjustments required under section 353.656, subdivision 4,
 11.6 falls within the current fiscal year and the two immediate previous fiscal years.

11.7 (h) Notwithstanding the provisions of this subdivision, the association may apply
 11.8 the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans
 11.9 Compliance Resolution System and not issue a refund of erroneous employee deductions
 11.10 and employer contributions or not recover a small overpayment of benefits if the cost to
 11.11 correct the error would exceed the amount of the member refund or overpayment.

11.12 (i) Any fees or penalties assessed by the federal Internal Revenue Service for any
 11.13 failure by an employer to follow the statutory requirements for reporting eligible members
 11.14 and salary must be paid by the employer.

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

11.16 Sec. 6. Minnesota Statutes 2012, section 353.34, subdivision 1, is amended to read:

11.17 Subdivision 1. **Refund or deferred annuity.** (a) A former member is entitled to
 11.18 either a refund of accumulated employee deductions under subdivision 2, or to a deferred
 11.19 annuity under subdivision 3. Application for a refund may not be made before the date of
 11.20 termination of public service. ~~Except as specified in paragraph (b),~~ A refund must be paid
 11.21 within 120 days following receipt of the application unless the applicant has again become
 11.22 a public employee required to be covered by the association.

11.23 (b) If an individual was placed on layoff under section 353.01, subdivision 12 or 12c,
 11.24 a refund is not payable before termination of service under section 353.01, subdivision 11a.

11.25 (c) An individual who terminates public service covered by the Public Employees
 11.26 Retirement Association general employees retirement plan, the MERF division, the Public
 11.27 Employees Retirement Association police and fire retirement plan, or the public employees
 11.28 local government correctional service retirement plan, and who is employed by a different
 11.29 employer and who becomes an active member covered by one of the other two plans, may
 11.30 receive a refund of employee contributions plus annual compound interest from the plan
 11.31 from which the member terminated service at the applicable rate specified in subdivision 2.

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

11.33 Sec. 7. Minnesota Statutes 2012, section 353.34, subdivision 2, is amended to read:

12.1 Subd. 2. **Refund with interest.** (a) Except as provided in subdivision 1, any person
 12.2 who ceases to be a public employee is entitled to receive a refund in an amount equal to
 12.3 accumulated deductions with annual compound interest to the first day of the month
 12.4 in which the refund is processed.

12.5 (b) For a person who ceases to be a public employee before July 1, 2011, the refund
 12.6 interest is at the rate of six percent to June 30, 2011, and at the rate of four percent after
 12.7 June 30, 2011. For a person who ceases to be a public employee after July 1, 2011, the
 12.8 refund interest is at the rate of four percent.

12.9 (c) If a person repays a refund and subsequently applies for another refund, the
 12.10 repayment amount, including interest, is added to the fiscal year balance in which the
 12.11 repayment was made.

12.12 (d) If the refund payable to a member is based on employee deductions that are
 12.13 determined to be invalid under section 353.27, subdivision 7, the interest payable on the
 12.14 invalid employee deductions is four percent.

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

12.16 Sec. 8. Minnesota Statutes 2012, section 353.50, subdivision 3, is amended to read:

12.17 Subd. 3. **Service credit and benefit liability transfer.** (a) All allowable service
 12.18 credit and salary credit of the members of the Minneapolis Employees Retirement Fund
 12.19 as specified in the records of the Minneapolis Employees Retirement Fund through June
 12.20 30, 2010, are transferred to the MERF division of the Public Employees Retirement
 12.21 Association and are credited by the MERF division. ~~Annuities or benefits of persons~~
 12.22 ~~who are active members of the former Minneapolis Employees Retirement Fund on~~
 12.23 ~~June 30, 2010, must be calculated under Minnesota Statutes 2008, sections 422A.11;~~
 12.24 ~~422A.12; 422A.13; 422A.14; 422A.15; 422A.151; 422A.155; 422A.156; 422A.16;~~
 12.25 ~~422A.17; 422A.18; 422A.19; 422A.20; and 422A.23, but are only eligible for automatic~~
 12.26 ~~postretirement adjustments after December 31, 2010, under section 356.415.~~

12.27 (b) The liability for the payment of annuities and benefits of the Minneapolis
 12.28 Employees Retirement Fund retirees and benefit recipients as specified in the records of
 12.29 the Minneapolis Employees Retirement Fund on June 29, 2010, is transferred to the
 12.30 MERF division of the Public Employees Retirement Association on June 30, 2010.

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

12.32 Sec. 9. Minnesota Statutes 2012, section 353.50, subdivision 6, is amended to read:

13.1 Subd. 6. **Benefits. (a) Retired, disabled, deferred, and inactive member benefits.**

13.2 The annuities and benefits of, or attributable to, retired, disabled, deferred, or inactive
 13.3 Minneapolis Employees Retirement Fund members with that status as of June 30, 2010,
 13.4 ~~with the exception of post-December 31, 2010, postretirement adjustments, which~~
 13.5 ~~are governed by paragraph (b);~~ as calculated under Minnesota Statutes 2008, sections
 13.6 422A.11; 422A.12; 422A.13; 422A.14; 422A.15; 422A.151; 422A.155; 422A.156;
 13.7 422A.16; 422A.17; 422A.18; 422A.19; 422A.20; and 422A.23, continue in force ~~after the~~
 13.8 ~~administrative consolidation under Laws 2010, chapter 359, article 11.~~

13.9 **(b) Benefits; benefit eligibility for June 30, 2010, active members.** Persons who
 13.10 were active members of the former Minneapolis Employees Retirement Fund on June
 13.11 30, 2010, upon satisfying eligibility requirements stated in the applicable sections of
 13.12 Minnesota Statutes 2008 specified in paragraph (a), are entitled to annuities or benefits
 13.13 specified in those sections. Eligibility for a formula retirement annuity includes the
 13.14 requirement in Minnesota Statutes 2008, sections 422A.13 and 422A.16, that the
 13.15 terminating member has attained retirement age, which is age 60 if the person has at least
 13.16 ten years of service credit, or any age if the person has 30 or more years of service credit.

13.17 **(b) (c) Postretirement adjustments.** After December 31, 2010, annuities and
 13.18 benefits from the MERF division are eligible for annual automatic postretirement
 13.19 adjustments solely under section 356.415.

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

13.21 Sec. 10. Minnesota Statutes 2012, section 353.657, subdivision 2, is amended to read:

13.22 Subd. 2. **Benefit amount.** (a) The spouse of a deceased member is entitled to
 13.23 receive a monthly benefit for life equal to the following percentage of the member's
 13.24 average ~~full-time monthly salary rate,~~ as defined in section 353.01, subdivision 17a,
 13.25 paragraph (c), as a member of the police and fire plan in effect over the last six months of
 13.26 allowable service preceding the month in which death occurred:

13.27 (1) if the death was a line of duty death, 60 percent of the ~~stated~~ average salary
 13.28 is payable; and

13.29 (2) if the death was not a line of duty death or if death occurred while receiving
 13.30 disability benefits that accrued before July 1, 2007, 50 percent of the ~~stated~~ average salary
 13.31 is payable.

13.32 (b) ~~If the member was a part-time employee in the position for which the employee~~
 13.33 ~~qualified for participation in the police and fire plan, the monthly survivor benefit is based~~
 13.34 ~~on the salary rate in effect for that member's part-time service during the last six months~~
 13.35 ~~of allowable service. If the member's status changed from full time to part time for due~~

14.1 to health reasons during the last year 12 months of employment, notwithstanding the
 14.2 definition of average salary in section 353.01, subdivision 17a, paragraph (c), the average
 14.3 salary used to compute the monthly survivor benefit is must be based on the full-time
 14.4 salary rate of the position held as a member of the police and fire plan in effect over the
 14.5 last six months of allowable service preceding the month in which the death occurred.

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

14.7 Sec. 11. Minnesota Statutes 2012, section 353.657, subdivision 2a, is amended to read:

14.8 Subd. 2a. **Death while eligible survivor benefit.** (a) If a member or former member
 14.9 who has attained the age of at least 50 years and either who is vested under section
 14.10 353.01, subdivision 47, or who has credit for at least 30 years of allowable service,
 14.11 regardless of age attained, dies before the annuity or disability benefit becomes payable,
 14.12 notwithstanding any designation of beneficiary to the contrary, the surviving spouse may
 14.13 elect to receive a death while eligible survivor benefit.

14.14 (b) Notwithstanding the definition of surviving spouse in section 353.01, subdivision
 14.15 20, a former spouse of the member, if any, is entitled to a portion of the death while
 14.16 eligible survivor benefit if stipulated under the terms of a marriage dissolution decree
 14.17 filed with the association. If there is no surviving spouse or child or children, a former
 14.18 spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision
 14.19 1, if provided for in a marriage dissolution decree but not a death while eligible survivor
 14.20 benefit despite the terms of a marriage dissolution decree filed with the association.

14.21 (c) The benefit may be elected instead of a refund with interest under section 353.32,
 14.22 subdivision 1, or surviving spouse benefits otherwise payable under subdivisions 1 and
 14.23 2. The benefit must be an annuity equal to the 100 percent joint and survivor annuity
 14.24 which the member could have qualified for on the date of death, computed as provided in
 14.25 sections 353.651, ~~subdivisions 2 and~~ subdivision 3, and 353.30, subdivision 3.

14.26 (d) The surviving spouse may apply for the annuity at any time after the date
 14.27 on which the deceased employee would have attained the required age for retirement
 14.28 based on the employee's allowable service. Sections 353.34, subdivision 3, and 353.71,
 14.29 subdivision 2, apply to a deferred annuity payable under this subdivision.

14.30 (e) No payment accrues beyond the end of the month in which entitlement to
 14.31 such annuity has terminated. An amount equal to the excess, if any, of the accumulated
 14.32 contributions which were credited to the account of the deceased employee over and
 14.33 above the total of the annuities paid and payable to the surviving spouse must be paid to
 14.34 the deceased member's last designated beneficiary or, if none, to the legal representative of
 14.35 the estate of such deceased member.

15.1 (f) Any member may request in writing, with the signed consent of the spouse, that
 15.2 this subdivision not apply and that payment be made only to the designated beneficiary, as
 15.3 otherwise provided by this chapter.

15.4 (g) For a member who is employed as a full-time firefighter by the Department of
 15.5 Military Affairs of the state of Minnesota, allowable service as a full-time state Military
 15.6 Affairs Department firefighter credited by the Minnesota State Retirement System may be
 15.7 used in meeting the minimum allowable service requirement of this subdivision.

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

15.9 Sec. 12. Minnesota Statutes 2012, section 353.657, subdivision 3, is amended to read:

15.10 Subd. 3. **Dependent children.** (a) A dependent child, as defined in section 353.01,
 15.11 subdivision 15, is entitled to receive a monthly benefit equal to ten percent of the member's
 15.12 average ~~full-time monthly~~ salary rate, as defined in section 353.01, subdivision 17a,
 15.13 paragraph (c), as a member of the police and fire plan ~~in effect over the last six months of~~
 15.14 ~~allowable service preceding the month in which death occurred.~~

15.15 (b) If the member's status changed from full-time to part-time due to health reasons
 15.16 during the last 12 months of employment, notwithstanding the definition of average salary
 15.17 in section 353.01, subdivision 17a, paragraph (c), the average salary used to compute the
 15.18 monthly dependent child benefit must be based on the full-time salary rate of the position
 15.19 held as a member of the police and fire plan in effect over the last six months of allowable
 15.20 service preceding the month in which the death occurred.

15.21 (c) Payments for the benefit of a dependent child must be made to the surviving
 15.22 parent, or to the legal guardian of the child or to any adult person with whom the child
 15.23 may at the time be living, provided only that the parent or other person to whom any
 15.24 amount is to be paid advises the board in writing that the amount will be held or used in
 15.25 trust for the benefit of the child.

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

15.27 Sec. 13. Minnesota Statutes 2012, section 353F.02, subdivision 4, is amended to read:

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

15.29 (1) Bridges Medical Services;

15.30 (2) Cedarview Care Center in Steele County;

15.31 (3) the City of Cannon Falls Hospital;

15.32 (4) the Chris Jenson Health and Rehabilitation Center in St. Louis County;

- 16.1 (5) Cornerstone Nursing and Rehab Center in Clearwater County Memorial Hospital
 16.2 ~~doing business as Clearwater Health Services in Bagley;~~
 16.3 (6) the Dassel Lakeside Community Home;
 16.4 (7) the Douglas County Hospital, with respect to the Mental Health Unit;
 16.5 (8) the Fair Oaks Lodge, Wadena;
 16.6 (9) the Glencoe Area Health Center;
 16.7 (10) Hutchinson Area Health Care;
 16.8 (11) Lake County Sunrise Home;
 16.9 ~~(11)~~ (12) the Lakefield Nursing Home;
 16.10 ~~(12)~~ (13) the Lakeview Nursing Home in Gaylord;
 16.11 ~~(13)~~ (14) the Luverne Public Hospital;
 16.12 ~~(14)~~ (15) the Oakland Park Nursing Home;
 16.13 ~~(15)~~ (16) the RenVilla Nursing Home;
 16.14 ~~(16)~~ (17) the Rice Memorial Hospital in Willmar, with respect to the Department
 16.15 of Radiology and the Department of Radiation/Oncology;
 16.16 ~~(17)~~ (18) the St. Peter Community Health Care Center;
 16.17 ~~(18)~~ (19) the Traverse Care Center in Traverse County;
 16.18 ~~(19)~~ (20) the Waconia-Ridgeview Medical Center;
 16.19 ~~(20)~~ (21) the Weiner Memorial Medical Center, Inc.;
 16.20 ~~(21)~~ (22) the Wheaton Community Hospital; and
 16.21 ~~(22)~~ (23) the Worthington Regional Hospital.

16.22 Sec. 14. Minnesota Statutes 2012, section 356.635, subdivision 1, is amended to read:

- 16.23 Subdivision 1. **Retirement benefit commencement.** (a) The retirement benefit of a
 16.24 member who has terminated employment must begin no later than the later of April 1 of
 16.25 the calendar year following the calendar year that the member attains the federal minimum
 16.26 distribution age under section 401(a)(9) of the Internal Revenue Code or April 1 of the
 16.27 calendar year following the calendar year in which the member terminated employment.
 16.28 (b) The consent requirements of section 411(a)(11) of the Internal Revenue Code
 16.29 do not apply to the extent that a distribution is required to satisfy the requirements of
 16.30 section 401(a)(9).