H.F. 1832 S.F. xxxx

(Davids)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s):	PERA Privatization Law
Relevant Provisions of Law:	Minnesota Statutes, Chapter 353F
General Nature of Proposal:	Retroactive inclusion of former Green Lea Manor employees.
Date of Summary:	March 16, 2015

Specific Proposed Changes

- Includes in the enhanced benefits of the PERA privatization law former members of the PERA General Employee Retirement Plan (PERA-General) who were employed by the Green Lea Manor in Mabel on the day before it was privatized, with retroactive application to the date of privatization.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of extending 1999 enactment to pre-1999 privatizations; precedent for other pre-1999 privatizations.
2. Actuarial cost of proposed legislation to PERA-General.
3. Status of past withdrawal actuarial gains to PERA-General from Green Lea Manor privatization.

Potential Amendments

H1832-1A permits the 23 individual who were Green Lea Manor employees in 1996 and who subsequently took a refund of their PERA-General member contributions to repay that refund, with 8.5% annual compound interest for the period since the refund was taken, without having to resume PERA-General covered employment, with a deadline on the repayment of six months after being contacted by PERA of their eligibility to do so.

H1832-2A explicitly permits persons who were Green Lea Manor employees in 1996 and who have subsequently retired from PERA-General to have their benefits recomputed under the benefit enhancements of Minnesota Statutes, Chapter 353F, and to receive a back payment of any increase in the retirement annuity in a lump sum with 6% compound interest from the date of retirement to June 30, 2011, and with 4% compound interest from July 1, 2011, until the date of the back payment.

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State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: H.F. 1832 (Davids); S.F. xxxx: PERA Privatization Law; Retroactive Inclusion of Former Green Lea Manor Employees

DATE: March 16, 2015

Summary of H.F. 1832 (Davids); S.F. xxxx

H.F. 1832 (Davids); S.F. xxxx amends Minnesota Statutes, Chapter 353F, the Public Employees Retirement Association (PERA) privatization law, by adding a new section that includes in the enhanced benefits of the privatization law the former members of the PERA General Employee Retirement Plan (PERA-General) who were employed by the Green Lea Manor in Mabel on the day before it was privatized, with retroactive application to the date of privatization.

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- **Attachment A**: Background information on the Historical Development of the PERA Privatization Chapter, Minnesota Statutes, Chapter 353F.
- **Attachment B**: Background information on Deferred Annuities Augmentation.
- **Attachment C**: Background information on the Rule of 90 Early Normal Retirement Age Provision.

Discussion and Analysis

H.F. 1832 (Davids); S.F. xxxx extends the enhanced benefits of Minnesota Statutes, Chapter 353F, the PERA privatization law available to former members of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) of certain privatized former governmental entities since 1999, to a medical facility that privatized in 1995.

The proposed legislation raises several pension and related public policy issues for consideration by and possible discussion between members of the Commission, including the following:

1. Appropriateness of Extending 1999 Enactment to Pre-1999 Privatizations; Precedent for Other Pre-1999 Privatizations. The policy issue is whether or not it is appropriate to extend an enactment crafted to apply future public sector employing units that privatize by sale or reconfiguration to privatizations that occurred before the law as enacted and, if the extension occurs for one pre-1999 privatization, whether or not that action function as a precedent for other extensions that will be difficult or impossible to distinguish. The Green Lea Manor privatized in September 1996. The privatization law applicable to the Public Employees Retirement Association (PERA), Minnesota Statutes, Chapter 353F, providing enhanced deferred annuity augmentation rates and continuing access to the "Rule of 90" early normal retirement age benefit tier to privatized former public employees, was enacted in May 1999. The privatization law, at enactment, was not intended at that time to apply to pre-enactment privatizations, either because retirement benefit coverage impact concerns were not significant issues for pre-1999 privatizations, or because any adverse retirement coverage impacts for pre-1999 privatizations were addressed in some other manner (i.e., continued public pension plan coverage eligibility or enhanced refund entitlement), or because any extension of the 1999 privatization legislation to pre-1996 privatizations had actuarial cost impacts for the PERA General Employee Retirement Plan (PERA-General) (see issues #2 and #3).
2. Actuarial Cost of Proposed Legislation to PERA-General. The policy issue is the extent of additional actuarial accrued liability that would be imposed on the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) if former public employees of the Green Lea Manor in Mabel were included in the application of Minnesota Statutes, Chapter 353F. PERA records reportedly indicate that there were 66 PERA-General plan members employed by Green Lea Manor in September 1995, of which 26 have retired from PERA-General without benefit of the PERA privatization law benefit enhancements, two have left Green Lea Manor employment for employment by other PERA-covered employing units, seven have died, 23 have taken a refund of their PERA-

General member contributions since privatization, including 11 former public employees who would be eligible for the Rule of 90 early normal retirement provision, and seven who are either vested deferred members or unvested inactive members, including four eligible for the Rule of 90. There is no comprehensive estimate of the actuarial impact of a privatization law extension for all effected or potentially affected former public employees who were employed at Green Lea Manor in 1996, but one of the deferred member group did request an estimate of the person's retirement annuity under the privatization law in 2010, and the current actuarial cost estimate for that person for an annuity that more than doubles under the privatization law is $125,000. If the extension to Green Lea Manor is approved, it would clearly apply to the two former Green Lea Manor employees who are current active PERA-General members from employment elsewhere and the seven deferred or inactive former members. The bill as drafted would not provide any benefit assistance to the 23 former PERA members who took refunds, since they forfeited all benefit rights upon taking a refund and cannot repay that refund and restore any PERA-General benefit eligibility until they are reemployed in other public employment for at least six months. The bill as drafted arguable could be interpreted, based on the retroactive effective date, to permit the retired former Green Lea Manor employees to take advantage of the enhanced deferred annuity augmentation rate and the Rule of 90 early normal retirement age eligibility, but would benefit from additional language that would address the recomputation issue directly and cover the issue of the rate of compound interest on any back annuity amounts.

The following amendments would address the parameters of the retroactivity:

- **Amendment H1832-1A** permits the 23 individual who were Green Lea Manor employees in 1996 and who subsequently took a refund of their PERA-General member contributions to repay that refund, with 8.5% annual compound interest for the period since the refund was taken, without having to resume PERA-General covered employment, with a deadline on the repayment of six months after being contacted by PERA of their eligibility to do so.
- **Amendment H1832-2A** explicitly permits persons who were Green Lea Manor employees in 1996 and who have subsequently retired from PERA-General to have their benefits recomputed under the benefit enhancements of Minnesota Statutes, Chapter 353F, and to receive a back payment of any increase in the retirement annuity in a lump sum with 6% compound interest from the date of retirement to June 30, 2011, and with 4% compound interest from July 1, 2011, until the date of the back payment.

3. Status of Past Withdrawal Actuarial Gains to PERA-General from Green Lea Manor Privatization. The policy issue is whether or not former members of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) who were privatized Green Lea Manor employees in 1996 have any claim to the actuarial gains incurred by PERA-General from the privatization of the Green Lea Manor. The benefit enhancements in Minnesota Statutes, Chapter 353F, the PERA privatization law, are available to the extent that there are calculated actuarial gains to PERA-General from that involuntary premature termination of retirement plan membership by virtue of the privatization. The Green Lea Manor privatization undoubtedly provided some turnover or withdrawal actuarial gain to PERA-General, but that gain has never been measured and, as with virtually all experience gains that accrued to PERA-General at any time, has already long been incorporated into the funded condition of PERA-General. Other than investment gains during the years in which the Minnesota Post Retirement Investment Fund operated to provide investment performance post-retirement adjustments before 2009 and the PERA and Minnesota State Retirement System (MSRS) privatization laws after 1999 and 1996, respectively, no actuarial gains experienced by public retirement plans have been linked to benefit enhancements.

Status	Account Balance	Service Credit	Rule of 90	Age As of 12/31/2014
Active	16228.4	391	ELIGIBLE	53.5
Active	39173.1	258	ELIGIBLE	52.83333333
Deceased	0	0	ELIGIBLE	90.33333333
Deceased	0	0	ELIGIBLE	89.16666667
Deceased	0	0	ELIGIBLE	84.41666667
Deceased	0	0	ELIGIBLE	83.16666667
Deceased	0	0	ELIGIBLE	81.16666667
Deceased	0	0	ELIGIBLE	74.33333333
Deceased	0	0	ELIGIBLE	58.25
Inactive	0	0	NOT ELIGIBLE	77.58333333
Inactive	0	0	NOT ELIGIBLE	71.83333333
Inactive	0	0	ELIGIBLE	70.08333333
Inactive	0	0	NOT ELIGIBLE	67.75
Inactive	0	0	ELIGIBLE	67.16666667
Inactive	0	0	ELIGIBLE	66.5
Inactive	0	0	NOT ELIGIBLE	65.66666667
Inactive	0	0	ELIGIBLE	64.91666667
Inactive	0	0	NOT ELIGIBLE	64.16666667
Inactive	0	0	ELIGIBLE	63.33333333
Inactive	0	0	NOT ELIGIBLE	62.58333333
Inactive	0	0	ELIGIBLE	61
Inactive	0	0	ELIGIBLE	57.91666667
Inactive	0	0	ELIGIBLE	57
Inactive	0	0	NOT ELIGIBLE	57
Inactive	0	0	ELIGIBLE	55.25
Inactive	0	0	ELIGIBLE	54.91666667
Inactive	0	0	ELIGIBLE	53.91666667
Inactive	0	0	NOT ELIGIBLE	52.08333333
Inactive	0	0	NOT ELIGIBLE	45.16666667
Inactive	0	0	NOT ELIGIBLE	44
Inactive	0	0	NOT ELIGIBLE	43.83333333
Inactive	0	0	NOT ELIGIBLE	43.5
Inactive	0	0	NOT ELIGIBLE	41.33333333
Inactive	414.02	12	NOT ELIGIBLE	60.33333333
Inactive	1119.5	43	NOT ELIGIBLE	54.91666667
Inactive	2575.19	80	ELIGIBLE	47.75
Inactive	4598.82	78	NOT ELIGIBLE	57.83333333
Inactive	6186.32	136	ELIGIBLE	48.83333333
Inactive	7120.03	110	ELIGIBLE	58.91666667
Inactive	15239.27	160	ELIGIBLE	61.75
Retired	0	160	ELIGIBLE	83.25
Retired	0	289	ELIGIBLE	79.16666667
Retired	0	73	NOT ELIGIBLE	78.66666667
Retired	0	334	ELIGIBLE	75.83333333
Retired	0	87	ELIGIBLE	75.16666667
Retired	0	139	ELIGIBLE	73.08333333
Retired	0	66	ELIGIBLE	71.83333333
Retired	0	202	ELIGIBLE	70.66666667
Retired	1227.77	36	NOT ELIGIBLE	78.5
Retired	1978.73	86	ELIGIBLE	65.66666667
Retired	3847.78	113	ELIGIBLE	68.33333333
Retired	4148.55	146	ELIGIBLE	67.83333333
Retired	4434.24	94	ELIGIBLE	62.5
Retired	4955.01	185	ELIGIBLE	70.33333333
Retired	5229.05	115	ELIGIBLE	64.91666667
Retired	5367.4	237	ELIGIBLE	61.41666667
Retired	5755.45	264	ELIGIBLE	69.33333333
Retired	6008.76	147	ELIGIBLE	66.41666667
Retired	6227.69	120	ELIGIBLE	60.83333333
Retired	6680.75	221	ELIGIBLE	59.33333333
Retired	7201.87	122	ELIGIBLE	60.41666667
Retired	7555.02	192	ELIGIBLE	61.83333333
Retired	7938.67	278	ELIGIBLE	61.25
Retired	8011.51	242	ELIGIBLE	65
Retired	8378.77	250	ELIGIBLE	62.5
Retired	8625.07	157	ELIGIBLE	69
			Minimum Age	41.33333333
			Maximum Age	90.33333333
			Median Age	64.38005051

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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. Before 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:

a) 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
b) 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 (1st 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 (1st 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. As of March 15, 2015, the PERA privatization chapter applies to the following privatizations:

- Benedictine Living Community of St. Peter
- Bridges Medical Services
- City of Cannon Falls Hospital/Cannon Falls Med Center of Mayo Health
- Cedarview Care Center
- Centracare Health of Paynesville
- Chris Jenson Health and Rehabilitation Center in St. Louis County
- Clearwater County Memorial Hospital d/b/a Clearwater Health Services in Bagley
- Cornerstone Nursing & Rehabilitation Center
- Dassel Lakeside Community Home?
- Douglas County Hospital, with respect to the Mental Health Unit
- Fair Oaks Lodge, Wadena
- Glencoe Area Health Center/Glencoe Regional Health Center
- Hutchinson Area Health Care
- Lake County Sunrise Home
- Lakefield Nursing Home/Lakefield Colonial Nursing Home
- Lakeland Medical Center
- Lakeside Health Care Center
- Lakeview Nursing Home in Gaylord
- Luverne Public Hospital/Sanford Hospital of Luverne
- Oak Terrace Health Care Center
- Oakland Park Nursing Home of Pennington County
- RenVilla Nursing Home/Renville Health Services
- Rice Memorial Hospital in Willmar, with respect to the Dept. of Radiology and Dept. of Radiation/ Oncology
- St. Michael's Hospital
- St. Paul Civic Center Authority/St. Paul Arena Company
- St. Peter Community Health Care Center
- Sibley Medical Center
- Traverse Care Center
- Virginia Regional Medical Center
- Waconia-Ridgeview Medical Center/Ridgeview Medical Center
- Weiner Memorial Medical Center, Inc./Weiner Hospital of the City of Marshall
- Wheaton Community Hospital/Wheaton Hospital
- Willmar Medical Services LLP
- Worthington Regional Hospital/Sanford Regional Hospital of Worthington
- Metro II, a joint powers organization formed under Minn. Stat. Sec. 471.59

Note: This list represents a composite of the names of privatization entities when privatization occurred and the names of privatized entities listed in the 2015 PERA Annual Financial Report.

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.

Background Information on Deferred Annuities Augmentation

1. Definition. In Minnesota public pension plans, deferred annuity augmentation refers to increasing the amount of a deferred retirement annuity by a percentage amount over time prior to receipt. This replaces all or part of lost purchasing power in the unpaid retirement annuity due to inflation. Under current law as revised in 2010, for Teachers Retirement Association (TRA) members who were hired before July 1, 2006, if, when they defer receipt of the annuity when they terminate service, the deferred annuity increases (augments) by 3% annually until the first of the year after the individual turns age 55, and by 5% per year thereafter. However, due to 2010 legislation, after June 30, 2012, the augmentation rate will be 2% per year, regardless of the person's age. For teachers first hired after June 30, 2006, when they terminate service the deferred annuity augmentation rate is 2.5% per year, and 2% per year after June 30, 2012.

   Deferred annuity augmentation was added in 1971 to Public Employees Retirement Association (PERA) plans, Minnesota State Retirement System (MSRS) plans, TRA, and was also added to the first class city teacher plans in 1989.

   Minnesota public pension plans are relatively unique among public and private defined benefit plans in providing deferred annuities augmentation. To the best knowledge of the Commission staff, only the Oregon statewide public employee defined benefit plans also provide deferred annuity augmentation.

   The Minnesota and Oregon plans that have deferred annuities augmentation are defined benefit plans. Defined benefit plans utilize a fixed formula to determine pension benefit amounts (typically years of service multiplied by a percentage benefit accrual rate amount and applied to a final salary or final average salary base). Since the benefit is fixed or specified in law from the individual's salary and service, the variable element is the contributions needed to fund those benefits. Defined benefit plans are distinguished from defined contribution plans, such as the Higher Education Individual Retirement Account Plan (IRAP), Individual Retirement Accounts (IRAs), or Section 401(k) plans, where the fixed element is the level of contributions funding the plan, and the variable element is the benefit to be derived, which is dependent on the investment earnings over time on the stream of contributions and the age of the individual at retirement.

   When a person covered by a defined contribution plan changes employment and thus is no longer eligible for the employer's plan, the value of the account will continue to increase over time due to investment earnings on the account. Thus, the eventual retirement annuity that can be supported by the account's value will increase. Deferred annuity augmentation in a defined benefit plan provides a somewhat comparable effect. The individual's deferred retirement annuity is not locked in amount at the time the individual leaves covered service. It continues to grow over time by the percentages specified in law.

   Having deferred annuity augmentation in a defined benefit plans does add to plan cost. Because of the augmentation, the deferred annuitants receive higher benefits at the time of retirement than would be the case if the benefit were fixed at the time of termination of the covered employment.

2. Minnesota Plans with Deferred Annuity Augmentation Provisions. Several Minnesota public pension plans have deferred annuity augmentation provisions, although there are minor differences between provisions in the various plans. All these provisions were revised in 2010 to reduce deferred annuities augmentation or, in the case of PERA plans, to eliminate it entirely as of January 1, 2012. The current law deferred annuity augmentation provisions are:

Section:	Applies to:
3A.02, Subd. 4	Legislators Retirement Plan
352.72, Subd. 2	General State Employees Retirement Plan (MSRS-General) Correctional State Employees Retirement Plan (MSRS-Correctional)
352B.30, Subd. 2	State Patrol Retirement Plan
353.71, Subd.2	PERA/PERA-P&F plans, and presumably also to the Local Government Correctional Service Retirement Plan (PERA-Correctional).
354.55, Subd.11	TRA
354A.37, Subd. 2	First class city teacher retirement fund associations.

   The Judges Retirement Plan (administered by MSRS) has no deferred annuities augmentation provision, which may reflect an assumption that Judges will continue in office until retirement.

3. Application in Service in More than One Plan Provisions. When deferred annuities augmentation was first added to various Minnesota plans in 1971, the record suggests that the Legislature wanted to add a tool to complement the service in more than one plan provisions (MSRS-General: Minn. Stat. Sec. 352.72; PERA: Minn. Stat. Sec. 353.71; and TRA: Minn. Stat. Sec. 354.60), to make that portability provision more adequate. However, the Legislature did not restrict its use solely to that provision. Deferred annuity augmentation applied to all deferred annuities, including those where the service in more than one plan provisions do not apply.

   The service in more than one plan provisions were early portability provisions, preceding the Combined Service Annuity provision, Minnesota Statutes, Section 356.30, which was enacted in 1975. The service in more than one plan provisions, which still exist in law, allow service with one of the plans covered by these provisions to be used for purposes of vesting in another covered plan. This was an important feature back in the 1970s and early 1980s because vesting normally required ten years of service. Without the service in more than one plan provisions, individuals who were job mobile, moving to various positions covered by various Minnesota public plans within different systems, might fail to vest in some of the plans due to the long vesting requirement. By allowing service in one fund to be used for purposes of vesting in another, the service in more than one plan provisions helped job-mobile individuals to vest in the applicable plan or plans and made them eligible to receive benefits.

   While this helped job-mobile individuals to vest, these individuals still faced a problem. The value of the benefit from the early plans would erode considerably in value over time if the benefit was fixed at the time the individual left that service. Deferred annuities augmentation addressed that problem by allowing the annuity from the early plan or plans that provided coverage to increase over time, providing a benefit at retirement that was at least somewhat similar to what would have occurred if coverage had been provided by a single plan for the individual's entire public service.

   To demonstrate, the following compares the total retirement annuity of a public employee with 30 years of public service under three different scenarios. Scenario A shows coverage by three different plans and without deferred annuity augmentation. Scenario B shows coverage by three different plans with deferred annuity augmentation. Scenario C shows coverage by one plan for all service. The individual is assumed to begin service in 1970 with TRA coverage, and the individual leaves that service after ten years with a high-five average salary of $22,500. The individual then moves to PERA-covered employment, having that coverage until 1990, with a high-five from that service of $33,100. The individual then moves to MSRS-covered employment, retiring in 2000 with a high-five of $46,660. Without deferred annuities augmentation, Scenario A, the sum of the three retirement annuities is $13,492 per year. Under Scenario B, deferred annuities augmentation is applied and it boosts the value of the TRA and PERA pensions, creating a total from the three plans of $17,117 per year. Under Scenario C, the individual spends all 30 years of employment under a single plan, MSRS-General. The individual's pension is $23,796 per year. While deferred annuities augmentation does help, in this example it falls short of providing the same pension that would have occurred if all service had been under a single plan.

Scenario A		**Scenario B**		**Scenario C**	
Coverage by TRA, 1970-1980		Coverage by TRA, 1970-1980		Coverage by MSRS, 1970-2000	
Final Average Salary	$22,500	Final Average Salary	$22,500	Final Average Salary	$46,660
Annual Deferred Retirement Annuity	$2,250	Initial Annual Deferred Retirement Annuity	$2,250	Annual Retirement Annuity	$23,796.60
		Augmented Deferred Retirement Annuity	$4,503.60		
Coverage by PERA, 1980-1990		Coverage by PERA, 1980-1990			
Final Average Salary	$33,100	Final Average Salary	$33,100		
Annual Deferred Retirement Annuity	$3,310	Initial Annual Deferred Retirement Annuity	$3,310		
		Augmented Deferred Retirement Annuity	$4,682.00		
Coverage by MSRS, 1990-2000		Coverage by MSRS, 1990-2000			
Final Average Salary	$46,660	Final Average Salary	$46,660		
Annual Retirement Annuity	$7,932	Annual Retirement Annuity	$7,932		
Total Annual Annuity		Total Annual Annuity			
TRA Annuity	$2,250.00	TRA Annuity	$4,503.60		
PERA Annuity	$3,310.00	PERA Annuity	$4,682.00		
MSRS Annuity	$7,932.00	MSRS Annuity	$7,932.00		
Total	$13,492.00	Total	$17,117.60		

4. Combined Service Annuity Provision. Service in more than one plan provisions are less used now than in the distant past. In 1975, the Legislature enacted the Combined Service Annuities law, Section 356.30, which was an improvement in many cases over the service in more than one plan provisions. The Combined Service Annuities law applies to those Minnesota public defined benefit plans which base annuities on the high-five average salary. Local police or paid fire plans are not included under the Combined Service Annuities provision because those plans base their annuities on the salary of a certain position, usually a top grade patrol officer or firefighter. The Combined Service Annuities calculation begins by determining the high-five average salary of the individual, which could include service under more than one employer, and that common high-five average salary is then used to compute the annuities from all the plans included in the calculation. Thus, the salary used to compute the annuities from the earlier plan or plans may be much higher than the salary the individual was receiving before terminating that earlier employment. The benefit computed from each of the applicable plans is determined using the most recent version of law, thus allowing the individual to access any benefit improvements that occurred in the earlier plans after the individual left service covered by the applicable plan. The individual must begin drawing annuities from all the plans included in the person's Combined Service Annuities benefit calculation within a one-year period. The use of Combined Service Annuities is in lieu of deferred annuities augmentation from the earlier covered plans.

   Some individuals have service in more than one of the plans covered by the Combined Service Annuities law, but choose not to use that provision. In these cases, deferred annuity augmentation would apply if the plan has an applicable provision. This can occur in cases where the normal retirement ages in the plans that provided coverage to the individual are very different. If an individual age 55 had prior Public Employees Police and Fire Retirement Plan (PERA-P&F) coverage (a plan with normal retirement age of 55), and the individual is now covered by MSRS-General (which has an age 65 or 66 normal retirement age), the individual may be reluctant to leave current employment in order to use the Combined Service Annuities provision. He would face a stiff early retirement penalty from the MSRS plan if he begins drawing an MSRS annuity at age 55. Instead, the individual may choose to draw the PERA-P&F annuity, including any deferred annuity augmentation on that benefit, and continue working in MSRS-General covered employment.

   Thus, at the current time, deferred annuities augmentation is used by individuals who could be covered by the Combined Service Annuities but who choose not to use that provision, by individuals moving among Minnesota public plans not all of which are included in the Combined Service Annuities law, and by individuals who move from public- to private-sector employment.

5. Actuary Commentary from 1978 on Augmentation Provisions. Franklin C. Smith was an actuary who provided advice to the Legislative Commission on Pensions and Retirement during the 1970s. In the memo written in 1978, he notes that following the addition of the Combined Service Annuities provision in 1975, deferred annuities augmentation provisions were no longer of much use to individuals who move to different positions within the public sector. Its main value had shifted to a measure to assist those who move to nonpublic employment. Since protecting that group had not been stated as a priority by the Legislature, he suggested that the Legislature consider repealing augmentation provisions. The Legislature did not act on the suggestion in 1979 or subsequently.

6. Deferred Annuities Augmentation Provisions, as Amended Over Time. The 1971 Legislature created deferred annuities augmentation. The 1971 legislation specified that deferred annuities will augment at the same rate as the investment earnings assumption used by the plan. The level of deferred annuities augmentation therefore changed as the investment return assumption was revised. In 1971 that assumption was 3.5%, but it was revised in 1973 (Laws 1973, Ch. 653, Sec. 45), to 5%. Deferred annuity augmentation provisions were revised again by the 1978 Legislature, which amended the deferred annuity augmentation provisions by removing the tying of the augmentation rate to the investment return assumption, and instead set the augmentation rate at 3% per year after January 1, 1981. By using a January 1, 1981, effective date on the deferred annuities augmentation provision, the 1978 Legislature provided a few years of lead time on the benefit reduction. The 1989 Legislature again revised the provisions, this time enhancing the deferred augmentation provisions by increasing augmentation after age 55. As revised in 1989, the provisions provided 3% per year augmentation until the first of the year after the individual turns age 55, and 5% annually thereafter. The 1989 revisions were part of a major benefit increase bill which in part increased the accrual rates in many plans, created subsidized joint and survivor annuities, and enhanced the deferred annuity augmentation provisions.

7. Motivation for Proposing to Reduce Deferred Annuity Augmentation. Deferred annuity augmentation under PERA's Section 353.71, Subdivision 2, is of considerable value to plan members who become deferred annuitants. The proposed reduction would harm existing members who terminate as deferred annuitants after calendar year 2005. This is not an action that PERA would take lightly. The probable reason for the proposal is that PERA seeks to reduce plan costs, to help with the contribution deficiencies occurring in the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and in PERA-P&F.

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Background Information on the
Rule of 90 Early Normal Retirement Age Provision

1. Statutory Definition of Retirement. The various Minnesota defined benefit retirement plans either do not define the term, define the term to mean the period of time after a plan member becomes entitled to an accrued retirement annuity to be paid, define the term to mean the withdrawal by a plan member from active employment, define the term to mean the period of time after the cessation of active employment, or define the term as the commencement of the payment of a retirement annuity.

2. Definition of Normal Retirement

   a. General Definition. The "normal retirement age" is the earliest age under a retirement plan at which a retirement annuity is payable without any reduction for an early retirement.

   b. Commission Principles of Pension Policy Normal Retirement Age Policy Provision. Principle II.C.4. of the Principles of Pension Policy of the Legislative Commission on Pensions and Retirement indicates that the normal (unreduced for early retirement) retirement ages should be set based on the employability limits of average public employees and will be different for public safety employees when compared with general employees.

   Specifically, the applicable principle states:

   > II.C.4. Appropriate Normal Retirement Ages
   > The normal retirement age should be set in a reasonable relationship to the employability limits of the average public employee and should differentiate between regular public employees and protective and public safety employees.

   The current set of principles, last revisited by the Commission in 1996-1996, with respect to this particular principle, largely continued the earliest statement of the principle in 1980, emphasizing normal retirement ages at usual employability limits, but without any of the 1980 age specificity.

   c. General Policy Considerations Concerning Normal Retirement Ages. The historic reason for creating and maintaining pension plans, in the private sector or the public sector, was to augment an employer's personnel and compensation system by assisting in the recruitment of new qualified employees, the retention of existing qualified employees, and the systematic out-transitioning of existing employees at the conclusion of their normally expected working careers. The pension system does this by providing retirement annuities (and frequently other casualty or ancillary benefit coverage) that are deemed adequate in view of both the employer and the employees and that are deemed affordable by the employer. This traditional pension plan purpose apparently underlies the development of public pension plans in Minnesota, although it never has clearly been articulated in law.

   The systematic out-transitioning of existing employees at the conclusion of their normally expected working careers is the basis for setting normal retirement ages. The Commission's Principles of Pension Policy indicate that the normal retirement age of Minnesota public pension plans should be set in accord with the employability limits of the average public employee, and indicate that the normal retirement age generally should differentiate between general public employees and set at an earlier age for protective and public safety employees.

   Age 65 has generally come to be the traditional age at which many employees are expected to retire. It is, however, unclear from a policy perspective why this age has be-come the regularly expected retirement age for Social Security and for many public retirement plans. Age 65 does not appear to represent an empirically determined conclusion about when most employees retire that was drawn from the experience of employees before the creation of Social Security and the significant expansion of employment-based pension coverage in the 1930s. Before the 1930s, retirement for most people appears to have been a function of a physical inability to continue in employment, at whatever age that occurred. Early employee retirement plans were frequently referred to as superannuation plans and some plans substitute the term "superannuitation age" for what is referred to as the "normal retirement age" in other plans. Until recent decades, the most impoverished sector of the population was older folks and the improvement of their situation was one of the goals of President Franklin Roosevelt in proposing the Social Security System in 1934. The age 65 normal retirement age is frequently attributed to Chancellor Otto Von Bismarck of Germany, who is reported to have set age 65 as the normal retirement age for the retirement coverage provided to the Prussian army.

   Since the 1960s, in both larger corporate defined benefit pension plans and public employee pension plans, the trend clearly appears to have been to institute normal retirement ages earlier

than age 65. The age 62 with 30 years of service and the Rule of 90 provisions are early normal retirement age Minnesota public pension plan provisions, where a benefit unreduced for early retirement is provided at an age before the generally applicable normal retirement age. The age 62 with 30 years of service early normal retirement age provision was added to the statewide general employee retirement plans in 1973 as the first generally applicable early normal retirement age provision. The Rule of 90 early normal retirement age provision, where a person becomes eligible for an unreduced retirement benefit when the person's age and years of credited service equal or exceed the sum of 90, was enacted for the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) in 1982 (Laws 1982, Ch. 519, Sec. 2). In 1989 (Laws 1989, Ch. 319, Art. 13), the Rule of 90 provision was extended to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Teachers Retirement Association (TRA), and the coordinated programs of the first class city teachers retirement fund associations, applicable to only pre-July 1, 1989, hires. That restriction was also made applicable to PERA-General in 1989.

In the opposite direction, based on considerations of lengthening expected life spans and of the related cost of providing benefits for ever-lengthening retirement periods, as part of 1986 Congressional amendments, Social Security has instituted a later full benefit retirement age, as follows:

Social Security	
Year of Birth	Normal Retirement Age
Before 1938	Age 65
1938	Age 65, 2 months
1939	Age 65, 4 months
1940	Age 65, 6 months
1941	Age 65, 8 months
1942	Age 65, 10 months
1943-1954	Age 66

Social Security	
Year of Birth	Normal Retirement Age
1955	Age 66, 2 months
1956	Age 66, 4 months
1957	Age 66, 6 months
1958	Age 66, 8 months
1959	Age 66, 10 months
1960 and later	Age 67

d. Summary of the Current Minnesota Defined Benefit Retirement Plan Normal Retirement Age Provisions. Minnesota public pension plans currently reflect some uniformity in normal retirement ages. The following compares the normal retirement ages applicable to the various Minnesota public pension plans:

MSRS-General	PERA-General	TRA	First Class City Teachers Coordinated Plans
"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. *[352.01, Subd. 25]*	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. *[353.01, Subd.37]*	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. *[354.05, Subd. 38]*	"Normal retirement age" means age 65 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and the higher of age 65 or the "retirement age" defined in 42 USC Section 416(l), as amended, but not greater than age 66 for a person who first became a covered employee or member of a public pension fund listed in section 356.30, subdivision 3, after June 30, 1989. *[354A.011, Subd. 15a]*

MSRS-Correctional	State Patrol	PERA-Correctional	PERA-P&F
"Normal retirement age" means age 55. *[352.93, Subd. 1]*	"Normal retirement age" means age 55. *[352B.08, Subd. 2a]*	"Normal retirement age" means age 55. *[35E3.04, Subd. 1, 4]*	"Normal retirement age" means age 55. *[353.651, Subd. 1, 3]*

Legislators Plan	Judges Plan
"Normal retirement age" means age 62. *[3A.01, Subd. 8]*	"Normal retirement age" means the date on which a judge attains the age of 65. *[490.121, Subd. 21f]*

The 1986 resetting of the Social Security full retirement benefit receipt age appears to have been motivated largely by financial concerns and by a need to reduce future benefit outlays in order to delay the date of a benefit default than by any clearly delineated empirical evidence that American workers were actually continuing working to later ages. Indeed, the literature on the topic suggests that the last 20 years have seen continuing reductions in the retirement age of many workers compared to the normal retirement age applicable to prior generations of workers. The life expectancy of American workers, however, has been increasing throughout the 20th century, meaning that workers could delay the start of their retirement period compared to prior generations without causing any actual reduction in the duration of benefit receipt compared to earlier generations. Although the potential employability limits of general employees appear to be lengthening, it is not clear that the same phenomenon is true to some extent for public safety employees.

3. <u>Rule of 90 Early Normal Retirement Provisions</u>. Historically, it has been Commission policy to set an age 65 normal retirement age for general (nonpublic-safety) employees and an age 55 normal retirement age for public safety employees. While age 65 or age 55 normal retirement ages remain a common requirement, different normal retirement ages have been established over time. For the oldest programs of the first class city plans and local police and salaried firefighter relief associations, younger normal retirement ages have long existed before 1989, as follows:

Plan	Age or Ages
Duluth Teachers Retirement Fund Association (DTRFA) Old Law Program	Age 60
Minneapolis Teachers Retirement Fund Association (MTRFA) Basic Program	Age 60 or any age w/30 years of service
St. Paul Teachers Retirement Fund Association (SPTRFA) Basic Program	Age 60 with 25 years of service
Minneapolis Employees Retirement Fund (MERF)	Age 60 or any age w/30 years of service
Most local police or salaried firefighter relief associations	Age 50

In 1973, the Commission and the Legislature initially recognized long service as a qualification for an earlier normal retirement age for the statewide general employee pension plans, with the enactment of the age 62 with 30 years of service normal retirement age provision.

In 1982, after several sessions of considering proposed legislation to create earlier normal retirement ages, the Legislature enacted the Rule of 90 for the Public Employees Retirement Association (PERA), in lieu of the PERA age 62 with 30 years of service provision. The Rule of 90 provision allows a person to retire with an unreduced retirement annuity when the person's combined age and service total at least 90.

In 1989 (Laws 1989, Ch. 319, Art. 13), the Legislature extended this Rule of 90 early normal retirement provision to the Minnesota State Retirement System (MSRS), TRA, and the three first class city teacher plans as part of a major benefit improvement. That benefit increase was added as a House of Representatives floor amendment to proposed legislation relating to teachers' salaries in Independent School District No. 709 (Duluth), without a favorable recommendation by the Legislative Commission on Pensions and Retirement. The Rule of 90 provision is part of the Tier I benefit package, which consists of an earlier retirement age, a lower benefit accrual rate for the initial ten years of service (1.0% rather than 1.5% for Tier II Coordinated Programs, and 2.0% rather than 2.5% for Tier II Basic Programs), and a subsidized early retirement reduction amount.

During the 1989 Session, several Senate members of the Legislative Commission on Pensions and Retirement supported a general benefit accrual rate increase at age 65 while several House of Representatives members of the Commission supported the Rule of 90 early normal retirement age provision. The 1989 benefit increase legislation, an amendment derived from 1989 Session S.F. 1329 (Pogemiller); H.F. 1302 (Simoneau), ultimately was enacted.

Specifically, the 1989 benefit increases related to the Rule of 90 benefit tier and the level benefit tier are as follows:

a. <u>Level Benefit Tier</u>. All plan members are eligible to receive a retirement annuity using a level benefit accrual formula rate of 1.5% credit for all years of service, rather than the current 1% of each of the first ten years of service, followed by 1.5% thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that age changes over time. The normal retirement age is age 65.

b. <u>Rule of 90 Benefit Tier</u>. Plan members first hired before July 1, 1989, if their age plus years of service total the sum of 90, are eligible to receive a benefit accrual formula rate of 1% for each of the first ten years of service, followed by 1.5% per year thereafter, with no early retirement reduction. If the member does not meet the Rule of 90 eligibility requirement, with a benefit accrual rate of 1% for each of the first ten years and 1.5% thereafter, the early retirement reduction rate is 3% per year.

   The 1989 benefit accrual rates, including the Rule of 90 Benefit Tier, were increased in 1997 (Laws 1997, Ch. 233, Art. 1).

   The argument made by the proponents for the Rule of 90 benefit tier was that the benefit program would be restricted to then current plan members (pre-July 1, 1989, hires) and that the Legislature reserved the right to eliminate the provision if its utilization exceeded 45% of eligible retirees. The Rule of 90 reporting requirement and elimination provision was repealed in 1993 (see Laws 1993, Ch. 280) at the request of the various major general employee retirement plan administrators when the TRA utilization approached the triggering level.

The 1989 Rule of 90 extension, with its restriction to pre-July 1, 1989, hires, reflects a compromise based on policy and cost considerations. Although the accrual rate for the first ten years of service is less than under a level benefit computation, the waiver of any early retirement benefit reductions that would otherwise be required tends to more than outweigh the lesser accrual rate used of the first ten years of service, creating a subsidized benefit. This subsidy of those who have sufficient age and years of service to qualify for and use the Rule of 90 adds to the plan cost, to be paid by many who will never have sufficient service to qualify for this benefit. Restricting the Rule of 90 to only those who started in covered employment before July 1, 1989, made the cost manageable under the 1989 bill. However, it has created a difference between the benefit provisions available to the pre-July 1, 1989, hires and those who came afterwards, leading to frequent requests by the more recent hires to have the Rule of 90 extended to them. So far, the Legislature has resisted those requests, for a number of reasons. One reason is that it is not viewed as an issue needing prompt attention. Individuals who started employment after 1989 either are sufficiently young that retirement is not a serious concern, or their service is rather short, leaving them far from qualifying for a Rule of 90 benefit if one were to be offered. The second consideration is cost. It would be necessary to increase the contributions to all these plans to cover the added liabilities that would be created by extending the Rule of 90. The third consideration is policy conflicts created by these early retirement provisions. An effort to extend early retirement provisions to post-1989 hires is in conflict with changes in federal retirement policy. The Social Security system has been increasing the age at which individuals can qualify for full Social Security benefits, and without those Social Security benefit checks and related Medicare coverage, most individuals who might wish to retire early from a Minnesota public plan cannot afford to do so, because of the high cost of health care. Also, given the increases in expected lifespan that has occurred and that will continue to occur, one can argue that average retirement age may need to be increased rather than decreased, to control plan cost. Fourth, given current and future labor markets, there is a need to encourage the post-World War II baby boom generation to stay in the labor force, rather than encouraging their withdrawal. The next generation is too small to fill all the positions that will become vacant. To some extent Rule of 90 provisions encourage withdrawal from the labor force. Finally, Rule of 90 provisions are inconsistent with the concepts upon which our defined benefit plans were based. These plans were intended to attract sufficient capable workers, to act as a retention tool to keep them in government employment, and to out-transition them at the end of their productive years, providing sufficient income in retirement, along with Social Security benefits and private savings, to allow the retiree to retain a reasonable standard of living. Many who retire under the Rule of 90 are not ready to leave the labor force, and thus the benefits are not used to provide retirement income. Retirement benefits paid to those who simply transition to other employment add to plan cost and may not be serving a useful public purpose.

The benefit accrual rates enacted in 1989 were increased again in 1997 (Laws 1997, Ch. 233, Art. 1). Following the enactment of the 1997 revisions, a benefit computed under the level benefit tier would use an accrual rate of 1.7% per year of service, rather than 1.5%. Benefits computed under the Rule of 90 benefit tier now use an accrual rate of 1.2% per year for each of the first ten years, and 1.7% for each year thereafter. As part of the 2006 merger of the Minneapolis Teachers Retirement Fund Association (MTRFA) into TRA, the Legislature again increased accrual rates, but only for TRA and only for prospective service.

In addition to the Rule of 90, there are other benefits generally found in these general employee plans which apply only to the pre-July 1, 1989, hires. These include an age 65 normal retirement age, rather than age 66. The lower age 65 normal retirement age will lessen the amount of a reduction due to early retirement compared to use of age 66, and will allow individuals to retire with full benefits a year earlier. Another is a 30-year provision, which allows individuals with 30 years of service credit to retire prior to normal retirement age with a reduction applied only to age 62 rather than age 65, creating a larger benefit. A third provision applicable only to the pre-July 1, 1989, hire group is an early retirement benefit computed using the Rule of 90 tiers described above with a 3% per year reduction due to early retirement.

4. <u>1989 Benefit Increase Legislation</u>.

   a. <u>Summary of the 1989 Benefit Increase Legislation</u>. In 1989 (Laws 1989, Ch. 319, Art. 13), the Legislature enacted a controversial omnibus retirement bill that included a major benefit increase. The 1989 benefit increase legislation included the following:

      i. <u>Reduction in Vesting Requirement</u>. The vesting period was reduced from five years to three years. Normal retirement, early retirement, disability, portability, and survivor benefit provisions were changed to three-year service eligibility rather than five-year.

      ii. <u>Increased Interest on Refunds</u>. Interest on refunds of member contributions taken when an individual leaves employment was increased to 6% from 5%.

iii. Increase in Deferred Annuity Augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at 3% per year during the deferral period. Under the 1999 law, deferred annuities augmentation increases to 5% on January 1 of the year after the member reaches age 55.

iv. Automatic Bounce-Back, Joint and Survivor Annuity. The 1999 law provided a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the former employee's annuity automatically bounces back to the single life annuity level.

v. New Level Benefit Formula, Post-1989 Employees. Post-June 30, 1989, employees will receive a level formula of 1.5% credit for all years of service, rather than the current 1% for each of the first ten years of service, followed by 1.5% thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that age changes over time. The normal retirement age for existing employees remains at age 65.

vi. Current Benefit Formula with 3% Early Retirement Reduction. The benefit accrual rate was set at 1% for each of the first ten years, plus 1.5% for each year thereafter, with a 3% annual reduction for early retirement, or

vii. Level Benefit Formula with Actuarial Reduction. The benefit accrual rate was set at 1.5% for all years of service, with an actuarial reduction for early retirement, or

viii. Rule of 90 with Current Benefit Formula Rates. If age plus years of service equal at least 90, the benefit accrual was set at 1% for each of the first ten years of service, followed by 1.5% per year thereafter, with no early retirement reduction. Use of the Rule of 90 must be reviewed periodically. If use exceeds 45% of the members eligible to retire under that provision, the provision is voided.

ix. Contribution Rate Increases. The employee contribution rate for members was increased.

x. Interest Assumption Increases. The pre-retirement interest rate assumption was increased to 8.5% for the following retirement plans: the Legislators Retirement, MSRS-General, MSRS-Military Affairs, MSRS-Transportation Department Pilots, MSRS-Correctional, MSRS-State Troopers, the Elective State Officers Plan, PERA, PERA-P&F, PERA- Correctional, TRA, and the Judges Retirement Plan. For the Minneapolis, St. Paul, and Duluth teacher funds, the pre- and post- retirement interest assumption was increased to 8.5%.

xi. Amortization Date Extended. For the retirement plans listed in point x, the amortization target period was extended to the year 2020.

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1.1 .... moves to amend H.F. No. 1832; S.F. No. ...., as follows:

1.2 Page 1, line 12, before "This" insert "(a)"

1.3 Page 1, after line 13, insert:

1.4 "(b) For persons who were employed by the Green Lea Manor in September 1996 and
1.5 who subsequently received a refund of member contributions and interest under Minnesota
1.6 Statutes, section 353.34, the person may repay that refund amount with compound interest
1.7 at the rate of 8.5 percent from the date of the refund payment until the date of the repayment,
1.8 without being required to have been reemployed in a public employment position that
1.9 entitles the person to be a member of a retirement plan listed in Minnesota Statutes, section
1.10 356.30, for any minimum period. This repayment authority expires on the first day of the
1.11 seventh month next following the date on which the person was contacted by the Public
1.12 Employees Retirement Association and informed of their refund repayment eligibility."

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1.1 .... moves to amend H.F. No. 1832; S.F. No. ...., as follows:

1.2 Page 1, line 12, before "This" insert "(a)"

1.3 Page 1, after line 13, insert:

1.4 "(b) For persons who were employed by the Green Lea Manor in September 1996
1.5 and who subsequently retired from the general employees retirement plan of the Public
1.6 Employees Retirement Association, the Public Employees Retirement Association shall
1.7 recompute the person's retirement annuity under Minnesota Statutes, Chapter 353F,
1.8 shall pay the increased retirement annuity effective on July 1, 2015, plus any applicable
1.9 postretirement adjustments during the receipt period, and shall make a back payment
1.10 of the increase in the retirement annuity amounts, including applicable postretirement
1.11 adjustments, in a lump sum, plus compound interest at the rate of six percent from the
1.12 retirement date to June 30, 2011, and at the rate of four percent from July 1, 2011, until
1.13 the date of back payment"

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION **H. F. No. 1832**

03/12/2015 Authored by Davids
The bill was read for the first time and referred to the Committee on Government Operations and Elections Policy

1.1 A bill for an act
1.2 relating to retirement; providing the Green Lea Manor and its employees are
1.3 covered by Minnesota Statutes, chapter 353F; proposing coding for new law
1.4 in Minnesota Statutes, chapter 353F.

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

1.6 Section 1. **[353F.021] GREEN LEA MANOR.**

1.7 Notwithstanding any law to the contrary, the Green Lea Manor in Mabel is a
1.8 privatized former public employer for purposes of this chapter, and a person who was
1.9 employed by Green Lea Manor and was a member of the Public Employees Retirement
1.10 Association on the day before the effective date of the privatization of Green Lea Manor is
1.11 a privatized former public employee for purposes of this chapter.

1.12 **EFFECTIVE DATE.** This section is effective the day following final enactment,
1.13 and applies retroactively to the date of privatization of Green Lea Manor.