



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Rachel Barth, Deputy Director  
RE: HF659 (O'Driscoll); SF588 (Pappas): MSRS-General; Disability Benefit Deadline Extension for Psychological Disabilities  
DATE: February 22, 2016

### Summary of HF659 (O'Driscoll); SF588 (Pappas)

HF659 (O'Driscoll); SF588 (Pappas) amends Minn. Stat. § 352.113, subd. 2 and 4, by adding an appropriate application deadline cross-reference to the benefit application provision and permitting the Minnesota State Retirement System (MSRS) Board of Directors to provide a deadline extension for terminated MSRS-General employee of an additional 18 months, upon the employee's appeal to the Board after the Executive Director's unfavorable disability benefit ruling, if the terminated employee is determined to have a cognitive impairment that may have inhibited the employee's understanding of the initial 18-month deadline to apply for a disability benefit after termination.

### Background Information

The MSRS-General, the Public Employees Retirement Association general plan (PERA-General), and the Teachers Retirement Association (TRA) plan all specify time limits in which an individual may file a disability benefit application. All three general public pension plans require the individual to have terminated employment in order to submit an application for a disability benefit and to submit the application within 18 months after terminating employment. Those plans also require the individual to be totally and permanently disabled to qualify for a disability benefit, which means the individual must be incapable of performing any gainful employment. A disability benefit provides early payment of an unreduced retirement benefit based on the high-five salary and years of service of the employee at the time of termination.

MSRS-General has experienced several instances where an individual applying for a disability benefit was unaware of or did not understand the 18-month deadline due to a cognitive impairment. One instance in particular took place in during the 2009 legislative session where an individual sought special legislation to receive an application deadline extension due to a cognitive impairment. The individual was authorized to make a late disability application to MSRS-General. In order to avoid asking for future special legislation for cognitively impaired individuals, MSRS is asking for a deadline extension of an additional 18 months for cognitively impaired individuals who missed the initial 18-month deadline due to their impairment.

### Policy Considerations

HF659 (O'Driscoll); SF588 (Pappas) raises the following pension and public policy issues:

1. Appropriateness of Legislative Change. Providing the MSRS Board the ability to extend the disability benefit application for a cognitively impaired individual provides the Board with discretion that will limit the need for future special legislation to solve the problem. Although there have not been many cases of cognitively impaired individuals missing the deadline due to their impairments, the few cases that have occurred had to go through special legislation when it may have been in the best interest of all stakeholders, including the individual, to allow the MSRS Board to provide that extension. The MSRS Board is a more efficient and appropriate entity to provide deadline extensions for these special cases. The Board hears disability appeal cases more regularly than the legislature and therefore has more experience in determining the merits of a claim. The Board will be able to provide the individual with quicker relief and access to a benefit, if appropriate, than the legislative process will allow. The MSRS Board has fiduciary responsibilities and acts on behalf of the plan's members. It is in the plan's best interest to ensure that any deadline extensions are appropriate and necessary, especially by preventing fraudulent claims by individuals aware of the deadline extension and taking advantage of the situation or if the disability did not occur while employed as required. The MSRS Board is in a better position to ensure all qualifications are met and to prevent deadline extension requests that are without merit.
2. Uniformity Among the Other Public Pension Plans. If the proposed legislation is enacted, MSRS-General will provide a disability benefit application deadline extension that PERA-General, TRA, and the various public safety pension plans, i.e. State Patrol, PERA-Police & Fire, and the two Correctional plans, do not provide. Currently, all statewide public pension plans provide an 18 month application deadline for disability benefits, including duty-related disability benefits under the public safety plans. Enacting the proposed legislation could prompt the other plans to also ask for similar legislation if their respective Boards feel it would be beneficial and appropriate. Both PERA-General and TRA have had members ask for special legislation to extend the applicable disability benefit deadline and both plans, as well as the public safety plans, may have dealt with more cases than what the legislature has been presented with. If the current 18 month deadline requirement has been deemed appropriate for all general and public safety pension plans, then an argument could be made that an extension specifically for cognitively impaired applicants would also be appropriate for all general and public safety pension plans. On the other hand, just because 18 months has been deemed the appropriate deadline for all plans does not mean the respective governing Boards would agree that an extension would also be appropriate for each plan. The governing Boards for each plan should be consulted before any deadline extension legislation is proposed to ensure that the Board agrees that an extension is suitable for the applicable plan.

## **Technical Amendment**

Amendment H0659-1A. HF659 (O'Driscoll); SF588 (Pappas) was introduced in 2015 and the effective dates in the bill as introduced are July 1, 2015. The amendment revises those dates to July 1, 2016, to account for the passage of time since the bill was introduced.

## **Attachments**

- HF659 (O'Driscoll); SF588 (Pappas)
- Amendment H0659-1A