

## SF 2614 (Anderson); HF 2690 (Lueck): MSRS; Purchase of service credit for periods of military service

Prepared by: Susan Lenczewski, Executive Director

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### Introduction

**Affected Plans:** The following pension plans administered by the Minnesota State Retirement System (MSRS):

- General State Employees Retirement Plan
- Correctional State Employees Retirement Plan
- State Patrol Retirement Plan

**Laws Amended:** Minnesota Statutes, Sections 352.27, 352B.086, and 356.551, subdivision 2.

**Brief Description:** The bill expands the rights of members covered by the MSRS pension plans listed above to purchase service credit for periods of military service, beyond the rights that are already provided for in current law. Service credit is used to determine vesting and the amount of a member's accrued benefit, which is calculated by multiplying years of service by average final pay by a multiple, such as 1.7%. New sections are added to Chapter 352, governing the General Plan and the Correctional Plan, and to Chapter 352B, governing the State Patrol Plan.

### Background

A federal law known as the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) requires qualified retirement plans, including the State's pension plans for public employees, to permit members who take leave to perform service in the "uniformed services" the opportunity to pay the employee contributions not paid during the period of the leave and receive service credit for the period of the leave. USERRA imposes several requirements, including the following:

- The plan must permit payment of the missed employee contributions for a period that begins with the date of return to public employment and is the lesser of (i) three times the period of the military leave or (ii) five years.
- The plan is not required to give credit for more than five years of service or give credit for service prior to the start of the service member's public employment.
- The returning service member cannot be required to pay interest on the employee contributions.

- If the returning service member pays the missed employee contributions, the plan can require the employer to pay the missed employer contributions and interest on both the missed employee and employer contributions.

State law was amended to incorporate these USERRA requirements shortly after the federal law took effect.

Service credit is used in determining a member's vesting percentage and in calculating the member's pension benefit. Without the protections afforded by USERRA and the corresponding state law, when a member temporarily leaves employment to perform military service, the member's service for MSRS purposes is interrupted and the member loses service credit for the period of the leave taken to perform military service. USERRA and the corresponding state law provide a limited right to the member to pay the missed employee contributions and receive service credit for the period of military service.

For many years, legislators have heard from constituents who are members of the State's public pension plans and who find themselves in either of the following two situations, but still want credit under the public pension plan for the period of military service:

- The member returns to public employment after a period of military service and misses the deadline for making payment of the missed employee contributions (i.e., three times the period of the leave or, if less, five years after return to public employment).
- The member begins public employment after the period of military service, whether immediately or years later, and wants to purchase service credit for the period of military service, even though it did not occur during the period of public employment but occurred prior to the period of public employment.

Neither federal law nor current Minnesota law governing the MSRS pension plans requires providing returning military service members the right to purchase service for a period of military service in either of the two circumstances described above.

In 2019, legislators introduced a bill to provide members of the PERA pension plans the opportunity to purchase service credit in the circumstances described above. The new rights were added as a new section in Chapter 353 and the rights under current law were re-labeled "federally protected military leave." The Commission approved the bill and it was included in the 2019 omnibus pension and retirement bill, which was enacted.

In 2020, the Commission approved amendments to the new section added in 2019. These amendments added a requirement that a member must be employed with a public employer for at least six months to be eligible to purchase military service credit and clarified that a member may purchase service credit for less than the entire period of military service. If the period of service is longer than one year, the member may purchase the entire period, up to five years, or may purchase a portion of the service that is not less than one year and is in increments of six months.

SF 2614/HF 2690 amends statutes in the chapters governing the MSRS pension plans to mirror the provisions added and other changes made to the PERA statutes in 2019 and 2020.

## Section by Section Summary

**Section 1** amends Section 352.27 to make the following changes:

- Re-names the section to “Federally Protected Purchase of Service Credit for Periods of Military Service” to distinguish these rights from the expanded rights provided in new section 352.272.
- Extends the period during which a member can purchase service credit for a period of military leave so that the current one year minimum is extended to 3 years from the date of discharge.

**Section 2** adds new Section 352.272, which is titled “State-Authorized Purchase of Service Credit for Periods of Military Service.” This section provides a new expanded right to purchase service credit for a period of military leave. Under subdivision 1 of new Section 352.272, an employee who has been a member of the MSRS General Plan or State Correctional Plan for at least three years can purchase up to five years of service credit for the following periods of military service:

- Any period of military service before becoming a state employee. For example, if an employee begins working for the AG’s office at age 35 and had been in the military for 3 years starting when he or she was age 22, the employee can purchase service credit under the MSRS General Plan for those 3 years of military service, or
- The same service that could have been purchased under Section 352.27, except that the returning employee failed to meet the deadline for payment. In other words, the returning member did not pay the required employee contributions within the required payment period, which starts on the first day of return to employment and ends five years later or, if less, three times the length of the military leave.

The member can purchase the entire period of service, up to five years of service, or may purchase a portion of the period of service, in six-month increments, but not less than one year.

Subdivision 2 of new Section 352.272 requires the member to submit an application and pay an administrative fee of \$250 to cover the costs of calculating the cost of the service purchase. This fee will be applied toward the purchase.

Subdivision 3 of new Section 352.272 refers to Section 356.551 to determine the method for calculating the cost of the service purchase. Under Section 356.551, the cost to be paid by a member wanting to purchase service credit for a military leave is the greater of:

- The actuarial present value of the difference between the pension benefit with the years of military service included and the pension benefit without including the years of military service in the benefit calculation; or
- The sum of the employee contributions and employer contributions that would have been made for the period of the military service plus interest from the end of the year in which contributions would otherwise have been made to the date on which the payment is received by the plan.

The actuarial calculation, described in the first bullet, above, is to be done, under clause (2), paragraph (b), subdivision 2 of Section 356.551, to provide protection to the MSRS plan against an actuarial loss due to the employee retiring early with a subsidized early retirement benefit, dying, or becoming disabled prior to normal retirement age, or possible future changes to actuarial assumptions.

Subdivision 3 states that upon payment of the purchase amount, the member will be credited with the amount of the service credit purchased, except that the additional service will not be used for the purpose of determining a disability benefit. A member has until the date of his or her retirement to pay the purchase amount.

**Section 3** makes the same changes to Section 352B.086 as are made to Section 352.27 in Section 1, described above. Chapter 352B governs the State Patrol Plan.

**Section 4** adds new Section 352B.087, which is identical to new Section 352.272, described in Section 2, above, except references to sections in Chapter 352 are changes to references to sections in Chapter 352B.

**Section 5** amends Section 356.551 to insert references to new Sections 352.272 and 352B.087. See the summary in Section 3, above, of the actuarial calculation required under Section 356.551, subdivision 2, paragraph (b), clause (2), which is used to determine the cost to purchase credit for military service under the two new sections.

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