



Bill Draft LCPR25-031: Public Employees Retirement Association (PERA); Revising the Calculation of Withdrawal Liability; Applying the Privatization Requirements to All Governmental Entities

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Introduction

Affected Plan: PERA General Employees Retirement Plan (General Plan)

Laws Amended: All sections in [Chapter 353F](#)

Brief Description: The bill:

- expands the scope of Chapter 353F from applying only to medical facilities that privatize to applying to all governmental entities that privatize (*i.e.*, have a change in ownership that results in the entity becoming privately owned and no longer a governmental entity); and
- revises the process and method for calculating withdrawal liability owed to PERA when a governmental subdivision with employees covered by the PERA General Plan is privatized.

Background

Since 2020, PERA has sought legislation to update Chapter 353F and revise the method for determining “withdrawal liability.” When a public sector employer has a change in ownership such that it becomes a private sector entity, its employees can no longer participate in the governmental plan, in this case, the PERA General Plan. The employees continue to be entitled to receive the pension earned to the date of the privatization, but the employer leaves behind liability for the cost of those pensions when the plan is less than 100% funded.

Bills similar to LCPR25-031 were introduced and heard by the Commission in 2020 and 2024. In both years, the bills were adopted for possible inclusion in the pension omnibus bill, but for a variety of reasons did not end up being included in the omnibus bill.

History of Chapter 353F

The legislature added Chapter 353F to the Minnesota statutes in 1999 ([Laws 1999, Ch. 222, Art. 1](#)). As explained in the staff summary at the time:

“The intent is to ensure, to the extent possible, that the ex-PERA General covered employees will receive future retirement benefits from PERA General commensurate with prior contributions made by them or on their behalf.... As of the date of privatization..., the employees of the privatized organization are considered to be terminated employees for purposes of PERA General coverage. Terminated employees are eligible for a refund or a deferred annuity. Taking a refund terminates further rights under the plan. Those rights will not be restored unless the refund is repaid following subsequent employment by a public employer.... If a refund is not taken, the terminated employee qualifies for a deferred annuity.”

Chapter 353F covers only privatization of medical facilities (see [list of privatized employers in PERA’s 2024 Annual Comprehensive Financial Report](#)). Chapter 353F provides enhanced benefits to employees who leave public employment as a result of the privatization. Benefits originally included waiver of vesting requirements, requiring the use of post-privatization service to qualify for the Rule of 90, and enhanced augmentation rates. To obtain these benefits for employees, the privatized employer had to apply to PERA for approval and request a calculation within a year after the privatization transaction. The calculation determines the net gain or net loss to the PERA General Plan as a result of the privatization. PERA reports that since 1999, no calculation has resulted in a net loss. As a result, no medical facility has had to make a payment to PERA for its share of the plan’s unfunded liabilities because of the current calculation method.

Bill revises the calculation of withdrawal liability

The bill revises the method for calculating withdrawal liability so that the privatized employer’s unfunded benefit obligations are not transferred to the remaining members and employers. The new method requires the privatizing entity to pay a share of the plan’s unfunded liability in proportion to the present value of the privatized employees’ accrued benefits. The proposed calculation is:

Withdrawal liability = (present value of accrued benefits) - (present value of accrued benefits x the plan’s funding ratio)

This is a change from current law, which requires an assessment of whether there will be a net gain or a net loss to the Plan as a result of the privatization. If there is a net loss, the PERA board of trustees must decide whether to approve the privatization and, if they so approve, the privatized entity must pay PERA the amount of the net loss. The problem with this approach is that there never was a net loss using this calculation, so there was never any withdrawal liability required to be paid by the privatizing employer.

Bill expands coverage to more than just medical facilities

The PERA General Plan has many participating employers that could conceivably privatize and then would no longer be eligible to participate in the Plan. Employers participating in the PERA General Plan

that might be candidates some day for privatization include ambulance services, correctional facilities, water or sewage treatment facilities, cable or broadband networks, and nursing homes.

Expanding the scope of Chapter 353F will make it available and applicable to governmental subdivisions that are not medical facilities.

Section- by- Section Summary

Section 1: Purpose and Intent

Section 1 amends [section 353F.01](#), titled “Purpose and Intent,” to replace references to “medical facilities” or “medical facility” with “governmental subdivision.”

Section 2- 12: [Definitions](#)

Section 2 adds a new definition for “Association.”

Section 3 clarifies the definition of “Effective date of privatization” and replaces references to “medical facility” with “governmental subdivision.”

Section 4 adds a new definition for “Funding ratio,” which is the actuarial value of assets divided by the present value of accrued benefits and is used in the calculation of withdrawal liability.

Section 5 adds a new definition for “General employees retirement fund.”

Section 6 adds a new definition for “General employees retirement plan.”

Section 7 adds a new definition for “Governmental subdivision,” by referring to the definition of the same term in the definition section that applies to Chapter 353.

Section 8 revises the definition of “Privatization” to replace references to “medical facility” with “governmental subdivision.”

Section 9 adds a new definition for “Privatize” or “privatizing,” which means to engage in a transaction that results in a governmental subdivision ceasing to be a governmental subdivision.

Section 10 revises the definition of “Privatized former public employer” to shorten the term to “privatized employer” and replace a reference to “medical facility” with “governmental subdivision.”

Section 11 revises the definition of “Privatized former public employee” to shorten the term to “privatized employee” and to remove unnecessary language.

Section 12 adds a new definition for “Privatizing active employee,” which is the term used in calculating withdrawal liability under Section 353F.025 and means a privatized employee who was employed on the day before the effective date of the privatization.

Section 13: Withdrawal liability

Section 13 amends [section 353F.025, subdivision 1](#), by making changes to the existing process for calculating the withdrawal liability arising from the privatization of a governmental subdivision. The changes are:

1. An officer of a governmental subdivision that is privatizing is required to request a calculation of withdrawal liability from the executive director of PERA. The request must be made prior to privatization, and the governmental subdivision must agree to pay the cost of the calculation. Under current law, the privatizing employer may, but is not required to, request a calculation of net gain or net loss and the request must be within a year of the date of privatization.
2. PERA's actuary is required to calculate the withdrawal liability under a new methodology that requires the privatizing entity to pay a share of the plan's unfunded liability in proportion to the present value of the privatized employees' accrued benefits. The proposed calculation is:

$$\textit{Withdrawal liability} = (\textit{present value of accrued benefits}) - (\textit{present value of accrued benefits} \times \textit{the plan's funding ratio})$$

This is a change from current law, which requires an assessment of whether there will be a net gain or a new loss to the Plan as a result of the privatization. If there is a net loss, the PERA board of trustees must decide whether to approve the privatization and, if the board approves, the privatized entity must pay PERA the amount of the net loss.

New subdivision 1a requires the privatized employer to pay PERA the withdrawal liability within six months of the privatization or may elect to pay the withdrawal liability with interest in installments for no longer than 10 years.

Sections 14- 24: Incorporating new definitions and removing obsolete language

Sections 14-24 amend the rest of Chapter 353F to replace current terms with new defined terms and remove obsolete language.

Section 25: Repeal of Section 353F.02, subdivision 4a

Section 25 repeals as obsolete the definition of "medical facility" in subdivision 4a of section 353F.02, the definitions section.

Effective date:

All sections in the bill are effective July 1, 2027.