



## SF xxxx; HF 2386 (O'Driscoll): Public Employees Retirement Association 2025 Administrative Bill

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### Introduction

**Affected Plans:** Pension and retirement plans administered by the Public Employee Retirement Association (PERA); General Employees Retirement Plan (General Plan), Public Employees Police and Fire Retirement Plan (P&F Plan), Local Government Correctional Service Retirement Plan (Correctional Plan), and the PERA Defined Contribution Plan (DC Plan)

Sections 15–16 apply to the statewide pension and retirement plans and St. Paul Teachers Retirement Fund Association (SPTRFA)

**Laws Amended:** Minnesota Statutes, sections [353.01](#), [353.028](#), [353.34](#), [353D.02](#), [353E.06](#), and [356.636](#)

**Attachment:** [Amendment H2386-1A](#)

### General Summary

SFxxxx/[HF 2386](#) makes the following changes to current statutes:

- The bill revises PERA's eligibility provisions to clarify that public employees must participate in the General Plan if the employee is expected to exceed the monthly salary threshold of \$425.
- The bill revises subdivisions in Sections 353.01, 353.028 and 353D.02 to clarify when certain retirement plan election periods begin and when the related membership election forms must be received by PERA.
- The bill revises the statute that defines the duty disability benefit for members of the Correctional Plan to incorporate into the calculation of the benefit amount the 2.2% multiplier that was added by legislation in 2024 legislation and applies to years of service after June 30, 2025.

As described in more detail below, two statutes amended in the bill create ambiguity and so are further amended by Amendment H2386-1A. The -1A amendment is explained at the end of this memo.

## Section- by- Section Summary

### Sections 1 and 2: Monthly Salary Threshold Clarification

**Sections 1** amends Section 353.01, subdivision 2a, which describes the circumstances under which a public employee must participate in the General Plan, P&F Plan, or Correctional Plan, as applicable.

**Sections 2** amends Section 353.01, subdivision 2b, which describes the circumstances under which a public employee is not eligible to participate in the General Plan, P&F Plan, or Correctional Plan, as applicable.

Both sections 1 and 2 are amended to clarify that participation in the General Plan is determined by whether the public employee's salary is expected to exceed \$425 in a month. If the public employee is expected to make more than \$425 in a month, the employee must participate in the General Plan. Conversely, if the employee's salary is not expected to exceed \$425 in a month, then the employee is not eligible to participate in the General Plan.

In 2023, PERA returned from an annual salary threshold to a monthly salary threshold to determine eligibility in the General Plan. The previous language required mandatory membership if the member exceeded the set annual salary threshold amount. Since the law change, PERA administers the statute by requiring mandatory membership if an employee is expected to meet the monthly threshold. PERA seeks to amend section 353.01 to mirror PERA's practices and provide clarity for members, employers, and PERA.

### Section 3: General Plan Election Period and Timing to File Membership Election Form for Certain Elected Public Officials

**Section 3** amends section 353.01, subdivision 2d, paragraph (a), clause (2), which provides the election period and method of making an election for certain elected officials who opt to participate in the General Plan.

Under Minnesota Statutes, section 353D.02, local government officials have a 30-day period to elect participation in the PERA DC Plan. However, the statutes do not state a period for these public officials to opt in to the General Plan. Therefore, section 3 adds the 30-day election period and prescribes how the election should be made (i.e., by completing and signing a membership election on a form prescribed by the executive director of PERA). Section 3 also includes a 60-day period for the membership election to be filed with PERA. The election period and filing period start the day the individual takes office.

### Sections 4 and 5: Timing to File Election of Exclusion from General Plan and Agreement to Contribute to DC Plan for City Managers

**Sections 4** amends section 353.028, subdivision 2, which allows for a city manager to make a onetime, irrevocable election to be excluded from the General Plan. Section 4 adds that the election of exclusion must be filed with PERA within 60 days commencing employment, which allows the employer 30 days to submit the election of exclusion after the 30-day election period.

Currently, section 353.028, subdivision 2, also states that contributions made during the first 30 days of employment be refunded or credited if the person exercises the option to be excluded. Section 4, amends “30 days” to “60 days” to be consistent with the 60 days to file the election of exclusion.

**Section 5** amends section 353.028, subdivision 3, which states that if a city manager elects to be excluded from the General Plan under subdivision 2, then the city manager and the governing body of the city may agree that the employer contribution that would have been contributed to the General Plan by the city may instead be contributed to a deferred compensation plan under Internal Revenue Code section 457, such as the Minnesota Deferred Compensation Plan, or to the PERA DC Plan. The agreement must be entered into within 30 days following the commencement of employment. Section 5 adds that the election of exclusion—along with the agreement—must also be entered into within 30 days following the commencement of employment.

## **Section 6: Right to a Refund**

**Sections 6** amends section 353.34, subdivision 5, by adding the phrase “[n]otwithstanding section 356.65” before describing that the right to a refund of accumulated employee deductions is not restricted as to time “unless specifically provided and the statute of limitation does not apply thereto.” Even before the insertion of the “notwithstanding” phrase, this subdivision was less than clear as to whether there is any time limit on a former employee’s right to a refund of employee contributions. Amendment H2386-1A, summarized at the end of this memo, clarifies that the amount of the refund is held indefinitely as part of plan assets but is available in the future whenever the former employee requests it.

## **Sections 7- 13: DC Plan Election Period and Timing to File Membership Election Form**

**Sections 7-13** amends section 353D.02, subdivisions 1-7, which give certain categories of employees the right to elect to participate in the DC Plan and describe the process for making that election. By subdivision, these are the categories of employees eligible to elect to participate in the DC Plan:

- Subdivision 1: local government officials
- Subdivision 2: eligible physicians
- Subdivision 3: eligible ambulance service personnel
- Subdivision 4: eligible rescue squad personnel
- Subdivision 5: St. Paul Port Authority personnel
- Subdivision 6: city managers
- Subdivision 7: certain volunteer firefighters

Sections 7–13 revise each subdivision to either amend or add a 60-day period for the membership election to be filed with PERA and to clarify that the 30-day election period and 60-day filing period begin when the individual takes office or commences employment (whichever is applicable).

## Section 14: Disability Benefit Multiplier

**Sections 14** amends section 353E.06, subdivision 1, which explains how to calculate a duty disability benefit under the Correctional Plan. Currently, the disability benefit is an amount equal to 47.5% of average salary plus 1.9% for each year of covered service in excess of 25 years. The 2024 Pension and Retirement Policy and Supplemental Budget Bill increased the multiplier used to calculate a retirement annuity under the Correctional Plan from 1.9% of pay to 2.2%, which applies to years of service earned after June 30, 2025. Section 14 updates the multiplier for calculating the duty disability benefit from 1.9% to 2.2% to incorporate the multiplier change made in 2024. The 2.2% multiplier is only applicable for years of covered service after June 30, 2025.

## Sections 15 and 16: Pension Fund Correction of Errors

**Sections 15** amends section 356.636, subdivision 2, which authorizes the executive director of each of the pension funds to take action to correct any “operational, demographic, or employer or employee eligibility error, or an error in a plan document that is not a statute.” The bill deletes the phrase “demographic or employer or employee eligibility” and inserts “by a pension fund” after “error.”

PERA, working with Commission staff, determined that these changes were necessary because:

1. Demographic errors do not occur in a governmental pension plan because the Internal Revenue Code sections under which these errors might occur do not apply to governmental pension plans.

The Internal Revenue Service’s correction program, called the Employee Plans Compliance Resolution System, defines “demographic failure” as follows:

Demographic Failure. The term “Demographic Failure” means a failure to satisfy the requirements of section 401(a)(4), 401(a)(26), or 410(b) that is not an Operational Failure or an Employer Eligibility Failure.

Code sections 401(a)(4), 401(a)(26), and 410(b) do not apply to governmental pension plans.

2. Employer or employee eligibility errors may be caused by an employer and any correction of such an error would require action by the employer, not the pension fund. For example, if an employer fails to deduct employee contributions and make employer contributions on behalf of an employee who the employer mistakenly thinks is not eligible to participate in the PERA General Plan, the employer needs to correct that error by paying in the missed employee and employer contributions.

The deletion of the phrase “demographic or employer or employee eligibility,” however, could be interpreted as not permitting executive directors to correct employer or employee eligibility errors if the pension fund caused the error. That was not the intent so Amendment H2386-1A, summarized at the end of this memo, clarifies that the executive directors have the authority to correct any errors caused by the pension fund. The errors that can be corrected are not limited to the type of error but rather whether the error can be corrected by the executive director because the error was made by the pension fund.

**Sections 16** amends section 356.636, subdivision 3, which requires the executive director of each pension fund to submit an annual report to the Commission that describes any operational, demographic, eligibility, or plan document errors corrected during the prior calendar year. Section 16 revises this reporting requirement by stating that the annual report does not need to include demographic or employer or employee eligibility errors.

This section is also amended by Amendment H2386-1A to delete “operational” and replace it with “error” so that any type of error that the executive director corrects in the prior calendar year will be included in the report.

## Effective Dates

Sections 1-5 and 7-13 are effective July 1, 2025.

Sections 6 and 14-16 are effective the day following final enactment.

Section 9 does not have an effective date, so Amendment H2386-1A adds an effective date of July 1, 2025.

## Amendment H2386- 1A

Amendment H2386-1A makes changes to sections 6, 9, 15, and 16 of the bill, as follows:

Lines 1.2-1.4 of the amendment revise section 6 of the bill so that all that will remain of section 353.34, subdivision 5, is a clear statement that the right to a refund of employee contributions is not restricted as to time (see additional explanation of section 6 on page 3).

Lines 1.5 and 1.6 of the amendment add an effective date of July 1, 2025, to section 9 of the bill. This is the same effective date for all similar changes to the PERA Defined Contribution Plan.

Line 1.7 of the amendment deletes “operational” and adds in “made” so that the first two lines of section 15 of the bill will read:

*Subd. 2. Correction of errors. (a) The executive director of a pension fund may correct an error made by a pension fund...*

This allows the executive director to correct any error made by the pension fund by removing the references to specific types of errors and clarifying that the error may be corrected if the error was made by the pension fund (see additional explanation of section 15 on page 4 and above).

Line 1.8 of the amendment deletes “operational” and replaces it with “error.” This brings the reporting requirement into conformity with the changes made in section 15, as amended by the H2386-1A amendment, by not specifically listing the types of errors that can be corrected by the executive director.