

2022 Senate Pension and Retirement Omnibus Policy Bill: SF3540-Rosen, 2nd Engrossment, as passed by the Senate

General Summary

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Introduction

The Legislative Commission on Pensions and Retirement (LCPR) met seven times in 2022, including five times during the legislative session. The LCPR considered sixteen bills and, during the review process, approved many amendments. Fourteen bills, many with amendments, were approved for inclusion in the 2022 Pension and Retirement Omnibus Policy Bill.

The bill was amended and passed by the Senate on May 9, 2022. This memo summarizes the bill as passed by the Senate, in the form of Senate File 3540, 2nd engrossment.

Article- by- Article Summary

Article 1: Minnesota State Retirement System (MSRS)

Sources: *SF2591-Osmek/HF2964-Hertaus*
SF2614-Anderson/HF2690-Lueck
SF3499-Rarick/HF3704-Sundin
SF3556-Frentz/HF3671-Frederick
SF3872-Draheim/HF4186-Pfarr
Senate State Government Committee Amendment S3540-5A

Article 1 amends statutes applicable to retirement plans administered by the Minnesota State Retirement System (MSRS) and includes uncodified session laws that impact MSRS plans.

Purchase of Service Credit for Periods of Military Service

Sections 1, 2, 4, 5, and 7 expand the rights of members covered by the MSRS General, Correctional, and State Patrol plans to purchase service credit for periods of military service, beyond the rights that are already provided for in current law. Under the bill, a member may purchase up to five years of service credit for qualifying military service that occurs prior to public employment or between periods of public employment, if not purchased under the federally protected right 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%.

Correctional Plan Coverage for Residential Program Leads and Dental Hygienists

Section 3 adds two positions to the list of positions eligible for membership in the MSRS Correctional Plan. Current law provides that certain positions in the Department of Human Services (DHS) at the security hospital in St. Peter and in the Minnesota Sex Offender Program are eligible for coverage by the Correctional Plan. An individual in one of these positions is covered by the Correctional Plan if DHS annually certifies that the individual spends at least 75% of working time in direct contact with patients or inmates. Section 3 adds Residential Program Lead and Dental Hygienist to the list of DHS positions eligible for coverage by the Correctional Plan.

Section 8 is a session law that permits employees currently in the positions of Residential Program Lead and Dental Hygienist, who are eligible to join the Correctional Plan, to transfer their prior eligible service from the MSRS General Plan to the Correctional Plan.

Factors for Computing an Annuity under the MSRS Unclassified Plan

Section 6 extends for one more year the use of more generous pre-2017 factors in converting an account to an annuity for employees of the legislature covered by the Unclassified Plan. Under current law, employees must retire before July 1, 2022, to have their annuity calculated using the more generous factors. Section 6 amends current law by adding a new paragraph that provides that the pre-2017 factors will apply in calculating an annuity benefit for any Unclassified Plan participant who:

- terminates employment on or after June 1, 2021, and before July 1, 2023;
- is an employee of the House of Representatives, the Senate, or the Legislative Coordinating Commission; and
- on June 30, 2020, was at least age 63 or had at least 26 years of covered service.

Bills for Single Individuals

Occasionally, an individual's pension benefit is adversely affected due to a mistake made by the individual's employer or the pension plan or the individual's circumstances result in an inequitable outcome under current law. The Legislature addresses these issues through special legislation that benefits a single individual. The last two sections of Article 1 are session laws that modify applicable law to benefit two individuals:

- Section 9 permits the surviving spouse of a deceased state employee to purchase one month of service credit, making her eligible for an annuity death benefit.
- Section 10 permits a Department of Corrections employee to transfer prior service credit from the General Plan to the Correctional Plan after it was discovered that her employer misreported the employee as covered by the General Plan when she was eligible for the Correctional Plan.

Article 2: Public Employees Retirement Association (PERA)

*Sources: SF2810-Benson/HF3266-Bahr
SF4270-Rarick/HF4139-Olson, L.*

Article 2 amends statutes applicable to retirement plans administered by the Public Employees Retirement Association (PERA).

Duluth Transit Authority

Sections 1 and 4 of Article 2 address the retirement benefits of employees who provide services to the Duluth Transit Authority (DTA) and will become employees of a governmental subdivision when the DTA acquires a private contractor. Since 1969, the DTA has contracted with a private corporation to provide the employees and administrative services needed to run the transit system. The DTA is in the process of acquiring that company, which will cause the employees to become public employees and members of the PERA General Plan.

The company's union employees are covered by a national multiemployer pension plan and cannot terminate participation in that plan without the DTA incurring millions of dollars in withdrawal liability. Section 1 exempts the union employees from participation in the PERA General Plan.

Section 4 is a session law that provides the non-union employees with vesting credit for past service with the DTA. These employees will be required to participate in the PERA General Plan when they become public employees.

Segmented Annuities

Sections 2 and 3 of Article 2 restores segmented annuities for members of PERA who have had a break in public employment and provides for retroactive implementation for members who have retired since the provision was repealed in 2018. Segmented annuities apply only to members who ceased employment covered by the PERA General Plan before January 1, 2012, and had a lengthy break in service before returning to covered employment.

Article 3: Retired Teacher Earnings Limitations

Source: SF2913-Bigham/HF4012-Masin

Article 3 consists of a single section that is a session law that permits retired teachers who resume teaching at a public school, charter school, or the Perpich Center for Arts Education to teach without application of an earnings limitation. Application of the earnings limitation would otherwise cause pension payments to be deferred or forfeited. The earnings limit resumes after the year 2024.

Article 4: Volunteer Firefighter Retirement

*Sources: SF3048-Duckworth/HF2610-Rasmusson
SF3540-Rosen/HF4017-Nelson, M.
SF3402-Bigham/HF3777-Huot
Senate State Government Committee Amendment S3540-4A*

Article 4 amends statutes applicable to retirement plans for volunteer firefighters and repeals four subdivisions. Statutes amended or repealed appear in Chapter 353G, which applies to the Statewide Volunteer Firefighter Plan administered by PERA, or Chapter 424A, which applies to volunteer firefighter relief associations.

Statewide Volunteer Firefighter Plan

Sections 1-9 of Article 4 amend the Statewide Volunteer Firefighter Plan (SVF Plan) to make the following changes:

- The SVF Plan will now offer volunteer firefighter relief associations three alternative vesting schedules from which to choose when they join the SVF Plan.
- If a firefighter retires within the first five years after the firefighter's relief association has joined the SVF Plan, the firefighter's retirement benefit will be calculated using the benefit level in effect, rather than reverting to the benefit level in effect at the time the relief association joined the SVF Plan, as required under current law. ("Benefit level" is the amount, such as \$1,000 or \$1,500, that is multiplied by years of service to determine a firefighter's retirement benefit.)
- Definitions and the procedures for joining the SVF Plan have been updated, reorganized, and revised for clarity and to remove redundant words and phrases.

Volunteer Firefighter Relief Associations

Sections 10-26 make several changes to the provisions governing volunteer firefighter relief associations. These changes were recommended by the State Auditor's Volunteer Fire Relief Association Working Group, except for provisions that were amended by the Commission. The changes include the following:

- Repeals requirements for determining the maximum benefit level (i.e., monthly amount per years of service or lump sum amount per years of service) that a relief association is permitted to include in its bylaws, including:
 - the requirement that the relief association calculate the "average amount of available financing per active covered firefighter," and
 - the tables used to determine the "maximum service pension" (separately for monthly and lump sum relief associations) permitted to be included in the bylaws of a relief association, which lists each level of "maximum service pension" that corresponds to a level of "average amount of available financing per active covered firefighter;"
- Modifies the limit on the maximum benefit level to be the lesser of a dollar amount (\$15,000 per year for lump sum plans or \$100 per year for monthly plans) or the limit determined under

section 424A.092 (for lump sum plans) or section 424A.093 (for monthly plans), which applies if a bylaws amendment increasing the benefit level is not ratified by the affiliated municipality;

- Adds a requirement that the State Auditor provide notice and the opportunity to correct a violation that occurs when a relief association pays a pension that exceeds the maximum pension amount, and requires the State Auditor to disqualify the relief association from receiving fire state aid;
- Permits relief associations to pay a pension benefit to an “alternate payee” under a qualified domestic relations order and allows relief associations to amend their bylaws to pay the benefit to an alternate payee immediately, rather than wait until the firefighter reaches age 50;
- Permits a supplemental benefit to be paid for each distribution from a relief association, subject to a separate \$1,000 maximum, and thereby authorizes the Department of Revenue to reimburse relief associations and the PERA Statewide Volunteer Firefighter Plan for these benefits (according to the Department of Revenue, as of March 30, 2022, *“The SBR [Supplemental Benefit Reimbursement] pending claims for aids payable 2019 through 2022 is about \$4,300, and that this is for five claims for two volunteer relief associations and three entities in the PERA statewide plan.”*); and
- Requires the State Auditor to provide an investment report to each relief association comparing the relief association’s investment performance to the performance of the State Board of Investment’s Balanced Fund, which must be reviewed and certified as having been reviewed by the relief association’s board of trustees when it files its financial statements with the State Auditor.

Article 5: Advanced Practice Registered Nurses (APRNs)

Source: SF2546-Pappas

Article 5 incorporates Advanced Practice Registered Nurses (APRNs) into the disability statutes in the chapters that govern MSRS, PERA, Teachers Retirement Association (TRA), and St. Paul Teachers Retirement Fund Association (St. Paul Teachers).

Advanced Practice Registered Nurse (APRN) is a category of health care professional licensed by the Minnesota Board of Nursing to provide an expanded scope of nursing, including assessment, diagnosing, and prescribing, as a clinical nurse specialist, nurse midwife, nurse practitioner, or registered nurse anesthetist. Article 5 inserts a definition of “APRN” into each definition section and inserts “APRN” into the lists of professionals permitted to perform assessments and submit reports in the disability determination process.

The sections amend the following chapters and affect the following pension funds or plans:

- Sections 1-3 amend Chapter 352, which governs the MSRS General and Correctional Plans;
- Sections 4-5 amend Chapter 352B, which governs the MSRS State Patrol Plan;
- Sections 6-8 amend Chapter 353, which governs the PERA General, Police and Fire, and Correctional Plans;
- Sections 9-12 amend Chapter 354, which governs TRA; and

- Sections 13-17 amend Chapter 354A, which governs St. Paul Teachers (these sections also make several changes to clarify language and conform it to current operation).

Article 6: State Board of Investment

Source: SF3542-Rosen/HF4018-Nelson, M.

Article 6 consists of six sections that make administrative changes necessary for certain investment professionals employed by the State Board of Investment (SBI) to be compensated according to the SBI's compensation plan, which was approved in 2019.

Article 7: Study of Police, Firefighter, and State Trooper Disability Benefit Adequacy

Source: SF1457-Jasinski/HF1577-Koznick, Senate floor amendment scs3540a-1

Article 7 consists of a single section that is a session law that requires the Department of Labor and Industry (DLI) to study the adequacy of current benefits for disabled or injured police officers, firefighters, and state troopers, including consideration of workers compensation, disability, and pension benefits. The report must be issued no later than January 15, 2023.

Senate floor amendment. Article 7 was amended on the Senate floor to revise the description of the study to match the description of a similar study funded with a \$175,000 appropriation in the Senate omnibus jobs, energy and commerce policy and supplemental appropriations bill, SF 4091, 4th Engrossment, Article 2, Section 2, paragraph (a). The amendment expands the scope of the study to include firefighters and state troopers, in addition to police officers.

Article 8: Technical Clarifications and Corrections

Source: LCPR Amendment S3540-3A, Senate floor amendment ss3540a50

Article 8 consists of 21 sections that amend current statutes by making changes that are of a technical nature, such as correcting errors and cross references, clarifying ambiguous language, and updating outdated language or references. One notable provision, section 11, revises the definition of "deferred compensation plan" in Section 356.24, subdivision 3, to clarify that:

- the plan administrator of a 457(b) plan and the vendor of a 403(b) plan are responsible for providing required investment fund performance and fee information to participants and the Commission annually, a condition that must be satisfied to contribute public funds to the 457(b) or 403(b) plan, as a supplemental plan under this statute; and
- contributions deducted from an employee's paycheck for sick, vacation, or severance pay are not subject to the match limits in paragraph (f) of this subdivision.

Senate floor amendment. Section 11 was amended on the Senate floor to change the disclosure requirement as it relates to "vendors." Vendors include insurance companies, which offer fixed and

variable annuities that are marketed to teachers as 403(b) plans. These plans are like 401(k) plans, but without the protections of federal law known as ERISA.

The amendment makes two changes for the benefit of the insurance companies offering these investments:

- The amendment revises the language in the bill to exclude participants in “fixed annuity contracts” from receiving the disclosure; and
- The amendment revises the disclosure requirement to permit vendors to satisfy the disclosure requirement by delivering, by each July 1, the currently effective SEC summary prospectus or the information required by Department of Labor regulations promulgated pursuant to ERISA section 404(a). We understand that summary prospectus requirements are set forth in regulations recently issued by the Securities and Exchange Commission aimed at disclosure of fees and other information relating to variable annuities.