

HF 1234 (Her/Frentz), Fourth Engrossment: Modifying disability benefits under the Police and Fire and State Patrol Plans, requiring psychological condition treatment, and providing one-time funding

Prepared by: Susan Lenczewski, Executive Director

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Introduction

- Affected Plans:** Minnesota State Retirement System (MSRS) State Patrol Plan
Public Employees Retirement Association (PERA) Police and Fire Plan
- Laws Amended:** Sections in Minnesota Statutes, Chapters 299A, 352B, 353, and 626
- Brief Description:** The bill does the following:
- establishes new treatment requirements for a psychological condition before a police officer, firefighter, or State Patrol officer will be eligible for duty disability benefits from the Police and Fire Plan or the State Patrol Plan;
 - provides for reimbursement of public employers from the public safety officer's benefit account for the costs of the treatment and continued pay and benefits during the period of treatment;
 - provides for reimbursement of the Department of Public Safety, PERA, and MSRS from the public safety officer's benefit account for administrative costs;
 - increases the total and permanent duty disability benefit for both the State Patrol Plan and the Police and Fire Plan and modifies the offset for employment earnings for a duty disability benefit for the Police and Fire Plan;
 - shortens the vesting period for the Police and Fire Plan from 10 to 20 years (in increments of 5% from 50% to 100%) to 5 to 10 years (in increments of 10% from 50% to 100%);
 - transfers \$100 million in FY 2024 from the general fund to the public safety officer's benefit account; and
 - transfers \$4 million in FY 2024 from the general fund to the MSRS and PERA psychological condition treatment accounts.

Section- by- Section Summary

Changes to provisions governing the Public Safety Officer's Benefit Account

The public safety officer's benefit account is established by Section 299A.42 and is administered by the commissioner of public safety. The account funds death benefits to survivors of public safety officers and reimbursement of public employers for continued health insurance when a public safety officer is on duty disability or is killed in the line of duty.

Section 1 amends Section 299A.42 to add an annual reporting requirement. The commissioner of public safety is required to report annually to the chairs and ranking minority members of the legislative committees with jurisdiction over public safety and pensions regarding the financial status of the account and, if the commissioner expects there will be insufficient funds to fund all anticipated reimbursement requests, to inform the legislature of the amounts necessary to fund all requests.

Section 2 amends Section 299A.465, subdivision 4, to expand the costs for which a public employer may request reimbursement to include the costs of providing psychological condition treatment and pay and benefits during the period of treatment, in addition to the costs of continued health insurance coverage that are reimbursed under current law. New paragraph (b) states that a public employer will not receive reimbursement of the foregoing costs unless the employer provides annual wellness training or an employee assistance program or peer support program. New paragraph (c) describes the requirements for the wellness training.

Changes to disability benefits under the State Patrol Plan

Sections 3 to 9 amend Sections 352B.011, 352B.10, and 352B.101, which govern the State Patrol Plan, to make the following changes:

- provide that a member of the State Patrol Plan will continue to be a member of the Plan even if the member becomes disabled due to a psychological condition and is transferred to a position that is not covered by the State Patrol Plan;
- add a definition for total and permanent duty disability and define the benefit for total and permanent duty disability as 99% of the member's average monthly salary; and
- make completion of the new psychological condition treatment a condition of eligibility for duty disability benefits based on a psychological condition and make other conforming changes.

Section 12 amends Section 352B.105 to exclude total and permanent disability from the requirement that disability benefits convert to a retirement annuity when the member reaches retirement age.

Psychological condition treatment ¹

Sections 10 and 19 add nearly identical new sections to Chapter 352B, for members of the State Patrol Plan, and Chapter 353, for members of the Police and Fire Plan, respectively. New sections 352B.102 and 353.032 require up to 24 weeks of psychological condition treatment as a condition of eligibility for duty disability. The specifics of the application and treatment process are laid out in 12 subdivisions in each of these sections.

The psychological condition treatment would be at the direction of a mental health provider who would report on the employee's progress and prognosis. A current employee would receive full salary and benefits during treatment. Treatment costs would be paid for by the employer. The employer could then seek reimbursement for these costs from the public safety officer's benefit account administered by the commissioner of public safety.

At the end of the 24 weeks, one of three determinations would be made:

- (1) the employee would be approved to continue treatment for 8 additional weeks;
 - (2) the employee would end treatment because it is determined the employee is able to return to work full time in the position they held at the time of injury or an equivalent position; or
 - (3) the provider would confirm that the employee successfully completed treatment, at which point the employee could apply for duty disability benefits under existing law.
- Subdivision 8 has a "treatment data" provision limiting when data that is a health record arising from treatment sought under this section can be disclosed or shared.
 - Subdivision 11 requires the executive director of MSRS or PERA, as applicable, to submit a report four years after enactment of the bill to the chairs and ranking minority members of the legislative committees with jurisdiction over labor and pensions regarding the impact of the new requirements on public safety duty disability trends and costs.
 - Subdivision 12 provides that nothing in the psychological condition treatment section will affect the procedures for workers compensation.

Sections 11 and 20 add nearly identical new sections to Chapter 352B, governing the State Patrol Plan, and Chapter 353, governing the Police and Fire Plan, respectively. New sections 352B.103 and 353.033 establish "psychological condition treatment accounts" for MSRS and PERA, respectively. The accounts will cover the costs incurred by MSRS and PERA to administer psychological condition treatment. Subdivision 3 of each section states that when the account is depleted, the executive directors of MSRS or PERA, as applicable, may invoice the commissioner of public safety for these administrative costs and the commissioner must pay the invoices within 30 days.

¹ Marta James, Legislative Analyst, House Research, prepared most of this summary of the psychological condition treatment provisions.

Vesting for members of the PERA Police and Fire Plan

Under current law, Section 353.01, subdivision 47, members of the Police and Fire Plan who first became a member after June 30, 2010, vest in their pension benefit over a 20-year period. Members are 0% vested until they have 10 years of service, at which point they become 50% vested in their pension benefit. Vesting increases by 5% for each year of service until the member has 20 years of service, at which point a member is 100% vested.

Section 13 shortens the vesting period to 50% after 5 years of service, increasing in increments of 10% until the member has 10 years of service, at which point the member becomes 100% vested. This vesting change applies to all members and former members of the Police and Fire Plan following final enactment of the bill (who first became a member after June 30, 2010; members who became a member before July 1, 2010, become 100% vested after three years of service).

Changes to disability benefits under the Police and Fire Plan

Sections 14 to 18 amend Section 353.031, which governs disability benefits for members of the Police and Fire Plan. The changes make completion of the new psychological condition treatment a condition of eligibility for duty disability benefits based on a psychological condition and make other conforming changes.

Section 15 also adds a deadline by which employers must provide a report to the PERA executive director regarding whether there is any available work for the applicant and whether all reasonable accommodations have been considered.

Section 17 clarifies the requirements in current law regarding the need to provide proof that the claimed disability is ongoing. More specificity is provided for this “reapplication” process, including when reapplication will be required, i.e., annually for the first five years of disability payments and every three years thereafter. New paragraph (c) states that if a person’s reapplication is denied, the person bears the burden of providing eligibility on appeal.

For a summary of Sections 19 and 20, see above under the heading “Psychological condition treatment.”

Section 21 adds a new subdivision 2 to Section 353.335 which will exempt recipients of disability benefits from the Police and Fire Plan from having to report workers’ compensation to the executive director. Under current law, all recipients of a disability benefit from any of the PERA pension plans must report earnings from reemployment and workers’ compensation to the association annually unless this requirement is waived.

Section 22 makes conforming and clarifying language changes to Section 353.656, subdivision 1, which governs eligibility and benefit amount for duty disability benefits.

Section 23 changes the benefit amount for total and permanent duty disability benefits under Section 353.656, subdivision 1a. Instead of a benefit equal to 60% of average high five salary plus an additional 3% of salary for each additional year of service in excess of 20 years, a member who is approved for a total and permanent disability benefit will receive 99% of average high five salary. The change applies to

members who are currently receiving a total and permanent disability benefit, except that the new benefit amount cannot be less than the benefit amount the member was receiving on June 30, 2023.

Section 24 amends Section 353.656, subdivision 1b, to clarify language and incorporate the change in the amount of a total and permanent duty disability benefit.

Section 25 makes conforming and clarifying language changes to Section 353.656, subdivision 3, which governs eligibility and benefit amount for regular disability benefits.

Section 26 makes conforming and clarifying language changes to Section 353.656, subdivision 3a, which governs eligibility and benefit amount for total and permanent regular disability benefits.

Section 27 makes changes to Section 353.656, subdivision 4, that will apply to members who begin disability benefits or are required to reapply for disability benefits on or after July 1, 2023. If a member is receiving disability benefits and is able to go back to work, the member's disability benefit will be reduced each year until normal retirement age by the sum of (1) and (2), but not below \$0:

- (1) one dollar for each dollar of reemployment earnings, but not more than the lesser of (i) and (ii), and not to exceed the employee contribution rate (currently 11.8%) times the member's average high five salary at the time of disability, where (i) is the employee contribution rate times average high five salary times the difference between 20 (for duty disability) or 15 (for regular disability) and the member's years of service, divided by 55 minus the member's age at the time of disability, and (ii) is 50% of the member's yearly reemployment earnings; and
- (2) one dollar for every two dollars, up to 125% of the base monthly salary currently paid by the employer for similar positions, and one dollar for every dollar by which the sum of the disability benefit plus monthly reemployment earnings exceeds 125% of the base monthly salary currently being paid by the employer for similar positions.

Item (1), however, applies only if a member receiving duty disability benefits had less than 20 years of service or a member receiving regular disability benefits had less than 15 years.

New paragraph (d) states that neither the offsets under current law nor the offsets under the new offset provisions described above apply to a member receiving total and permanent disability benefits.

The effective date for Section 27 is July 1, 2023, except that a member's disability payments will not be reduced by the new offset provisions until January 1, 2024.

Section 28 updates language in Section 353.656, subdivision 6a, regarding survivor benefits.

Section 29 updates language in Section 353.656, subdivision 10, regarding when disability benefits are permitted to begin.

New wellness training and recordkeeping requirements

Section 30 adds a new section 626.8478 to Chapter 626 (titled "Peace Officers, Searches, Pursuit, Mandatory Reporting"), which requires the Board of Peace Officer Standards and Training to create learning objectives that will be used by the commissioner of public safety to create a wellness training

course. State and local law enforcement agencies are required to provide pre-service and in-service wellness training and maintain records of compliance with the training requirements. As noted above, providing wellness training is one alternative to satisfying prerequisites to reimbursement from the public safety officer's benefit account for the continued health insurance.

One- time funding

Section 31 provides for a transfer of \$1 million to the MSRS psychological condition treatment account established by Section 11 of the bill and \$3 million to the PERA psychological condition treatment account established by Section 20 of the bill.

Section 32 provides for a transfer of \$100 million from the general fund to the public safety officer's benefit account for the following uses:

- administrative costs of the department of public safety to administer reimbursements from the account and the costs to implement and administer the wellness training required by Section 30 of the bill;
- administrative costs of MSRS and PERA to administer the new disability application requirements, following depletion of each fund's administrative account established by Sections 11 and 20 of the bill; and
- reimbursement of public employers for psychological condition treatment, pay and benefits during the period of treatment, and continued health insurance for members on duty disability.

If the account does not have enough funds to cover all administrative costs and reimbursements, the hierarchy for applying the remaining funds is, first, costs of MSRS and PERA, second, reimbursements of public employers, and third, costs of DPS.

Repealer

Section 353.656, subdivisions 2 and 2a, made obsolete by the new requirements for PERA disability benefits, are repealed.

Effective dates

All sections of the bill are effective July 1, 2023, except for the following:

- Section 13 (PERA vesting change) is effective the day following enactment, May 19, 2023.
- Sections 21 and 34 (elimination of workers' compensation reporting for the Police and Fire Plan and the Repealer of subdivisions in PERA's Section 353.656) are effective January 1, 2024.
- Section 27 (changes to the offset for employment earnings for the Police and Fire Plan) is effective July 1, 2023, but disability payments will not be reduced under the new offsets until January 1, 2024.