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## State of Minnesota

## HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1758

03/01/2021

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The bill was read for the first time and referred to the Committee on State Government Finance and Elections

- 1.1 A bill for an act
- 1.2 relating to retirement; Public Employees Retirement Association; making
- 1.3 administrative changes to the retirement plans administered by the association;
- 1.4 amending Minnesota Statutes 2020, sections 353.01, subdivisions 16, 28; 353.014,
- 1.5 subdivision 4; 353.0162; 353.27, subdivision 12; 353.30, subdivisions 1a, 1b, 1c;
- 1.6 353.335; 353.34, subdivision 2; 353D.071, subdivision 1.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2020, section 353.01, subdivision 16, is amended to read:
- 1.9 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service" means:
- 1.10 (1) service during years of actual membership in the course of which employee deductions
- 1.11 were withheld from salary and contributions were made at the applicable rates under section
- 1.12 353.27, 353.65, or 353E.03;
- 1.13 (2) periods of service covered by payments in lieu of salary deductions under sections
- 1.14 353.27, subdivisions 12 and 12a, and 353.35;
- 1.15 (3) service in years during which the public employee was not a member but for which
- 1.16 the member later elected, while a member, to obtain credit by making payments to the fund
- 1.17 as permitted by any law then in effect;
- 1.18 (4) a period of authorized leave of absence during which the employee receives pay as
- 1.19 specified in subdivision 10, paragraph (a), clause (4) or (5), from which deductions for
- 1.20 employee contributions are made, deposited, and credited to the fund;
- 1.21 (5) a period of authorized leave of absence without pay, or with pay that is not included
- 1.22 in the definition of salary under subdivision 10, paragraph (a), clause (4) or (5), for which
- 1.23 salary deductions are not authorized, and for which a member obtained service credit for

up to 12 months of the authorized leave period by payment under section 353.0162, to the fund made in place of salary deductions;

~~(6) a periodic, repetitive leave that is offered to all employees of a governmental subdivision. The leave program may not exceed 208 hours per annual normal work cycle as certified to the association by the employer. A participating member obtains service credit by making employee contributions in an amount or amounts based on the member's average salary, excluding overtime pay, that would have been paid if the leave had not been taken. The employer shall pay the employer and additional employer contributions on behalf of the participating member. The employee and the employer are responsible to pay interest on their respective shares at the applicable rate or rates specified in section 356.59, subdivision 3, compounded annually, from the end of the normal cycle until full payment is made. An employer shall also make the employer and additional employer contributions, plus interest at the applicable rate or rates specified in section 356.59, subdivision 3, compounded annually, on behalf of an employee who makes employee contributions but terminates public service. The employee contributions must be made within one year after the end of the annual normal working cycle or within 30 days after termination of public service, whichever is sooner. The executive director shall prescribe the manner and forms to be used by a governmental subdivision in administering a periodic, repetitive leave. Upon payment, the member must be granted allowable service credit for the purchased period;~~

~~(7) (6) an authorized temporary or seasonal layoff under subdivision 12, limited to three months allowable service per authorized temporary or seasonal layoff in one calendar year. An employee who has received the maximum service credit allowed for an authorized temporary or seasonal layoff must return to public service and must obtain a minimum of three months of allowable service subsequent to the layoff in order to receive allowable service for a subsequent authorized temporary or seasonal layoff;~~

~~(8) (7) a period of uniformed services leave purchased under section 353.014;~~

~~(9) (8) a period of military service purchased under section 353.0141; or~~

~~(10) (9) a period specified of reduced salary purchased under section 353.0162.~~

(b) No member may receive more than 12 months of allowable service credit in a year either for vesting purposes or for benefit calculation purposes.

(c) For an active member who was an active member of the former Minneapolis Firefighters Relief Association on December 29, 2011, "allowable service" is the period of service credited by the Minneapolis Firefighters Relief Association as reflected in the transferred records of the association up to December 30, 2011, and the period of service

credited under paragraph (a), clause (1), after December 30, 2011. For an active member who was an active member of the former Minneapolis Police Relief Association on December 29, 2011, "allowable service" is the period of service credited by the Minneapolis Police Relief Association as reflected in the transferred records of the association up to December 30, 2011, and the period of service credited under paragraph (a), clause (1), after December 30, 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 2. Minnesota Statutes 2020, section 353.01, subdivision 28, is amended to read:

Subd. 28. **Retirement.** (a) "Retirement" means the payment of an annuity by the association. A right to retirement is subject to termination of public service under subdivision 11a. A right to retirement requires a complete and continuous separation for 30 days from employment as a public employee.

(b) Notwithstanding the 30-day separation requirement under paragraph (a), a member of a defined benefit plan under this chapter, who also participates in the public employees defined contribution plan under chapter 353D for other public service, may be paid, if eligible, a retirement annuity from the defined benefit plan while participating in the defined contribution plan. A retirement annuity is also payable from a defined benefit plan under this chapter to an eligible member who terminates public service and who, within 30 days of separation, takes office as an elected official of a governmental subdivision.

(c) Elected officials included in association membership under subdivisions 2a and 2d meet the 30-day separation requirement under this section by resigning from office before filing for a subsequent term in the same office and by remaining completely and continuously separated from that office for 30 days prior to the date of the election.

(d) The 30-day separation requirement under paragraph (a) does not apply to a retirement annuity payable from a defined benefit plan under this chapter to a public employee if the public employee:

(1) is covered by a covered retirement plan under section 356.30, subdivision 3;

(2) is eligible for a combined service annuity under section 356.30, subdivision 1; and

(3) has entered into a phased retirement agreement or its equivalent permitted by the laws applicable to the covered retirement plan with coverage of the last period of public service.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 3. Minnesota Statutes 2020, section 353.014, subdivision 4, is amended to read:

Subd. 4. **Time period for making member's payment.** Payment of the employee equivalent contributions must be made during a period that begins with the date on which the member returns to public employment and that is three times the length of the military leave period, or within five years of the date on which the member returns to public employment, whichever is less. If the payment period is less than one year, payment of the employee equivalent contributions may be made within one year of the date of the member's discharge from service in the uniformed services. Payment may not be accepted after 30 days six months following termination of public service under section 353.01, subdivision 11a.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 4. Minnesota Statutes 2020, section 353.0162, is amended to read:

**353.0162 SALARY CREDIT PURCHASE FOR PERIODS OF REDUCED SALARY.**

(a) A member may purchase differential salary credit as described in paragraph (c) for a period ~~specified~~ of reduced salary as described in paragraph (b).

(b) The ~~applicable~~ period of reduced salary must be a period occurring entirely within one school year, for school year employees, or one calendar year, for all other employees, during which the member ~~is receiving~~ receives no salary or a reduced salary from the employer while the member is:

(1) receiving workers' compensation payments related to the member's service to the public employer;

(2) on an authorized leave of absence, ~~except that if the authorized leave of absence exceeds 12 months, the period of leave for which differential salary credit may be purchased is limited to 12 months; or~~

(3) on an authorized leave of absence as a result of a budgetary or salary savings program offered or mandated by a governmental subdivision, if certified to the executive director by the governmental subdivision; or

(4) on a periodic, repetitive leave that is offered to all employees of a governmental subdivision where the leave program is certified by the employer to the association as one that does not exceed 208 hours during the school year or calendar year, as applicable.

(c) Differential salary credit is the difference between the salary received by the member during a period of reduced salary specified in paragraph (b) and the salary of the member, excluding overtime, on which contributions to the applicable plan would have been made during the period based on the member's normal employment period, measured in hours or otherwise, as applicable, and rate of pay.

(d) To receive differential salary credit, the member shall pay the plan, by delivering payment to the executive director, an amount equal to:

(1) the applicable employee contribution rate under section 353.27, subdivision 2; 353.65, subdivision 2; or 353E.03, subdivision 1, as applicable, multiplied by the differential salary amount;

(2) plus an employer equivalent payment equal to the applicable employer contribution rate in section 353.27, subdivision 3; 353.65, subdivision 3; or 353E.03, subdivision 2, as applicable, multiplied by the differential salary amount;

(3) plus, if applicable, an equivalent employer additional amount equal to the additional employer contribution rate in section 353.27, subdivision 3a, multiplied by the differential salary amount.

(e) The employer, by appropriate action of its governing body and documented in its official records, may pay ~~the employer equivalent contributions and~~ on behalf of the member the amounts determined under paragraph (d), clauses (2) and (3), as applicable, the equivalent employer additional contributions on behalf of the member plus interest under paragraph (f). However, if the period of reduced salary is a periodic, repetitive leave under paragraph (b), clause (4), then the employer must pay on behalf of the member the amount determined under paragraph (d), clauses (2) and (3), as applicable, plus interest under paragraph (f).

(f) Payment under this section must include interest on the contribution amount or amounts, whichever applies, at the applicable rate or rates specified in section 356.59, subdivision 3, compounded annually, prorated for the number of months, if less than 12 months, from the ~~date on which the period of reduced salary specified in paragraph (b) terminates to the date on which the payment or payments are~~ end of the school year or calendar year, as applicable, until full payment is received by the executive director. Payment under this section must be completed by the earliest of:

(1) ~~30 days~~ six months after termination of public service by the employee under section 353.01, subdivision 11a;

6.1 (2) one year after the termination of the period of reduced salary specified in paragraph  
6.2 (b); or

6.3 (3) ~~30 days~~ six months after the commencement of a disability benefit.

6.4 ~~(g) If the member has purchased 12 months of differential salary credit, the member~~  
6.5 ~~must return to public service and render a minimum of three months of allowable service~~  
6.6 ~~to purchase differential salary credit for a subsequent leave of absence.~~

6.7 **EFFECTIVE DATE.** This section is effective July 1, 2021.

6.8 Sec. 5. Minnesota Statutes 2020, section 353.27, subdivision 12, is amended to read:

6.9 Subd. 12. **Omitted salary deductions; obligations.** (a) In the case of omission of  
6.10 required deductions for the general employees retirement plan, the public employees police  
6.11 and fire retirement plan, or the local government correctional employees retirement plan  
6.12 from the salary of an employee, the department head or designee shall immediately, upon  
6.13 discovery, report the employee for membership and deduct the employee deductions under  
6.14 subdivision 4 during the current pay period or during the pay period immediately following  
6.15 the discovery of the omission. Payment for the omitted obligations may only be made in  
6.16 accordance with reporting procedures and methods established by the executive director.

6.17 (b) When the entire omission period of an employee does not exceed 60 days, the  
6.18 governmental subdivision may report and submit payment of the omitted employee  
6.19 deductions and the omitted employer contributions through the reporting processes under  
6.20 subdivision 4.

6.21 (c) When the omission period of an employee exceeds 60 days, the governmental  
6.22 subdivision shall furnish to the association sufficient data and documentation upon which  
6.23 the obligation for omitted employee and employer contributions can be calculated. The  
6.24 omitted employee deductions must be deducted from the employee's subsequent salary  
6.25 payment or payments and remitted to the association for deposit in the applicable retirement  
6.26 fund. The employee shall pay omitted employee deductions due for the 60 days prior to the  
6.27 end of the last pay period in the omission period during which salary was earned. The  
6.28 employer shall pay any remaining omitted employee deductions and any omitted employer  
6.29 contributions, plus cumulative interest at the annual rate of 8.5 percent until June 30, 2015,  
6.30 ~~and eight percent thereafter~~ applicable rate or rates specified in section 356.59, subdivision  
6.31 3, compounded annually, from the date or dates each omitted employee contribution was  
6.32 first payable.

(d) An employer shall not hold an employee liable for omitted employee deductions beyond the pay period dates under paragraph (c), nor attempt to recover from the employee those employee deductions paid by the employer on behalf of the employee. Omitted deductions due under paragraph (c) which are not paid by the employee constitute a liability of the employer that failed to deduct the omitted deductions from the employee's salary. The employer shall make payment with interest at the applicable rate or rates specified in section 356.59, subdivision 3, compounded annually. Omitted employee deductions are no longer due if an employee terminates public service before making payment of omitted employee deductions to the association, but the employer remains liable to pay omitted employer contributions plus interest at the applicable rate or rates specified in section 356.59, subdivision 3, compounded annually, from the date the contributions were first payable.

(e) The association may not commence action for the recovery of omitted employee deductions and employer contributions after the expiration of three calendar years after the calendar year in which the contributions and deductions were omitted. Except as provided under paragraph (b), no payment may be made or accepted unless the association has already commenced action for recovery of omitted deductions. An action for recovery commences on the date of the mailing of any written correspondence from the association requesting information from the governmental subdivision upon which to determine whether or not omitted deductions occurred.

Sec. 6. Minnesota Statutes 2020, section 353.30, subdivision 1a, is amended to read:

Subd. 1a. **Pre-July 1, 1989, members: rule of 90.** Upon termination of public service under section 353.01, subdivision 11a, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989, and whose attained age plus credited allowable service totals 90 years is entitled upon application to a retirement annuity in an amount equal to the applicable normal annuity provided in section 353.29, subdivision 3, paragraph (a), ~~without any~~; section 353.651, subdivision 3; or section 353E.04, subdivision 3. Such annuity is not subject to a reduction in annuity due to for early retirement.

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 7. Minnesota Statutes 2020, section 353.30, subdivision 1b, is amended to read:

Subd. 1b. **Pre-July 1, 1989, members: 30 years of service.** Upon termination of public service under section 353.01, subdivision 11a, a person who first became a public employee or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989,

8.1 ~~with~~ and has 30 years or more of allowable service credit, and who elects to retire prior to  
8.2 normal retirement age, shall receive an annuity in an amount equal to the applicable normal  
8.3 annuity provided under section 353.29, subdivision 3, paragraph (a); section 353.651,  
8.4 subdivision 3; or section 353E.04, subdivision 3. Such annuity must be reduced by  
8.5 one-quarter of one percent for each month that the member is under age 62 at the time of  
8.6 retirement.

8.7 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.8 Sec. 8. Minnesota Statutes 2020, section 353.30, subdivision 1c, is amended to read:

8.9 Subd. 1c. **Pre-July 1, 1989, members: early retirement.** Upon termination of public  
8.10 service under section 353.01, subdivision 11a, a person who first became a public employee  
8.11 or a member of a pension fund listed in section 356.30, subdivision 3, before July 1, 1989,  
8.12 ~~who has become~~ and is at least 55 years old but ~~not~~ is younger than normal retirement age,  
8.13 and who is vested under section 353.01, subdivision 47, is entitled, upon application, to a  
8.14 retirement annuity in an amount equal to the applicable normal annuity provided in section  
8.15 353.29, subdivision 3, paragraph (a); section 353.651, subdivision 3; or section 353E.04,  
8.16 subdivision 3. Such annuity must be reduced by one-quarter of one percent for each month  
8.17 that the member is under normal retirement age at the time of retirement.

8.18 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.19 Sec. 9. Minnesota Statutes 2020, section 353.335, is amended to read:

8.20 **353.335 DISABILITANT EARNINGS REPORTS.**

8.21 Unless waived by the executive director, a disability benefit ~~recipients~~ recipient must  
8.22 report all earnings from reemployment and from income from workers' compensation to  
8.23 the association annually by May 15 in a format prescribed by the executive director. If the  
8.24 form is not submitted by May 15, benefits must be suspended effective June 1. Upon receipt  
8.25 of the form by the association, if the disability benefit recipient is deemed by the executive  
8.26 director to be eligible for continued payment, benefits must be reinstated retroactive to June  
8.27 1. The executive director may waive the requirements in this section.

8.28 **EFFECTIVE DATE.** This section is effective July 1, 2021.

8.29 Sec. 10. Minnesota Statutes 2020, section 353.34, subdivision 2, is amended to read:

8.30 Subd. 2. **Refund with interest.** (a) Except as provided in subdivision 1, any person who  
8.31 ceases to be a member is entitled to receive a refund in an amount equal to accumulated

deductions, less the sum of any disability benefits that have been paid by the fund, plus annual compound interest at the applicable rate or rates under paragraph (b) to the first day of the month in which the refund is processed.

(b) Annual compound interest rates ~~on a refund under paragraph (a)~~ shall be as follows:

(1) six percent to June 30, 2011;

(2) four percent after June 30, 2011, to June 30, 2018; and

(3) three percent after June 30, 2018.

(c) If a person repays a refund and subsequently applies for another refund, the repayment amount, including interest, is added to the fiscal year balance in which the repayment was made.

(d) If the refund payable to a member is based on employee deductions that are determined to be invalid under section 353.27, subdivision 7, the interest payable on the invalid employee deductions is ~~three percent~~ annual compound interest at the applicable rate or rates under paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2021.

Sec. 11. Minnesota Statutes 2020, section 353D.071, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Designated beneficiary" means the person designated as the beneficiary under section 353D.07, subdivision 5, and who is the designated beneficiary under section 401(a)(9) of the Internal Revenue Code and section 1.401 (a)(9)-1, Q&A-4 of the Treasury regulations.

(c) "Distribution calendar year" means a calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subdivision 2, paragraph (c). The required minimum distribution for the member's first distribution calendar year shall be made on or before the member's required beginning date.

(d) "Member's account balance" means the account balance as of the last valuation date in the valuation calendar year increased by the amount of any contributions made and allocated to the account balance as of dates in the valuation calendar year after the valuation

10.1 date and decreased by distributions made in the valuation calendar year after the valuation  
10.2 date. The account balance for the valuation calendar year includes any amounts rolled over  
10.3 or transferred to the plan either in the valuation calendar year or in the distribution calendar  
10.4 year if distributed or transferred in the valuation calendar year.

10.5 (e) "Required beginning date" means the ~~later of April 1 of the calendar year following~~  
10.6 ~~the calendar year that the member attains age 70 years, six months, or April 1 of the calendar~~  
10.7 ~~year following the calendar year in which the member terminates employment~~ date a  
10.8 terminated member's retirement benefit must begin under section 356.635, subdivision 1,  
10.9 paragraph (a).

10.10 (f) "Valuation calendar year" means the calendar year immediately preceding the  
10.11 distribution calendar year.

10.12 **EFFECTIVE DATE.** This section is effective July 1, 2021.