SF 1959 (Frentz), Delete-everything amendment S1959-DE1: Disability benefits under the Police and Fire and State Patrol Plans modified, psychological condition treatment required, and one-time funding provided

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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, as amended by S1959-DE1, 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 the administrative costs of administering the application process for the psychological condition treatment;
- increases the total and permanent duty disability benefit 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 of S1959- DE1

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.

Changes to disability benefits under the State Patrol Plan

Sections 3 to 6 amend sections 352B.10 and 352.101, which governs disability benefits for members of the State Patrol 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.

Psychological condition treatment

Sections 7 and 15 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 trends and costs.

Sections 8 and 16 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” which will cover the costs incurred by MSRS and PERA, respectively, to administer psychological condition treatment. When the account is depleted, subdivision 3 states that 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.

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 9 of the bill 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 10 to 14 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.

For a summary of Sections 15 and 16, see above under the heading “Psychological condition treatment.”

<u>Section 17</u> amends the requirement under Section 353.335 that a recipient 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. The amendment adds a new subdivision 2 that exempts recipients of disability benefits from the Police and Fire Plan from having to report workers' compensation to the executive director.

<u>Section 18</u> makes conforming and clarifying language changes to Section 353.656, subdivision 1, which governs eligibility and benefit amount for duty disability benefits.

<u>Section 19</u> 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.

<u>Section 20</u> amends Section 353.656, subdivision 1b, to clarify language and incorporate the change in the amount of a total and permanent duty disability benefit.

<u>Section 21</u> makes conforming and clarifying language changes to Section 353.656, subdivision 3, which governs eligibility and benefit amount for regular disability benefits.

<u>Section 22</u> 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.

<u>Section 23</u> amends 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), but 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 each dollar by which the sum of the disability benefit plus monthly reemployment earnings exceeds the monthly salary currently being paid active employees in the member's position.

Item (1), however, only is taken into account if the member has less than 20 years (and is receiving duty disability benefits) or 15 years (and is receiving regular disability benefits).

<u>Section 24</u> updates language in Section 353.656, subdivision 6a, regarding survivor benefits.

<u>Section 25</u> updates language in Section 353.656, subdivision 10, regarding when disability benefits are permitted to begin.

New wellness training and recordkeeping requirements

Section 26 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 27 transfers $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 26 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 8 and 16 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.

Section 28 transfers $1 million to the MSRS psychological condition treatment account established by Section 8 of the bill and $3 million to the PERA psychological condition treatment account established by Section 16 of the bill.

Repealer

Subdivision 2 and 2a of Section 353.656, made obsolete by the new requirements, are repealed.

Effective dates

All sections of the bill are effective July 1, 2023, except Section 9 (PERA vesting change) is effective the day following enactment and Sections 17, 23, and 29 (elimination of workers' compensation reporting and changes to the offset for employment earnings for the Police and Fire Plan) are effective January 1, 2024.