

**HF xxxx (Berg); SF xxxx (Nelson), Revisor #24-07097:
PERA Police and Fire Plan;
Revising Plan Eligibility for Certain Firefighters**

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Introduction

- Affected Plan(s):** Public Employees Police and Fire Plan (“P&F Plan”)
- Laws Amended:** Minnesota Statutes, Section 353.64, subdivisions 1, 2, 4, and 5a
- Brief Description:** The bill modifies the eligibility requirements for the P&F Plan to include certain employees that work in fire service that are not currently included in the Plan, among other changes.

Background

The State of Minnesota, under current law (section 353.63) governing the Public Employees Police and Fire Plan (“P&F Plan”), recognizes that special consideration should be given to government employees that work in public safety, either law enforcement or fire service, due to the dangers and hazards that these employees face. The benefits provided by the P&F Plan are more expensive, and in certain aspects, more generous, to employees than similar benefits for other public employees. These benefits are also paid for over a shorter working lifetime. As shown in the chart below, the P&F Plan has a higher accrual rate (or multiplier) and an earlier normal retirement age than the PERA General Employees Retirement Plan. To recognize the shorter working lifetime of members, the P&F Plan has higher employee and employer contribution rates than the PERA General Plan.

	PERA P&F Plan	PERA General Plan
<i>Accrual Rate (multiplier)</i>	3%	1.7%
<i>Normal Retirement Age</i>	55	66
<i>Employee Contribution Rate</i>	11.8%	6.5%
<i>Employer Total Contribution Rate</i>	17.7%	7.5%

The disability benefits for the P&F Plan also reflect the dangers of working in public safety and differ from the disability benefits provided by the PERA General Plan.

The eligibility requirements for membership in the P&F Plan are outlined in section 356.64. Under current statute, a person must be a “full-time firefighter or a person in charge of a designated fire company or companies who is engaged in the hazards of firefighting,” to be eligible for the P&F Plan. There is a separate process to allow part-time employees to join the P&F Plan (see Section 2 summary below).

There are many employees working in the fire service that are not eligible for the P&F Plan under the current requirements. Some of these employees work in positions such as fire marshal, assistant fire marshal, deputy chief, or assistant chief.

Fire marshals, for example, are responsible for conducting fire and arson investigations. This work requires fire marshals to enter compromised buildings after a fire has been put out, which can lead to exposure to carcinogens and physical dangers. Despite exposure to these hazards, fire marshals are not currently eligible to join the P&F Plan.

Similarly, assistant or deputy fire chiefs, who are responsible for command-and-control operations at emergency scenes and supervising firefighters, are not eligible for the P&F Plan. Assistant or deputy fire chiefs report to the fire chief, who is eligible for the P&F Plan. The eligibility requirement that includes a person “in charge of a designated fire company” only applies to the fire chief, not an assistant or deputy fire chief. In addition, full-time firefighters, who the assistant or deputy chief supervise, are eligible for the P&F Plan.

An additional issue, raised by some fire departments, is related to the process for a member to change positions in a fire department and remain a member of the P&F Plan. If an employee is working in a position with P&F coverage, such as a full-time firefighter, and gets promoted to be an assistant fire chief (or another employment change) within the same department, the person can remain in the P&F plan if the governing body of the department sends a resolution to PERA (see Section 4 summary below).

Under this process, many employees have remained members of the P&F Plan. However, many other employees working in the same positions are not eligible. For example, if a department hires a person from out-of-state as an assistant chief, the person is not eligible for the P&F Plan. Or, if a firefighter from a neighboring city or municipality in Minnesota is hired as an assistant chief, the person is not permitted to remain in the P&F Plan. Some departments believe that changes to the provisions governing “transfers,” or changes in employment, to help firefighters stay in the P&F Plan will help with recruitment.

The bill modifies the eligibility requirements for the P&F Plan to include certain employees that work in fire service that are not currently included in the Plan. Additionally, the bill:

- modifies the eligibility provisions related to part-time employees;
- modifies provisions related to a governing body filing a resolution with PERA (a required step to grant a part-time employee eligibility);
- modifies provisions related to a member changing positions and remaining a member of the P&F Plan; and
- makes clarifying changes.

Section- by- Section Summary

Section 1 amends Section 353.64, subdivision 1 (“Police and fire plan membership; mandatory”), by modifying the eligibility requirements for the P&F Plan. Under the bill, a person must be a full-time firefighter or a supervisor of firefighters and meet the following requirements:

- is employed in a fire department;
- is licensed under section 299N.05; and
- is exposed to the hazardous conditions resulting from firefighting or fire prevention, suppression, or investigation.

The key distinctions between the current statutory requirements and the new requirements are that the new requirements:

- include supervisors of firefighters, which applies to other supervisors in addition to fire chiefs, allowing positions such as assistant fire chief to be eligible;
- recognizes job duties that exist within fire service in addition to “firefighting,” including fire prevention, suppression, or investigation; and
- rather than stating that the employee is “engaged in” the hazards firefighting, the requirements now state that the employee is “exposed to” the hazards of firefighting or the other duties mentioned above, which allows for positions such as fire marshal to be eligible.

In addition to the changes above, Section 1 modifies a provision related to eligibility for employees that have job responsibilities in addition to the responsibilities directly related to fire service. For example, a firefighter may, in addition to responding to calls, shovel snow or perform routine duties that are not directly related to their role as a first responder. An employee is still eligible for the P&F Plan if the employee is responsible for additional job duties and is assigned to those duties less than half of the employee’s time. Section 1 makes clarifying changes to this provision. The most notable changes are:

- replacing the ambiguous term, “periodically,” with the more specific phrase, “less than 50 percent of the time;” and
- adding a reference to the employment duties identified in the eligibility requirements to clarify which employment duties are being referred to.

Section 2 amends Section 353.64, subdivision 2 (“Police and fire plan membership; part-time employment coverage option”), which governs P&F Plan eligibility for part-time employees. If a part-time employee meets the eligibility requirements for a firefighter, other than the full-time employment requirement, the governing body (such as a city council) of a governmental subdivision may adopt a resolution declaring that an employee working for the subdivision is covered by the P&F Plan.

Section 2 modifies a provision related to eligibility for part-time employees that have job responsibilities in addition to the responsibilities directly related to fire service. Similar to the provision for full-time employees, a part-time employee is still eligible for the P&F Plan if the employee is responsible for additional job duties and is assigned to those duties less than half of the employee’s time. Section 2

makes clarifying changes to this provision, which are similar to the clarifying changes made in Section 1. The most notable changes are:

- adding a reference to the employment duties identified in the eligibility requirements to clarify which employment duties are being referred to; and
- replacing the ambiguous phrase, “primary services provided,” with the more specific phrase, “at least 50 percent of the time worked.”

Section 3 amends Section 353.64, subdivision 4 (“Resolution filing”), which requires a governing body that adopts a resolution declaring that a position is eligible for the P&F Plan to file the resolution with PERA. After receiving a notice from PERA, the governing body has six months to file the resolution.

Section 3 adds a new paragraph to this subdivision, requiring PERA to consider the resolution from the governing body as sufficient evidence that the employee meets the eligibility requirements for the P&F Plan.

Section 4 amends Section 353.64, subdivision 5a (“Transfers”), which allows a member of the P&F Plan that changes positions in the same department to remain in the P&F Plan if the governing body sends a copy of a resolution to PERA. As mentioned above in the “Background” section, under current statute, this process may be used if an employee is promoted or has a change in employment within the same department or in a related department of the same governmental subdivision.

Section 4 modifies this process to expand the circumstances in which a member can change positions and remain in the P&F Plan. In addition to changing to a different position in the same department, under this bill, a member is able transfer to a new job in another fire department (or police department, for members working in law enforcement) in the State of Minnesota.

In instances of a member transferring to another department in the state, Section 4 makes it clear that the governing body of the department that the member transfers to is responsible for sending a copy of the resolution to PERA.

Section 5. Effective date. All sections are effective the day following final enactment.