

Summary of Delete-Everything Amendment H3903-DE1 2020 Pension & Retirement Bill

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Introduction

H3903-DE1 is a delete everything amendment, drawn to HF3903 (Murphy); SF3808 (Rosen), consisting of ten of the eleven bills approved by the Legislative Commission on Pensions and Retirement (LCPR) during its meetings on March 3 and March 10, 2020. H3903-DE1 is organized into nine articles; one for each bill approved by the Commission except the two bills dealing with contributions to multiemployer plans by the St. Paul city and school district for employees in the construction and building trades are combined into one article (see Article 2). A detailed summary of each bill is available at www.lcpr.leg.mn/billlog.htm.

One bill and three sections in another bill that were considered and approved by the LCPR at its meeting on March 10 are not included in this DE amendment. The bill, HF4298-Nelson; SF4203-Rosen, made changes to disability benefits under the Police & Fire Plan of the Public Employees Retirement Association (PERA). The three sections, which are part of HF4300-Her; SF4201-Jasinski, give new authority to PERA to impose withdrawal liability on medical facilities that have a change of ownership from publicly owned to privately owned. Since the LCPR meeting on March 10, stakeholders have raised concerns with legislators and PERA. PERA has requested that these provisions be removed from this session's pension bill, to be given further consideration next session. A more detailed description of the bill and three sections appears at the end of this summary.

Article-by-Article Summary

Article 1: State Board of Investment Provisions (HF3272-Albright; SF4023-Frentz)

Article 1 adds "co-investments or separate accounts" and "bank loans" to a list of investment vehicles that the State Board of Investment (SBI) is authorized to use. The article also exempts "liquid alternatives" from a requirement that private market investments cannot exceed 35% of a fund's portfolio (i.e., the SBI cannot have more than 35% of the Combined Fund invested in private markets). The article also makes a number of technical and conforming changes.

Article 2: St. Paul City and School District Contributions to Multiemployer Plans (HF3788-Nelson M.; SF3658-Senjem & HF3789-Nelson M.; SF3659-Senjem)

Article 2 contains two related bills. Section 1 revises the definition of excluded employees, that is, employees who are excluded from PERA coverage, by combining all the clauses dealing with employees

in a variety of building and construction trades into one clause (15). New item (vii) of clause (15) prospectively excludes trades employees hired on or after July 1, 2020, by the City of St. Paul or St. Paul School District from participation in PERA. The trades for which contributions to multiemployer plans are limited to \$5,000 or \$7,000, for laborers, plumbers, pipefitters, and operating engineers, are excepted from the exclusion for trades employees.

Section 2 authorizes the City of St. Paul and the St. Paul School District to make contributions to certain multiemployer plans on behalf of employees in the building and construction trades. Trades employees hired before July 1, 2020, who have been participating in the general plan of the Public Employees Retirement Association (PERA), in addition to a multiemployer plan, are grandfathered and will be permitted to continue to participate in both PERA and their multiemployer plan. With the exception of the categories of trades employees noted above, trades employees hired on or after July 1, 2020 are not permitted to participate in PERA. The article also establishes a requirement that the City and School District annually report to the LCPR the number of grandfathered trades employees for whom these employers are still making contributions to PERA.

Section 3 repeals a requirement that has not been complied with for many years, if ever, which is that any change in benefits or employer contributions to a supplemental plan will not take effect unless approved by the legislature. "Supplemental plans" include multiemployer plans, school district 403(b) plans, municipal 457(b) plans, and other retirement plans sponsored by public employers that are not one of the statewide plans, such as MSRS, PERA, or TRA.

Article 3: Phase-out of Enhanced Augmentation under PERA when a Medical Facility Privatizes *(HF4300-Her; SF4201-Jasinski)*

Article 3 revises Chapter 353F, which provides additional benefits to employees whose PERA coverage ends when their employer changes from a governmental subdivision to a nonprofit or for-profit corporation. Affected employers include hospitals, nursing homes, and other medical facilities. The article phases out enhanced augmentation for these employees. Beginning July 1, 2020, the augmentation rate for all previously privatized employees is reduced to two percent, and is eliminated entirely effective January 1, 2024.

Article 4: Modification to State Auditor Reporting Requirements for Pension Plans *(HF3777-Her; SF3672-Rosen)*

Article 4 updates and clarifies the requirements for reporting to the state auditor by public pension plans that do not fully invest their assets with the SBI. It also removes redundant reporting requirements for the SBI. Generally, the updated reporting requirements apply to the Bloomington Fire Department Relief Association, the St. Paul Teachers Retirement Fund Association, and volunteer firefighter relief associations that are not fully invested through the SBI. The article makes a number of conforming and technical changes.

Article 5: Minnesota State Retirement System Administrative Provisions
(HF3903-Murphy; SF3808-Rosen)

Article 5 contains administrative changes to the pension plans administered by the Minnesota State Retirement System (MSRS), as follows:

- Modifying the definition of "dependent child" to account for children conceived through assisted reproduction where the child was not in gestation prior to the death of the plan member;
- Clarifying treatment of excess employer contributions to match current practice;
- Clarifying that a member's supporting documents must be filed with an application for disability and defining "supporting documents";
- Permitting licensed podiatrists to submit a medical report on behalf of a member filing for disability;
- Revising the list of covered employees in the State Patrol Plan by removing an obsolete provision;
- Making conforming changes to language appropriating a direct aid payment to the Judges Retirement Plan; and
- Fixing an obsolete reference in a section providing for contribution amounts for Judges.

The article also makes two changes that apply generally to public retirement plans in addition to the plans administered by MSRS:

- One of the exceptions from the general prohibition in Minnesota Statutes, section 356.24, against contributing public funds to supplemental plans is for "deferred compensation plans." Current law includes a nearly unintelligible clause that defines these plans. Article 6 restates the clause as a new subdivision that defines "deferred compensation plan." Deferred compensation plans include 457(b) plans, such as the Minnesota Deferred Compensation Plan, and the many 403(b) plans sponsored by school districts. The definition also:
 - clarifies that contributions to these plans may be funded by sick leave, vacation leave, and severance pay, thereby eliminating the need for an unnecessary clause in the list of exceptions; and
 - adds a new reporting requirement for 457(b) and 403(b) plans which requires them to file a copy of their investment fee disclosure forms with the LCPR annually.
- Minnesota Statutes, section 356.44, which permits the partial repayment of refunds is repealed.

Article 6: PERA Administrative Provisions *(HF4301-Her); SF4202-Dahms)*

Article 6 contains administrative changes to the pension plans administered by PERA, as follows:

- Amending the definition of a seasonal employee;
- Clarifying that a member who purchases service credit for a period of military service is permitted to purchase service credit for less than the entire period of military service if the period is longer than one year and that such purchases must be in increments of six months;

- Correcting a drafting error related to members' eligibility for a retirement annuity;
- Clarifying the date as of which a member or survivor is able to be considered as having begun to receive a retirement annuity, bounce-back annuity, or survivor annuity, where the member or survivor does not file an application for benefits immediately upon the retirement or death;
- Correcting an inaccurate reference from Section 356.631 to Section 356.65;
- Clarifying language related to determining deferred augmentation;
- Clarifying the requirements for eligibility to use a phased retirement option and providing a penalty for violating a phased retirement agreement;
- Clarifying the graded vesting requirements for the Police and Fire Plan;
- Making a number of modifications to the Police and Fire Plan disability provisions including clarifying that a member is not required to terminate service before being eligible to apply for a disability benefit and making retroactive corrections to reflect actual operation in compliance with federal law; and
- Repealing a provision permitting members to suspend or reduce their annuity payments for a period of time.

Article 7: Administrative Changes to the PERA Statewide Volunteer Firefighter Plan (HF4297-Freiberg)

Article 7 makes a number of administrative changes to the PERA Statewide Volunteer Firefighter Plan (SVF), as follows:

- Defining the term "governing body;"
- Establishing a process for a governing body to elect coverage by the SVF when there is no existing volunteer fire relief association;
- Modifying the process for transferring coverage from a volunteer fire relief association to the SVF;
- Establishing procedures for approval when the approving body is a joint powers entity;
- Permitting the calculation of a lump-sum pension amount using months rather than years if it is provided for in the relief association's bylaws;
- Clarifying that a deferred member of a former relief association is eligible for the benefit the member would have received from the former relief association, even though the benefit will be paid from the SVF;
- Permitting the fire chief of a fire department to initiate a benefit increase under the lump-sum division of the SVF, not just the governing body of the municipality, as under current law;
- Changing the official name of the SVF from "voluntary statewide volunteer firefighter retirement" plan or fund to "statewide volunteer firefighter plan" or "statewide volunteer firefighter fund," as applicable; and
- Making other minor clarifying changes.

Article 8: Administrative Changes to the Teachers Retirement Association
(*HF3752-Her; SF3805-Jasinski*)

Article 8 makes a number of administrative changes to chapter 354 administered by the Teachers Retirement Association, as follows:

- Modifying obsolete words or phrases in the definition of "teacher" and "annual base salary;"
- Clarifying the annuity start date;
- Correcting a drafting error relating to early retirement factors which provided for a more generous benefit than was intended and applying the correction retroactively to comply with federal law;
- Clarifying that interest on a refund of employee contributions is calculated through the last day of the month prior to the month in which the refund is issued;
- Repealing a provision permitting members to suspend or reduce their annuity payments for a period of time; and
- Making other minor technical changes.

Article 9: Session Law for One Person (*HF2937-Fischer; SF3087-Wiger*)

Article 9 permits a former firefighter employed by the City of Maplewood to purchase service credit under the PERA Police and Fire Plan for a period of approximately seven months when he should have been participating in the plan, but had not been enrolled by the City. If the member pays the missed employee contributions with interest, the City must pay the missed employer contributions with interest, and PERA will credit the service.

Topics Deferred for Consideration Next Session

These provisions are not included in the DE, even though they were approved by the LCPR at its meeting on March 10. Due to stakeholder concerns that were not raised at the meeting, PERA has requested that these provisions not be included in the pension bill this session, but be deferred for consideration next session.

Modifications to Disability Benefits under the PERA Police & Fire Plan
(*HF4298 Nelson, M; SF4203-Rosen*)

HF4298; SF4203 reduces disability benefits for members of the PERA Police & Fire Plan who are age 55 and older and are (1) eligible for a duty disability benefit and have less than 20 years of service, or (2) eligible for a regular disability benefit and have between 1 and 15 years of service. For the affected members, the disability benefits are modified as follows:

- The minimum duty disability benefit of 60% of salary (equivalent to having 20 years of service) is replaced with a disability benefit equal to being fully vesting in whatever benefit the member has accrued to the date of the disability. (Benefit is equal to years of service x high five salary x 3%).

- The minimum regular disability benefit of 45% of salary (equivalent to having 15 years of service) is replaced with a disability benefit equal to being fully vested in whatever benefit the member has accrued to the date of the disability.
- The 60-month period of tax-free disability benefit is removed.

The bill also makes a number of technical and conforming changes.

Changes to Withdrawal Liability Imposed on Medical Facilities that Privatize (*HF4300-Her; SF4201-Jasinski*)

Sections 4 through 6 of HF4300; SF4201 revises the provisions authorizing PERA to assess withdrawal liability when a medical facility privatizes, and applies the changes to any facility that privatizes after July 1, 2022. Instead of charging the privatizing facility for the cost of future enhanced augmentation, the new method will charge the privatizing facility with a proportionate share of PERA's underfunding. A medical facility must pay the cost of the actuarial calculation required to determine its share of PERA's underfunding. A medical facility may repay the withdrawal liability as a lump sum or in installments over a 10-year period.

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