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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 549

01/31/2019 Authored by Dettmer, Ecklund, O'Driscoll, Lueck, Gruenhagen and others
The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; modifying
1.3 provisions allowing for the purchase of service credit for periods of military service;
1.4 amending Minnesota Statutes 2018, section 353.01, subdivision 16; proposing
1.5 coding for new law in Minnesota Statutes, chapter 353.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 353.01, subdivision 16, is amended to read:

1.8 Subd. 16. Allowable service; limits and computation. (a) "Allowable service" means:

1.9 (1) service during years of actual membership in the course of which employee deductions
1.10 were withheld from salary and contributions were made at the applicable rates under section
1.11 353.27, 353.65, or 353E.03;

1.12 (2) periods of service covered by payments in lieu of salary deductions under sections
1.13 353.27, subdivisions 12 and 12a, and 353.35;

1.14 (3) service in years during which the public employee was not a member but for which
1.15 the member later elected, while a member, to obtain credit by making payments to the fund
1.16 as permitted by any law then in effect;

1.17 (4) a period of authorized leave of absence during which the employee receives pay as
1.18 specified in subdivision 10, paragraph (a), clause (4) or (5), from which deductions for
1.19 employee contributions are made, deposited, and credited to the fund;

1.20 (5) a period of authorized leave of absence without pay, or with pay that is not included
1.21 in the definition of salary under subdivision 10, paragraph (a), clause (4) or (5), for which
1.22 salary deductions are not authorized, and for which a member obtained service credit for

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

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

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

2.26 (8) a period ~~during which a member is absent from employment by a governmental~~
2.27 ~~subdivision by reason of service in the uniformed services, as defined in United States Code,~~
2.28 ~~title 38, section 4303(13), if the member returns to public service with the same governmental~~
2.29 ~~subdivision upon discharge from service in the uniformed service within the time frames~~
2.30 ~~required under United States Code, title 38, section 4312(e), provided that the member did~~
2.31 ~~not separate from uniformed service with a dishonorable or bad conduct discharge or under~~
2.32 ~~other than honorable conditions. The service must be credited if the member pays into the~~
2.33 ~~fund equivalent employee contributions based upon the contribution rate or rates in effect~~
2.34 ~~at the time that the uniformed service was performed multiplied by the full and fractional~~
2.35 ~~years being purchased and applied to the annual salary rate. The annual salary rate is the~~

3.1 average annual salary during the purchase period that the member would have received if
3.2 the member had continued to be employed in covered employment rather than to provide
3.3 uniformed service, or, if the determination of that rate is not reasonably certain, the annual
3.4 salary rate is the member's average salary rate during the 12-month period of covered
3.5 employment rendered immediately preceding the period of the uniformed service. Payment
3.6 of the member equivalent contributions must be made during a period that begins with the
3.7 date on which the individual returns to public employment and that is three times the length
3.8 of the military leave period, or within five years of the date of discharge from the military
3.9 service, whichever is less. If the determined payment period is less than one year, the
3.10 contributions required under this clause to receive service credit may be made within one
3.11 year of the discharge date. Payment may not be accepted following 30 days after termination
3.12 of public service under subdivision 11a. If the member equivalent contributions provided
3.13 for in this clause are not paid in full, the member's allowable service credit must be prorated
3.14 by multiplying the full and fractional number of years of uniformed service eligible for
3.15 purchase by the ratio obtained by dividing the total member contributions received by the
3.16 total member contributions otherwise required under this clause. The equivalent employer
3.17 contribution, and, if applicable, the equivalent additional employer contribution must be
3.18 paid by the governmental subdivision employing the member if the member makes the
3.19 equivalent employee contributions. The employer payments must be made from funds
3.20 available to the employing unit, using the employer and additional employer contribution
3.21 rate or rates in effect at the time that the uniformed service was performed, applied to the
3.22 same annual salary rate or rates used to compute the equivalent member contribution. The
3.23 governmental subdivision involved may appropriate money for those payments. The amount
3.24 of service credit obtainable under this section may not exceed five years unless a longer
3.25 purchase period is required under United States Code, title 38, section 4312. The employing
3.26 unit shall pay interest on all equivalent member and employer contribution amounts payable
3.27 under this clause. Interest must be computed at the applicable rate or rates specified in
3.28 section 356.59, subdivision 3, compounded annually, from the end of each fiscal year of
3.29 the leave or the break in service to the end of the month in which the payment is received.
3.30 Upon payment, the employee must be granted allowable service credit for the purchased
3.31 period; or of uniformed services leave purchased under section 353.014;

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

3.33 (9) (10) a period specified under section 353.0162.

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

4.1 (c) For an active member who was an active member of the former Minneapolis
4.2 Firefighters Relief Association on December 29, 2011, "allowable service" is the period of
4.3 service credited by the Minneapolis Firefighters Relief Association as reflected in the
4.4 transferred records of the association up to December 30, 2011, and the period of service
4.5 credited under paragraph (a), clause (1), after December 30, 2011. For an active member
4.6 who was an active member of the former Minneapolis Police Relief Association on December
4.7 29, 2011, "allowable service" is the period of service credited by the Minneapolis Police
4.8 Relief Association as reflected in the transferred records of the association up to December
4.9 30, 2011, and the period of service credited under paragraph (a), clause (1), after December
4.10 30, 2011.

4.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.12 **Sec. 2. [353.014] FEDERALLY PROTECTED MILITARY LEAVE.**

4.13 Subdivision 1. **Service credit purchase authorized.** (a) Unless prohibited under
4.14 paragraph (b), a member is eligible to purchase allowable service credit for one or more
4.15 periods of service during which a member is absent from employment by a governmental
4.16 subdivision by reason of service in the uniformed services, as defined in United States Code,
4.17 title 38, section 4303(13), if the member returns to public service with the same governmental
4.18 subdivision upon discharge from service in the uniformed services within the time frames
4.19 required under United States Code, title 38, section 4312(e).

4.20 (b) The purchase of allowable service credit is prohibited if the member separated from
4.21 uniformed service with a dishonorable or bad conduct discharge or under other than honorable
4.22 conditions.

4.23 Subd. 2. **Payments required.** (a) If the payments required by this section are made, a
4.24 member shall be granted allowable service credit for one or more periods of military service
4.25 as described in subdivision 1. The payments required by this section are equivalent employee
4.26 contributions as described in paragraph (b), equivalent employer contributions or additional
4.27 employer contributions as described in paragraph (c), and interest as described in paragraph
4.28 (d).

4.29 (b) The member shall pay into the fund within the time period described in subdivision
4.30 4 equivalent employee contributions based upon the contribution rate or rates in effect at
4.31 the time that the uniformed service was performed multiplied by the full and fractional years
4.32 being purchased and applied to the annual salary rate as defined in subdivision 3.

5.1 (c) If the member makes the payment under paragraph (b), the governmental subdivision
5.2 employing the member shall pay the equivalent employer contribution and, if applicable,
5.3 the equivalent additional employer contribution. The employer payments must be made
5.4 from funds available to the employing unit, using the employer and additional employer
5.5 contribution rate or rates in effect at the time that the uniformed service was performed,
5.6 applied to the same annual salary rate or rates used to compute the equivalent employee
5.7 contribution. The governmental subdivision involved may appropriate money for those
5.8 payments.

5.9 (d) The employing unit shall pay interest on all equivalent employee and employer
5.10 contribution amounts payable under this subdivision. Interest must be computed at the
5.11 applicable rate or rates specified in section 356.59, subdivision 3, compounded annually,
5.12 from the end of each fiscal year during the leave to the end of the month in which the
5.13 payment is received.

5.14 Subd. 3. **Annual salary rate defined.** The annual salary rate is the average annual salary
5.15 during the purchase period that the member would have received if the member had continued
5.16 to be employed in covered employment rather than take the uniformed services leave, or,
5.17 if the determination of that rate is not reasonably certain, the annual salary rate is the
5.18 member's average salary rate during the 12-month period of covered employment rendered
5.19 immediately preceding the period of the uniformed service.

5.20 Subd. 4. **Time period for making member's payment.** Payment of the employee
5.21 equivalent contributions must be made during a period that begins with the date on which
5.22 the member returns to public employment and that is three times the length of the military
5.23 leave period, or within five years of the date on which the member returns to public
5.24 employment, whichever is less.

5.25 Subd. 5. **Employer required to notify.** The employer shall notify the executive director,
5.26 on a form prescribed by the executive director, of the reemployment of a member who is
5.27 returning from service in the uniformed services as described in subdivision 1, and is eligible
5.28 to purchase service credit under this section. The employer must provide the notice within
5.29 14 days of the member's reemployment. The employer shall maintain a copy of the notice
5.30 in the member's employment file.

5.31 Subd. 6. **Executive director required to notify.** (a) Within 30 days of receipt of
5.32 notification from the employer under subdivision 5, the executive director shall notify the
5.33 reemployed member in writing of the right to purchase service credit and the amount of the

6.1 required payment and request a meeting with the member. The notification shall be mailed
6.2 to the member's last known address.

6.3 (b) The executive director shall provide the notice and meeting request described in
6.4 paragraph (a) to the reemployed member at least two times during the first six months of
6.5 the member's reemployment and approximately every six months thereafter until the end
6.6 of the payment period described in subdivision 4, unless:

6.7 (1) the member meets with the executive director or a designee of the executive director;

6.8 (2) the member makes a payment to purchase service credit covering a period under
6.9 subdivision 1; or

6.10 (3) the member notifies the executive director in writing that the member acknowledges
6.11 the right to purchase service credit and waives the right to a meeting.

6.12 (c) The executive director shall maintain a file for the member with copies of each notice
6.13 and the address to which the notice was sent, and, if a meeting occurs, the date, identity of
6.14 the person who conducted the meeting as the executive director's designee, and copies of
6.15 all documents provided to the member at the meeting.

6.16 Subd. 7. **Maximum amount of service credit and proration if full payment is not**
6.17 **made.** (a) The maximum amount of service credit that may be purchased under this section
6.18 is five years unless a longer purchase period is required to be offered under United States
6.19 Code, title 38, section 4312.

6.20 (b) If the employee equivalent contributions under subdivision 2 are not paid in full, the
6.21 member's allowable service credit must be prorated by multiplying the full and fractional
6.22 number of years of uniformed service eligible for purchase by the ratio obtained by dividing
6.23 the total employee contributions received by the total employee contributions otherwise
6.24 required under this section.

6.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.26 Sec. 3. **[353.0141] OTHER MILITARY LEAVE.**

6.27 Subdivision 1. **Service credit purchase authorized.** (a) Unless prohibited under
6.28 paragraph (b), a member is eligible to purchase allowable service credit for one or more
6.29 periods of service in the uniformed services, as defined in United States Code, title 38,
6.30 section 4303(13), if the member has at least three years of allowable service credit with the
6.31 general employees retirement plan, the local government correctional employees retirement
6.32 plan under chapter 353E, or the public employees police and fire retirement plan and:

7.1 (1) the employee's service in the uniformed services occurred before becoming a public
7.2 employee as defined in section 353.01, subdivision 2; or

7.3 (2) the member failed to obtain service credit for a uniformed services leave of absence
7.4 under section 353.01, subdivision 16, paragraph (a), clause (8).

7.5 (b) A service credit purchase is prohibited if:

7.6 (1) the member separated from service in the uniformed services with a dishonorable
7.7 or bad conduct discharge or under other than honorable conditions; or

7.8 (2) the member has purchased or otherwise received service credit from any Minnesota
7.9 public employee pension plan for the same period of service in the uniformed services.

7.10 Subd. 2. **Application and documentation.** A member who desires to purchase service
7.11 credit under subdivision 1 must apply with the executive director to make the purchase. The
7.12 application must include all necessary documentation of the member's qualifications to
7.13 make the purchase, signed written permission to allow the executive director to request and
7.14 receive necessary verification of applicable facts and eligibility requirements, and any other
7.15 relevant information that the executive director may require.

7.16 Subd. 3. **Purchase payment amount; service credit grant.** (a) The purchase payment
7.17 amount is the amount determined under section 356.551.

7.18 (b) Allowable service credit for the purchase period must be granted by the applicable
7.19 plan to the purchasing member upon the executive director's receipt of the purchase payment
7.20 amount.

7.21 (c) Payment must be made before the effective date of the member's retirement.

7.22 **EFFECTIVE DATE.** This section is effective the day following final enactment.