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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2266

02/15/2012 Authored by Lanning

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

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; making
1.3 changes of an administrative nature by revising a cross-reference; specifying the
1.4 timing of annual employer supplemental contributions for the MERF division;
1.5 revising a compensating limit provision to comply with federal law; amending
1.6 Minnesota Statutes 2010, sections 353.50, subdivision 7; 356.611, subdivision 2;
1.7 Minnesota Statutes 2011 Supplement, section 353.01, subdivision 16.

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

1.9 Section 1. Minnesota Statutes 2011 Supplement, section 353.01, subdivision 16,
1.10 is amended to read:

1.11 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"
1.12 means:

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

1.16 (2) periods of service covered by payments in lieu of salary deductions under
1.17 sections 353.27, subdivision 12, and 353.35;

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

1.21 (4) a period of authorized leave of absence with pay from which deductions for
1.22 employee contributions are made, deposited, and credited to the fund;

1.23 (5) a period of authorized personal, parental, or medical leave of absence without
1.24 pay, including a leave of absence covered under the federal Family Medical Leave Act,
1.25 that does not exceed one year, and for which a member obtained service credit for each

2.1 month in the leave period by payment under section 353.0161 to the fund made in place of
2.2 salary deductions. An employee must return to public service and render a minimum of
2.3 three months of allowable service in order to be eligible to make payment under section
2.4 353.0161 for a subsequent authorized leave of absence without pay. Upon payment, the
2.5 employee must be granted allowable service credit for the purchased period;

2.6 (6) a periodic, repetitive leave that is offered to all employees of a governmental
2.7 subdivision. The leave program may not exceed 208 hours per annual normal work cycle
2.8 as certified to the association by the employer. A participating member obtains service
2.9 credit by making employee contributions in an amount or amounts based on the member's
2.10 average salary, excluding overtime pay, that would have been paid if the leave had not been
2.11 taken. The employer shall pay the employer and additional employer contributions on
2.12 behalf of the participating member. The employee and the employer are responsible to pay
2.13 interest on their respective shares at the rate of 8.5 percent a year, compounded annually,
2.14 from the end of the normal cycle until full payment is made. An employer shall also make
2.15 the employer and additional employer contributions, plus 8.5 percent interest, compounded
2.16 annually, on behalf of an employee who makes employee contributions but terminates
2.17 public service. The employee contributions must be made within one year after the end of
2.18 the annual normal working cycle or within 30 days after termination of public service,
2.19 whichever is sooner. The executive director shall prescribe the manner and forms to be
2.20 used by a governmental subdivision in administering a periodic, repetitive leave. Upon
2.21 payment, the member must be granted allowable service credit for the purchased period;

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

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

3.1 the full and fractional years being purchased and applied to the annual salary rate. The
3.2 annual salary rate is the average annual salary, excluding overtime pay, during the purchase
3.3 period that the member would have received if the member had continued to be employed
3.4 in covered employment rather than to provide uniformed service, or, if the determination
3.5 of that rate is not reasonably certain, the annual salary rate is the member's average salary
3.6 rate, excluding overtime pay, during the 12-month period of covered employment rendered
3.7 immediately preceding the period of the uniformed service. Payment of the member
3.8 equivalent contributions must be made during a period that begins with the date on which
3.9 the individual returns to public employment and that is three times the length of the
3.10 military leave period, or within five years of the date of discharge from the military service,
3.11 whichever is less. If the determined payment period is less than one year, the contributions
3.12 required under this clause to receive service credit may be made within one year of the
3.13 discharge date. Payment may not be accepted following 30 days after termination of
3.14 public service under subdivision 11a. If the member equivalent contributions provided for
3.15 in this clause are not paid in full, the member's allowable service credit must be prorated
3.16 by multiplying the full and fractional number of years of uniformed service eligible for
3.17 purchase by the ratio obtained by dividing the total member contributions received by the
3.18 total member contributions otherwise required under this clause. The equivalent employer
3.19 contribution, and, if applicable, the equivalent additional employer contribution must be
3.20 paid by the governmental subdivision employing the member if the member makes the
3.21 equivalent employee contributions. The employer payments must be made from funds
3.22 available to the employing unit, using the employer and additional employer contribution
3.23 rate or rates in effect at the time that the uniformed service was performed, applied to the
3.24 same annual salary rate or rates used to compute the equivalent member contribution. The
3.25 governmental subdivision involved may appropriate money for those payments. The
3.26 amount of service credit obtainable under this section may not exceed five years unless a
3.27 longer purchase period is required under United States Code, title 38, section 4312. The
3.28 employing unit shall pay interest on all equivalent member and employer contribution
3.29 amounts payable under this clause. Interest must be computed at a rate of 8.5 percent
3.30 compounded annually from the end of each fiscal year of the leave or the break in service
3.31 to the end of the month in which the payment is received. Upon payment, the employee
3.32 must be granted allowable service credit for the purchased period; or

3.33 (9) a period specified under ~~subdivision 40~~ section 353.0162.

3.34 (b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for
3.35 state officers and employees displaced by the Community Corrections Act, chapter 401,
3.36 and transferred into county service under section 401.04, "allowable service" means the

4.1 combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and
 4.2 section 352.01, subdivision 11.

4.3 (c) For a public employee who has prior service covered by a local police or
 4.4 firefighters relief association that has consolidated with the Public Employees Retirement
 4.5 Association under chapter 353A or to which section 353.665 applies, and who has
 4.6 elected the type of benefit coverage provided by the public employees police and fire
 4.7 fund either under section 353A.08 following the consolidation or under section 353.665,
 4.8 subdivision 4, "allowable service" is a period of service credited by the local police or
 4.9 firefighters relief association as of the effective date of the consolidation based on law
 4.10 and on bylaw provisions governing the relief association on the date of the initiation
 4.11 of the consolidation procedure.

4.12 (d) No member may receive more than 12 months of allowable service credit in a
 4.13 year either for vesting purposes or for benefit calculation purposes. For an active member
 4.14 who was an active member of the former Minneapolis Firefighters Relief Association on
 4.15 the day prior to the effective date of consolidation under Laws 2011, First Special Session
 4.16 chapter 8, article 6, section 19, "allowable service" is the period of service credited by
 4.17 the Minneapolis Firefighters Relief Association as reflected in the transferred records of
 4.18 the association up to the effective date of consolidation under Laws 2011, First Special
 4.19 Session chapter 8, article 6, section 19, and the period of service credited under paragraph
 4.20 (a), clause (1), after the effective date of consolidation under Laws 2011, First Special
 4.21 Session chapter 8, article 6, section 19. For an active member who was an active member
 4.22 of the former Minneapolis Police Relief Association on the day prior to the effective date
 4.23 of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19,
 4.24 "allowable service" is the period of service credited by the Minneapolis Police Relief
 4.25 Association as reflected in the transferred records of the association up to the effective date
 4.26 of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19,
 4.27 and the period of service credited under paragraph (a), clause (1), after the effective date
 4.28 of consolidation under Laws 2011, First Special Session chapter 8, article 7, section 19.

4.29 (e) MS 2002 [Expired]

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

4.31 Sec. 2. Minnesota Statutes 2010, section 353.50, subdivision 7, is amended to read:

4.32 Subd. 7. **MERF division account contributions.** (a) After June 30, 2010, the
 4.33 member and employer contributions to the MERF division account are governed by this
 4.34 subdivision.

5.1 (b) An active member covered by the MERF division must make an employee
5.2 contribution of 9.75 percent of the total salary of the member as defined in section 353.01,
5.3 subdivision 10. The employee contribution must be made by payroll deduction by the
5.4 member's employing unit under section 353.27, subdivision 4, and is subject to the
5.5 provisions of section 353.27, subdivisions 7, 7a, 7b, 12, 12a, and 12b.

5.6 (c) The employer regular contribution to the MERF division account with respect
5.7 to an active MERF division member is 9.75 percent of the total salary of the member as
5.8 defined in section 353.01, subdivision 10.

5.9 (d) The employer additional contribution to the MERF division account with respect
5.10 to an active member of the MERF division is 2.68 percent of the total salary of the member
5.11 as defined in section 353.01, subdivision 10, plus the employing unit's share of \$3,900,000
5.12 that the employing unit paid or is payable to the former Minneapolis Employees
5.13 Retirement Fund under Minnesota Statutes 2008, section 422A.101, subdivision 1a, 2,
5.14 or 2a, during calendar year 2009, as was certified by the former executive director of the
5.15 former Minneapolis Employees Retirement Fund.

5.16 (e) Annually after June 30, 2012, the employer supplemental contribution to
5.17 the MERF division account by the city of Minneapolis, Special School District No. 1,
5.18 Minneapolis, a Minneapolis-owned public utility, improvement, or municipal activity,
5.19 Hennepin county, the Metropolitan Council, the Metropolitan Airports Commission, and
5.20 the Minnesota State Colleges and Universities system is the larger of the following:

5.21 (1) the amount by which the total actuarial required contribution determined under
5.22 section 356.215 by the approved actuary retained by the Public Employees Retirement
5.23 Association in the most recent actuarial valuation of the MERF division and based on a
5.24 June 30, 2031, amortization date, after subtracting the contributions under paragraphs (b),
5.25 (c), and (d), exceeds \$22,750,000 or \$24,000,000, whichever applies; or

5.26 (2) the amount of \$27,000,000, but the total supplemental contribution amount
5.27 plus the contributions under paragraphs (c) and (d) may not exceed \$34,000,000. Each
5.28 employing unit's share of the total employer supplemental contribution amount is equal to
5.29 the applicable portion specified in paragraph ~~(g)~~ (h). The initial total actuarial required
5.30 contribution after June 30, 2012, must be calculated using the mortality assumption
5.31 change recommended on September 30, 2009, for the Minneapolis Employees Retirement
5.32 Fund by the approved consulting actuary retained by the Minneapolis Employees
5.33 Retirement Fund board.

5.34 (f) Before January 31, each employing unit must be invoiced for its share of the
5.35 total employer supplemental contribution amount under paragraph (e). The amount is
5.36 payable by the employing unit in two parts. The first half of the amount due is payable

6.1 on or before the July 31 following the date of the invoice, and the second half of the
 6.2 amount due is payable on or before December 15. Each invoice must be based on the
 6.3 actuarial valuation report prepared under section 356.215 and the standards for actuarial
 6.4 work promulgated by the Legislative Commission on Pensions and Retirement as of the
 6.5 valuation date occurring 18 months earlier.

6.6 ~~(f)~~ (g) Notwithstanding any provision of paragraph (c), (d), or (e) to the contrary, as
 6.7 of August 1 annually, if the amount of the retirement annuities and benefits paid from the
 6.8 MERF division account during the preceding fiscal year, multiplied by the factor of 1.035,
 6.9 exceeds the market value of the assets of the MERF division account on the preceding
 6.10 June 30, plus state aid of \$9,000,000, \$22,750,000, or \$24,000,000, whichever applies,
 6.11 plus the amounts payable under paragraphs (b), (c), (d), and (e) during the preceding
 6.12 fiscal year, multiplied by the factor of 1.035, the balance calculated is a special additional
 6.13 employer contribution. The special additional employer contribution under this paragraph
 6.14 is payable in addition to any employer contribution required under paragraphs (c), (d), and
 6.15 (e), and is payable on or before the following June 30. The special additional employer
 6.16 contribution under this paragraph must be allocated as specified in paragraph ~~(g)~~ (h).

6.17 ~~(g)~~ (h) The employer supplemental contribution under paragraph (e) or the special
 6.18 additional employer contribution under paragraph ~~(f)~~ (g) must be allocated between the
 6.19 city of Minneapolis, Special School District No. 1, Minneapolis, any Minneapolis-owned
 6.20 public utility, improvement, or municipal activity, the Minnesota State Colleges and
 6.21 Universities system, Hennepin County, the Metropolitan Council, and the Metropolitan
 6.22 Airports Commission in proportion to their share of the actuarial accrued liability of the
 6.23 former Minneapolis Employees Retirement Fund as of July 1, 2009, as calculated by the
 6.24 approved actuary retained under section 356.214 as part of the actuarial valuation prepared
 6.25 as of July 1, 2009, under section 356.215 and the Standards for Actuarial Work adopted by
 6.26 the Legislative Commission on Pensions and Retirement.

6.27 ~~(h)~~ (i) The employer contributions under paragraphs (c), (d), ~~and~~ (e), ~~and~~ (g) must be
 6.28 paid as provided in section 353.28.

6.29 ~~(i)~~ (j) Contributions under this subdivision are subject to the provisions of section
 6.30 353.27, subdivisions 4, 7, 7a, 7b, 11, 12, 12a, 12b, 13, and 14.

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

6.32 Sec. 3. Minnesota Statutes 2010, section 356.611, subdivision 2, is amended to read:

6.33 Subd. 2. **Federal compensation limits.** (a) For members of a covered pension plan
 6.34 enumerated in section 356.30, subdivision 3, and of the plan established under chapter
 6.35 353D, compensation in excess of the limitation specified in section 401(a)(17) of the

7.1 Internal Revenue Code, as amended, for changes in the cost of living under section
7.2 401(a)(17)(B) of the Internal Revenue Code, may not be included for contribution and
7.3 benefit computation purposes.

7.4 (b) Notwithstanding paragraph (a), for members specified in paragraph (a) who
7.5 first contributed to a plan specified in that paragraph before July 1, 1995, the annual
7.6 compensation limit specified in Internal Revenue Code 401(a)(17) on June 30, 1993,
7.7 applies if that provides a greater allowable annual compensation.

7.8 (c) To the extent required by the federal Internal Revenue Code, sections 3401(h)
7.9 and 414(u)(12), an individual receiving a differential wage payment as defined in section
7.10 3401(h)(2) of the federal Internal Revenue Code from an employer shall be treated
7.11 as employed by that employer, and the differential wage payment will be treated as
7.12 compensation for purposes of applying the limits on annual additions under section 415(c)
7.13 of the federal Internal Revenue Code.

7.14 **EFFECTIVE DATE.** This section is effective retroactively from January 1, 2009.