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STATE OF MINNESOTA
NINETY-SECOND SESSION

S.F. No. 3013

(SENATE AUTHORS: HOWE)

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OFFICIAL STATUS
Introduction and first reading
Referred to State Government Finance and Policy and Elections

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; privatized medical
1.3 facilities; amending the calculation of liability for privatizing medical facilities;
1.4 amending Minnesota Statutes 2020, sections 353F.02, subdivision 4a; 353F.025,
1.5 subdivisions 1, 2, by adding a subdivision.

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

1.7 Section 1. Minnesota Statutes 2020, section 353F.02, subdivision 4a, is amended to read:

1.8 Subd. 4a. **Medical facility.** "Medical facility" means a hospital, health care clinic, nursing
1.9 home, boarding care home, residential hospice, supervised living facility, freestanding
1.10 outpatient surgical center, or other facility or institution that has the primary purpose of
1.11 providing medical care and that satisfies the definition of governmental subdivision under
1.12 section 353.01, subdivision 6.

1.13 **EFFECTIVE DATE.** This section is effective July 1, 2023.

1.14 Sec. 2. Minnesota Statutes 2020, section 353F.025, subdivision 1, is amended to read:

1.15 Subdivision 1. **Eligibility determination and calculation of withdrawal liability.** (a)
1.16 This section applies to any medical facility that privatizes.

1.17 (b) Before the effective date of privatization, the chief clerical officer of a the
1.18 governmental subdivision may with control or ownership of a privatizing medical facility
1.19 must submit to the executive director a resolution from the governing body to the executive
1.20 director of the Public Employees Retirement Association which supports providing coverage
1.21 under this chapter for employees of that governmental subdivision who are privatized, of
1.22 the governmental subdivision. The resolution must notify the executive director that the

2.1 medical facility may privatize and which states must state that the governing body will pay
 2.2 reimburse the Public Employees Retirement Association for actuarial calculations the
 2.3 calculation of withdrawal liability, as further specified in paragraph (e) (d).

2.4 ~~(b)~~ (c) The governing body must also provide a copy of any applicable purchase or lease
 2.5 agreement and any other information requested by the executive director to allow the
 2.6 executive director to ~~verify that under the proposed employer change,~~ determine whether
 2.7 the new employer does not qualify, under the proposed privatization, qualifies as a
 2.8 governmental subdivision under section 353.01, subdivision 6, ~~making the employees~~
 2.9 ~~ineligible for continued coverage as active members of the general employees retirement~~
 2.10 ~~plan of the Public Employees Retirement Association.~~

2.11 ~~(e)~~ Following (d) Within 30 days after receipt of a resolution and a determination by
 2.12 under paragraph (b), if the executive director determines that the proposed new employer
 2.13 is not a governmental subdivision, then the executive director shall direct the consulting
 2.14 actuary retained under section 356.214 to determine whether the general employees retirement
 2.15 plan of the Public Employees Retirement Association, if coverage under this chapter is
 2.16 provided, is expected to receive a net gain or a net loss if privatization occurs. A net gain
 2.17 is expected if the actuarial liability of the special benefit coverage provided under this
 2.18 chapter, if extended to the applicable employees under the privatization, is less than the
 2.19 actuarial gain otherwise to accrue to the plan. A net loss is expected if the actuarial accrued
 2.20 liability of the special benefit coverage provided under this chapter, if extended to the
 2.21 applicable employees under the privatization, is more than the actuarial gain otherwise to
 2.22 accrue to the plan. calculate the withdrawal liability incurred by the privatizing medical
 2.23 facility. The withdrawal liability is equal to the present value of accrued benefits attributable
 2.24 to the privatizing active employees minus the product of: (1) the present value of accrued
 2.25 benefits attributable to the privatizing active employees; and (2) the plan's funding ratio. If
 2.26 the withdrawal liability is a negative number, the withdrawal liability is zero. The date of
 2.27 the actuarial calculations used to make this determination withdrawal liability must be within
 2.28 one year of calculated using the most recently completed actuarial valuation before the
 2.29 effective date of privatization. The governmental subdivision must reimburse the Public
 2.30 Employees Retirement Association for the actual cost of calculating the withdrawal liability.

2.31 (e) The present value of accrued benefits is determined using the actuarial assumptions
 2.32 under section 356.215, subdivision 8, for the general employees retirement plan of the Public
 2.33 Employees Retirement Association. The present value of accrued benefits does not include
 2.34 projected compensation or projected service.

3.1 (f) In this section, the funding ratio means the actuarial value of assets of the general
 3.2 employees retirement fund, divided by the present value of accrued benefits for the fund,
 3.3 expressed as a percentage.

3.4 **EFFECTIVE DATE.** This section is effective July 1, 2023.

3.5 Sec. 3. Minnesota Statutes 2020, section 353F.025, is amended by adding a subdivision
 3.6 to read:

3.7 Subd. 1a. **Payment of withdrawal liability.** No later than six months after the effective
 3.8 date of privatization, the privatized former public employer must pay the withdrawal liability
 3.9 calculated under subdivision 1, paragraph (d), to the general employees retirement fund,
 3.10 unless the privatized former public employer elects a payment plan. In lieu of a single
 3.11 withdrawal liability payment, the privatized former public employer may elect to pay the
 3.12 withdrawal liability in equal payments made annually and for a term of ten years. The
 3.13 determination of the payments must reflect interest compounded annually at the applicable
 3.14 rate or rates specified in section 356.59, subdivision 3. The obligation to pay under this
 3.15 subdivision is binding upon the privatized public employer and its successors and assignees.

3.16 **EFFECTIVE DATE.** This section is effective July 1, 2023.

3.17 Sec. 4. Minnesota Statutes 2020, section 353F.025, subdivision 2, is amended to read:

3.18 ~~Subd. 2. **Reporting privatizations.** (a) If the actuarial calculations under subdivision~~
 3.19 ~~1, paragraph (c), indicate privatization can be approved because a net gain to the general~~
 3.20 ~~employees retirement plan of The Public Employees Retirement Association is expected,~~
 3.21 ~~or if paragraph (b) applies, the executive director shall, following acceptance of the actuarial~~
 3.22 ~~calculations by~~ must maintain a record of the consulting actuary's calculation of withdrawal
 3.23 liability under subdivision 1, paragraph (d), and any associated report. The calculation and
 3.24 any associated report must be made available to the public and provided to (1) the
 3.25 association's board of trustees, forward notice and supporting documentation, including a
 3.26 copy of the actuary's report and findings, to (2) the chair and the executive director of the
 3.27 Legislative Commission on Pensions and Retirement, and (3) the chairs and the ranking
 3.28 minority members of the legislative committees with jurisdiction over governmental
 3.29 operations in the house of representatives and senate.

3.30 ~~(b) If the calculations under subdivision 1, paragraph (c), indicate a net loss, the executive~~
 3.31 ~~director shall recommend to the board of trustees that the privatization be approved if the~~
 3.32 ~~chief clerical officer of the applicable governmental subdivision submits a resolution from~~
 3.33 ~~the governing body specifying that a lump sum payment will be made to the Public~~

4.1 ~~Employees Retirement Association equal to the net loss, plus interest. The interest must be~~
4.2 ~~computed using the applicable ultimate investment return assumption under section 356.215,~~
4.3 ~~subdivision 8, expressed as a monthly rate, from the date of the actuarial valuation from~~
4.4 ~~which the actuarial accrued liability data was used to determine the net loss in the actuarial~~
4.5 ~~study under subdivision 1, to the date of payment, with annual compounding. Payment must~~
4.6 ~~be made on or after the effective date of privatization.~~

4.7 (e) (b) The Public Employees Retirement Association must maintain a list that includes
4.8 the names of all privatized former public employers in the association's comprehensive
4.9 annual financial report and on the association's website. For privatized former public
4.10 employers with an effective date of privatization after July 1, 2023, the list must also include
4.11 the original withdrawal liability amount and the remaining amount of withdrawal liability
4.12 due to be paid, if any, for each privatized former public employer.

4.13 **EFFECTIVE DATE.** This section is effective July 1, 2023.