State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 4300

03/09/2020 Authored by Her and O'Driscoll
The bill was read for the first time and referred to the Committee on Government Operations

A bill for an act

relating to retirement; Public Employees Retirement Association; privatized medical facilities; amending augmentation for privatized employees; amending the calculation of liability for privatizing medical facilities; making administrative and technical changes; amending Minnesota Statutes 2018, sections 353F.02, by adding subdivisions; 353F.025, subdivision 1, by adding a subdivision; 353F.04; Minnesota Statutes 2019 Supplement, section 353F.025, subdivision 2.

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

Section 1. Minnesota Statutes 2018, section 353F.02, is amended by adding a subdivision to read:

Subd. 3a. **Executive director.** "Executive director" means the executive director of the Public Employees Retirement Association.

EFFECTIVE DATE. This section is effective July 1, 2020.

Sec. 2. Minnesota Statutes 2018, section 353F.02, is amended by adding a subdivision to read:

Subd. 4a. **Medical facility.** "Medical facility" means a facility that has the primary purpose of providing medical care and that satisfies the definition of governmental subdivision under section 353.01, subdivision 6.

EFFECTIVE DATE. This section is effective July 1, 2020.

Sec. 3. Minnesota Statutes 2018, section 353F.02, is amended by adding a subdivision to read:

Subd. 4b. **Privatization.** "Privatization" means a medical facility that privatizes when the facility ceases to be a governmental subdivision for any reason other than that the medical facility closes or permanently ceases to operate.

EFFECTIVE DATE. This section is effective July 1, 2020.

Sec. 4. Minnesota Statutes 2018, section 353F.025, subdivision 1, is amended to read:

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

(b) Before the effective date of privatization, the chief clerical officer of ~~a~~ the governmental subdivision ~~may~~ with control or ownership of a privatizing medical facility must submit to the executive director a resolution from the governing body ~~to the executive director of the Public Employees Retirement Association~~ of the governmental subdivision which ~~supports providing coverage under this chapter for employees of that governmental subdivision who are privatized,~~ notifies the executive director that the medical facility may privatize and which states that the governing body will ~~pay~~ reimburse the Public Employees Retirement Association for ~~actuarial calculations~~ the calculation of withdrawal liability, as further specified in paragraph ~~(c)~~ (d).

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

~~(c) Following~~ (d) Within 30 days after receipt of a resolution ~~and a determination by~~ under paragraph (b), if the executive director determines that the proposed new employer is not a governmental subdivision, then the executive director shall direct the consulting actuary retained under section 356.214 ~~to determine whether the general employees retirement plan of the Public Employees Retirement Association, if coverage under this chapter is provided, is expected to receive a net gain or a net loss if privatization occurs. A net gain is expected if the actuarial liability of the special benefit coverage provided under this chapter, if extended to the applicable employees under the privatization, is less than the actuarial gain otherwise to accrue to the plan. A net loss is expected if the actuarial accrued~~

~~liability of the special benefit coverage provided under this chapter, if extended to the applicable employees under the privatization, is more than the actuarial gain otherwise to accrue to the plan.~~ to calculate the withdrawal liability incurred by the privatizing medical facility. The withdrawal liability is equal to the present value of accrued benefits attributable to the privatizing active employees minus the product of: (1) the present value of accrued benefits attributable to the privatizing active employees; and (2) the plan's funding ratio. If the withdrawal liability is a negative number, the withdrawal liability is zero. The ~~date of the actuarial calculations used to make this determination~~ withdrawal liability must be ~~within one year of~~ calculated using the most recently completed actuarial valuation before the effective date of privatization. The governmental subdivision must reimburse the Public Employees Retirement Association for the actual cost of calculating the withdrawal liability.

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

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

EFFECTIVE DATE. This section is effective July 1, 2022.

Sec. 5. Minnesota Statutes 2018, section 353F.025, is amended by adding a subdivision to read:

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

EFFECTIVE DATE. This section is effective July 1, 2022.

Sec. 6. Minnesota Statutes 2019 Supplement, section 353F.025, subdivision 2, is amended to read:

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

~~(b) If the calculations under subdivision 1, paragraph (c), indicate a net loss, the executive director shall recommend to the board of trustees that the privatization be approved if the chief clerical officer of the applicable governmental subdivision submits a resolution from the governing body specifying that a lump sum payment will be made to the Public Employees Retirement Association equal to the net loss, plus interest. The interest must be computed using the applicable ultimate investment return assumption under section 356.215, subdivision 8, expressed as a monthly rate, from the date of the actuarial valuation from which the actuarial accrued liability data was used to determine the net loss in the actuarial study under subdivision 1, to the date of payment, with annual compounding. Payment must be made on or after the effective date of privatization.~~

~~(c)~~ (b) The Public Employees Retirement Association must maintain a list that includes the names of all privatized former public employers in the association's comprehensive annual financial report and on the association's website. For privatized former public employers with an effective date of privatization after July 1, 2022, the list must also include the original withdrawal liability amount and the remaining amount of withdrawal liability due to be paid, if any, for each privatized former public employer.

EFFECTIVE DATE. This section is effective July 1, 2022.

Sec. 7. Minnesota Statutes 2018, section 353F.04, is amended to read:

353F.04 AUGMENTATION INTEREST RATES FOR PRIVATIZED FORMER PUBLIC EMPLOYEES.

Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a privatized former public employee is subject to augmentation under section ~~353.71, subdivision 2, of the edition of Minnesota Statutes published in the year in which the privatization occurred~~ 353.34, subdivision 3, except that the rate of augmentation is as specified in this ~~subdivision~~ section.

(b) This paragraph applies if the effective date of privatization was on or before January 1, 2007, and also applies to Hutchinson Area Health Care with a privatization effective date of January 1, 2008. For a privatized former public employee, the augmentation rate is 5.5 percent compounded annually until January 1 following the year in which the person attains age 55. ~~From~~ After that date ~~to the effective date of retirement~~, the augmentation rate is 7.5 percent compounded annually.

(c) If paragraph (b) is not applicable, and if the effective date of the privatization is after January 1, 2007, and before January 1, 2011, then the augmentation rate is four percent compounded annually until January 1, following the year in which the person attains age 55. ~~From~~ After that date ~~to the effective date of retirement~~, the augmentation rate is six percent compounded annually.

(d) If the effective date of the privatization is after December 31, 2010, the ~~applicable~~ augmentation rate depends on the result of computations specified in section 353F.025, subdivision 1. If those computations indicate no loss or a net gain to the fund of the general employees retirement plan of the Public Employees Retirement Association, the augmentation rate is two percent compounded annually ~~until the effective date of retirement~~. If the computations under that subdivision indicate a net loss to the fund if a two percent augmentation rate is used, but a net gain or no loss if a one percent rate is used, then the augmentation rate is one percent compounded annually ~~until the effective date of retirement~~.

(e) Notwithstanding paragraphs (b) to (d), after June 30, 2020, and before January 1, 2024, the augmentation rate for all privatized former public employees under paragraphs (b) to (d) is two percent compounded annually. After December 31, 2023, no additional augmentation is applied to the privatized former public employee's deferred annuity.

Subd. 2. **Exceptions.** The ~~increased~~ augmentation rates specified in subdivision 1 do not apply to a privatized former public employee:

(1) beginning the first of the month in which the privatized former public employee becomes covered again by a retirement plan enumerated in section 356.30, subdivision 3, if the employee accrues at least six months of credited service in any single plan enumerated in section 356.30, subdivision 3, except clause (6);

(2) beginning the first of the month in which the privatized former public employee becomes covered again by the general employees retirement plan of the Public Employees Retirement Association;

(3) beginning the first of the month after a privatized former public employee terminates service with the privatized former public employer; ~~or~~

(4) if the ~~person~~ privatized former public employee begins receipt of a retirement annuity while employed by the ~~employer which assumed operations of or purchased the~~ privatized former public employer~~.~~; or

(5) if the effective date of privatization occurs after June 30, 2020.

EFFECTIVE DATE. This section is effective July 1, 2020.