

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 276

(SENATE AUTHORS: PAPPAS)

DATE	D-PG	OFFICIAL STATUS
02/06/2013	160	Introduction and first reading Referred to State and Local Government See SF489, Art. 3, Sec. 13, 15-23, 25-27, 31

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A bill for an act

relating to retirement; Public Employees Retirement Association privatization chapter; removing legislative approval requirements; modifying legislative notification requirements; clarifying privatized public hospital pension benefit eligibility; making various administrative changes; amending Minnesota Statutes 2012, sections 353F.02, subdivisions 3, 6, by adding a subdivision; 353F.025, subdivisions 1, 2; 353F.03; 353F.04; 353F.05; 353F.051, subdivision 1; 353F.052; 353F.06; 353F.07; 353F.08; repealing Minnesota Statutes 2012, sections 353F.02, subdivisions 4, 5; 353F.025, subdivision 3.

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

Section 1. Minnesota Statutes 2012, section 353F.02, subdivision 3, is amended to read:

Subd. 3. **Effective date of privatization.** "Effective date of privatization" means the date that the operation of the a medical facility or other public employing unit is assumed by another employer or the date that the a medical facility or other public employing unit is purchased by another employer and active membership in the Public Employees Retirement Association consequently terminates.

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

Sec. 2. Minnesota Statutes 2012, section 353F.02, is amended by adding a subdivision to read:

Subd. 4a. **Privatized former public employer.** "Privatized former public employer" means a medical facility or other public employing unit formerly included in the definition of governmental subdivision under section 353.01, subdivision 6, that is privatized and whose employees are certified for participation under this chapter.

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

2.1 Sec. 3. Minnesota Statutes 2012, section 353F.02, subdivision 6, is amended to read:

2.2 Subd. 6. ~~Terminated medical facility or other~~ **Privatized former public**
2.3 **employing-unit employee.** ~~"Terminated medical facility or other~~ (a) "Privatized former
2.4 public employing-unit employee" means a person who:

2.5 (1) was employed by the privatized former public employer on the day before the
2.6 effective date ~~by the medical facility or other public employing-unit~~ of privatization; or

2.7 (2) terminated employment with the ~~medical facility or other~~ privatized former
2.8 public employing-unit employer on the day before the effective date; and

2.9 (3) was a participant in the general employees retirement plan of the Public
2.10 Employees Retirement Association at the time of termination of employment with the
2.11 ~~medical facility or other~~ privatized former public employing-unit employer.

2.12 (b) "Privatized former public employee" does not mean a person who, on the day
2.13 before the effective date of privatization, was simultaneously employed with the privatized
2.14 former public employer and by a governmental subdivision under section 353.01,
2.15 subdivision 6, and who, after the effective date of privatization, continues to accrue
2.16 service credit under section 353.01, subdivision 16, through simultaneous employment
2.17 with a governmental subdivision.

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

2.19 Sec. 4. Minnesota Statutes 2012, section 353F.025, subdivision 1, is amended to read:

2.20 Subdivision 1. **Eligibility determination.** (a) The chief clerical officer of a
2.21 governmental subdivision may submit a resolution from the governing body to the
2.22 executive director of the Public Employees Retirement Association which supports
2.23 providing coverage under this chapter for employees of that governmental subdivision
2.24 who are privatized, and which states that the governing body will pay for actuarial
2.25 calculations, as further specified in paragraph (c).

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

2.32 (c) Following receipt of a resolution and a determination by the executive director
2.33 that the new employer is not a governmental subdivision, the executive director shall
2.34 direct the consulting actuary retained under section 356.214 to determine whether the
2.35 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. The date of the actuarial calculations used to make this determination must be within one year of the effective date, ~~as defined in section 353F.02, subdivision 3 of privatization.~~

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

Sec. 5. Minnesota Statutes 2012, section 353F.025, subdivision 2, is amended to read:

Subd. 2. **Recommendation to legislature Reporting privatizations.** (a) If the actuarial calculations under subdivision 1, paragraph (c), indicate ~~that privatization can be approved because a net gain to the general employees retirement plan of the Public Employees Retirement Association is expected due to the privatization, or if paragraph (e) (b) applies, the executive director shall, following acceptance of the actuarial calculations by the board of trustees, forward a recommendation notice and supporting documentation to the chair of the Legislative Commission on Pensions and Retirement, the chair of the Governmental Operations, Reform, Technology and Elections Committee of the house of representatives, the chair of the State and Local Government Operations and Oversight Committee of the senate, and the executive director of the Legislative Commission on Pensions and Retirement and the chairs and the ranking minority members of the committees with jurisdiction over governmental operations in the house of representatives and senate. The recommendation must be in the form of an addition to the definition of "medical facility" under section 353F.02, subdivision 4, or to "other public employing unit" under section 353F.02, subdivision 5, whichever is applicable. The recommendation must be forwarded to the legislature before January 15 for the recommendation to be considered in that year's legislative session. The recommendation may be included as part of public pension administrative legislation under section 356B.05.~~

(b) ~~If a medical facility or other public employing unit listed under section 353F.02, subdivision 4 or 5, fails to privatize within one year of the final enactment date of the legislation adding the entity to the applicable definition, its inclusion under this chapter is voided, and the executive director shall include in the subsequent proposed legislation under paragraph (a) a recommendation that the applicable entity be stricken from the definition.~~

(e) ~~(b)~~ If the calculations under subdivision 1, paragraph (c), indicate a net loss, the executive director shall ~~forward a recommendation~~ recommend to the board of trustees that the privatization be ~~included as an addition under paragraph (a)~~ 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 ~~executive director~~ Public Employees Retirement Association equal to the net loss, plus interest. The interest must be computed using the applicable ultimate preretirement interest rate 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 ~~defined under section 353F.02~~ of privatization.

(c) 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 Web site. Annually by March 1, the association must submit to the executive director of the Legislative Commission on Pensions and Retirement the names of any privatized former public employers approved since the publication of the previous fiscal year's comprehensive annual financial report.

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

Sec. 6. Minnesota Statutes 2012, section 353F.03, is amended to read:

353F.03 VESTING RULE FOR CERTAIN EMPLOYEES.

Notwithstanding any provision of chapter 353 to the contrary, a ~~terminated medical facility or other~~ privatized former public employing unit employee is eligible to receive a retirement annuity under section 353.29 of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, without regard to the requirement specified in section 353.01, subdivision 47.

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

Sec. 7. Minnesota Statutes 2012, section 353F.04, is amended to read:

353F.04 AUGMENTATION INTEREST RATES FOR ~~TERMINATED MEDICAL OR OTHER PRIVATIZED FORMER PUBLIC EMPLOYING UNIT FACILITY~~ EMPLOYEES.

Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a ~~terminated medical facility or other~~ privatized former public employing unit 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, except that the rate of augmentation is as specified in this subdivision.

(b) This paragraph applies if the ~~legislation adding the medical facility or other employing unit to section 353F.02, subdivision 4 or 5, as applicable, effective date of privatization was enacted before July 26, 2005, and became effective before January 1, 2008, for the Hutchinson Area Health Care~~ on or before January 1, 2007, for all other medical facilities and all other employing units and also applies to Hutchinson Area Health Care with a privatization effective date of January 1, 2008. For a ~~terminated medical facility or other privatized former public employing unit~~ employee, the augmentation rate is 5.5 percent compounded annually until January 1 following the year in which the person attains age 55. From 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 before January 1, 2011, the augmentation rate is four percent compounded annually until January 1, following the year in which the person attains age 55. From 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 2.0 percent compounded annually until the effective date of retirement. If the computations under that subdivision indicate a net loss to the fund if a 2.0 percent augmentation rate is used, but a net gain or no loss if a 1.0 percent rate is used, then the augmentation rate is 1.0 percent compounded annually until the effective date of retirement.

~~(e) The term "effective date of the privatization" as used in this subdivision means the "effective date" as defined in section 353F.02, subdivision 3.~~

Subd. 2. **Exceptions.** The increased augmentation rates specified in subdivision 1 do not apply if the ~~terminated medical facility or other~~ to a privatized former public employing unit 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 continues to be covered and accrues at least six months of credited service; or

(2) beginning the first of the month after a privatized former public employee terminates service with the successor entity; or

(2) (3) if the person begins receipt of a retirement annuity while employed by the employer which assumed operations of or purchased the medical facility or other privatized former public employing unit or purchased the medical facility or other public employing unit employer.

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

Sec. 8. Minnesota Statutes 2012, section 353F.05, is amended to read:

353F.05 AUTHORIZATION FOR ADDITIONAL ALLOWABLE SERVICE FOR EARLY RETIREMENT PURPOSES.

(a) For the purpose of determining eligibility for early retirement benefits provided under section 353.30, subdivision 1a, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, and notwithstanding any provision of chapter 353, to the contrary, the years of allowable service for a ~~terminated medical facility or other privatized former public employing unit~~ employee who transfers employment on the effective date of privatization and does not apply for a refund of contributions under section 353.34, subdivision 1, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred, or any similar provision, includes service with the successor employer to the ~~medical facility or other privatized former public employing unit employer~~ following the effective date. The successor employer shall provide any reports that the executive director of the Public Employees Retirement Association may reasonably request to permit calculation of benefits.

(b) To be eligible for early retirement benefits under this section, the individual must separate from service with the successor to the privatized former public employer ~~to the medical facility~~. The ~~terminated eligible individual~~ privatized former public employee, or an individual authorized to act on behalf of that ~~individual employee~~, may apply for an annuity following application procedures under section 353.29, subdivision 4.

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

Sec. 9. Minnesota Statutes 2012, section 353F.051, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** A ~~terminated medical facility or other privatized former public employing unit~~ employee who is totally and permanently disabled under Minnesota Statutes 1998, section 353.01, subdivision 19, and who had a medically documented preexisting condition of the disability before the termination of coverage, may apply for a disability benefit.

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

Sec. 10. Minnesota Statutes 2012, section 353F.052, is amended to read:

353F.052 APPLICATION OF SURVIVING SPOUSE, DEPENDENT CHILD PROVISION.

Notwithstanding any provisions of law to the contrary, subdivisions within section 353.32 of the edition of Minnesota Statutes published in the year before the year in which a privatization occurred, applicable to the surviving spouse or dependent children of a former member as defined in section 353.01, subdivision 7a, apply to the survivors of a ~~terminated medical facility or other privatized former public employing unit~~ employee.

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

Sec. 11. Minnesota Statutes 2012, section 353F.06, is amended to read:

353F.06 APPLICATION OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

Upon termination of service from the privatized former public employer or any successor entity after the effective date of privatization, a privatized former public employee must separate from any employment relationship with the privatized former public employer or any successor entity for at least 30 days to qualify to receive a retirement annuity under this chapter. If the privatized former public employee thereafter resumes employment with the privatized former public employer or any successor entity or a governmental subdivision under section 353.01, subdivision 6, the reemployed annuitant earnings limitations of section 353.37 apply to any service by a terminated medical facility or other public employing unit employee as an employee of the successor employer to the medical facility.

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

Sec. 12. Minnesota Statutes 2012, section 353F.07, is amended to read:

353F.07 EFFECT ON REFUND.

Notwithstanding any provision of chapter 353 to the contrary, ~~terminated medical facility or other privatized former public employing unit~~ employees may receive a refund of employee accumulated contributions plus interest as provided in section 353.34, subdivision 2, at any time after the transfer of employment to the successor employer of the ~~terminated medical facility or other privatized former public employing unit~~ employer.

If a ~~terminated medical facility or other~~ privatized former public employing unit employee has received a refund from a pension plan listed in section 356.30, subdivision 3, the person may not repay that refund unless the person again becomes a member of one of those listed plans and complies with section 356.30, subdivision 2.

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

Sec. 13. Minnesota Statutes 2012, section 353F.08, is amended to read:

353F.08 COUNSELING SERVICES.

The ~~medical facility or other~~ privatized former public employing unit employer and the executive director of the Public Employees Retirement Association shall provide ~~terminated medical facility or other~~ privatized former public employing unit employees with counseling on their benefits available under the general employees retirement plan of the Public Employees Retirement Association during ~~the 90 days following a period~~ mutually agreed upon before or after the effective date of privatization.

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

Sec. 14. **REPEALER.**

Minnesota Statutes 2012, sections 353F.02, subdivisions 4 and 5; and 353F.025, subdivision 3, are repealed.

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

353F.02 DEFINITIONS.

Subd. 4. **Medical facility.** "Medical facility" means:

- (1) Bridges Medical Services;
- (2) Cedarview Care Center in Steele County;
- (3) the City of Cannon Falls Hospital;
- (4) the Chris Jenson Health and Rehabilitation Center in St. Louis County;
- (5) Clearwater County Memorial Hospital doing business as Clearwater Health Services in Bagley;
- (6) the Dassel Lakeside Community Home;
- (7) the Douglas County Hospital, with respect to the Mental Health Unit;
- (8) the Fair Oaks Lodge, Wadena;
- (9) the Glencoe Area Health Center;
- (10) Hutchinson Area Health Care;
- (11) the Lakefield Nursing Home;
- (12) the Lakeview Nursing Home in Gaylord;
- (13) the Luverne Public Hospital;
- (14) the Oakland Park Nursing Home;
- (15) the RenVilla Nursing Home;
- (16) the Rice Memorial Hospital in Willmar, with respect to the Department of Radiology and the Department of Radiation/Oncology;
- (17) the St. Peter Community Health Care Center;
- (18) the Traverse Care Center in Traverse County;
- (19) the Waconia-Ridgeview Medical Center;
- (20) the Weiner Memorial Medical Center, Inc.;
- (21) the Wheaton Community Hospital; and
- (22) the Worthington Regional Hospital.

Subd. 5. **Other public employing unit.** "Other public employing unit" means:

- (1) Metro II, a joint powers organization formed under section 471.59; and
- (2) the St. Paul Civic Center authority.

353F.025 CERTIFICATION AND DECERTIFICATION OF MEDICAL FACILITIES AND OTHER PUBLIC EMPLOYING UNITS.

Subd. 3. **Date of application.** For any privatization added to this chapter after May 28, 2008, the first date of coverage is the effective date as defined in section 353F.02, subdivision 3.