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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4428

02/29/2024 Authored by Nelson, M.; O'Driscoll; Cha and Berg
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to retirement; Public Employees Retirement Association; privatized medical
1.3 facilities; modifying the calculation of withdrawal liability for privatizing medical
1.4 facilities; requiring a report; amending Minnesota Statutes 2022, sections 353F.02,
1.5 subdivisions 4a, 4b, by adding subdivisions; 353F.025, subdivisions 1, 2, by adding
1.6 a subdivision; 353F.051, subdivision 2.

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

1.8 Section 1. Minnesota Statutes 2022, section 353F.02, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 3b. Funding ratio. "Funding ratio" means the actuarial value of assets of the
1.11 general employees retirement fund, divided by the present value of accrued benefits for the
1.12 fund, expressed as a percentage.

1.13 Sec. 2. Minnesota Statutes 2022, section 353F.02, is amended by adding a subdivision to
1.14 read:

1.15 Subd. 3c. General employees retirement fund. "General employees retirement fund"
1.16 means the general employees retirement fund as defined under section 353.27, subdivision
1.17 1.

1.18 Sec. 3. Minnesota Statutes 2022, section 353F.02, subdivision 4a, is amended to read:

1.19 Subd. 4a. Medical facility. "Medical facility" means a hospital, health care clinic, nursing
1.20 home, boarding care home, residential hospice, supervised living facility, freestanding
1.21 outpatient surgical center, or other facility or institution that has the primary purpose of

2.1 providing medical care and that satisfies the definition of governmental subdivision under
2.2 section 353.01, subdivision 6.

2.3 Sec. 4. Minnesota Statutes 2022, section 353F.02, subdivision 4b, is amended to read:

2.4 Subd. 4b. **Privatization.** "Privatization" means the process of privatizing, through which
2.5 a medical facility that ~~privatizes when the facility is a governmental subdivision under~~
2.6 section 353.01, subdivision 6, ceases to be a governmental subdivision for any reason other
2.7 than that the medical facility closes or permanently ceases to operate.

2.8 Sec. 5. Minnesota Statutes 2022, section 353F.02, is amended by adding a subdivision to
2.9 read:

2.10 Subd. 4c. **Privatize or privatizing.** "Privatize" or "privatizing" means to engage in a
2.11 transaction, including a sale to, acquisition by, or merger with an entity or a sale to or
2.12 acquisition by one or more individuals, or a series of such transactions that result in a medical
2.13 facility that is a governmental subdivision under section 353.01, subdivision 6, ceasing to
2.14 be a governmental subdivision on or after the effective date of privatization. Privatize or
2.15 privatizing does not mean ceasing to be a governmental subdivision because the medical
2.16 facility closed or permanently ceased to operate.

2.17 Sec. 6. Minnesota Statutes 2022, section 353F.025, subdivision 1, is amended to read:

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

2.20 ~~(a)~~ (b) Before the effective date of privatization, the chief clerical officer of a the
2.21 governmental subdivision may with control or ownership of a privatizing medical facility
2.22 must submit to the executive director a resolution from the governing body to the executive
2.23 director of the Public Employees Retirement Association which supports providing coverage
2.24 under this chapter for employees of that governmental subdivision who are privatized, of
2.25 the governmental subdivision. The resolution must notify the executive director that the
2.26 medical facility may privatize and which states must state that the governing body
2.27 governmental subdivision will pay reimburse the Public Employees Retirement Association
2.28 for actuarial calculations the cost to calculate withdrawal liability, as further specified in
2.29 paragraph ~~(e)~~ (d).

2.30 ~~(b)~~ (c) The governing body must also provide to the executive director a copy of any
2.31 applicable purchase or lease agreement and any other information requested by the executive
2.32 director to allow the executive director to verify that under the proposed employer change,

3.1 ~~determine whether the new employer does not qualify, under the proposed privatization,~~
 3.2 ~~qualifies as a governmental subdivision under section 353.01, subdivision 6, making the~~
 3.3 ~~employees ineligible for continued coverage as active members of the general employees~~
 3.4 ~~retirement plan of the Public Employees Retirement Association.~~

3.5 ~~(e) Following (d) Within 30 days after receipt of a the resolution and a determination~~
 3.6 ~~by information under paragraph (b), if the executive director determines that the proposed~~
 3.7 ~~new employer is not a governmental subdivision, then the executive director shall direct~~
 3.8 ~~the consulting actuary retained by the Public Employees Retirement Association under~~
 3.9 ~~section 356.214 to determine whether the general employees retirement plan of the Public~~
 3.10 ~~Employees Retirement Association, if coverage under this chapter is provided, is expected~~
 3.11 ~~to receive a net gain or a net loss if privatization occurs. A net gain is expected if the actuarial~~
 3.12 ~~liability of the special benefit coverage provided under this chapter, if extended to the~~
 3.13 ~~applicable employees under the privatization, is less than the actuarial gain otherwise to~~
 3.14 ~~accrue to the plan. A net loss is expected if the actuarial accrued liability of the special~~
 3.15 ~~benefit coverage provided under this chapter, if extended to the applicable employees under~~
 3.16 ~~the privatization, is more than the actuarial gain otherwise to accrue to the plan. calculate~~
 3.17 ~~the withdrawal liability to be incurred by the medical facility on the effective date of the~~
 3.18 ~~privatization if the privatization occurs. The withdrawal liability is equal to the present value~~
 3.19 ~~of accrued benefits attributable to the privatizing active employees minus the product of:~~
 3.20 ~~(1) the present value of accrued benefits attributable to the privatizing active employees;~~
 3.21 ~~and (2) the plan's funding ratio. If the withdrawal liability is a negative number, the~~
 3.22 ~~withdrawal liability is zero. The date of the actuarial calculations used to make this~~
 3.23 ~~determination withdrawal liability must be within one year of calculated using the most~~
 3.24 ~~recently completed actuarial valuation before the effective date of privatization. The~~
 3.25 ~~governmental subdivision must reimburse the Public Employees Retirement Association~~
 3.26 ~~for the cost of calculating the withdrawal liability.~~

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

3.31 Sec. 7. Minnesota Statutes 2022, section 353F.025, is amended by adding a subdivision
 3.32 to read:

3.33 Subd. 1a. **Payment of withdrawal liability.** No later than six months after the effective
 3.34 date of privatization, the privatized former public employer must pay the withdrawal liability

4.1 calculated under subdivision 1, paragraph (d), to the general employees retirement fund,
 4.2 unless the privatized former public employer elects a payment plan. In lieu of a single
 4.3 withdrawal liability payment, the privatized former public employer may elect to pay the
 4.4 withdrawal liability with interest compounded annually at the applicable rate or rates specified
 4.5 in section 356.59, subdivision 3, in equal annual payments for a term of ten years. The
 4.6 obligation to pay under this subdivision is binding upon the privatized former public employer
 4.7 and its successors and assignees.

4.8 Sec. 8. Minnesota Statutes 2022, section 353F.025, subdivision 2, is amended to read:

4.9 Subd. 2. **Reporting privatizations.** ~~(a) If the actuarial calculations under subdivision~~
 4.10 ~~1, paragraph (c), indicate privatization can be approved because a net gain to the general~~
 4.11 ~~employees retirement plan of The Public Employees Retirement Association is expected,~~
 4.12 ~~or if paragraph (b) applies, the executive director shall, following acceptance of the actuarial~~
 4.13 ~~calculations by~~ must maintain a record of the consulting actuary's calculation of withdrawal
 4.14 liability under subdivision 1, paragraph (d), and any associated report. The calculation and
 4.15 any associated report must be made available to the public and provided to (1) the
 4.16 association's board of trustees, forward notice and supporting documentation, including a
 4.17 copy of the actuary's report and findings, to (2) the chair and the executive director of the
 4.18 Legislative Commission on Pensions and Retirement, and (3) the chairs and the ranking
 4.19 minority members of the legislative committees with jurisdiction over governmental
 4.20 operations in the house of representatives and senate.

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

4.31 ~~(e)~~ (b) The Public Employees Retirement Association must maintain a list that includes
 4.32 the names of all privatized former public employers in the association's annual comprehensive
 4.33 ~~annual~~ financial report and on the association's website. After July 1, 2025, the Public
 4.34 Employees Retirement Association must also include in the list the amount of the withdrawal

5.1 liability determined as of the effective date of privatization and the remaining amount, if
5.2 any, of withdrawal liability due to be paid for each privatized former public employer.

5.3 Sec. 9. Minnesota Statutes 2022, section 353F.051, subdivision 2, is amended to read:

5.4 Subd. 2. **Calculation of benefits.** A person qualifying under subdivision 1 is entitled to
5.5 receive a disability benefit calculated under section 353.33, subdivision 3. ~~The disability~~
5.6 ~~benefit must be augmented under section 353.71, subdivision 2, from the date of termination~~
5.7 ~~to the date the disability benefit begins to accrue.~~

5.8 Sec. 10. **EFFECTIVE DATE.**

5.9 Sections 1 to 9 are effective July 1, 2025.