

CHAPTER 353F

PRIVATIZED PUBLIC HOSPITAL, PERA PENSION BENEFITS

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353F.01 PURPOSE AND INTENT.

The purpose of this chapter is to ensure, to the extent possible, that persons employed at public medical facilities and other public employing units who are privatized and consequently are excluded from retirement coverage by the Public Employees Retirement Association will be entitled to receive future retirement benefits under the general employees retirement plan of the Public Employees Retirement Association commensurate with the prior contributions made by them or made on their behalf upon the privatization of the medical facility or other public employing unit.

History: 1999 c 222 art 1 s 1

353F.02 DEFINITIONS.

Subdivision 1. **Generally.** As used in this chapter, unless the context clearly indicates otherwise, each of the terms in the following subdivisions has the meaning indicated.

Subd. 2. **Allowable service.** "Allowable service" has the meaning provided in section 353.01, subdivision 16, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred.

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

Subd. 4. [Repealed, 2013 c 111 art 3 s 31]

Subd. 5. [Repealed, 2013 c 111 art 3 s 31]

Subd. 5a. **Privatized former public employer.** "Privatized former public employer" means a medical facility or other 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.

Subd. 6. Privatized former public employee. (a) "Privatized former public employee" means a person who:

(1) was employed by the privatized former public employer on the day before the effective date of privatization; or

(2) terminated employment with the privatized former public employer on the day before the effective date; and

(3) was a participant in the general employees retirement plan of the Public Employees Retirement Association at the time of termination of employment with the privatized former public employer.

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

Subd. 7. Years of allowable service. "Years of allowable service" means the total number of years of allowable service under section 353.01, subdivision 18, of the edition of Minnesota Statutes published in the year before the year in which the privatization occurred.

History: 1999 c 222 art 1 s 2; 2000 c 461 art 8 s 1; 2002 c 392 art 5 s 1; 1Sp2003 c 12 art 5 s 1; 2004 c 267 art 12 s 1; 1Sp2005 c 8 art 6 s 1; 2006 c 271 art 5 s 2,4,5; 2007 c 134 art 5 s 1; 2008 c 349 art 5 s 26; art 7 s 1,2; 2009 c 169 art 4 s 20; 2010 c 359 art 5 s 17; 2012 c 286 art 7 s 1; 2013 c 111 art 3 s 13-16

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

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

(b) 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 that under the proposed employer change, 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 receipt of a resolution and a determination by the executive director that the new employer is not a governmental subdivision, 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. The date of the actuarial calculations used to make this determination must be within one year of the effective date of privatization.

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 the board of trustees, forward notice and supporting documentation, including a copy of the actuary's report and findings, to the chair 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.

(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 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 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.

Subd. 3. [Repealed, 2013 c 111 art 3 s 31]

History: 2008 c 349 art 5 s 27; 2010 c 359 art 5 s 18,19; 2013 c 111 art 3 s 17,18

353F.03 VESTING RULE FOR CERTAIN EMPLOYEES.

Notwithstanding any provision of chapter 353 to the contrary, a privatized former public 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.

History: 1999 c 222 art 1 s 3; 2010 c 359 art 1 s 47; 2013 c 111 art 3 s 19

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, except that the rate of augmentation is as specified in this subdivision.

(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 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 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.

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 continues to be covered and accrues at least six months of credited service;

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

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

History: 1999 c 222 art 1 s 4; 2006 c 271 art 5 s 3; 2007 c 134 art 5 s 2; 2012 c 286 art 7 s 2; 2013 c 111 art 3 s 20

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 privatized former public 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 privatized former public 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. The privatized former public employee, or an individual authorized to act on behalf of that employee, may apply for an annuity following application procedures under section 353.29, subdivision 4.

History: 1999 c 222 art 1 s 5; 2013 c 111 art 3 s 21

353F.051 CONTINUATION OF DISABILITY COVERAGE.

Subdivision 1. **Eligibility.** A privatized former public employee who is totally and permanently disabled under Minnesota Statutes 1998, section 353.01, subdivision 19, and who had a medically documented pre-existing condition of the disability before the termination of coverage, may apply for a disability benefit.

Subd. 2. **Calculation of benefits.** A person qualifying under subdivision 1 is entitled to receive a disability benefit calculated under Minnesota Statutes 1998, section 353.33, subdivision 3. The disability benefit must be augmented under Minnesota Statutes 1998, section 353.71, subdivision 2, from the date of termination to the date the disability benefit begins to accrue.

Subd. 3. **Applicability of general law.** Except as otherwise provided, Minnesota Statutes 1998, section 353.33, applies to a person who qualifies for disability under subdivision 1.

History: *1Sp2001 c 10 art 9 s 2; 2013 c 111 art 3 s 22*

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 privatized former public employee.

History: *2004 c 267 art 9 s 16; 2013 c 111 art 3 s 23*

353F.057 TERMINATION FROM SERVICE REQUIREMENT.

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.

History: *2013 c 111 art 3 s 24*

353F.06 APPLICATION OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

If a privatized former public employee satisfies the separation from service requirement in section 353F.057 and 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.

History: *1999 c 222 art 1 s 6; 2013 c 111 art 3 s 25*

353F.07 EFFECT ON REFUND.

Notwithstanding any provision of chapter 353 to the contrary, privatized former public 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 privatized former public employer. If a privatized former public 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.

History: *1999 c 222 art 1 s 7; 2012 c 286 art 7 s 3; 2013 c 111 art 3 s 26*

353F.08 COUNSELING SERVICES.

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

History: *1999 c 222 art 1 s 8; 2013 c 111 art 3 s 27*