

CHAPTER 353F

PRIVATIZED GOVERNMENT SUBDIVISION, 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 by governmental subdivisions that 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 governmental subdivision.

History: 1999 c 222 art 1 s 1; 2015 c 68 art 12 s 27; 2025 c 37 art 4 s 1

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 1, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

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. 2a. **Association.** "Association" means the Public Employees Retirement Association established under chapter 353.

[See Note.]

Subd. 3. **Effective date of privatization.** "Effective date of privatization" means the date that a governmental subdivision becomes a privatized employer or the date that a governmental subdivision is purchased in a privatization and active membership in the association consequently terminates.

[See Note.]

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

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

[See Note.]

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

[See Note.]

Subd. 3d. **General employees retirement plan.** "General employees retirement plan" or "general plan" means the general employees retirement plan of the association established under chapter 353.

[See Note.]

Subd. 3e. **Governmental subdivision.** "Governmental subdivision" has the meaning given in section 353.01, subdivision 6.

[See Note.]

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 [Repealed, 2013 c 111 art 3 s 31]

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.

[See Note.]

Subd. 4b. **Privatization.** "Privatization" means the process of privatizing, through which a governmental subdivision ceases to be a governmental subdivision for any reason other than that the governmental subdivision closes or permanently ceases to operate.

[See Note.]

Subd. 4c. **Privatize or privatizing.** "Privatize" or "privatizing" means to engage in a transaction, including a sale to, acquisition by, or merger with an entity or a sale to or acquisition by one or more individuals, or a series of such transactions that result in a governmental subdivision ceasing to be a governmental subdivision on or after the effective date of privatization. Privatize or privatizing does not mean ceasing to be a governmental subdivision because the subdivision closed or permanently ceased to operate.

[See Note.]

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

Subd. 5a. **Privatized employer.** "Privatized employer" means an entity that was a governmental subdivision on the day before the effective date of privatization and whose employees are privatized employees.

[See Note.]

Subd. 6. **Privatized employee.** (a) "Privatized employee" means a person who, before the effective date of the privatization of a governmental subdivision:

(1) was employed by the governmental subdivision; and

(2) was a member of the general employees retirement plan for the period of employment with the governmental subdivision.

(b) Privatized employee does not mean a person who, on the day before the effective date of privatization, was simultaneously employed with the privatized employer and by a governmental subdivision 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.

[See Note.]

Subd. 6a. **Privatizing active employee.** "Privatizing active employee" means a privatized employee who was employed by the privatizing governmental subdivision on the day before the effective date of the privatization.

[See Note.]

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; 2015 c 68 art 12 s 28,29; 2018 c 211 art 10 s 14; 2020 c 108 art 3 s 1-3; 2025 c 37 art 4 s 2-12,25

NOTE: Subdivisions 2a, 3b, 3c, 3d, 3e, 4c, and 6a, as added by Laws 2025, chapter 37, article 4, sections 2, 4, 5, 6, 7, 9, and 12, are effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

NOTE: The amendments to subdivisions 3, 4b, 5a, and 6 by Laws 2025, chapter 37, article 4, sections 3, 8, 10, and 11, are effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

NOTE: Subdivision 4a is repealed by Laws 2025, chapter 37, article 4, section 25, effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.025 WITHDRAWAL LIABILITY.

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

(b) Before the effective date of privatization, an officer of the governmental subdivision that is privatizing or that has control or ownership of an entity that is privatizing must submit to the executive director a resolution from the governing body of the governmental subdivision stating the following:

(1) that it is the intention of the governmental subdivision to privatize or to engage in a privatization that will result in the controlled or owned entity becoming privatized; and

(2) that the governmental subdivision will reimburse the association for the cost to calculate withdrawal liability under paragraph (d).

(c) The governing body must also provide to the executive director a copy of the purchase, lease, or other transaction agreement and any other information requested by the executive director to allow the executive director to determine whether the employer, after the privatization, will be a governmental subdivision or a privatized employer, making the employees ineligible for continued coverage as active members of the general employees retirement plan.

(d) If, within 30 days after receipt of the resolution and information under paragraph (b), the executive director determines that the employer after the privatization will not be a governmental subdivision, the executive director must direct the consulting actuary retained by the association under section 356.214 to calculate the withdrawal liability to be incurred by the privatized employer on the effective date of the privatization. Withdrawal liability and present value must be calculated as provided in paragraphs (e) and (f), respectively.

(e) 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 general plan's funding ratio.

If the withdrawal liability is a negative number, the withdrawal liability is zero. Withdrawal liability must be calculated using the most recently completed actuarial valuation before the effective date of privatization.

(f) Present value of accrued benefits is determined using the actuarial assumptions under section 356.215, subdivision 8, for the general plan. The present value of accrued benefits does not include projected compensation or projected service.

(g) The governmental subdivision must reimburse the association for the cost of calculating the withdrawal liability.

[See Note.]

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

[See Note.]

Subd. 2. **Reporting privatizations.** (a) The association must maintain a record of the consulting actuary's calculation of withdrawal liability under subdivision 1 and any associated report. The calculation and any associated report must be made publicly available and provided to:

- (1) the board of trustees;
- (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.

(b) The association must maintain a list that includes the names of all privatized employers in the association's annual comprehensive financial report and on the association's website. Beginning July 1, 2027, the association must also include in the list the amount of the withdrawal liability determined as of the

effective date of privatization and the remaining amount, if any, of withdrawal liability due to be paid for each privatized employer.

[See Note.]

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; 2018 c 211 art 10 s 15; 1Sp2019 c 8 art 8 s 23; 2025 c 37 art 4 s 13

NOTE: The amendments to subdivisions 1 and 2 by Laws 2025, chapter 37, article 4, section 13, are effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

NOTE: Subdivision 1a, as added by Laws 2025, chapter 37, article 4, section 13, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.03 VESTING RULE FOR CERTAIN EMPLOYEES.

Notwithstanding any provision of chapter 353 to the contrary, a privatized 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; 2025 c 37 art 4 s 14

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 14, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.04 AUGMENTATION INTEREST RATES FOR PRIVATIZED EMPLOYEES.

Subdivision 1. **Enhanced augmentation rates.** (a) The deferred annuity of a privatized employee is subject to augmentation under section 353.34, subdivision 3, except that the rate of augmentation is as specified in this 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 employee, the augmentation rate is 5.5 percent compounded annually until January 1 following the year in which the privatized employee attains age 55. After that date, 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 privatized employee attains age 55. After that date, the augmentation rate is six percent compounded annually.

(d) If the effective date of the privatization is after December 31, 2010, the 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 general employees retirement fund, the augmentation rate is two percent compounded annually. 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.

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

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

(1) beginning the first of the month in which the privatized 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 employee becomes covered again by the general employees retirement plan;

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

(4) if the privatized employee begins receipt of a retirement annuity while employed by the privatized employer; or

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

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; 2015 c 68 art 12 s 30; 2018 c 211 art 10 s 16; 2020 c 108 art 3 s 4; 2025 c 37 art 4 s 15

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 15, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

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 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 privatized employer following the effective date. The privatized employer shall provide any reports that the executive director may reasonably request to permit calculation of benefits.

(b) To be eligible for early retirement benefits under this section, the privatized employee must separate from service with the privatized employer. The privatized 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; 2018 c 211 art 10 s 17; 2025 c 37 art 4 s 16

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 16, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.051 CONTINUATION OF DISABILITY COVERAGE.

Subdivision 1. **Eligibility.** A privatized employee who is totally and permanently disabled under 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.

[See Note.]

Subd. 2. **Calculation of benefits.** A person qualifying under subdivision 1 is entitled to receive a disability benefit calculated under section 353.33, subdivision 3.

[See Note.]

Subd. 3. **Applicability of general law.** Except as otherwise provided, 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; 2015 c 68 art 12 s 31-33; 2025 c 37 art 4 s 17,18*

NOTE: The amendments to subdivisions 1 and 2 by Laws 2025, chapter 37, article 4, sections 17 and 18, are effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

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 employee.

History: *2004 c 267 art 9 s 16; 2013 c 111 art 3 s 23; 2025 c 37 art 4 s 19*

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 19, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.057 TERMINATION FROM SERVICE REQUIREMENT.

Upon termination of service from the privatized employer after the effective date of privatization, a privatized employee must separate from any employment relationship with the privatized employer for at least 30 days to qualify to receive a retirement annuity under this chapter.

History: *2013 c 111 art 3 s 24; 2018 c 211 art 10 s 18; 2025 c 37 art 4 s 20*

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 20, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.06 APPLICATION OF REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.

If a privatized employee satisfies the separation from service requirement in section 353F.057 and thereafter resumes employment with the privatized employer 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; 2018 c 211 art 10 s 19; 2025 c 37 art 4 s 21*

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 21, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.07 EFFECT ON REFUND.

Notwithstanding any provision of chapter 353 to the contrary, privatized 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 privatized employer. If a privatized employee has received a refund from a pension plan listed in section 356.30, subdivision 3, the privatized employee may not repay that refund unless the privatized employee 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; 2018 c 211 art 10 s 20; 2025 c 37 art 4 s 22

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 22, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.08 COUNSELING SERVICES.

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

History: 1999 c 222 art 1 s 8; 2013 c 111 art 3 s 27; 2025 c 37 art 4 s 23

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 23, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.

353F.09 APPLICATION TO SALES OF PRIVATIZED EMPLOYERS.

A privatized employer shall cease to be a privatized employer and its employees shall cease to be considered privatized employees under this chapter upon the sale of the operations of the employing unit to another employer or the sale of the employing unit to another employer. The privatized employees are entitled to benefits accrued under this chapter to the date of the sale, but must not accrue additional benefits after the date of the sale.

History: 2018 c 211 art 10 s 21; 2025 c 37 art 4 s 24

NOTE: The amendment to this section by Laws 2025, chapter 37, article 4, section 24, is effective July 1, 2027. Laws 2025, chapter 37, article 4, section 26.