HF 4576 (Bahner); SF 4498 (Kiffmeyer): MSRS, PERA; Continuing pension payments for retirees who return to work during a peacetime emergency, including for COVID-19

Prepared by: Susan Lenczewski, Executive Director *Date: April 23, 2020*

Introduction

Affected Plans:	Public Employees Retirement Association (PERA) General Plan, Minnesota State Retirement System (MSRS) General Plan, and any other pension plan administered by PERA and MSRS that covers "health care workers" as defined in the bill.
Applicable Laws:	Minnesota Statutes, Sections 53.371; 43A.346; 352.115, Subdivision 10; and 353.37
Brief Description:	The bill permits retirees who are already employed or will become employed as health care workers during a peacetime emergency, such as the current one due to COVID-19, to work as many hours as needed without suspension or reduction of the retiree's pension payments. The bill modifies current law so that, whether a retiree returns to employment under a phased retirement arrangement or is hired without such an arrangement, the retiree will continue to receive pension payments without regard to statutory limits on earnings or number of hours worked.

Background

Hennepin County Medical Center (HCMC) and other health care facilities around the state that are public employers may need to increase staff in order to respond to the current peacetime emergency due to the COVID-19 pandemic. Retirees could help to fill this need but may be reluctant to do so since returning to employment may result in the suspension or reduction of their pension payments.

For those retirees who have already returned to employment under retiree reemployment programs available under Minnesota law, HCMC and other public employers may need these reemployed retirees to work more hours during the peacetime emergency than are permitted under these programs. These programs, referred to as "phased retirement" or "postretirement option," allow retirees to return to employment and continue to receive pension payments, as long as they work less than a full-time schedule. If the retiree exceeds annual limits on hours and percentage of time worked, the retiree's pension payments are suspended. Unless these limits are waived during the peacetime emergency, pension payments to reemployed retirees will be suspended if the number of hours worked exceed the limits.

HF 4576 (Bahner); SF 4498 (Kiffmeyer) addresses both situations by allowing retirees to continue receiving pension payments, and:

- if the retiree is not currently employed by a public employer, return to employment and work as many hours as needed by the employer, without regard to the earnings limitations that would otherwise apply under applicable law; or
- if the retiree is currently employed by a public employer under a phased retirement agreement or in a postretirement option position, work more hours than would otherwise be permitted under applicable law.

Minnesota law applicable to retirees who return to public employment

After a public employee retires and begins to receive pension payments, the former employee has two options if the employee wants to return to public employment and continue to receive pension payments. The first option is under a so-called "phased retirement agreement" if the retiree is receiving pension payments from the PERA General Plan, or in a "postretirement option position" if the retiree is a former state employee receiving pension payments from a pension plan administered by MSRS, such as the MSRS General Plan. The second option is to return to public employment but not earn more than the threshold annual earnings amount specified in applicable state law.

<u>No earnings restrictions if returning to work at age 66 or 67</u>. Neither of the foregoing options are necessary if the retiree has reached the retiree's "full retirement age" under the federal Social Security Act, which is 66, if born before 1955, or 67, if born after 1954. Under current Minnesota law, the retiree can return to public employment without any reduction in the retiree's pension payments.

<u>PERA's phased retirement and MSRS' postretirement option arrangements</u>. Under a phased retirement agreement (the PERA program) or in a postretirement option position ("PRO," the MSRS program), a retiree is able to return to public employment and continue receiving pension payments if the following conditions are met:

To be eligible for a PERA phased retirement agreement under Minnesota Statutes, Section 353.371, a retiree must:

(1) have been regularly scheduled to work 1,044 or more hours per year in a PERA-covered position for at least five years immediately preceding retirement;

(2) have retired after reached at least age 62, after having met the age and service requirements to begin receiving a retirement annuity immediately after retirement;

(3) agree to continue employment with the same governmental subdivision, working a reduced schedule that is (i) a reduction of at least 25 percent from the employee's regularly scheduled work hours and (ii) 1,044 hours or less.

To be eligible for An MSRS postretirement option position under Minnesota Statutes, Section 43A.346, an employee must satisfy the same requirements as under PERA's program, except that the employee must have met the age and service requirements to receive an "unreduced" retirement annuity, i.e., not an annuity following early retirement, and the new position can be with a different state employer.

Under both programs, the arrangement is in effect for one year, but can be renewed for up to five years, and during the period of employment, no employer or employee contributions are made based on salary paid and the employee does not receive additional service credit toward a larger pension benefit.

<u>Earnings limitation without phased retirement or a PRO in place</u>. A retiree can return to public employment without a phased retirement agreement under PERA or without taking a postretirement option position under MSRS, but to continue receiving pension payments, the retiree must comply with the annual earnings limit. Under Minnesota Statutes, Section 353.37, for PERA-covered employment, and Section 352.115, Subdivision 10, for MSRS-covered employment, the annual earnings limit is the limit allowed by federal Social Security. For 2020, until the retiree reaches the full retirement age under Social Security (66 or 67, as noted above), the maximum annual earnings amount is $18,240. When the retiree reaches full retirement age, the annual earnings limit is $48,600, but counting only earnings up to the month in which the retiree reaches full retirement age.

When the earnings limit is exceeded pension payments cease, but the retiree does not forfeit them. Instead, the suspended payments are held in a non-interest bearing account and eventually paid in a lump sum to the retiree. Under Minnesota Statutes, Section 356.47, a retiree is able to receive payment of the withheld amount in a lump sum one year after the reemployment withholding period ends, upon the filing of a written application.

Other Considerations

Commission staff asked Doug Anderson, Executive Director of PERA, whether the bill *(document LCPR20-030 in draft form, subsequently introduced as HF4576/SF4498)* is anticipated to have any financial impact on any of the PERA pension plans. His response was:

> *"There is no cost impact to PERA resulting from LCPR20-030. With LCPR20-030, the expected impact is increased work hours for PRO members. Members do not make contributions or accrue benefits on those additional hours. Since their monthly benefit is not impacted, the Plan is not impacted in any way. Also, PERA operational costs would not be significantly impacted."*

Summary of HF 4576 (Bahner); SF 4498 (Kiffmeyer)

HF 4576 (Bahner); SF 4498 (Kiffmeyer) is an uncoded session law, which means it will not be included as a new section or chapter in Minnesota Statutes. There is only one section in the bill, so the following describes the bill by subdivision.

Subdivision 1

Subdivision 1 defines certain terms used in the session law. Definitions are provided for "health care worker," "peacetime emergency," "public employer," and "reemployment year."

Notably, "health care worker" is broadly defined to give the public employer the flexibility to employ retirees to meet its needs, including in health care-related services or to provide long-term care. "Peacetime emergency" is tied to the COVID-19 pandemic, so would not generally apply to any future peacetime emergency that is not related to the current crisis. The expiration of the bill is tied to the end of the peacetime emergency as defined, so would be expected to have an identifiable end date.

Subdivision 2

Subdivision 2 allows a retiree who is receiving pension payments to return to work as a health care worker for a public employer during a peacetime emergency without regard to the earnings limits under applicable law. This allows the reemployed retiree to continue receiving pension payments while working as many hours as needed by the public employer and without regard to earnings limitations.

Under paragraph (a), clause (1), a retiree may return to employment only if the retiree has not been employed in public service for at least 30 days. This "waiting period" is required to ensure that the retiree has had a bona fide separation from service, which is required under applicable state law in order to begin receiving pension payments.

Paragraph (b) states that the Minnesota Statutes that impose limits on the reemployment of retirees do not apply and that the reemployment will not change the amount of the retiree's pension payments.

Paragraph (c) confirms that the retiree may be reemployed and there is no need for a phased retirement agreement between the employer and retiree nor does the retiree have to return to employment in a postretirement option position and comply with the limitations under either of those programs.

Subdivision 3

Subdivision 3 allows a retiree who is currently employed as a health care worker under a phased retirement agreement, if covered by PERA, or in a postretirement option position, if covered by MSRS, to work as many hours as needed by the public employer, without regard to the limits on hours and percentage of time worked under applicable law. The limits are annual limits that apply to each "reemployment year," which is each 12-month period covered by the phased retirement agreement or in a PRO position.

Under paragraph (b), the limits on hours and percentage worked do not apply until the first reemployment year after the expiration of this session law, which is December 31 of the year in which the peacetime emergency ends.

Under paragraph (c), the period of employment during the peacetime emergency is added to and extends the term of the phased retirement agreement or in the postretirement option position.

Paragraph (d) states that no employer or employee contributions will be made with respect to the reemployed retiree and the monthly amount of the retiree's pension payments will not change due to the period of reemployment.

Paragraph (e) confirms that the session law does not terminate a phased retirement agreement or reemployment in a postretirement option position.

Subdivision 4

Subdivision 4 states that the session law expires on December 31 of the year in which the peacetime emergency ends.

Effective date

The session law is effective the day following final enactment.

H4576-S4498 Summary Covid Healthcare Retirees.docx

Legislative Commission on Pensions and Retirement

55 State Office Building 100 Rev. Dr. Martin Luther King Jr. Blvd. St. Paul, MN 55155-1201
Phone: 651-296-2750 TDD: 651-296-9896; Fax: 651-297-3697 www.lcpr.leg.mn