HF 4553 (Tabke); SF 4645 (Hauschild): MSRS State Patrol Plan; Codifying Reemployment While Receiving a Retirement Annuity

Prepared by: Susan Lenczewski, Executive Director *Date: March 7, 2024*

Introduction

Affected Plans: Minnesota State Retirement System (MSRS) State Patrol Plan

New Law Added: Minnesota Statutes, section 352B.115

Brief Description: The bill adds a new statute to chapter 352B, which governs the State Patrol Plan, to put into law a policy and procedures that have been operational at MSRS for at least 15 years. The new statute provides that members of the State Patrol Plan are permitted to:

- separate from service,
- begin distribution of a retirement annuity,
- return to covered employment,
- continue to receive the annuity,
- make employee contributions and have employer contributions made on behalf of the member, and
- following separation from service, which must be no later than the mandatory retirement age of 60, have the annuity recalculated to reflect the additional service and salary accrued during the period of reemployment.

Background

The State Patrol Plan is one of the statewide pension plans administered by the Minnesota State Retirement System (MSRS). The plan was established in 1943 and is governed by chapter 352B. Currently, the plan provides retirement coverage for:

- State Patrol officers;
- conservation officers in the Department of Natural Resources;
- crime bureau officers in the bureau of criminal apprehension of the Department of Public Safety;
- gambling enforcement agents in the Division of Alcohol and Gambling Enforcement;
- fugitive apprehension unit officers in the Office of Special Investigations of the Department of Corrections;
- fraud investigators in the Commerce Fraud Bureau of the Department of Commerce; and
- the statewide coordinator of the Violent Crime Coordinating Council in the Department of Public Safety.

Normal retirement age is 55, and members may retire as early as age 50, with the normal retirement benefit reduced for early commencement. Members do not also pay into Social Security so this is their only retirement benefit, unless they have other employment. Under section 43A.34, members of the State Patrol Plan are required to end employment with the agencies noted above when they reach age 60.

Chapter 352B does not include any provisions that describe how reemployment will affect a member who retires, begins to take a retirement annuity, and then returns to employment covered by the plan. Section 352.115, subdivision 10, sets forth the requirements for the reemployment of a member of the MSRS General Plan, but paragraph (a) of that subdivision states that it applies when a retiree returns to employment "in a position covered by this chapter." "This chapter," chapter 352, covers the General and Correctional Plans, but not the State Patrol Plan, which is governed by Chapter 352B.

Although not mentioned in the statutes, MSRS operates a program for State Patrol members who return to employment. As explained in a PowerPoint slide prepared by MSRS, the outline of the program is as follows:

- State Patrol retires and returns to State Patrol in a covered position following retirement (age 50 or later)
  - Age 55 or older - must have a one day break in service
  - Age 50 to 55 - must have a 30-day break in service between retirement and returning to Patrol to ensure Internal Revenue Code compliance
- Receives pension and salary without an earnings limit and earns additional service credit
- Both employee and employer contribute based on salary (including the 7% supplemental)
- The retiree's benefit is recalculated after they leave (from reemployment) based on new salary and service credit
- No Earnings Limit
- Age 60 mandatory retirement remains

Documenting the State Patrol program in the statutes will protect the plan, MSRS, and the members. For example, a member could claim that instead of having the benefit recalculated only at the end of the period of reemployment, the benefit should be recalculated every month as the member's service and salary increase, entitling a reemployed member to an increasingly larger annuity payment each month. The method of recalculating the benefit is similarly subject to interpretation.

The bill puts the existing program into statute by inserting a new section 352B.115.

Section- by- Section Summary

The bill has one section, which is new section 352B.115. Section 352B.115 has five subdivisions.

Subdivision 1 states that a member of the State Patrol Plan who has left employment and is receiving an annuity or has applied to receive an annuity may return to employment as early as (1) the day after a one day break-in-service if the member is at least age 55, or (2) the 31st day after a one-month break-in-service if the member is at least age 50 but not yet 55.

Subdivision 2 states that the return to employment will not impact the continued receipt of the retirement annuity and, during the period of reemployment:

(1) the member's annuity amount will not increase or decrease;
(2) the member must make employee contributions; and
(3) the member's employer must make employer and supplemental employer contributions.

Subdivision 3 states that the MSRS executive director must recalculate the member's annuity after the member ends the period of reemployment and the recalculation must include the additional service and salary earned during the period of reemployment and a reduction for the benefit payments made during the period of reemployment.

Subdivision 4 states that the return to employment provisions at Section 352.115, subdivision 10, which apply to the MSRS General and Correctional Plans, do not apply to the State Patrol members. Reemployment under Section 352.115, subdivision 10, differs significantly from the State Patrol program. Under subdivision 10, the retirement annuity paid to a retiree who returns to employment in a position covered by the General or Correctional Plan will be suspended when the employee reaches the annual maximum earnings allowed for the member's age under Social Security. For 2024, the annual earnings limit is $22,320 for individuals under the full retirement age (67 for most employees). During the period of reemployment, the member does not accrue additional credit for service or salary and does not make employee contributions to the Plan. The member receives a lump sum payment of the suspended annuity amounts after the reemployment period ends.

Subdivision 5 states that the reemployment right does not extend or affect the application of the age 60 mandatory retirement.

Effective date. The new law is effective the day following final enactment.