

Background Information on Disability Benefit Application Time Limitations

1. Disability Coverage in General. With the exception of the Legislators Retirement Plan and the Elected State Officers Retirement Plan, all statewide or major local Minnesota defined benefit retirement plans provide disability benefit coverage.

Basic retirement plans, where the public pension plan coverage does not supplement Social Security coverage, provide the totality of disability benefit coverage. Coordinated retirement plans provide benefit coverage that supplements Social Security disability benefits and both provide disability coverage. Public safety and quasi-public-safety retirement plans provide disability benefits for incapacities to perform any significant gainful employment (total and permanent disabilities) or to perform the tasks of the person's particular employment position (occupational disabilities). General employee retirement plans provide disability benefits solely for total and permanent disabilities.

The disability benefit is typically the accrued retirement annuity, unreduced for early commencement.

Some Minnesota and major local Minnesota retirement plans have limitations on the time period after the termination of employment during which a plan member or someone authorized to act on behalf of the plan member can file a disability benefit application.

2. Function of Disability Benefit Application Time Limit. Minnesota defined benefit public pension plans generally specify time limits for filing a disability benefit application. Typically, an application cannot be filed while the individual remains an active employee, or at a minimum will not become effective while the individual remains active or is receiving some form of continuing salary. The justification for that policy is obvious: to qualify as disabled, the individual must be incapable, due to injury or illness, of continuing employment. If the individual remains in employment, then the individual is not disabled. General employee plans use a total and permanent definition of disability. Under that definition, to qualify as disabled the individual must be incapable of performing any gainful employment. Public safety plans use a less stringent standard, an occupation specific standard. Typically, a public safety plan member can qualify as disabled if the individual is incapable of continuing in the current employment position.

The plans typically place an end date on when an application can be filed. The shortest seems to be 18 months after termination of service, although a few plans have no limit. Disability benefits are payable from our public plans for a disabling event or illness that occurred while the person was a public employee. If an event or illness is sufficient to cause the person to be disabled, that should be evident within a reasonable timeframe. Also, at some point in time following termination of service, it becomes too difficult to determine whether the disabling event or illness can be traceable to the employment period, rather than to an injury, re-injury, or illness that occurred after the person left public employment.

The statutes governing the various Minnesota general employee plans, major statewide public safety plans, and correctional employee retirement plans are not consistent in the time limits for filing a disability benefit application. Presumably, creating more uniformity across similar plans has merit, since this would cause similar employees to be treated more consistently.

3. Applicable Commission Pension Policy Principle. The applicable pension policy principle established by the Legislative Commission on Pensions and Retirement is Principle 2.c.11., covering deadline extensions and waivers. The principle provides:

11. Deadline Extensions and Waivers

Deadline extensions or waivers should be permitted only if, on a case-by-case basis, it is determined that there is a sufficient equitable basis for the extension or waiver, the extension or waiver does not involve broader applicability than the pension plan members making the request, and that the extension or waiver is unlikely to constitute an inappropriate precedent for the future.

Deadline extensions or waivers are legislatively authorized waivers of time requirements relating to public pension coverage or public pension benefits. The various Minnesota public pension plans have numerous deadlines for exercising coverage options, making payments in lieu of member contribution deductions, repaying refunds, or applying for benefits. Like any administrative deadline, due to unfortunate occurrences, procrastination, or neglect a deadline may be missed and the remedy of a deadline extension or waiver sought. In the Commission policy principle, the Commission has emphasized both individual and group equities, in requiring that the extension be meritorious without overriding adverse individual considerations, that any broader application to individuals with comparable equitable considerations be gauged, and that no adverse future precedent will be created.

Deadlines exist in public pension plan provisions to provide closure in applications, payments, and elections, and to avoid the same "adverse election" or "election against the fund" phenomenon that

occurs with purchases of prior service. Deadlines also function for administrative considerations and convenience, to keep paperwork moving smoothly. Grants of deadline extensions to individuals are comparatively rare, unlike purchases of prior service. Deadline extensions and waivers can allow an individual pension plan member to control circumstances, departing from generally applicable averages, and potentially increasing the actuarial accrued liability of the pension plan involved.

4. Comparison of Current Disability Benefit Application Time Limits.

General Employee Retirement Plans		
<u>Retirement Plan</u>	<u>Eligible Applicant</u>	<u>Time Limit on Application</u>
General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General)	Covered state employee or someone acting on behalf of the employee with satisfactory proof of authority determined by the MSRS executive director. [352.113, Subd. 2]	Application must be filed within 18 months of the termination of state employment as long as the disability occurred while in state employment. [352.113, Subd. 4, Para. (d)-(e)]
General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General)	Covered public employees. [353.33, Subd. 1]	Application must be filed within 18 months. [353.031, Subd. 3, Para. (a)]
Teachers Retirement Association (TRA)	Covered teacher or another person authorized to act on behalf of the covered teacher. [354.48, Subd. 2]	Application must be filed within 18 months following the termination of teaching service. [354.48, Subd. 2]
Unclassified Employees Retirement Program (MSRS-Unclassified)	Participant. [352D.065, Subd. 1]	No time limitation.
First Class City Teacher Retirement Fund Associations (DTRFA/SPTRFA)	Eligible coordinated member. [354A.36, Subd. 1]	No time limitation.
Minneapolis Employees Retirement Fund (MERF) Division of PERA	Head of the department in which the contributing employee was employed, the contributing employee, or a person acting on behalf of the contributing employee. [422A.18, Subd. 1]	No time limitation.

Public Safety Employee Retirement Plans		
<u>Retirement Plan</u>	<u>Eligible Applicant</u>	<u>Time Limit on Application</u>
Correctional State Employees Retirement Plan (MSRS-Correctional)	Covered correctional employee. [352.95, Subd. 1]	No application before the day after the last day the correctional employee physically was on the job; application must be filed within 18 months of the termination of state employment as long as the disability occurred while in state employment. [352.95, Subd. 3]
State Patrol Retirement Plan	Member of the plan. [352B.101]	Application must be filed within 18 months of the termination of employment as long as the disability occurred while in employment. [352B.10, Subd. 2a]
Public Employees Police and Fire Plan (PERA-P&F)	Covered PERA-P&F member. [353.33, Subd. 1]	Application must be filed within 18 months. [353.031, Subd. 3, Para. (a)]
Local Government Correctional Service Retirement Plan (PERA-Correctional)	Covered local government correctional employee. [353E.06, Subd. 1]	Application must be filed within 18 months. [353.031, Subd. 3, Para. (a)]

Special Retirement Plans		
<u>Retirement Plan</u>	<u>Eligible Applicant</u>	<u>Time Limit on Application</u>
Military Affairs Personnel Retirement Plan (MSRS-Military Affairs)	Covered employee. [352.85, Subd. 2]	Application must be filed within 18 months of the termination of state employment as long as the disability occurred while in state employment. [352.85, Subd. 2]
Transportation Dept. Pilots Retirement Plan (MSRS-Transportation Pilots)	Covered employee. [352.86, Subd. 1a]	Application must be filed within 18 months of the termination of state employment as long as the disability occurred while in state employment. [352.86, Subd. 6]
State Fire Marshal Fire/Arson Investigator Retirement Plan (MSRS-Fire Marshal)	Eligible plan member. [352.87, Subd. 4]	Application must be filed within 18 months of the termination of state employment as long as the disability occurred while in state employment. [352.87, Subd. 6]

5. Development of Disability Benefit Application Time Limits. The 18-month restriction was created in TRA in 1981 (Laws 1981, Ch. 160, Sec. 8). Prior to 1981, TRA had no time limit.

MSRS moved to an 18-month limit in 2009 (Laws 2009, Ch. 169, Art. 2, Sec. 9). Previously, MSRS had a 180 day after the date of termination time limit.

PERA moved to an 18-month limit in 2007 (Laws 2007, Ch. 134, Art. 4, Sec. 8). Before then, time limits varied between PERA plans. PERA-General and PERA-Correctional permitted applications within three years following termination, while the limit in PERA-P&F was two years. PERA administrators concluded that two or three years was too long, and proposed restricting the time limit to 18 months, comparable to TRA.

6. Special Law Disability Benefit Application Deadline Extensions and Waivers. There has been prior special legislation permitting late disability benefit applications. When the Commission has recommended provisions of this type to pass, there has been some justification which the Commission found compelling to justify the deadline waiver. The provisions are as follows:
- In 1995, H.F. 688; S.F. 643 would have permitted a teacher who was employed as a welding instructor at the Detroit Lakes vocational-technical institute before terminating in 1991, to apply for Teachers Retirement Association (TRA) disability benefits, notwithstanding the 180 days following terminating deadline in TRA law. The Commission heard this disability deadline extension request but took no action.
 - In 2000 (Laws 2000, Ch. 461, Art. 19, Sec. 1), a former Minnesota Department of Economic Security employee who was disabled in 1994 was permitted to file a late disability benefit application with the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). Testimony in connection with the 2000 special legislation indicated that the state employee involved was misinformed about his disability benefit entitlement until he was employed part-time by the Minnesota Council on Disability.
 - In 2002 (Laws 2002, Ch. 392, Art. 14, Sec. 9), a former Blooming Prairie police officer who was injured while conducting traffic management at a highway accident site in 1997 was permitted to file a late disability benefit application with the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) or with the Public Employees Police and Fire Retirement Plan (PERA-P&F). Testimony in connection with the 2002 special legislation indicated that the failure of the Blooming Prairie employee to file a timely disability benefit application was due to depression and post-traumatic stress disorder resulting from the accident causing the disability.
 - In 2005 (1st Spec. Sess. Laws 2005, Ch. 1, Art. 2, Sec. 159), a former Minnesota Department of Natural Resources photo lab supervisor who terminated that employment in 1998 was permitted to apply for an MSRS-General disability benefit, notwithstanding the 180-day time limit in MSRS law. The provision did specifically require that the individual provide satisfactory proof that the individual became disabled while a state employee. This provision was never heard by the Commission, but was added to an Agriculture, Environment, and Natural Resources bill.
 - In 2007 (Laws 2007, Ch. 134, Art. 12, Sec. 6), a former school bus driver covered by PERA-General with a variety of health problems from prior railroad employment and school district employment was permitted to make a late disability benefit application. No equitable arguments for the authorization appear to have been offered in testimony, but the bus driver's public employment career was short, his disability benefit very modest, and he did qualify for a Railroad Retirement System disability benefit.
 - In 2009 (Laws 2009, Ch. 169, Art. 12, Sec. 14), a former employee of the Minnesota Veterans Home at Silver Bay, Minnesota, who suffered from various mental health problems, had a lifting restriction, and qualified for Social Security disability benefits, was authorized to make a late disability application to MSRS-General. Testimony indicated that he was unaware of the time limit until a social services agency brought it to his attention.