

Background Information on Military Service Full Actuarial Value Provisions; Military Break-in-Service Provisions

Nearly all Minnesota defined benefit public pension plans have a provision in law to permit plan members, who have a break in service from the Minnesota public employer in order to perform military service, to obtain service credit in the Minnesota public pension plan for the period or periods of military service. The last extensive revision of these break-in-service provisions occurred in 2004, when the provisions were revised to make them consistent with requirements of the federal Uniformed Services Employment and Reemployment Rights Act (USERRA). To purchase service credit under a USERRA-compliant provision, the person must pay to the pension fund the employee contributions the person would have made if the break in service had not occurred.

A few of the Minnesota public pension plans also have provisions permitting plan members to purchase service credit in the plan for military service provided before the person became a member of the plan, or for use if the person was eligible to use the USERRA-compliant provision but failed to do so in a timely manner. Payment terms are not as favorable as under USERRA-compliant provisions. Individuals must pay the full actuarial value of the service being purchased.

USERRA-Compliant Provisions

The USERRA-compliant provisions in the various pension plans are very similar. The Minnesota State Retirement System (MSRS) provision is Minnesota Statutes, Section 352.27. This provision is applicable to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) and the Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional). The State Patrol Plan has a separate provision, Section 352B.086. The Judges Retirement Plan provision is Section 490.1211. The Public Employees Retirement Association (PERA) provision is Section 353.01, Subdivision 16, Clause (8). Presumably, this provision is applicable to all PERA defined benefit plans. The Teachers Retirement Association (TRA) provision is Section 354.53, and the first class city teacher plan provision is Section 354A.093.

All these USERRA-compliant break-in-service provisions apply to individuals who are Minnesota public employees who leave to provide military service and return to the same public employer after providing that service. Purchases are prohibited if the individual separated from the military service under less than honorable conditions. To receive service credit in the Minnesota plan for the period of military service, the eligible individual must pay the employee contributions that would have been paid if the individual had not left to provide the military service. These employee contributions must be made upon returning from the military service during a period that is three times the length of the military service that was provided, but not less than one year or more than five years. The maximum service that can be purchased is five years unless a greater maximum is required under federal code. (Federal code does require that the individual be allowed to purchase more than five years if the minimum duration for the specific service is greater than five years. One example is service aboard a nuclear submarine, where the minimum period of service exceeds five years due to an extensive training period.) If the required employee contributions are paid in a timely manner, the employer pays the corresponding employer contribution plus 8.5% annual compound interest on the employee and employer contributions.

Full Actuarial Value Military Service Credit Purchase Provisions

PERA plans and TRA also have a full actuarial value military service credit purchase provision. PERA's full actuarial value military service credit provision is Section 353.013, "Uncredited Military Service Credit Purchase." The provision expires on July 1, 2013. TRA has a similar provision, Section 354.543, titled "Prior or Uncredited Military Service Credit Purchase," without an expiration date. These provisions can be used by members of the applicable plans who provided military service *before* becoming a Minnesota public employee, and by those individuals who forfeited eligibility for the plan's military break-in-service provision by not making timely contributions. The payment requirements are not as generous as under the break-in-service provisions. Under the break-in-service provisions, the individual only needs to pay the employee contributions the individual would have made to the plan if the military service had not occurred. However, under a full actuarial value provision the individual must make a payment equal to the full additional liability that the pension fund is expected to have due to the additional service credit being purchased. If the individual's retirement annuity is expected to increase by \$60,000 due to the service credit purchase, the individual must pay \$60,000 to receive the service credit. Full actuarial value service credit purchases are almost always considerably more expensive than the employee contribution required under the break-in-service provision. Another difference is that service credit purchases under the full actuarial value provisions are limited to the initial period of enlistment, indication, or call to active duty, without any voluntary extension, while the break-in-service provisions allow for an initial period plus voluntary extensions, but not to exceed five years in total.