



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Edward Burek *EB*
RE: Summary of Pension Legislation Enacted by the 1989 Legislature
DATE: August 22, 1989

During the 1989 regular legislative session, the Legislature passed Senate File 783 (Laws 1989, Chapter 319) which changed pension coverage and improved benefits for state, county, and local employees, teachers, judges, legislators, police, fire, and other groups. The bill also included articles dealing with pension plan administration and fiduciary responsibility. The following summarizes the changes due to Senate File 783, and incorporates changes due to other 1989 laws. The material is divided into two sections. The first covers fund-specific legislation, or legislation which applies to specific categories of funds (local police funds, volunteer fire funds, etc.), while the second summarizes legislation applicable to all Minnesota public pension funds.

I. FUND SPECIFIC LEGISLATION

A. Minnesota State Retirement System (MSRS)

1. General State Employees Retirement Fund (MSRS General).

The Legislature granted a benefit increase to members of MSRS General. Similar increases were granted to members of the Public Employees Retirement Association (PERA), the Teachers Retirement Association (TRA), and the first class city teacher funds. Some of the following apply to all MSRS General members, while other provisions differ between new and existing employees.

All MSRS General members are eligible to benefit from the following changes:

- a. Reduction in vesting requirement. The vesting period is reduced from five years to three years. Normal retirement, early retirement, disability, portability, and survivor benefit provisions are changed to three year service eligibility rather than five year. (Laws 1989, Chapter 319, Article 13, Sections 5, 7, 10, 12, 15, 16.)
- b. Increased interest on refunds. Interest on refunds of member contributions taken when an individual leaves employment is increased to six percent from five percent. (Laws 1989, Chapter 319, Article 13, Section 14.)
- c. Increase in deferred annuity augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at three percent per year during the deferral period. Under the new law, augmentation increases to five percent on January 1st of the year after the member reaches age 55. (Laws 1989, Chapter 319, Article 13, Section 17.)
- d. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disabilitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. If a retired employee or disabilitant initially took the joint and survivor annuity with a bounce-back (which required an actuarial reduction in the present annuity), the annuity will be increased after July 1, 1989 so the individual does not bear the cost of the bounce-back provision. (Laws 1989, Chapter 319, Article 13, Section 10.)

The following benefit formula change applies only to new employees hired after 6/30/89:

- e. New level benefit formula, new employees. New employees will receive a level formula of 1.5 percent credit for all years of service, rather than the current one percent for each of the first ten years of service, followed by 1.5 percent thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that changes over time. The normal retirement age for existing employees remains at age 65. (Laws 1989, Chapter 319, Article 13, Sections 2, 9.)

The following changes apply only to existing employees. (Laws 1989, Chapter 319, Article 13, Sections 9, 10.) Current employees will receive annuities based on whichever of the following produces the higher benefit:

- f. Current benefit formula with three percent early retirement reduction. A benefit accrual of one percent for each of the first ten years, plus 1.5 percent for each year thereafter, with three percent annual reduction for early retirement, or
- g. Level benefit formula with actuarial reduction. 1.5 percent for all years of service, with actuarial reduction for early retirement, or
- h. Rule of 90 with current benefit formula rates. If age plus years of service equal at least 90, the benefit accrual is one percent for each of the first ten years of service, followed by 1.5 percent per year thereafter, with no early retirement reduction. Use of the rule of 90 must be reviewed periodically. If use exceeds 45 percent of the members eligible to retire under that provision, the provision is voided. (Laws 1989, Chapter 319, Article 13, Section 96.)

Associated with these benefit changes are increases in contribution rates:

- i. Contribution rate increases. The employee contribution rate for all MSRS General active members increases to 4.34 percent after June 30, 1989, while the employer contribution increases to 4.51 percent. (Laws 1989, Chapter 319, Article 13, Sections 3 and 4.) \$3,916,000 in fiscal 1990 and \$4,123,000 in fiscal 1991 are appropriated from the state's general fund to the Commissioner of Finance to offset the cost of increases in employer contributions for the MSRS general plan. The money is to be allocated among state agencies and the University of Minnesota. (Laws 1989, Chapter 319, Article 13, Section 97.)

2. MSRS Unclassified

- a. Minimum investment account transfer and minimum balance requirements eliminated. The minimum transfer and minimum balance requirements among unclassified plan investment options are eliminated. (Laws 1989, Chapter 319, article 1, Section 13.)
- b. Minimum retirement age reduced. The minimum age for retirement and the minimum age to start receiving a surviving spouse benefit are reduced from age 58 to age 55. (Laws 1989, Chapter 319, Article 1, Section 13).
- c. Prior service contribution transfer extension. Individuals who did not transfer prior service contributions to the unclassified plan from other public funds within one year of entering the unclassified service, and who now wish to do so, are given a window until September 30, 1989 to make the transfers. (Laws 1989, Chapter 319, Article 1, Section 16.)

3. Judges Retirement

- a. Combined service provisions. Combined service annuity, combined service disability, and combined service survivor benefit provisions are extended to members of the Judges Retirement Fund. (Laws 1989, Chapter 319, Article 5, Sections 4 through 6).
- b. Repaying refunds. Judges who leave and later rejoin the plan are permitted to repay all refunds received, reinstating previous service credits, rights, and benefits. (Laws 1989, Chapter 319, Article 5, Section 7.)

4. Legislative Retirement

Various provisions increased legislative pensions, including removing the service accrual cap, including per diem in salary for pension computation purposes, and changes in annuity augmentation.

- a. Removal of the service credit cap. The twenty year cap on service credit and contributions is removed, effective with the start of the 1989 session, permitting long-term legislators to accrue additional service credit. (Laws 1989, Chapter 319, Article 16, Section 7.)
- b. Per diem included in salary. The high-five average salary used in the pension calculation is increased by including regular and special session per diem in the salary base. Inclusion of per diem is retroactive to December 31, 1988 if the legislator pays the retirement fund nine percent of the regular and special session per diem for the appropriate period, plus six percent interest. (Laws 1989, Chapter 319, Article 16, Sections 1 and 6.)
- c. Increase in deferred annuity augmentation. Deferred annuity augmentation increases to five percent from three percent on January 1st of the year that the legislator reaches age 55. (Laws 1989, Chapter 319, Article 16, Section 5.)
- d. Early retirement penalty reduced. The early retirement penalty is reduced from six percent per year to the actuarial equivalent of an annuity payable if the legislator delayed receipt until age 62, with three percent augmentation. (Laws 1989, Chapter 319, Article 16, Section 4.)

5. MSRS Highway Patrol, MSRS Correctional

Items (a) through (h) below apply to both the MSRS Highway Patrol and Correctional plans. Item (i) applies to the Highway Patrol.

- a. Reduction in vesting requirement. The retirement vesting period is reduced from five years to three years for both plans. For MSRS Correctional, the non-duty related disability vesting provision is reduced to three years. For the highway patrol, the surviving spouse and surviving child benefit provision and the service-in-more-than-one-fund portability provision are made consistent with three year vesting. (Laws 1989, Chapter 319, Article 13, Sections 20,22,25,27,28.)
- b. Definition of average salary for short service retirees. Average salary will be computed on all years of service for individuals retiring with less than five years total service. (Laws 1989, Chapter 319, Article 13, Sections 20, 24.)
- c. Refund interest rate increased. The interest rate on refunds of member contributions is increased to six percent. (Laws 1989, Chapter 319, Article 13, Sections 21,26.)
- d. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disablitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. If a retired employee or disablitant initially took the joint and survivor annuity with a bounce-back (which required an actuarial reduction in the present annuity), the annuity will be increased after July 1, 1989 so the individual does not bear the cost of the bounce-back provision. (Laws 1989, Chapter 319, Article 17, Section 1.)

- e. Change to level formula. Members receive a level formula of 2.5 percent for each years of service, rather than the current drop to 2.0 percent per year after twenty five years of service. (Laws 1989, Chapter 319, Article 17, Sections 2, 6.)
- f. Early retirement. Early retirement is permitted at age 50 with full actuarial reduction to age 55, providing the individual has five years allowable service. (Laws 1989, Chapter 319, Article 17, Section 3, 6.)
- g. Service disability benefit increase. The long service disability benefit is 50 percent of salary plus 2.5 percent for each year of service in excess of twenty. (Laws 1989, Chapter 319, Article 17, Sections 4, 8.)
- h. Non-service disability benefit increases. The non-duty disability benefit vesting period is reduced to one year and the minimum benefit is calculated as though the individual had fifteen years of service, rather than the previous ten. (Laws 1989, Chapter 319, Article 17, Sections 5, 9.)
- i. Survivor benefit increase, highway patrol. For the highway patrol, the spouse survivor benefit is increased to 50 percent of average monthly salary and dependent child coverage continues through age 23 (rather than age 22), if the dependent is enrolled in a post secondary school. The maximum family benefit is increased from 50 percent to 70 percent of average monthly salary. (Laws 1989, Chapter 319, Article 17, Section 10.)

6. Administrative Issues, Coverage Changes

- a. Appeals procedure for benefit termination or denial. Laws 1989, Chapter 319, Article 1, Section 5 includes a benefit termination appeals procedure for funds administered by MSRS that:
 - (1) provides notice of any benefit termination or denial;
 - (2) allows for a review of an administrative termination or denial upon filing a petition;
 - (3) requires an answer to the petition;
 - (4) provides for a hearing;
 - (5) allows for resubmission of disability benefit questions to the MSRS medical advisor;
 - (6) requires board findings following the hearing;
 - (7) authorizes an appeal to the state Court of Appeals;
 - (8) provides that the administrative appeal is not to be conducted under the procedures of the state's Administrative Procedure Act contested case provisions, but allows the MSRS Board of Directors to certify any petition to the state's Office of Administrative Hearings for a contested case proceeding; and

- (9) permits a person not directly involved in the case to request a review of the executive director's decision if the decision affects the individual's rights.
- b. Substitution of new option for Social Security leveling option. The specific social security leveling option is eliminated. It provided an initially higher benefit from MSRS in order to provide the same total benefit as the individual will later receive from MSRS and from social security combined, once the individual starts receiving social security benefits. In its place, MSRS will provide a generalized optional annuity which serves the same purpose, but which is easier to compute. (Laws 1989, Chapter 319, Article 1, Section 6.)
- c. Court workers become state employees. District court referees, judicial officers, court reporter, law clerks, and district administrator staffs are state employees, except for Hennepin and Ramsey counties. These newly defined state employees will be covered by MSRS General, unless they elect to retain PERA or MERF coverage. (Laws 1989, Chapter 335, Article 3, Section 14.)
- d. Refunds authorized for layoffs. Refunds can be given for layoffs in addition to refunds for service termination. (Laws 1989, Chapter 319, Article 1, Section 7.)
- e. Vesting reduction, MSRS State Patrol optional annuities. Vesting for optional annuities under the state patrol plan is reduced from ten to five years. (Laws 1989, Chapter 319, Article 1, Section 10.)
- f. Optional annuity election, State Patrol plan. A disabled state patrol member may elect an optional annuity whether or not the person is otherwise eligible for other survivorship coverage. The optional annuity is effective on the same date as a disability benefit. (Laws 1989, Chapter 319, Article 1, Section 11.)
- g. Definition of Average salary for MSRS short service retirees. Normally, annuities are computed using the average salary for the highest five successive years of salary upon which the employee has made contributions to the fund by payroll deductions. If the individual has less than five years of service, all allowable service must be used in the computation. (Laws 1989, Chapter 319, Article 13, Section 8.)

B. Public Employees Retirement Association (PERA)

1. PERA

The Legislature granted a benefit increase to members of PERA, comparable to the provisions described above for MSRS General. Some of the following provisions apply to all PERA members, while others differ for new versus existing employees.

All PERA members are eligible to benefit from the following changes:

- a. Reduction in vesting requirement. The vesting period is reduced from five years to three years. Normal retirement, early retirement, disability, and survivor benefit provisions are changed to permit eligibility at three years service rather than five. (Laws 1989, Chapter 319, Article 13, Sections 31, 34, 36, 37, 41, 42, 43, 45, 46.)
- b. Increased interest on refunds. Interest on refunds of member contributions taken when an individual leaves employment is increased to six percent from five percent. (Laws 1989, Chapter 319, Article 13, Sections 35, 40.)
- c. Increase in deferred annuity augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at three percent per year during the deferral period. Under the new law, augmentation increases to five percent on January 1st of the year after the member reaches age 55. (Laws 1989, Chapter 319, Article 13, Section 47.)
- d. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disabilitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. If a retired employee or disabilitant initially took the joint and survivor annuity with a bounce-back (which required an actuarial reduction in the present annuity), the annuity will be increased after July 1, 1989 so the individual does not bear the cost of the bounce-back provision. (Laws 1989, Chapter 319, Article 13, Section 34.)

The following benefit change applies only to new employees hired after 6/30/89):

- e. New level benefit formula, new employees. New employees who are coordinated with social security will receive a level formula of 1.5 percent credit for all years of service, rather than the current one percent for each of the first ten years of service, followed by 1.5 percent thereafter. A new basic member would receive a level formula of 2.5 percent for all years. In all cases, if the individual retires early the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that changes over time. The normal retirement age for existing employees remains at 65. (Laws 1989, Chapter 319, Article 13, Sections 29, 33.)

The following changes apply only to existing employees. (Laws 1989, Chapter 319, Article 13, Sections 33, 34.)
Current employees will receive annuities based on whichever of the following produces the higher benefit:

- f. Current benefit formula with three percent early retirement reduction. For coordinated members, benefit accrual of one percent for each of the first ten years, plus 1.5 percent for each year thereafter, with three percent annual reduction for early retirement. For basic members, benefit accrual of two percent for each of the first ten years, plus 2.5 percent for each year thereafter, or
- g. Level benefit formula with actuarial reduction. For coordinated members, 1.5 percent for all years of service with actuarial reduction for early retirement, and for basic members, 2.5 percent for all years of service with actuarial reduction for early retirement, or
- h. Rule of 90 with current benefit formula rates. For coordinated members, if age plus years of service equal at least 90, the benefit accrual is one percent for each of the first ten years of service, followed by 1.5 percent per year thereafter, with no early retirement reduction. For basic members, if age plus years of service equal at least 90, the benefit accrual is two percent for each of the first ten years of service, followed by 2.5 percent per year thereafter, with no early retirement reduction.

Associated with these benefit changes are increases in contribution rates:

- i. Employee contribution rate increases. The employee contribution rate for PERA active members increases to 8.23 percent for all basic members and 4.23 percent for all coordinated members. (Laws 1989, Chapter 319, Article 13, Section 30.)

2. Public Employees Retirement Association Police and Fire Fund (PERA P&F)

The Legislature granted benefit increases to PERA P&F similar to those granted to MSRS Highway Patrol.

- a. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disablitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. If a retired employee or disablitant initially took the joint and survivor annuity with a bounce-back (which required an actuarial reduction in the present annuity), the annuity will be increased after July 1, 1989 so the individual does not bear the cost of the bounce-back provision. (Laws 1989, Chapter 319, Article 17, Section 11.)

- b. Change to level formula. Members receive a level formula at 2.5 percent for all years of service, rather than the current drop to 2.0 percent per year after twenty five years of service. (Laws 1989, Chapter 319, Article 17, Section 12.)
- c. Early retirement. Early retirement is permitted at age 50 with full actuarial reduction to age 55. (Laws 1989, Chapter 319, Article 17, Section 13.)
- d. Service disability benefit increase. Long service disability benefits are increased to 50 percent of salary plus 2.5 percent for each year of service in excess of twenty. (Laws 1989, Chapter 319, Article 17, Section 14.)
- e. Non-service disability benefit increase. The non-line-of-duty disability benefit vesting period is reduced to one year and the minimum benefit is calculated as though the individual had fifteen years of service, rather than the previous ten. (Laws 1989, Chapter 319, Article 17, Section 15.)
- f. Survivor benefit, dependent child benefit increase. The spouse survivor benefit is increased to 50 percent of the last six month's average salary. Dependent child coverage continues through age 23 rather than age 22, if the individual is enrolled in a post secondary school for at least five of the prior twelve months. The maximum family benefit is increased from 50 percent to 70 percent of the last six month's average salary. (Laws 1989, Chapter 319, Article 17, Section 16 and 17.)

3. Administrative Issues--PERA and PERA P&F

- a. Definition of average salary for PERA short service retirees. If the individual has less than five years service, all service must be used in determining average salary to compute the annuity or benefit. (Laws 1989, Chapter 319, Article 13, Section 32.)
- b. Refunds, certain Saint Paul Bureau of Health ex-employees. Certain PERA retirees, formerly employed by the Saint Paul Bureau of Health and who chose to retire under that plan, are eligible to receive a refund with interest on excess contributions made between 1969 and 1973. The executive director of PERA must notify all eligible individuals of their right to apply for this refund. (Laws 1989, Chapter 319, Article 5, Sections 9 and 10.)
- c. PERA coverage, municipality and township associations. PERA coverage is extended on a mandatory basis to employees of the Association of Metropolitan Municipalities, and on a optional basis to employees of the Minnesota Association of Townships. (Laws 1989, Chapter 319, Article 3, Section 1.)
- d. PERA exclusions and inclusions in coverage. Includes, for PERA coverage, individuals serving a short probationary period leading to a permanent position. Excludes medical residents and interns, and volunteer firefighters and volunteer ambulance service personnel. (Laws 1989, Chapter 319, Article 3, Section 2.)
- e. Annuity application proof of identity requirements. Applications for PERA annuities must have full supporting documentation and include written proof of member identity. (Laws 1989, Chapter 319, Article 3, Section 10.)
- f. Refunds due to changes in employment. Refunds of employee contributions to PERA, PERA P & F, or PERA Correctional can be made to individuals leaving one of these funds and entering employment in another of these funds. (Laws 1989, Chapter 319, Article 3, Section 17.)
- g. Repayment of Refunds. An individual repaying a PERA refund can repay all refunds or just the most recently taken refund. (Laws 1989, Chapter 319, Article 3, Section 18.)
- h. PERA board member term extended. The four-year term of office for the PERA board member elected in November 1986 is extended through January 1991, so all three elected positions have terms ending at the same time. (Laws 1989, Chapter 319, Article 3, Section 25.)
- i. Mandatory rehabilitation program. If the executive director determines that a disabled person may be able to return to gainful employment, the continued receipt of a PERA disability benefit is contingent on participation in a vocational rehabilitation program. (Laws 1989, Chapter 319, Article 3, Section 15.)
- j. Repayment of refunds by disabilitants. A PERA disabilitant may repay a refund before the effective date of the disability benefit. (Laws 1989, Chapter 319, Article 3, Section 12.)
- k. Coordination of disability benefits. PERA disability benefits are coordinated with workers compensation benefits, including economic recovery compensation benefits. Offsets from disability benefits for partial reemployment apply for both employment and non-employment related injuries. (Laws 1989, Chapter 319, Article 3, Section 14.)
- l. Service credit, sheriff's association employee. A former member of PERA who is an employee of the Minnesota sheriff's association can be covered by PERA P&F for the sheriff's association service. Past employee and employer contributions are the responsibility of the employee, although the sheriff's association may pay the employer's share. (Laws 1989, Chapter 319, Article 11, Section 1.)
- m. Disposition of excess police aid. Any excess police state aid will be deposited in an insurance trust fund to provide life insurance and medical coverage for public employees, rather than depositing the excess in PERA P&F. A holding account for this excess is to be created in PERA P&F, and the account must regularly be cleared to the insurance trust fund. (Laws 1989, Chapter 319, Article 6.)
- n. Exclusion of volunteer ambulance service personnel and volunteer firefighters. Volunteer ambulance service personnel and volunteer firefighters are generally excluded from PERA P&F, but volunteer firefighters already in PERA P&F can remain if they choose. Volunteer ambulance service personnel and volunteer firefighters, who are members of PERA or PERA P&F by employment other than their respective volunteer service, can participate in PERA or PERA P&F for their volunteer duties if the volunteer duties are not covered by another plan. (Laws 1989, Chapter 319, Article 3, Sections 2, 3, 5, 6, 23, 24.)
- o. Collection procedures, delinquent excess police aid. PERA collection procedures will apply to delinquent excess police aid, and six percent interest is due on late payments. (Laws 1989, Chapter 319, Article 3, Sections 8 and 9.)
- p. PERA P&F fund membership exclusion. Members of consolidated relief associations who do not elect PERA P&F benefit plan coverage are not members of PERA P&F. (Laws 1989, Chapter 319, Article 3, Section 19.)

- q. Non-police duties covered by PERA P&F. A police officer, occasionally assigned to non-police duties, retain PERA P&F coverage for those duties if the municipality certifies that the primary employment position held is that of a police officer. (Laws 1989, Chapter 319, Article 3, Section 20.)
- r. Non-firefighter duties covered by PERA P&F. A firefighter, occasionally assigned to non-firefighting duties, retain PERA P&F coverage for those duties if the municipality certifies that the primary employment position held is that of a firefighter. (Laws 1989, Chapter 319, Article 3, Section 21.)
- s. Offset to disability benefits. For members of PERA P&F, workers compensation benefits must be considered in determining the offset to disability benefits due to partial reemployment. (Laws 1989, Chapter 319, Article 3, Section 22.)

4. PERA Local Correctional

- a. Reduction in vesting requirement. The service credit vesting requirement is reduced from five years to three years. (Laws 1989, Chapter 319, Article 13, Section 49.)
- b. Definition of average salary for short service retirees. If the individual has less than five years service, all service must be used in determining the average salary to compute the annuity or benefit. (Laws 1989, Chapter 319, Article 13, Section 50.)
- c. Normal retirement age references. Age 65 references are replaced by reference to "normal retirement age" in the retirement annuity accrual and duration provision, and the disability benefit to retirement annuity conversion provision. (Laws 1989, Chapter 319, Article 13, Sections 51 and 52.)

C. Teachers Retirement Association (TRA)

1. TRA Benefit Increases

The Legislature granted benefit increases to members of TRA, comparable to provisions previously described for MSRS and PERA.

All TRA members are eligible to benefit from the following changes:

- a. Reduction in vesting requirement. Normal retirement, early retirement, disability, survivor benefit, and service-in-more-than-one-fund portability provisions are changed to permit eligibility at three years service rather than five. (Laws 1989, Chapter 319, Article 13, Sections 55, 56, 62, 64, 70.)
- b. Increased interest on refunds. Interest on refunds of member contributions taken when an individual leaves employment is increased to six percent from five percent. (Laws 1989, Chapter 319, Article 13, Sections 63, 67.)
- c. Increase in deferred annuity augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at three percent per year during the deferral period. Under the new law, augmentation increases to five percent on January 1st of the year after the member reaches age 55. (Laws 1989, Chapter 319, Article 13, Section 69.)
- d. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disablitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. (Laws 1989, Chapter 319, Article 13, Section 61.)

The following benefit change includes only new employees hired after 6/30/89:

- e. New level benefit formula, new employees. New coordinated employees will receive a level formula of 1.5 percent credit for each year of service, rather than the current one percent for each of the first ten years of service, followed by 1.5 percent thereafter. New basic employees will receive a level formula of 2.5 percent for all years, rather than the current two percent for each of the first ten years, followed by 2.5 percent for each year thereafter. In all cases, if the individual retires early, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that changes over

time. The normal retirement age for existing employees remains at 65. (Laws 1989, Chapter 319, Article 13, Sections 53, 57, 58.)

The following benefit changes apply only to existing employees. (Laws 1989, Chapter 319, Article 13, Section 58.) Current employees will receive annuities based on whichever of the following produces the higher benefit:

- f. Current benefit formula. For coordinated employees, a benefit accrual of one percent for each of the first ten years, plus 1.5 percent for each year thereafter, with three percent annual reduction for early retirement. For basic members, a benefit accrual of two percent for each of the first ten years, followed by 2.5 percent for each years thereafter, or
- g. Level benefit formula. For coordinated members, 1.5 percent for all years of service, with actuarially reduction for early retirement. Basic members will receive 2.5 percent for all years of service, with actuarial reduction for early retirement, or
- h. Rule of 90 with current benefit formula rates. If age plus years of service equal at least 90, the benefit accrual for coordinated members is one percent for each of the first ten years of service, followed by 1.5 percent per year thereafter, with no early retirement reduction. The accrual rate under this provision for basic members is two percent for each of the first ten years, followed by 2.5 percent thereafter. Use of the rule of 90 must be reviewed periodically. If use exceeds 45 percent of the members eligible to retire under that provision, the provision is voided. (Laws 1989, Chapter 319, Article 13, Sections 58, 96.)

Other changes affecting benefits or coverage are:

- i. Coverage changes, variable annuity account eliminated. The variable annuity account is closed effective May 16, 1989. TRA members who took part in that program will have assets transferred to the basic retirement plan and will be covered by a standard formula account in that plan. Individuals who received refunds from the variable annuity account and who later resume teaching may repay the refund to the formula account. Individuals already receiving benefits from the variable annuity fund will have their reserves transferred to the Minnesota Post Retirement Investment Fund (the post fund). The group is eligible for all future post fund increases. (Laws 1989, Chapter 319, Article 9, Sections 1 through 4.)

[Note: Laws 1989, Chapter 319, Article 13, Section 59 revised the part variable annuity and part formula retirement annuity provision to provide for a level part formula retirement annuity benefit accrual rate of .75 percent for the coordinated program and 1.25 percent for the basic program for pre-7/1/89 hires if, combined with the revised normal retirement age and the revised early retirement reduction calculation, it produces a higher benefit. However, since the variable annuity account was eliminated by Article 9, Sections 1 through 4, the benefit change in the part variable annuity, part formula plan provision (Article 13, Section 59) will not take effect.]

- j. Joint and survivor annuity to surviving spouse of a certain deceased TRA member. The article also provides a joint and survivor annuity to an individual who would qualify for a survivor benefit under current law, but who did not qualify given laws in effect at the time of the TRA member's death. (Laws 1989, Chapter 319, Article 9, Section 5.)

2. TRA Administrative Issues

- a. Benefit termination or denial appeals procedure. The appeals procedure:
 - (1) provides notice of any benefit termination or denial;
 - (2) allows for a review of an administrative termination or denial upon filing a petition;
 - (3) requires an answer to the petition;
 - (4) provides for a hearing;
 - (5) allows for resubmission of disability benefit questions to the TRA medical advisor;
 - (6) requires board findings following the hearing;
 - (7) authorizes an appeal to the state Court of Appeals;
 - (8) provides that the administrative appeal is not to be conducted under the procedures of the state's Administrative Procedure Act contested case provisions, but allows the TRA Board of Directors to certify any petition to the state's Office of Administrative Hearings for a contested case proceeding; and
 - (9) permits a person not directly involved in the case to request a review of the executive director's decision if the decision affects the individual's rights. (Laws 1989, Chapter 319, Article 2, Section 7.)
- b. Substitution of general option for Social Security leveling option. The specific social security leveling option is eliminated. It provided an initially higher benefit from the state retirement fund

in order to provide the same total benefit as the individual will later receive from the state fund and from social security combined, once the individual starts receiving social security benefits. In its place, TRA will provide a generalized optional annuity which serves the same purpose, but which is easier to compute. (Laws 1989, Chapter 319, Article 2, Section 11.)

- c. Administrative expense reserve created, college supplemental fund. An administrative expense reserve is created for the College Supplemental Fund. Two percent of contributions must go to this reserve. Net gains or losses due to purchasing or redeeming shares due to erroneous contributions must go to the administrative expense reserve. The administrative expense reserve also receives any turnover gain in the College Supplemental Plan. (Laws 1989, Chapter 319, Article 2, Sections 1 and 2.)
- d. Definition of salary. For purposes of computing any pension or benefits, salary is the gross salary before any reductions in taxable income under federal tax law. Workers compensation, disability insurance payments, and severance pay are excluded from the definition of salary. Severance pay includes any payments open to employee time shifting if shifted into the salary years used to calculate the benefit. (Laws 1989, Chapter 319, Article 2, Section 4.)
- e. Definition of termination of teaching service. A TRA member has not terminated service if, when they leave a teaching position, they have entered into a contract to perform future teaching service. (Laws 1989, Chapter 319, Article 2, Section 5.)
- f. Partial TRA service credit revision, retroactive extension to 1961. Current procedures for determining partial TRA credit for those teaching a fraction of a standard work day or part of a year are to be used for all service after July 1, 1961, rather than the previous date in statute, July 1, 1969. (Laws 1989, Chapter 319, Article 2, Section 8.)
- g. Notification for TRA of sabbatical leave. The employing unit must notify TRA of a sabbatical leave before the end of the fiscal year in which the leave is granted. (Laws 1989, Chapter 319, Article 2, Section 9.)
- h. Electronic fund transfers authorized. Electronic fund transfers of retirement annuities or benefits are authorized. (Laws 1989, Chapter 319, Article 2, Section 10.)
- i. Retired TRA member earnings limitations reduced. The annuity reduction faced by retired TRA members who return to teaching in TRA covered employment is reduced from the full amount above the social security maximum to one-half the amount. (Laws 1989, Chapter 319, Article 2, Section 14.)
- j. Interim superintendents, retired TRA member exemption from annuity reduction. A retired TRA member hired as an interim superintendent is exempt from annuity reductions for up to 90 days. (Laws 1989, Chapter 319, Article 2, Section 15.)
- k. Disposition of account balances. If a former member dies without a designated survivor, the disposition of account balances open to administrative proceedings is increased from \$500 to \$1,500. (Laws 1989, Chapter 319, Article 2, Section 17.)
- l. Disability benefits can be based on non-continuous service. The disability benefit provision is clarified to state that vesting depends on total service, which does not need to be continuous. (Laws 1989, Chapter 319, Article 2, Section 18.)
- m. State contributions ended for extended leaves. Schools districts remain free to grant extended leaves to teachers, but the state will no longer be involved in paying the employer contribution toward retirement in any of these cases. The school district will cover those costs. (Laws 1989, Chapter 329, Article 9, Section 20.)
- n. Definition of average salary for short service TRA members. Average salary must be based on all allowable service if the service is less than five years. (Laws 1989, Chapter 319, Article 13, Section 58.)

D. First Class City Teacher Funds

The Legislature granted a benefit increase to members of the first class city teacher funds, comparable to the MSRS, PERA, and TRA provisions.

All members of the first class city teacher funds are eligible to benefit from the following changes:

- a. Reduction in vesting requirement. Normal retirement, early retirement, disability, survivor benefit, and the service-in-more-than-one-fund portability provisions are changed to permit eligibility at three years service rather than five. (Laws 1989, Chapter 319, Article 13, Sections 74, 76, 82, 83, 89.)
- b. Increased interest on refunds. Interest on refunds of member contributions taken when an individual leaves employment is increased to six percent from five percent. (Laws 1989, Chapter 319, Article 13, Sections 81, 87, 88.)

- c. Increase in deferred annuity augmentation. Under prior law, individuals who have vested and then leave employment prior to retirement can have a deferred annuity, leaving their contributions in the retirement plan and eventually receiving an annuity at retirement age. Deferred annuities augmented at three percent per year during the deferral period. Under the new law, augmentation increases to five percent on January 1st of the year after the member reaches age 55. Augmentation does not apply to periods when the individual is on approved leaves of absence from the employer. (Laws 1989, Chapter 319, Article 13, Section 86.)
- d. Automatic bounce-back, joint and survivor annuity. The new law provides a subsidized, automatic bounce-back annuity for individuals selecting a joint and survivor annuity. If the designated beneficiary of a joint and survivor annuity dies before the annuitant, the ex-employee's annuity automatically bounces back to the single life annuity level.

This automatic bounce back provision also applies to existing joint and survivor annuities. If a retired employee or disablitant selected an optional joint and survivor annuity, but did not select a bounce back provision, they are now eligible for restoration of the normal single-life annuity if the designated beneficiary dies first, without further reduction of the current annuity. If the designated optional annuity beneficiary died before July 1, 1989, the annuitant will receive a normal single-life annuity after that date, but no retroactive payments. If a retired employee or disablitant initially took the joint and survivor annuity with a bounce-back (which required an actuarial reduction in the present annuity), the annuity will be increased after July 1, 1989 so the individual does not bear the cost of the bounce-back provision. (Laws 1989, Chapter 319, Article 13, Section 80.)

The following benefit change applies only to new employees hired after 6/30/89:

- e. New level benefit formula, new employees. New coordinated employees will receive a level formula of 1.5 percent credit for each year of service, rather than the current one percent for each of the first ten years of service, followed by 1.5 percent thereafter. If the individual retires early, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that changes over time. Normal retirement age for existing employees remains unchanged for the three plans. The normal retirement age for the Duluth and Saint Paul teacher funds is age 65, or age 62 with 30 years of service. The normal retirement age for Minneapolis Teachers Fund members is age 60, or any age with 30 years of service. (Laws 1989, Chapter 319, Article 13, Sections 71, 75, 78.)

The following benefit changes apply only to existing employees. (Laws 1989, Chapter 319, Article 13, Sections 75, 77, 78.) Current coordinated employees will receive annuities based on whichever of the following produces the higher benefit:

- f. Current benefit formula with three percent early retirement reduction. A benefit accrual of one percent for each of the first ten years, plus 1.5 percent for each year thereafter, with three percent annual reduction for early retirement, or
- g. Level benefit formula with actuarial reduction. 1.5 percent for all years of service, with actuarially reduction for early retirement.
- h. Rule of 90 with current benefit formula rates. If age plus years of service equal at least 90, the benefit accrual is one percent for each of the first ten years of service, followed by 1.5 percent per year thereafter for coordinated members, with no early retirement reduction.

Benefit changes are also granted to basic members of the Minneapolis and Saint Paul teacher funds, and to old law coordinated program members of the Duluth teachers fund. (Laws 1989, Chapter 319, Article 13, Section 94.) Individuals in these categories who are retiring can select the best option from the following:

- i. Current level benefit accrual with three percent early retirement reduction. Basic members of the Minneapolis fund have a 2.25 percent annual accrual rate, basic members of the Saint Paul fund have a 2.0 percent annual accrual rate, and old law coordinated members of the Duluth fund have a 1.25 percent accrual rate. Individuals retiring early would face a three percent per year early retirement reduction. The Minneapolis Teachers Retirement Fund post 7/7/77 hiree, 30 year of service early retirement reduction provision is repealed. Or,
- j. Rule of 90 with current benefit accrual rates. Individuals in the above groups can retire, using the above accrual rates, with no reduction if their age plus years of service total at least 90, or
- k. New level benefit accrual rates with actuarial reduction. Basic members of the Minneapolis and Saint Paul teacher funds receive an annual benefit accrual rate of 2.5 per cent per year, and old law coordinated members of the Duluth fund receive an annual benefit accrual rate of 1.25 percent, with actuarial reduction for early retirement.

Coordinated members, and basic and old law coordinated members are subject to the same provisions regarding normal retirement ages, interest on refunds, subsidized bounce-back joint and survivor annuities, and deferred annuity augmentation. These issues were discussed above. Use of the rule of 90 by all first class city teacher fund retirees must be reviewed periodically. If use exceeds 45 percent of the members eligible to retire under that provision, the provision is voided. (Laws 1989, Chapter 319, Article 13, Section 96.)

The following changes also effect members of the first class city teacher funds:

- l. Purchasing service credit for parental and maternity leave. Members of the Saint Paul or Duluth Teachers funds, granted parental or maternity leave, may purchase up to one year of service credit for that period. (Laws 1989, Chapter 319, Article 2, Section 21.)
- m. Retired teacher earnings limitations reduced. The annuity reduction faced by retired members of the three first class city teacher funds, who return to teaching in employment covered by the same plan, is reduced from the full amount above the social security maximum to one-half the amount. (Laws 1989, Chapter 319, Article 2, Section 22.)
- n. State contributions ended for extended leaves. First class city school districts remain free to grant extended leaves to teachers, but the state will no longer be involved in paying the employer contribution toward retirement in any of these cases. The school district will cover those costs. (Laws 1989, Chapter 329, Article 9, Section 20.)

E. State Universities and Community Colleges

- a. Extension of Individual Retirement Account plan to existing faculty. Newly hired (after June 30, 1989) state university and community college faculty will be members of the Individual Retirement Account plan, and existing faculty, who are now coordinated TRA members, can elect coverage by that plan. Those with less than three years service can transfer prior employee contributions, with five percent interest, to the Individual Retirement Account plan. Faculty with more than three years service can elect coverage under the new plan, but prior contributions to TRA can not be transferred. The prior contributions which remain in TRA create a deferred annuity, augmented at five percent. All faculty that participate in the Individual Retirement Account plan are members of TRA for social security coverage purposes only. (Laws 1989, Chapter 319, Article 18, Sections 1,2,4,5,6,10,11.)
- b. Boards can select or change financial institutions for the Individual Retirement Account plan. The state university and community college boards can, at its discretion, change the selection of the financial institutions which provide annuity contracts or custodial services under the Individual Retirement Account plan. (Laws 1989, Chapter 319, Article 18, Section 8.)
- c. Members ownership of Individual Retirement Account plan benefits. The retirement and death benefits are owned by the trust and must be paid according to provisions of the plan document. (Laws 1989, Chapter 319, Article 18, Section 9.)
- d. Substitution of Supplemental Retirement Plan, matching employer contributions. The current authorization for a matching employer share up to \$2,000 to the Minnesota Deferred Compensation plan, if provided for in a collective bargaining agreement, is eliminated. In its place, a similar option is created under the Supplemental Retirement plan. (Laws 1989, Chapter 319, Article 12, Sections 2 and 3.)
- e. Qualified, part-time program. Community college or state university teachers age 55 or older with ten or more years of service can participate in the qualified part-time teaching program. (Laws 1989, Chapter 319, Article 18, Section 3.)

F. Volunteer Firefighters

- a. Permitting five year vesting for regular and combined service pensions. Five year vesting is permitted under volunteer fire benefit provisions, when the articles of incorporation or bylaws of the relief association so provide. The schedule of maximum percentages of a reduced service pension payable to those with less than twenty years of service is revised to be consistent with five year vesting. Also, combined service, volunteer fire pensions are permitted after five years total service, provided that the member has at least one year of service in each fund, and each fund involved adopts five year vesting. (Laws 1989, Chapter 319, Article 10, Sections 3, 4, 5, and 6.)
- b. Probationary firefighters are permitted to join volunteer firefighter relief associations. Probationary firefighters are permitted to join the volunteer firefighter relief association while on probationary status, rather than joining the relief association after the probationary period and receiving retroactive credit. (Laws 1989, Chapter 319, Article 10, Section 2.)
- c. Bloomington Firefighters Relief Association disability and survivor benefits are authorized. Pending approval by the Bloomington city council, the Bloomington Firefighters Relief Association is authorized to pay duty related disability payments equal to a 20 year service pension, and to pay a lesser amount for non-duty related disability benefits. The relief association is also authorized to pay survivor benefits due to the death of the member from duty related causes, and a lesser amount for non-duty related causes. (Laws 1989, Chapter 319, Article 11, Sections 7 through 11.)
- d. Minnetonka Volunteer Firefighters Relief Association, increase in non-forfeitable percentage of service pension. For the Minnetonka volunteer firefighter relief association, an exception is provided to the non-forfeitable percentages of a service pension given in Minnesota Statutes, Section 424A.02, Subdivision 2. The association's members will receive 100 percent of a non-forfeitable pension after ten years, rather than a reduced percentage through 19 years. The change requires approval by the Minnetonka city council. (Laws 1989, Chapter 319, Article 11, Section 5.)

- e. Volunteer firefighters, exclusion from PERA P&F. In general, volunteer firefighters will not be permitted to receive pension coverage for volunteer firefighting duties by both the local relief association plan and PERA P&F. However, those who currently are members of both plans due to their volunteer firefighter duties will remain, unless they elect to terminate coverage by one of the plans by June 30, 1990. A volunteer firefighter with PERA or PERA P&F coverage based on non-volunteer firefighting service is authorized to have volunteer firefighter service covered by PERA or PERA P&F if the service is not credited by a local volunteer firefighter plan. (Laws 1989, Chapter 319, Article 3, Sections 2,6, and 24.)

G. Local Police And Paid Firefighter Relief Associations

- a. Pension base if phase-out of paid firefighters. If the salaried position used to base firefighter pensions no longer exists because of a shift to volunteers, the salaried firefighter pensions and benefit increases will be based on the salary of a top grade patrol officer. (Laws 1989, Chapter 319, Article 10, Section 1.)
- b. Saint Paul Police, surviving spouse benefits increased. Pending approval by the Saint Paul City Council, the Saint Paul Police Relief Association can increase the surviving spouse benefit from 20 percent of the salary of top grade patrol officer to not less than 22.5 percent of salary, but not more than 27.5 percent. (Laws 1989, Chapter 319, Article 11, Section 2.)
- c. Mankato Fire Department, non-duty disability benefit authorized. Pending approval by the Mankato city council, the Mankato Fire Department Relief Association is authorized to provide a non-duty disability benefit, not to exceed the duty related benefit. (Laws 1989, Chapter 319, Article 11, Section 3.)
- d. Virginia Police Relief Association, benefit increase. Pending approval by the Virginia city council, the Virginia Police Relief Association service pension maximum is increased from 50 to 60 percent of the pay upon which the pension is based. The benefit to retirees retiring before January 13, 1966 is increased by \$100 per month. Disability pensions for disabilities incurred before January 12, 1967 are increased by \$100 per month. The benefits to a certain surviving spouses are increased by \$50 per month, payable until death or remarriage. (Laws 1989, Chapter 319, Article 11, Section 4.)
- e. Benefit increase, Eveleth Police and Fire Trust. Pending approval by the Eveleth city council, benefits are increased by \$100 per month to retirees and surviving spouses receiving benefits from the Eveleth Police and Fire Trust. (Laws 1989, Chapter 319, Article 11, Section 6.)
- f. Proportional board representation of retirees required, Saint Paul police and fire funds. Proportional representation of retirees is required on the board of directors of the Saint Paul Police and Saint Paul Fire Relief Associations, except that in no case will retirees receive more seats than the active members. (Laws 1989, Chapter 319, Article 11, Section 12.)
- g. Amortization aid reduced, Minneapolis police and fire funds. Amortization aid for the Minneapolis police and fire funds is reduced, with the reduction to be allocated among the two funds based on the respective amounts of unfunded accrued liability. The amortization aid to funds in other cities is not affected. (Laws 1989, Chapter 335, Article 1, Section 48.)
- h. Minneapolis police state aid allocation to be based on covered salary. Minneapolis may allot police state aid toward the employer contribution to PERA P&F based on the covered salary of PERA P&F-covered police officers each payroll period. The balance would be transmitted to the local police relief association. (Laws 1989, Chapter 319, Article 19, Section 2.)
- i. Administrative expenses deleted from Minneapolis financing requirements. In determining the financial requirements of the Minneapolis police and fire relief associations and the city's contributions, administrative expenses are not to be included. (Laws 1989, Chapter 319, Article 19, Section 3.)
- j. Actuarial assumptions changed, Minneapolis police and fire funds. For actuarial purposes and for the amortization contribution, "current assets" is defined as assets at cost including any realized gain or loss, plus the average value of unrealized gains or losses for the three year period prior to the date of the current actuarial report. The pre and post retirement interest assumption is changed to six percent, and the salary increase assumption is changed to four percent. (Laws 1989, Chapter 319, Article 19, Section 4.)
- k. Minneapolis fire state aid allocation to be based on covered salary. Minneapolis may allot fire state aid toward the employer contribution to PERA P&F based on the covered salary of PERA P&F-covered firefighters each payroll period. The balance would be transmitted to the local fire relief association. (Laws 1989, Chapter 319, Article 19, Section 5.)
- l. Thirteenth check authorized, Minneapolis police and fire funds. For the Minneapolis Police and Fire Relief Associations, a single lump sum, automatic post retirement adjustment maybe provided. The distribution is limited to one half of one percent of the assets of the relief association. The chief officer of each relief association must submit a report to the state auditor, the city clerk, and the Executive Director of the Legislative Commission on Pensions and Retirement showing the amounts of these post retirement adjustments and how the adjustments were determined. The distribution can be provided if the following conditions are met:

- (1) the time weighted rate of return for the fiscal year on the respective association's assets exceeds by two percent the fiscal year increase in the salary of a top grade patrol officer or firefighter; and
- (2) The yearly average percentage increase in the time-weighted rate of return for the previous five years exceeds, by two percent, the yearly average increase for the previous five years in the salary of a top grade patrol officer of firefighter. (Laws 1989, Chapter 319, Article 19, Section 7.)

H. Minneapolis Employees Retirement Fund (MERF)

- a. Pre-1974 supplemental retirement benefit. MERF annuitants with benefits computed prior to March 5, 1974 and "\$2 bill and annuity" annuitants are entitled to lump sum payments in 1989 and 1990 of \$25 per year of service. (Laws 1989, Chapter 319, Article 15, Section 2.) An identical supplemental benefit is authorized by Laws 1989, Chapter 335, Article 1, Sections 49 and 50, although the appropriation for the chapter 335 increase is voided.
- b. Legislative input needed on second year of MERF funding. MERF received an appropriation of \$10,415,000 for the first year of the biennium and \$10,475,000 for the second year to cover the state obligation for MERF funding. The senate and house government operations committees are required to review the second year's appropriation and the state's obligation under Section 422A.101, subdivision 3, and provide their recommendations to their respective houses during the 1990 session. (Laws 1989, Chapter 335, Article 1, Section 47.)
- c. Penalty eliminated on delinquent employer contributions. The ten percent penalty on employer contributions delinquent for more than 30 days is eliminated. (Laws 1989, Chapter 329, Article 9, Section 28.)

I. Pre-1973 Retiree Benefit Adjustments

- a. Pre-1973 retiree benefit adjustments. For pre-1973 retirees from PERA, PERA P&F, TRA, State Patrol, and MSRS General, and for various early 1970's retirees from the first class city teacher funds, coordinated members receive \$25 per year of service as a 1989 adjustment. Thereafter, this adjustment is indexed to increases earned by the Minnesota Post Retirement Fund, or to increases granted by the first class city teacher funds, as appropriate. Basic members receive the greater of \$25 per year of service, or \$400 per year of service minus amounts received from the respective retirement fund and social security (if any). In subsequent years these payments are indexed to the post retirement fund, or to increases granted by the first class city teacher funds, as appropriate. (Laws 1989, Chapter 319, Article 15, Section 1.)

Another law (Laws 1989, Chapter 335, Article 1, Sections 49 and 50), authorizes an adjustment of \$25 per year of service for both coordinated and basic retirees in the above groups, although the appropriation to cover that benefit is voided.

J. Partial Post Retirement Adjustments

- a. Partial post retirement adjustments authorized. This benefit improvement applies to all individuals receiving benefits through the Minnesota Post Retirement Investment Fund. Individuals who have been receiving benefits through the Minnesota Post Retirement Investment Fund for less than twelve months are eligible for a proportionate post retirement increase. This decreases the waiting period for the first potential post retirement increase from between 18 and 30 months to as little as seven. (Laws 1989, Chapter 319, Article 14, Sections 1 and 2.)

K. Purchase of Prior Service Credit

Chapter 319, Article 4, authorized several individuals to purchase prior service credit in PERA, and one individual may purchase credit in MERF. The article also amends and clarifies a 1988 law which permitted certain Metropolitan Sports Facilities Commission employees to purchase prior service credit in MSRS.

- a. Purchases of prior service credit, PERA. The following individuals are permitted to purchase prior service credit in PERA:
 - (1) A person who was born on October 1, 1925, who was a member of PERA as of December 1, 1988, who is a seasonal employee of the city of Saint Paul at the Highland golf course, and who was employed in that capacity between June 25, 1979, and July 31, 1984;
 - (2) A member of PERA who was a Ramsey county court commissioner between January 1, 1963, and December 31, 1974;
 - (3) A person whose employment with Hennepin county began in July 1973, but for whom no salary deductions were taken out for PERA between October 1973 and July 1976;
 - (4) A member of PERA with prior service as an elected county recorder in Dakota county between January 1, 1983, and December 31, 1987;

- (5) A person who was born on May 11, 1927, whose employment by the city of Bloomington began in March 1960 and continued during the years 1960 and 1961, and for whom no salary deductions were taken for PERA;
- (6) A board supervisor in White Bear and who is or will become a member of PERA;
- (7) A person born on April 20, 1928, who was a member of PERA with prior service as an elected official on the city of Crystal's planning commission and city council, for which salary deductions were omitted; and
- (8) A person who served on the city council of Spring Lake Park during which no salary deductions were taken, and who was born on April 5, 1934, or April 4, 1932.

Purchasing prior service credit requires payment of the full actuarial present value of the additional annuity received by the purchase. Payment is the responsibility of the individual and must be in one lump sum unless the executive director of PERA agrees to installments. Employer payment of part of the total cost is optional. (Laws 1989, Chapter 319, Article 4, Section 1.)

- b. Purchase of prior service credit, MERF. A person who was born on March 3, 1949, who was employed by the city of Minneapolis as an urban corp intern in August, 1976, who was employed in the unclassified service of the city of Minneapolis as an assistant to an alderman (performing duties similar to those during the internship), who is currently employed in that position, and who is a member of MERF, may purchase prior credit in MERF.

Purchasing prior service credit requires payment of the full actuarial present value of the additional annuity received by the purchase. Payment is the responsibility of the individual and must be in one lump sum unless the executive director of MERF agrees to installments. Employer payment of part of the total cost is optional. The prior service must be purchased by June 30, 1989. (Laws 1989, Chapter 319, Article 4, Section 1.)

- c. Purchases of prior service credit, MSRS. Purchases of prior service credit by certain employees or ex-employees of the Metropolitan Sports Facilities Commission, under Laws 1988, Chapter 709, Article 3, Section 1, subdivision 1, clause (3) must be calculated assuming retirement at age 65. If the individuals retire earlier, the annuity must be actuarially reduced. (Laws 1989, Chapter 319, Article 4, Section 2 and 3.)

II. GENERAL PENSION LEGISLATION

This section contains legislation which impacts all or most Minnesota public pension funds.

A. Fiduciary Responsibility and Liability

Laws 1989, Chapter 319, Article 7 codifies fiduciary responsibility and liability for all Minnesota public pension plans. The article:

1. specifies who has fiduciary status. Fiduciaries are defined as any member of a covered pension plan governing board, the chief administrating officer of the plan, the chief administrating officer of the State Board of Investment, members of the State Board of Investment, and members of the Investment Advisory Council. (Laws 1989, Chapter 319, Article 7, Section 2.)
2. specifies that fiduciary activities include, but are not limited to, investing plan assets, determining the amount and duration of benefits, determining membership eligibility, determining funding requirements, maintenance of membership and financial records, and expenditure of plan assets. (Laws 1989, Chapter 319, Article 7, Section 3.)
3. specifies that convicted felons, unless they are constitutional officers, are prohibited from engaging in a fiduciary role. The prohibition lasts five years from the date of conviction if the individual is not incarcerated, or the day following unconditional release if he or she is incarcerated. (Laws 1989, Chapter 319, Article 7, Section 3.)
4. specifies a fiduciary standard. A fiduciary owes a fiduciary duty to:
 - a. the active, deferred, and retire members of the plan, who are its beneficiaries;
 - b. the taxpayers of the state or political subdivision, who help to finance the plan; and
 - c. the state of Minnesota, which established the plan.

A fiduciary's actions must be consistent with the prudent person standard, stated in Section 4, subdivision 2 as:

A fiduciary....shall act in good faith and shall exercise that degree of judgment and care, under the circumstances then prevailing, that persons of prudence, discretion, and intelligence would exercise in the management of their own affairs,

not for speculation, considering the probable safety of the plan capital as well as the probable investment return to be derived from the assets.

Fiduciary activities must be carried out solely to provide authorized benefits to plan participants and beneficiaries, to incur and pay reasonable and necessary administrative expenses, or to manage the plan in accordance with the purposes and intent of the plan document. These activities must be carried out faithfully, without prejudice, and be consistent with law and the plan document. (Laws 1989, Chapter 319, Article 7, Sections 4 and 5.)

7. specifies that assets of the covered plan can be held only by the plan treasurer, SBI, the depository agent of the plan, or SBI's depository agent. Legal title to plan assets must be vested in the plan, SBI, the governmental entity that sponsors the plan, the nominee of the plan, or the depository agent. The holder of legal title functions as a trustee. (Laws 1989, Chapter 319, Article 7, Section 6.)
8. specifies that plan assets should be diversified to minimize the risk of substantial investment losses. (Laws 1989, Chapter 319, Article 7, Section 6.)
9. requires that no fiduciary may profit, directly or indirectly, as a result of the investment or management of plan assets. (Laws 1989, Chapter 319, Article 7, Section 6.)
10. requires that each member of the governing board of a covered pension plan and the chief administrative officer of the plan will file annually a statement of economic interest. The statement must be filed with the chief executive officer of the plan and be available to the public. The statement must contain the information required by section 10A.09, subdivision 5 (name, address, occupation, place of business, name and nature of associated businesses, real property owned within the state, etc.) and any other information that the fiduciary or the governing board deems necessary to disclose potential or actual conflict of interest.

The chief administrative officer of the covered plan, and the executive director of SBI with respect to assets managed by SBI, must have an investment business recipient disclosure which discloses the recipients of investment business of the plan and investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The form must be prepared within 60 days of the end of the fiscal year and be available for public inspection. Within 90 days after the close of the fiscal year a copy must be filed with the Executive Director of the Legislative Commission on Pensions and Retirement. (Laws 1989, Chapter 319, Article 7, Section 6.)

11. may limit the list of authorized investments for small pension plans lacking professional investment advice or management. If the plan does not have assets with a book value in excess of \$1,000,000, use the services of a registered investment advisor for the investment of at least 60 percent of its assets, use the services of SBI for the investment of at least 60 percent of its assets, or use a combination of the services of SBI and a registered investment advisor for the investment of at least 75 percent of its assets, then the plan is limited to the restricted list of authorized investments unless other investments are authorized by law.

The restricted list of authorized investments does not authorize stock investments. A plan limited to the restricted list can invest in insured or collateralized certificates of deposit, insured savings accounts, government obligations (with certain restrictions), high quality corporate obligations, and mutual funds which limit their investments to those covered by the restricted list.

Pension plans not limited to the restricted list can invest in assets permitted under section 11A.24, the provision which specifies permissible investments by SBI, and other investments authorized by law or bylaws. (Laws 1989, Chapter 319, Article 7, Section 6.)

12. requires the administrators of pension plans limited to the restricted investment list to invest adequate assets in short term, liquid investments, which can be redeemed without penalty, sufficient to meet the liquidity requirements of the fund. (Laws 1989, Chapter 319, Article 7, Section 6.)
13. defines prohibited transactions, and specifies that no fiduciary may engage in a prohibited transaction or permit the fund to engage in a prohibited transaction. A prohibited transaction is:
 - a. the sale, exchange, or lease of real estate between the pension plan and a fiduciary of the plan;
 - b. the lending of money or other extension of credit between the plan and a fiduciary of the plan;
 - c. providing paid services to the plan by a fiduciary for services other than those performed in the capacity of fiduciary;
 - d. furnishing goods or services by the plan to a fiduciary other than those required to perform the fiduciary role;
 - e. the transfer of plan assets to the fiduciary, other than the payment of retirement benefits or reasonable salary and expenses for performing the fiduciary role; or
 - f. the sale, exchange, loan, or lease of any item of value between the plan and the fiduciary except for fair market value in an arms length transaction. (Laws 1989, Chapter 319, Article 7, Section 6.)
14. requires each plan to provide all active plan participants with a summary of the benefit provisions of the plan. A copy of the plan document must be provided to members upon request. The plans must also

provide members with the financial and actuarial reports of the fund, or summaries of those documents. (Laws 1989, Chapter 319, Article 7, Section 7.)

15. requires each plan to have a procedure for contested cases involving a determination of eligibility, benefits, or other rights under the plan. (Laws 1989, Chapter 319, Article 7, Section 7.)
16. specifies that meetings of the governing board or a committee of a governing board of a statewide plan are open to the public and are governed by section 471.705, the open meeting law. (Laws 1989, Chapter 319, Article 7, Section 8.)
17. states that a fiduciary breach occurs if the fiduciary violates his or her duties to plan members, taxpayers, and the state (as noted in 4 above), or engages in a prohibited transaction (as noted in 13 above). Available remedies are those in statute or common law. (Laws 1989, Chapter 319, Article 7, Section 9.)
18. specifies that fiduciaries have responsibility to oversee the fiduciary activities of other plan fiduciaries (cofiduciary responsibility), and has responsibility to correct or alleviate a fiduciary breach by another. A cofiduciary is liable for a fiduciary breach committed by another fiduciary when the cofiduciary has a responsibility to oversee the fiduciary activities of the other or a responsibility to correct or alleviate a breach by that fiduciary. A cofiduciary may eliminate liability through proper delegation and allocation of responsibilities. Otherwise, the liability is joint and several. (Laws 1989, Chapter 319, Article 7, Section 10.)
19. specifies that fiduciaries may be indemnified at the discretion of the governing board of the plan or of SBI. A decision to indemnify must apply to all fiduciaries of similar rank. (Laws 1989, Chapter 319, Article 7, Section 11.)
20. encourages continuing education for fiduciaries, and requires covered pension plans to develop a program for the continuing education of fiduciaries who are not reasonably considered to be experts with respect to their fiduciary duties and activities. (Laws 1989, Chapter 319, Article 7, Section 13.)

B. Interest assumption and amortization date changes.

1. Interest assumption increases. The pre-retirement interest rate assumption is increased to 8.5 percent for the following retirement plans: the Legislators Retirement, MSRS General, MSRS Military Affairs, MSRS Transportation Department Pilots, MSRS Correctional, MSRS State Troopers, Elective State Officers, PERA, PERA-P&F, PERA Local Correctional, TRA, and Judges Retirement. For the Minneapolis, St. Paul, and Duluth teacher funds, the pre and post retirement interest assumption is increased to 8.5 percent.
2. Amortization date extended. For all the above mentioned funds, the amortization period is extended to the year 2020.

C. Miscellaneous Provisions

1. Medicare referendum. All members of MSRS, MSRS Correctional, MSRS Unclassified, MSRS State Patrol, PERA, PERA P&F, TRA, MERF, and the first class city teachers funds that currently have participants not covered by Medicare must have a referendum permitting each employee the opportunity to select or reject Medicare coverage. For individuals selecting coverage, appropriate deductions from wages and appropriate employer contributions must be made. (Laws 1989, Chapter 319, Article 5, Sections 2 and 3.)
2. Repayment of refunds, combined service annuity provisions. Refunds under combined service annuity provisions (covering MSRS, MSRS Correctional, MSRS Unclassified, MSRS State Patrol, Legislators Retirement plan, Elected State Officers plan, PERA, PERA P&F, TRA, MERF, and the first class city teacher funds) are clarified to ensure the eligibility of former plan members to repay a refund, and by requiring repayment of any refund within six months of the termination of active public employment or retirement, whichever is earlier. (Laws 1989, Chapter 319, Article 2, Section 23.)
3. Spousal notification of optional annuities by certified mail no longer required. For all funds providing joint and survivor annuities, a retiring member's spouse will be notified by mail (rather than by certified mail, as previously required) about available optional annuities and the one actually elected, if any. If follow-up is needed, certified mail will be used. (Laws 1989, Chapter 319, Article 2, Section 24.)
4. Procedures for release of pension data due to marriage dissolution. For all Minnesota public pension funds, before the release of private or confidential data on pension benefits due to a pending marriage dissolution, copies of the legal petition commencing the marriage dissolution and the affidavit of service on the parties must be filed with the pension fund. (Laws 1989, Chapter 319, Article 2, Section 26.)
5. Repaying refunds, non-taxable rollovers. For all funds, refunds can be repaid from funds distributed from 401 (a) or 403 (a) plans. Repayment can also be made from an IRA used solely to receive a non-taxable rollover from a qualified plan or annuity. (Laws 1989, Chapter 319, Article 2, Section 27.)