

Updated Information about the Social Security (Section 218) Referendum for PERA Correctional Plan Participants

What prompted the need for this referendum?

When the Legislature created the PERA Local Government Correctional Service Employees Retirement Plan on July 1, 1999, the first employees enrolled in the Correctional Plan were transferred from the Coordinated Plan and had Social Security coverage as members of that plan. PERA, as the State's Social Security Administrator since 2002, recently learned that individuals enrolled in the Correctional Plan who had not been members of the PERA Coordinated Plan as correctional personnel were not automatically eligible to be covered by Social Security. PERA was told that to **sanction** Social Security coverage for individuals enrolled as new participants in the Correctional Plan, a referendum must take place and the results of that process must then be documented in the State's Section 218 Agreement – the official documentation between the State and Social Security defining which public employees in Minnesota are covered by Social Security.

What Must Be Done Now?

A referendum – vote – by all eligible members of the PERA Correctional Plan must be conducted in order to legally **sanction** the Social Security coverage that has been given to current correctional facility employees who were not transferred from the PERA Coordinated to the Correctional Plan and to future members of this retirement system. The referendum will be conducted in January 2015, concluding on January 30.

Who gets to vote?

PERA is working with county human resource personnel to verify who is eligible to vote. Our initial assessment is that there are about 2900 current members of the Correctional Plan who are eligible to vote in this referendum.

Not eligible to vote are about 700 current employees who were transferred from the PERA Coordinated Plan to the PERA Correctional Plan when it was created in 1999, or in 2000 when the Legislature changed the plan's membership criteria -- because they were deemed eligible for the new Correctional Plan coverage. These current plan members retained their Social Security coverage when they moved to the Correctional plan, because they were covered by Social Security while they were members of the Coordinated Plan in their correctional positions.

Why has PERA decided to allow each county to conduct its own referendum?

PERA had initially announced that the referendum would be a single statewide vote conducted under either the majority or the divided vote approach. PERA asked the affected county employers to take a position by August 20, 2014 on the voting procedure they preferred be used for the referendum. Employers voiced some concerns about the proposed process and timeline. The main points raised were:

1. Employers from both the metropolitan area and outstate stated they felt a lack of control since the outcome included 82 separate employers with about 2900 affected employees. Many employers generally supported the "majority" vote approach, because it would maintain the status quo, but were concerned because a passage of a "retirement system-wide" referendum will require a majority of the 2900 eligible employees voting "yes."
2. There was concern raised about a low response to a mail-in ballot and the fact that a lack of response is counted as a "no" vote under the SSA rules. Under the majority vote process across the entire system, this could cause the referendum to fail.
3. Some employers asked if there were any other avenues to address this issue, primarily preferring to enable everything to remain the same as had been in place since the Correctional Plan was created without having to have this referendum take place.

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PERA shared the concerns with representatives from the Social Security Administration (SSA) in a conference call. The SSA confirmed that the referendum is required and also stated that we can allow each county to be treated separately for purposes of the vote.

On August 22, PERA staff met with some human resource personnel to share what we learned about separate voting processes and to hear their concerns about this option. The result was that each employer will hold a separate and distinct voting process for their eligible Correctional Plan voters.

- Those counties that indicated a preference to use the divided vote procedure may proceed using that approach. In a divided vote referendum, each employee gets to decide if he or she wants Social Security coverage. Those employees who vote yes for coverage will continue to have Social Security withheld, while those employees who vote no will no longer have Social Security withheld.
- The 55 percent of the counties that responded in favor of a majority vote procedure can use that procedure to conduct their own referendum. However, they can notify PERA if they would prefer to use the divided vote procedure because at the time we asked for their input, we were assuming there would be one voting procedure and the vote would be conducted as one referendum across all counties.
- If a county does not indicate a preference of one voting procedure over the other, the majority voting procedure will be the approach to be used because that is what the majority of counties responding indicated preferable.

Why did PERA decide to delay the voting period until January?

Employers that have larger numbers of Correctional Plan members indicated that it would be very difficult for them to distribute the required Notice of Referendum before the proposed date of September 2, 2014. These employers asked for a delay of 30 or 60 days and PERA agreed to delay the referendum by one month. The voting will be conducted during the month of January, but final ballots must be cast by January 30, 2015.

The SSA requires a *minimum* of a 90-day waiting period from the time the Notice of Referendum is given to the affected employees to the time the ballots can be cast. Based on a January 30, 2015 final vote date, the Notice of Referendum must be distributed to the members by no later than October 30, 2014. PERA will make that Notice available to employers by the middle of September. Employers can distribute the Notice any time before October 30 so that the member education process can begin.

Employers are responsible for distributing the ballots to eligible employees in December or January, collecting the completed ballots in-person, and mailing or personally delivering them to PERA.

How will the outcome be decided for me and my fellow correctional facility employees?

If your county chooses to conduct the referendum under the majority voting procedure, the outcome will be determined by how the majority of your co-workers (who are eligible to participate) vote. If the majority of eligible voters, vote “yes,” nothing changes. You and your co-workers continue to contribute to Social Security and retain all your past coverage.

On the other hand, if the majority of your co-workers vote “no,” you all stop paying into Social Security and no new hires enrolled in PERA’s Correctional Plan will contribute to Social Security for that employment. You will have the option to apply for a refund of the Social Security contributions that you paid within the federal statute of limitations period, which is generally the current year and three preceding calendar years (2011-2013).

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Whether you can retain past service for which contributions were made by *not* applying for a refund is still not totally clear and we are waiting for clarification from the SSA.

If your employer conducts the vote using the divided voting procedure, each person will retain or discontinue Social Security coverage based upon the personal vote of “yes” or “no,” respectively. But, this only affects the current correctional employees in your county. Upon conclusion of the referendum, all new hires eligible to be enrolled in PERA’s Correctional Plan will also contribute to Social Security for that coverage.

Are any former county employees affected by the referendum outcome?

If your county uses the majority vote procedure, its outcome could affect some former employees who were members of the Correctional Plan between 2011 and 2014, but we are waiting for further information from the SSA. At this time, it is unclear whether the correction of past coverage for the statute of limitations period would be required, or whether the coverage already on the person’s record would be maintained.

If your employer conducts the vote under the divided procedure, no former employees are in jeopardy of losing past Social Security credits. Once the referendum has concluded, PERA would execute a Section 218 Agreement with the federal government to sanction the Social Security coverage for these individuals.

What should an employee consider in deciding how to vote?

- PERA views this as a **“technical correction”** because we were not advised of the correct action to take when we made our initial inquiries at the time the Legislature made PERA the State Social Security Administrator (SSSA), so **the referendum is a formality needed to sanction the coverage members have already earned and will have going forward, had the referendum been conducted when the plan was created in 1999.**
- Social Security uses **an average of a person’s highest 35 years of earnings** – not consecutive, but **actual highest earnings** – to calculate the retirement benefit. Less than 35 years of earnings means the average on which the benefit is determined will be lower, resulting in lower benefits, because the total years of earnings are averaged over 35 years whether or not you actually have 35 years or more of earnings in your Social Security record. So the more years a person has contributed to Social Security, the greater the average earnings will be for determining benefits from that program. See key terms on page 3 for additional definition of average earnings.
- Social Security benefits are calculated to produce a **lesser benefit for government employees who retire from a retirement system for which they have *not* contributed to Social Security** – this SSA calculation procedure for government employees is called the **Windfall Elimination Provision (WEP)**¹ The full effect of the reduced calculation (WEP) does not apply if you have more than 20 years of substantial earnings reported to Social Security – and does not apply at all to individuals who have 30 or more years of substantial earnings covered by Social Security. The more years you have on your Social Security record, the better your benefit will be.

¹ Complete information about the Windfall Elimination Provision can be found at www.ssa.gov. Search for WEP, or look under ‘Benefits,’ ‘Government Employees,’ click on Windfall Elimination Provision.

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- Social Security benefit coverage may be better for the surviving spouse and dependent children of a Correctional Plan member than the PERA plan alone provides.² (See link below for where you can find more information.)
- Nothing changes with respect to your PERA Correctional Plan benefits. The PERA Correctional Plan will continue to provide the current benefits of the plan whether you have Social Security coverage or not. The benefits of the Correctional Plan were intended to ‘coordinate’ with Social Security coverage.
- State Correctional Plan members are covered by Social Security, thus any movement between state and local government correctional service would result in inconsistent coverage in the Social Security program.
- Financial security in retirement has long been based on the concept of the three-legged stool; that is, Social Security, retirement plan, personal savings. Retaining Social Security coverage as a correctional employee ensures the three legs remain in place to support your retirement, with an estimated 35 to 40 percent of your future retirement income coming from Social Security, depending on whether you retire as early as age 62 or wait to draw at your full retirement age of 66 to 67.

For information about your PERA Correctional Plan benefits, go to www.mnpera.org and on the left side of the Home Page, click on Members, then Correctional Plan. There you will find information on your retirement, disability, and survivor benefit coverage available through your participation in this PERA plan. While you are on the web site, if not already registered, register in My PERA to access your own account for estimates of retirement, disability, survivor benefits, refundable balance plus interest or to check the personal data maintained in your PERA account (such as your beneficiaries).

Social Security has an excellent web site explaining benefits and a calculator you can use to estimate your future SSA benefit. Go to www.ssa.gov.

Key terms used by Social Security:

AIM – average indexed monthly earnings; this is determined by indexing your earnings from years past to current dollar values and averaged over 35 years, more specifically, averaged over 420 months to arrive at the average earnings that will be used by Social Security to determine your benefit payments. If you have less than 35 years of earnings reported, Social Security will still average the total of your reported earnings over 420 months, so the more years you have paid into Social Security, the better for determining this average.

PIA – primary insurance amount; this is the benefit that Social Security calculates using their formula for replacing your AIM; it is the base from which any reduced retirement and survivor benefits are determined.

Key term used by PERA:

High five – high five consecutive years’ average salary; this is the average of your highest 60 consecutive months of earnings for which you received credit in your PERA account and is used to determine your full benefit amount payable at full retirement or for disability and is used as the base for determining reduced retirement benefits or the lifetime optional or term certain benefits payable to beneficiaries.

Following is a side-by-side quick glance of benefits payable from PERA Correctional Plan and Social Security. It is a high level summary so you should refer to the web sites for more detailed information.

² Go to the Social Security website – www.ssa.gov and under ‘Benefits’ click on “Children” for more information on dependents’ benefits.

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	PERA Correctional Plan	Social Security
Employee Contributions	5.83% of pay	6.2% of pay
Employer Contributions	8.75% of pay	6.2% of pay
Vested	3 years of credited service if enrolled before July 1, 2010 Graded 5 to 10 years if enrolled after June 30, 2010	Must have earned 40 quarters of credit, or about 10 years of covered service in Social Security to qualify for a benefit
Retirement Age	50 with reduction 55 full retirement (unreduced)	62 with reduction 66 to 67 full (depends on year of birth)
Earnings used to determine benefits	Highest five years' average (must be consecutive years)	Any highest 35 years (indexed to current dollar value; do not need to be consecutive; if less than 35 years of earnings recorded, will still average over 35 years) referred to as the AIM
Formula to determine benefits	1.9 percent for each full year of credited service (prorated for partial years)	Based on a percentage replacement of average earnings; changes slightly each year. Refer to www.ssa.gov .
Disability Benefits	Occupational test – unable to perform duties of position Duty - minimum = 47.5% of high five, plus 1.9% more for each year over 25 (correctional plan service only) Regular = minimum of 19% of high five years; plus 1.9% for each year over 10	Total and permanent disability – defined as being so severely impaired, physically or mentally, you cannot perform any substantial, gainful work. Depending on age, can qualify with less than 40 quarters of credited earnings. Refer to www.ssa.gov .
Surviving Spouse Benefits	Lifetime benefit based on member's salary and years of service, reduced if death occurs before full retirement age; term certain payments over 10, 15 or 20 years can be chosen instead of lifetime.	A benefit is payable to a surviving spouse at age 60. Surviving spouse caring for a child under age 16 or a child disabled before age 22 receives 75% of your primary insurance amount (PIA). Refer to www.ssa.gov .
Children's Benefits	If no surviving spouse and children are under age 20, a value of the lifetime benefit based on member's age at death, earnings and years of service will be paid to age 20 or for five years if older than 15, but less than 20. Actuarially divided among all eligible children based on ages.	An eligible child qualifies for 75% of your primary insurance amount (PIA) – eligible means under age 18 or up to 19 if in high school or any age if disabled before age 22. More than one child – each entitled to 50% of PIA of parent with highest value, not both parents. Refer to www.ssa.gov .
No one eligible for monthly payments of any kind	Designated beneficiary or estate receives refund of employee contributions, plus interest	Contributions are not refundable.