

## **Background Information on Part-Time Teaching Provisions**

### 1. Background

The following provides some history of qualified part-time teacher provisions in Teachers Retirement Association (TRA) and first class city teacher fund association law, as the provisions apply to K-12 teachers. Various features in these laws specific to Minnesota State Colleges and Universities System (MnSCU) faculty are not noted here. This section also indicates the problems that have arisen in the K-12 qualified part-time teacher provisions from 1990 to the current date, and notes actions the Legislature took to address these problems.

In general, retirement benefits (service pensions) are based on the years of service credit earned by the member and the individual's high-five average salary. In the teacher plans covering K-12 teachers, the high-five average salary is the average salary for pension purposes for the five successive years that produce the highest average. Generally, the high-five average salary occurs during the last five years prior to termination of service and retirement. An individual who worked part-time as a teacher late in his or her career could harm the high-five average if the individual were not in the qualified part-time teacher program. The high-five years might include the period of reduced salary, or the high-five average salary might be pushed back to the period prior to the part-time service. Either way, the retirement benefit could be noticeably less than would be the case if the individual had worked full-time right up to retirement. The qualified part-time teaching provisions (Section 354.66 for TRA members or Section 354A.094 for the first class city teacher fund members) help the teacher avoid this problem. By treating the teacher for pension purposes as though they were providing teaching service full-time, the full-time equivalent salary (rather than the actual part-time salary) will be used to determine the high-five average salary.

### 2. History of Provision

- a. Initial Enactment in 1977; Nature of Program. The qualified part-time teacher programs were first enacted in 1977 (Laws 1977, Ch. 447, Art. 9). When passed, the programs seemed intended to assist individuals who wished to transition into retirement. Program enrollment was limited to individuals having at least 20 years of teaching service. For teachers who are admitted into the program, contributions are made to TRA or to a first class city teacher retirement fund association, whichever is applicable, based on full-time equivalent salary, although the individuals are employed as teachers only part-time. Given the full-time equivalent contributions, the applicable retirement association treats the individual as though they were employed full-time, avoiding harm to the individual's eventual retirement pension.
- b. Program as of 1990. Although the qualified part-time teacher programs were amended during the 1970s and 1980s, the general nature of the programs remained unchanged. As of 1990, the program was available to teachers with at least 20 years of teaching service, providing that the school board agreed to the arrangement. The individual must work at least the equivalent of 50 full days and total compensation could not exceed 67% (two-thirds) of full-time equivalent salary. Although the individual is working part-time, the employee must pay employee contributions based on full-time equivalent salary. The employer must make employer contributions to the retirement fund based on the actual salary earned. The employer contribution amount based on the difference between the actual salary and the full-time equivalent salary must also be paid to the retirement fund by either the employee, the employer, or the employee and employer in combination in any proportion they may agree upon. The teacher is not permitted to use this program for more than ten years, and while in the program the individual is not permitted to be an active member of any other Minnesota public pension fund, other than a volunteer firefighter pension fund.
- c. 1994 Changes. The first qualified part-time teacher program revisions during the 1990s occurred in 1994. The Commission heard testimony from representatives of teacher groups which claimed that the programs were little used. Possibly in reaction to this testimony, the Legislature revised the programs in ways that seem intended to increase use of the programs (Laws 1994, Ch. 521).

The first change required the employer to pay the full-time equivalent employer contributions for any participants in the program who had 20 or more years of service. The employee could no longer be required to pick-up any portion of the employer contribution amounts. This

lessened the financial burdens on teachers using the program who had 20 or more years of service, but it increased the financial burden to the school districts.

The second change broadened the program's scope. The programs were revised to permit any vested teacher (any teacher with at least three years of service credit), rather than only teachers with at least 20 years of service, to use the program, providing that the arrangement was agreeable to the school district. Given this change, the program could be used by older teachers in mid to late career, but younger teachers who may wish to work part-time due to family considerations or any other reason could also use it.

The third change improved the information reporting to the retirement fund. Because of reporting delays, TRA was often unaware of which covered teachers were on a leave of absence or were in the qualified part-time teacher program. Consequently, the retirement plan administration was unaware that various members needed to be informed of special contribution requirements or contribution deadlines applicable to the teacher's situation. This harmed teachers, and in some cases harmed the fund, by failure to receive contributions in a timely manner. TRA began addressing its information needs through legislative bills in which it requested revisions in its school district TRA membership reporting laws. A change in the TRA qualified part-time teacher law enacted in 1994 (Laws 1994, Ch. 528, Art. 3, Sec. 32) was part of this general effort. The change required the teacher and school district to enter into the qualified part-time teacher agreement early in the school year and to promptly notify TRA of the agreement and its terms. The agreement had to be transmitted to TRA by October 1 of the school year, or the agreement was not deemed valid.

- d. 1995 Changes. The 1994 program changes had unintended consequences, one of which was addressed during 1995. While the mandate requiring the school district to pick up all of the full-time equivalent employer contributions for teachers with 20 or more years of service gave these teachers a financial incentive to use the program, it also had the effect of discouraging the school districts from offering the program. Various school districts reacted to the mandate by excluding any teacher with 20 or more years of service from the program.

To address this situation and its ramifications, the 1995 Legislature made three changes. First, the Legislature eliminated the requirement that the school district must cover the full-time equivalent employer contribution relating to any employee in the program who had 20 or more years of service. The prior policy was reinstated, which required the school district and applicable employee to reach agreement regarding who would pay that portion of the contributions. Second, teachers who taught part-time during the 1994-1995 school year, but were denied access to the qualified part-time teacher program because of the employer's reluctance to pay the full-time equivalent contribution amount, were permitted to gain full service credit for the period. To be eligible for this treatment, the employee had to make an additional lump sum payment by the end of August 1995, to the pension fund reflecting all required contributions based on full-time equivalent salary rather than the actual part-time salary, and the employee had to submit a letter or similar document from the applicable school board stating that the board would have allowed the employee into the program during the 1994-1995 school year if the mandated employer contribution requirement had not been in effect. Third, the Legislature passed a provision mandating that any teacher with 20 or more years of service who was in the qualified part-time teacher program be permitted to return to full-time teaching. The Legislature was concerned that some teachers might wish to return to full-time teaching if the school district insisted that, in the future, the employee take on a larger share of the total contributions required under the program. The Legislature mandated that any teacher in the part-time teacher program who wished to return to full-time teaching be permitted to do so. (These 1995 legislative session changes are found in Laws 1995, Chapter 262, Article 1, Sections 1,5, 6, and 16.)

- e. 1996 Special Laws. Given the 1994 change to TRA's qualified part-time teaching law which mandated that agreements between the applicable school district and the employee under this program must be filed with TRA by October 1 to be valid, it was inevitable that the Legislature would be asked to address the problem of late filings. The Legislature considered two requests in 1996. One dealt with a New York Mills part-time teacher and the other with a Hastings part-time teacher (Laws 1996, Ch. 438, Art. 9, Sec. 3-4). Both cases involved employer error. The Legislature permitted the two individuals to be treated as though they had been in the qualified part-time teacher program providing all requirements for the qualified part-time teacher program were met except for the school district's failure to file the agreement with TRA by October 1. The full service and salary credit were credited to the individual providing that the eligible

individual made any remaining payment required to meet the full-time equivalent employee contribution. The school district was required to pay any remaining employer or employer additional contributions, plus 8.5% interest on any employee and employer contributions required under these special law provisions. Full payment had to be made to the retirement fund by June 30, 1996.

The 1996 Legislature also addressed another qualified part-time teacher program problem, this one in Minneapolis (Laws 1996, Ch. 438, Art. 9, Sec. 5). A different type of employer error seemed to be involved. Rather than a failure by the school district to file in a timely manner, the employer appears to have provided excess compensation to individuals admitted to the program. Some individuals who were approved by Special School District No. 1 for qualified part-time teacher program for the 1994-95 school year received compensation in excess of that permitted under the program at that time (in excess of 67% of full-time equivalent compensation). These individuals were permitted to receive full-time service and salary credit providing the employee makes any further employee and employer contributions required under the program, without interest. Payment had to be made by June 30, 1996.

- f. 1998 Changes. Several changes occurred in 1998, all found in Laws 1998, Chapter 390, Article 3. The Legislature revised the October 1 filing deadline language in TRA's qualified part-time teaching program provision. The change may stem from continuing problems with school districts failing to file in a timely manner, causing the employee to not receive full-time equivalent service and salary credit. As revised (Laws 1998, Ch. 390, Art. 3, Sec. 1, 4), the agreement between the school district and employee to permit the individual to be in the qualified part-time teaching program must be completed by October 1. However, the agreements could be filed with TRA as much as 15 months late. If the agreement is filed by October 1, no penalties apply. If filed after October 1 (but not more than 15 months after October 1) the school district is fined \$5 per day of delinquency. The corresponding section for first class city teacher plans (Sec. 354A.094, Subd. 3) was also revised. While an October 1 deadline had been added to TRA law in 1994, no corresponding changes were made in first class city teacher plan law until 1998. In 1998, the first class city teacher plan provision was amended to specify that the agreements must be executed by October 1, but could be filed up to 15 months late, with a \$5 per day fine for each day of delinquency. The TRA and first class city provisions which specified that compensation under the program must not exceed 67% of full-time equivalent salary were revised to permit up to 80% salary.
- g. 1999 Changes. TRA's qualified part-time teacher program provision was revised to permit legislator's who are also teachers to make contributions under the qualified part-time teacher program although they are making contributions to the Legislator's Plan or Unclassified Plan due to the legislative service.
- h. 2000 Special Laws. The Legislature passed a special law (Laws 2000, Ch. 461, Art. 11, Sec. 7) which authorized two Anoka-Hennepin teachers, one born on October 16, 1947, and the other on October 19, 1957, to participate in the TRA qualified part-time teachers program despite a failure to execute the agreement with the school district before October 1 of the academic year. The applicable teachers were required to make full-time equivalent contributions before any applicable corresponding employer contributions are made. A portion of the late filing penalty was waived (one-quarter of the penalty) if the agreement forms were filed with TRA by May 30, 2000. If the forms were not filed before July 1, 2000, the authority provided by the law is voided.

The Commission staff has no records indicating that the substance of Laws 2000, Chapter 461, Article 11, Section 7, was heard or approved by the Commission. The provision was added to the Omnibus Pension Bill on the House floor through an amendment authored by Representative Jerry Dempsey.
- i. 2010 Changes. In 2010, TRA's service credit procedure was revised to be based on salary relative to base salary in a district, rather than upon days of service. Consistent with that change, the TRA qualified part-time teacher program requirements were revised from requiring that the teacher be employed at least 50 days and not exceeding 80% of full-time equivalent employment, to requiring that the teacher receive at least 30% and not more than 80% of full-time equivalent salary. The change is effective as of June 30, 2012, the same day that the revised TRA service credit procedure becomes effective.

### 3. Current Law TRA, First Class City Teacher Plan Qualified Part-Time Teaching Provision

The current TRA and first class city teacher plan qualified part-time teaching provisions, under which a part-time teacher can receive full-time service and salary credit in the applicable plan, can be summarized as follows:

- a. Minimum Years of Service to Qualify. A teacher with at least three years of service credit, with consent of the employing unit, maybe in the qualified part-time teacher program.
- b. Agreement Execution and Filing. The agreement between the teacher and employer to be in the program must be executed by October 1. If an agreement is not filed with the applicable plan administration by October 1, the employer is fined \$5 per day. The plan administration is prohibited from accepting any agreement filed more than 15 months late.
- c. Minimum, Maximum Employment. To be eligible for inclusion a teacher covered by TRA must receive at least 30% of full-time equivalent salary and not more than 80% of full-time equivalent salary. (Prior to June 30, 2012, the minimum employment for inclusion under TRA's provision was at least 50 days per year.) The Legislature did not revise first class city teacher plan service credit provisions, so these plans still use a lower employment boundary based on days of service. For members of a first class city teacher plan, the teacher must work the equivalent of at least 50 days and receive salary which is not more than 80% of full-time equivalent salary.
- d. Retirement Contributions. The employee pays full-time equivalent employee contributions. The employer must pay employer contributions based on the part-time salary. The employee and employer negotiate the sharing of who will pay the remainder of the full-time equivalent employer contributions.
- e. Membership in Other Plans Generally Prohibited. While in the program, the person is not permitted to make contributions to any other plan except a volunteer fire plan.
- f. Insurance. In general, while in the program the teacher is to receive the same insurance coverage as a comparable full-time teacher. The cost-sharing agreement reached for the retirement plan contributions will also apply to sharing the insurance costs.
- g. Restrictions on Accrual. A teacher cannot be in the qualified part-time teacher program in more than one district at a time. A teacher in the program may serve as a substitute teacher. A teacher may not continue in this program for a period longer than ten years.

### 4. Accommodations for Legislator/Teachers

Over the years several revisions have been made to both TRA and first class city teacher plan qualified part-time teacher plan provisions to accommodate the specific situation of teachers who are legislators. In current law, these are as follows:

- a. Agreement Execution and Filing. The agreement between the teacher/legislator and the employer to be in the program must be executed by March 1 rather than October 1, and the fines for late filing of the agreement apply after March 1 rather than October 1.
- b. Membership in Other Plans. While in the program, a teacher who is in the qualified part-time teaching program and who is a legislator may make contributions to the Legislators Retirement Plan or to the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), whichever plan covers the applicable legislator for legislative service.