




TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek 

RE: LCPR01-169: Derived From S.F. 1705 (Pogemiller): H.F. 1692 (Murphy): First Class City Teacher Plans, MERF: Revising Definition of Salary and Various Data Reporting Requirements, Annuitizing Certain Lump Sum Benefits; Making Other Changes Largely of an Administrative Nature

DATE: April 4, 2001

S.F. 1705 (Pogemiller): H.F. 1692 (Murphy) has provisions applying to the first class city teacher plans and the Minneapolis Employees Retirement Fund (MERF). The companion bills propose new data classification law; would revise several employer reporting provisions including investment business-recipient reporting law, revises MTRFA basic member disability benefits, proposes to annuitize certain lump sum post-retirement provisions; proposes to permit various rollovers to cover refund repayments and service credit purchases, revises the definition of salary for pension purposes; and makes other miscellaneous changes of an administrative nature.

LCPR01-169 is derived from S.F. 1705 (Pogemiller): H.F. 1692 (Murphy) and attempts to present the provisions from those bills which are not benefit-related and which raise the fewest policy considerations. The following is a summary of LCPR01-169, along with policy comments. The numbering corresponds to the order in which the sections appear in the amendment.

Section 1. (Page 1, lines 2 to 15). Proposed coding as Section 13.631. The proposal would add a new section to Chapter 13, Government Data Practices, classifying as private the first class city teacher plan beneficiary and survivor home address, date of birth, direct deposit account number, and tax withholding data; and by explicitly permitting disclosure of data on member, survivor, and beneficiary name and gross annuity or gross benefit.

Policy Issues, Section 1. Data privacy issues are not generally heard by the LCPR. When this provision was proposed in the draft sent to us some months ago, we suggested that the first class city teacher plan administrators might wish to propose this provision in a bill that is not pension related. We note in checking in Chapter 13 that a comparable provision (Section 13.63) is in existing law for MERF. The MERF provision passed in 1993 and was not part of any legislation heard by the LCPR. If the proposal is recommended to pass by the LCPR, it may be necessary to send any bill containing the provision to judicial committees.

Section 2. (Page 1, lines 16 to 24, to page 3, line 1). Section 354A.011, Subdivision 24, the first class city teacher plan definition of salary, is amended by clarifying that salary for pension purposes includes salary before any voluntary salary reduction programs (including contributions to any deferred compensation or supplemental retirement plans); by specifying that salary does not include any employer payments for flexible spending accounts, cafeteria plans, or any pre-tax spending accounts; any form of severance payments, workers' compensation, or disability insurance payments.

Policy Issues, Section 2. This proposal is very similar to changes enacted a few years ago for TRA and is consistent with efforts to carefully define salary for pension purposes to avoiding inflating salary for use in computing benefits.

Section 3. (Page 3, lines 2 to 36, and page 4, lines 1 to 30). Amends Section 354A.12, Subdivision 5, a first class city teacher plan employer reporting provision, by requiring data reporting comparable to that required by the Teachers Retirement Association (TRA) for TRA-covered districts.

Policy Issues, Section 3. The policy issue is the implications of adding the requirements to law. The list of data reporting elements added to law is information that the associations need to properly administer their plans. Since the information is required to properly administer the benefit plans as they appear in law or bylaw, one can contend that the plans have sufficient legal authority to request the information without any further revision in law. Perhaps the pension fund administrations are dealing with a lack of cooperation from the school districts, and they may contend that stating the data elements in law reinforces the right of the pension fund administrations to request these data. However, a downside is that adding the language in law may make it more difficult to revise data reporting at a later date, or to request any additional information that is not included in the list appearing in statute.

Section 4. (Page 4, lines 31 to 36, to page 6, line 15). Amends Section 354A.31, Subdivision 3, the first class city teacher plan reemployed annuitant provision, by adding a paragraph requiring the school district to report to the applicable first class city teachers fund the income earned after retirement by any annuitant of the association as a teacher, consultant, or independent contractor during the previous calendar year.

Section 5. EFFECTIVE DATE. All sections are effective July 1, 2001.

1 M ..... moves to amend .... as follows:

2 Page .., after line .., insert:

3 "Sec. ... . [13.632] [TEACHERS RETIREMENT FUND ASSOCIATION  
4 DATA; CERTAIN CITIES.]

5 Subdivision 1. [BENEFICIARY AND SURVIVOR DATA.] The  
6 following data on beneficiaries and survivors of the Minneapolis  
7 teachers retirement fund association, the St. Paul teachers  
8 retirement fund association, and the Duluth teachers retirement  
9 fund association members are private data on individuals: home  
10 address, date of birth, direct deposit number, and tax  
11 withholding data.

12 Subd. 2. [LIMITS ON DISCLOSURE.] Required disclosure of  
13 data about members, survivors, and beneficiaries is limited to  
14 name, gross annuity, or benefit and type of annuity or benefit  
15 awarded."

16 Page .., after line .., insert:

17 "Sec. ... . Minnesota Statutes 2000, section 354A.011,  
18 subdivision 24, is amended to read:

19 Subd. 24. [SALARY; COVERED SALARY.] (a) "Salary" or  
20 "covered salary" means the entire compensation, upon which  
21 member contributions are required and made, that is paid to a  
22 teacher before ~~any allowable reductions permitted under the~~  
23 ~~federal Internal Revenue Code of 1986, as amended, for employee~~  
24 ~~selected fringe benefits, tax sheltered annuities, deferred~~

1 ~~compensation, or any combination of these items~~ deductions for  
2 deferred compensation, supplemental retirement plans, or other  
3 voluntary salary reduction programs.

4 (b) "Salary" does not mean:

5 (1) lump sum annual leave payments;

6 (2) lump sum wellness and sick leave payments;

7 (3) ~~payments in lieu of any employer-paid group insurance~~  
8 ~~coverage~~ employer paid amounts used by an employee toward the  
9 cost of insurance coverage, employer-paid fringe benefits,  
10 flexible spending accounts, cafeteria plans, health care expense  
11 accounts, day care expenses, or any payments in lieu of any  
12 employer-paid group insurance coverage, including the difference  
13 between single and family rates that may be paid to a member  
14 with single coverage and certain amounts determined by the  
15 executive secretary or director to be ineligible;

16 (4) ~~payments for the difference between single and family~~  
17 ~~premium rates that may be paid to a member with single~~  
18 ~~coverage~~ any form of payment made in lieu of any other  
19 employer-paid fringe benefit or expense;

20 (5) ~~employer-paid fringe benefits including, but not~~  
21 ~~limited to, flexible spending accounts, cafeteria plans, health~~  
22 ~~care expense accounts, day care expenses, or automobile~~  
23 ~~allowances and expenses~~ any form of severance payments;

24 (6) workers' compensation payments;

25 (7) disability insurance payments including self-insured  
26 disability payments;

27 (8) payments to school principals and all other  
28 administrators for services in addition to the normal work year  
29 contract if these additional services are performed on an  
30 extended duty day, Saturday, Sunday, holiday, annual leave day,  
31 sick leave day, or any other nonduty day;

32 (9) payments under section 356.24, subdivision 1,  
33 clause (4)(ii); and

34 (10) payments made under section 122A.40, subdivision  
35 12, except for payments for sick leave accumulated under the  
36 provisions of a uniform school district policy that applies

1 equally to all similarly situated persons in the district."

2 Page .., after line .., insert:

3 "Sec. ... . Minnesota Statutes 2000, section 354A.12,  
4 subdivision 5, is amended to read:

5 Subd. 5. [~~EMPLOYEE REPORTING AND REMITTANCE REQUIREMENTS.~~]

6 (a) Each school-district employing unit shall provide to the  
7 appropriate teachers retirement fund association information the  
8 following member data regarding all new or returning  
9 employees on-a-form-provided-by-the-executive-secretary-or  
10 director before the employee's first payroll date: in a format  
11 approved by the executive secretary or director. Data changes  
12 and the dates of those changes must be reported to the  
13 association on an ongoing basis for the payroll cycle in which  
14 they occur. Data on the member includes:

15 (1) legal name, address, date of birth, association member  
16 number, employer-assigned employee number, and social security  
17 number;

18 (2) association status, including, but not limited to,  
19 basic, coordinated, exempt annuitant, exempt technical college  
20 teacher, and exempt independent contractor or consultant;

21 (3) employment status, including, but not limited to, full  
22 time, part time, intermittent, substitute, or part-time  
23 mobility;

24 (4) employment position, including, but not limited to,  
25 teacher, superintendent, principal, administrator, or other;

26 (5) employment activity, including, but not limited to,  
27 hire, termination, resumption of employment, disability, or  
28 death;

29 (6) leaves of absence; and

30 (7) other information as may be required by the association.

31 (b) Each employing unit shall provide the following data to  
32 the appropriate association for each payroll cycle in a format  
33 approved by the executive secretary or director:

34 (1) association member number;

35 (2) employer-assigned employee number;

36 (3) social security number;

- 1 (4) amount of each salary deduction;  
2 (5) amount of salary as defined in section 354A.011,  
3 subdivision 24, from which each deduction was made;  
4 (6) reason for payment;  
5 (7) service credit;  
6 (8) the beginning and ending dates of the payroll period  
7 covered and the date of actual payment;  
8 (9) fiscal year of salary earnings;  
9 (10) total remittance amount including employee, employer,  
10 and employer additional contributions; and  
11 (11) other information as may be required by the  
12 association.
- 13 (c) On or before August 1 each year, each employing unit  
14 must report to the appropriate association giving an itemized  
15 summary for the preceding 12 months of the total amount withheld  
16 from the salaries of teachers for deductions and all other  
17 information required by the association.
- 18 (d) An employing unit that does not comply with the  
19 reporting requirements under this section shall pay a fine of \$5  
20 per calendar day until the association receives the required  
21 member data.
- 22 (e) An employing unit shall remit all amounts due to the  
23 association and shall furnish for each pay period an itemized  
24 statement indicating the total amount due and transmitted with  
25 any other information required by the association. All amounts  
26 due and other employer obligations not remitted within 30 days  
27 of notification by the association must be certified to the  
28 commissioner of finance who shall deduct the amount from any  
29 state aid or appropriation amount applicable to the employing  
30 unit."

31 Page .., after line .., insert:

32 "Sec. ... . Minnesota Statutes 2000, section 354A.31,  
33 subdivision 3, is amended to read:

34 Subd. 3. [RESUMPTION OF TEACHING AFTER COMMENCEMENT OF A  
35 RETIREMENT ANNUITY.] (a) Any person who retired and is receiving  
36 a coordinated program retirement annuity under the provisions of

1 sections 354A.31 to 354A.41 or any person receiving a basic  
2 program retirement annuity under the governing sections in the  
3 articles of incorporation or bylaws and who has resumed teaching  
4 service for the school district in which the teachers retirement  
5 fund association exists is entitled to continue to receive  
6 retirement annuity payments, except that annuity payments must  
7 be reduced during the calendar year immediately following the  
8 calendar year in which the person's income from the teaching  
9 service is in an amount greater than the annual maximum earnings  
10 allowable for that age for the continued receipt of full benefit  
11 amounts monthly under the federal old age, survivors, and  
12 disability insurance program as set by the secretary of health  
13 and human services under United States Code, title 42, section  
14 403. The amount of the reduction must be one-third the amount  
15 in excess of the applicable reemployment income maximum  
16 specified in this subdivision and must be deducted from the  
17 annuity payable for the calendar year immediately following the  
18 calendar year in which the excess amount was earned. If the  
19 person has not yet reached the minimum age for the receipt of  
20 social security benefits, the maximum earnings for the person  
21 must be equal to the annual maximum earnings allowable for the  
22 minimum age for the receipt of social security benefits.

23 (b) If the person is retired for only a fractional part of  
24 the calendar year during the initial year of retirement, the  
25 maximum reemployment income specified in this subdivision must  
26 be prorated for that calendar year.

27 (c) After a person has reached the age of 70, no  
28 reemployment income maximum is applicable regardless of the  
29 amount of any compensation received for teaching service for the  
30 school district in which the teachers retirement fund  
31 association exists.

32 (d) The amount of the retirement annuity reduction must be  
33 handled or disposed of as provided in section 356.58.

34 (e) For the purpose of this subdivision, income from  
35 teaching service includes: (i) all income for services  
36 performed as a consultant or independent contractor; or income

1 resulting from working with the school district in any capacity;  
 2 and (ii) the greater of either the income received or an amount  
 3 based on the rate paid with respect to an administrative  
 4 position, consultant, or independent contractor in the school  
 5 district in which the teachers retirement fund association  
 6 exists and at the same level as the position occupied by the  
 7 person who resumes teaching service.

8 (f) On or before February 15 of each year, each employing  
 9 unit shall report to the teachers retirement fund association  
 10 the amount of postretirement income as defined in this section,  
 11 earned as a teacher, consultant, or independent contractor  
 12 during the previous calendar year by each retiree of a teachers  
 13 retirement fund association for teaching service performed after  
 14 retirement. The report shall be in a format approved by the  
 15 executive secretary or director."

16 Page .., after line .., insert:

17 "Sec. ... . [EFFECTIVE DATE.]

18 Sections .. to .. [all sections in LCPR01-169] are  
 19 effective July 1, 2001."

20 Renumber the sections

21 Correct internal cross-references

22 Amend the title accordingly