TO: Legislative Commission on Pensions and Retirement

FROM: Ed Burek EB

RE: LCPR01-175: 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 5, 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.
LCPR01-175 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 but which do raise policy issues which the LCPR may need to consider. The following is a summary of LCPR01-175, along with policy comments. The numbering corresponds to the order in which the sections appear in the amendment.

Section 1 (page 5). This section proposes to permit service credit purchases and refund repayments in first class city teacher plans from assets transferred through tax sheltered rollovers from plans authorized under Sections 401(a), 403(a), 403(b), or 457 of the Internal Revenue Code, as amended. The first class city teacher plan associations are not permitted to accept a transfer unless the member provides written documentation that amounts to be transferred are eligible for tax-free rollover.

Policy Issues, Section 1.

1. Appropriateness Of Further Encouraging Service Credit Purchases—Subsidy Concerns. Permitting payment for service credit purchases with before-tax assets will further encourage service credit purchases. Individuals seeking to purchase service credit are often interested in qualifying for the "Rule of 90" or a similar early retirement provision. An issue is whether purchases should be encouraged when there is a labor shortage, and when federal policy is currently geared to keeping individuals in the labor force for longer periods, given the increases in life expectancy that have occurred.

2. Administrative Issues. Handling an increased number of service credit purchases and cost estimates will divert pension fund staff from their central mission--the proper administration of the benefit plan and the investment of plan assets.

3. Tax Impact. State tax revenue will be impacted by an increased use of tax-free rollovers.

4. Scope Issues. The issue is the proper scope. As drafted, the provision applies to first class city teacher plans. If the policy reflected in the proposed provision is deemed appropriate, the LCPR may wish to consider whether other plans should be included.

Section 2 (page 8). Section 354A.35, Subdivision 4, a first class city teacher plan coordinated member death-while-active-or-deferred refund provision, is amended by allowing, in the absence of probate hearings, the applicable pension fund board to make a refund to the surviving spouse or next of kin if the refund does not exceed $1,500, rather than $500.

Policy Issue, Section 2.

Need For Change; Scope Of Change. We note that the proposal would make the first class city teacher plan law plan consistent with TRA. The TRA law appears to apply to coordinated members only. This first class city teacher plan proposal explicitly specifies that the provision applies only to coordinated members. An issue is whether any changes are appropriate in provisions or bylaws governing the basic plans.

Section 3 (page 12). Section 356A.06, Subdivision 5, the investment business disclosure provision in the fiduciary responsibility chapter, is amended by waiving the filing requirement providing that the covered pension plan includes the disclosure document as part of its regular annual report.

Policy Issue, Section 3.

Reason For The Proposed Change. The first class city teacher plan executive directors may wish to indicate why they contend the approach specified in this draft is preferable to existing law. The proposed change seems no more convenient than current law and may modestly increase administrative costs. The initial cost of gathering the investment business information and producing a document containing that information is the same under existing law or under the proposed change. Under the proposal, the information would appear in the organization's annual report, adding at least one page, and possibly several, to the length of the report, adding to printing and mailing costs.

Section 4 (page 18). This section repeals Section 354A.026, a provision applicable to the Duluth Teachers Retirement Fund Association (DTRFA), which required the amortization target date for the fund to be June 30, 2020, notwithstanding other law.

Policy Issue.

The issue is whether the repeal is appropriate. The section proposed for repeal was added to law in 1995, when the LCPR was debating a DTRFA benefit increase proposal. The proposal created the post-retirement adjustment mechanism currently in use by the DTRFA and increased the service accrual rate use to compute DTRFA pension benefits. There is a provision in existing law (Section 356.215, Subdivision 4g, paragraph (c)), which redetermines the full funding date following any increase in unfunded liability due to revised plan annuity provisions, revised actuarial assumptions, or a change in the actuarial cost method. That provision would have pushed the DTRFA full funding date out beyond the year 2020. The LCPR recommended the DTFA benefit improvement for passage, but was reluctant to let the full funding date be extended. The LCPR adopted the provision that was coded as Section 354A.026 to fix the full funding date at June 30, 2020, not withstanding the impact of other law for computing amortization contributions.

In years following the passage of the 1995 DTRFA benefit improvement, there was a subsequent benefit improvement (in 1997). Also, the DTRFA has since achieved full funding. The DTRFA July 1, 2000 actuarial valuation indicated that the DTRFA funding ratio was 104 percent.

Arguments for permitting the repealer are that the situation has changed since the provision was enacted. The provision was enacted because the LCPR had some concerns about unfunded liabilities that may have been created by the 1995 benefit improvement, and wanted to make certain that unfunded amounts would be retired on a timely basis. Given the 1997 benefit improvement, the impact of that 1995 benefit change has been blurred, and in any case, as of July 1, 2000, all unfunded liability was retired. By proposing the repealer, DTRFA is contending that it should now be subject to the same amortization law as is applicable to comparable plans.

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

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

"Sec. ... . [354A.107] [PAYMENT ACCEPTANCE ALLOWED.]

Payment for allowable service credit or repayment of a prior refund or payment for an eligible leave of absence by a member of the Minneapolis teachers retirement fund association, the St. Paul teachers retirement fund association, or the Duluth teachers retirement fund association, may be made with funds distributed from a plan qualified under section 401(a), 403(a), 403(b), or 457(b) of the federal Internal Revenue Code of 1986, as amended from time to time, or funds distributed from an individual retirement account used solely in a manner eligible for treatment as a nontaxable rollover under applicable law. The rollover must be separately accounted for as member contributions not previously taxed. Before accepting any transfers to which this section applies, the executive secretary or director must require the member to provide written documentation that the amounts to be transferred are eligible for tax free rollover and qualify for that treatment under the federal Internal Revenue Code of 1986, as amended."

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

"Sec. ... . Minnesota Statutes 2000, section 354A.35, subdivision 4, is amended to read:

Subd. 4. [PAYMENT OF MINIMAL REFUND AND BENEFIT AMOUNTS.]

If a coordinated member or former coordinated member dies without having designated a beneficiary or if the designated beneficiary dies without there existing any other designated beneficiary and prior to making application for the refund credited to the deceased coordinated member or coordinated former member, and if the amount of the refund does not exceed ~~$500~~ $1,500, the board in its discretion may, in absence of probate proceedings, make payment 90 days after the date of death of the coordinated member or former coordinated member to the surviving spouse of the deceased coordinated member or former coordinated member, or if none, to the next of kin as determined under the laws of descent of the state. A payment under this subdivision shall be a bar to recovery by any other person or persons. Any retirement annuity in any amount which has accrued at the time of the death of a coordinated retiree may be paid by the board in its discretion using the procedure set forth in this subdivision."

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

"Sec. ... . Minnesota Statutes 2000, section 356A.06, subdivision 5, is amended to read:

Subd. 5. [INVESTMENT BUSINESS RECIPIENT DISCLOSURE.] The chief administrative officer of a covered pension plan, with respect to investments made by the plan, and the executive director of the state board of investment, with respect to investments of plan assets made by the board, shall annually disclose in writing the recipients of investment business placed with or investment commissions allocated among commercial banks, investment bankers, brokerage organizations, or other investment managers. The disclosure document must be prepared within 60 days after the close of the fiscal year of the plan and must be available for public inspection during regular office hours at the office of the plan. The disclosure document must also be filed with the executive director of the legislative commission on pensions and retirement within 90 days after the close of the fiscal year of the plan. For the state board of investment and a first class city teacher pension fund, a disclosure document included as part of a regular annual report of the board or the first class city teacher pension fund when filed with the executive director of the legislative commission on pensions and retirement is considered to have been filed on a timely basis."

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

"Sec. .... [REPEALER.]

Minnesota Statutes 2000, section 354A.026, is repealed."

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

"Sections ... to ... are effective July 1, 2001."

Renumber the sections

Correct internal cross-references

Amend the title accordingly

law. Within the special retirement fund there may be established separate special retirement fund accounts for the purpose of providing convenience in the funding of and accounting for retirement annuities and any authorized ancillary benefits.

Subd. 4. **Fund disbursement restricted.** The assets of the special retirement fund shall be disbursed only for the purposes provided for in this chapter, the articles of incorporation or bylaws in effect as of March 31, 1975, and the articles of incorporation or bylaws adopted subsequent to March 31, 1975 in accordance with the provisions of section 354A.12. All appropriate expenses of and any authorized benefits provided by the teachers retirement fund association shall be paid from the special retirement fund. Amounts necessary to make payments from the special retirement fund of a teachers retirement fund association are hereby appropriated.

Subd. 5. **Tax sheltered annuity program and fund.** Any teachers retirement fund association may establish a tax sheltered annuity program and fund meeting the requirements of section 403(b) of the Internal Revenue Code of 1986, as amended through December 31, 1992, which shall include all assets which were acquired for the specific purpose of being credited to the program and fund and to which shall be credited all employee contributions, and employer contributions if negotiated under a collective bargaining agreement, designated for this purpose and all interest income attributable to the assets of the program and fund.

Subd. 6. **Trustees' fiduciary obligation.** The trustees or directors of each teachers retirement fund association shall administer each fund in accordance with the applicable portions of this chapter, of the articles of incorporation, of the bylaws, and of chapters 356 and 356A. The purpose of this subdivision is to establish each teachers retirement fund association as a trust under the laws of the state of Minnesota for all purposes related to section 401(a) of the Internal Revenue Code of the United States, including all amendments.

Subd. 7. **Actuarial consultant.** The board of trustees or directors of each teachers retirement fund association may contract for the services of an approved actuary and fix the reasonable compensation for those services. Any approved actuary retained by the board shall function as the actuarial advisor to the board and may perform actuarial valuations and experience studies to supplement those performed by the actuary retained by the legislative commission on pensions and retirement. Any supplemental actuarial valuations or experience studies shall be filed with the executive director of the legislative commission on pensions and retirement.

Subd. 8. **Audit by state auditor.** The books and accounts of each teachers retirement fund association must be examined and audited periodically as considered necessary by the state auditor. A full and detailed report of the examination and audit must be made and a copy provided to the teachers retirement fund association board of trustees. The cost of any examination and audit must be paid by the teachers retirement fund association in accordance with section 6.56. For purposes of section 6.56, each teachers retirement fund association is considered a local governmental entity equivalent to a county, city, town, or school district.

History: *1979 c 217 s 2; 1983 c 286 s 10; 1987 c 259 s 48; 1987 c 284 art 7 s 1; 1987 c 372 art 11 s 1; 1989 c 304 s 135; 1989 c 319 art 8 s 18; 1990 c 488 s 43; 1992 c 598 art 6 s 11; 1993 c 336 art 1 s 2; 1993 c 375 art 8 s 14*

354A.023 [Never Effective]

354A.026 DULUTH TEACHERS RETIREMENT FUND ASSOCIATION; EXCEPTION TO CERTAIN ACTUARIAL VALUATION PROVISIONS.

Notwithstanding any provision of section 356.215, subdivision 4g, to the contrary, the amortization target date for use in determining the amortization contribution requirement in any actuarial valuation of the Duluth teachers retirement fund association after the date of enactment must be June 30, 2020.

History: *1995 c 262 art 2 s 1*