



TO: Representative Wes Skoglund

S.F. 517 (Betzold);
H.F. 122 (Skoglund)

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: Revised Requested Draft Legislation Permitting The Purchase Of Service Credit
For Past Maternity Leaves In Various Minnesota Public Pension Plans

DATE: August 28, 2000

Introduction

This is in response to your recent request for the revision of draft proposed legislation that would permit members of the Minnesota State Retirement System (MSRS) or the Public Employees Retirement Association (PERA) to purchase service credit for past uncredited periods of maternity leaves or breaks-in-employment resulting from a pregnancy or the birth of a child, akin to the service credit purchase authorizations enacted for the Teachers Retirement Association (TRA) in 1999. Your requested revisions were a broadening of the purchasable period from maternity leave to parental leave or family leave and a broadening of the applicable pension plans from MSRS and PERA to include the Minneapolis Employees Retirement Fund (MERF), the Minneapolis Police Relief Association, and the Minneapolis Fire Department Relief Association.

Revised Draft Proposed Legislation LCPR00-211

Revised draft proposed legislation LCPR00-211 amends Minnesota Statutes, Chapters 352, 352B, 353, 356, 422A, and 423B, the statute chapters governing the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the MSRS Correctional Employees Retirement Plan (MSRS-Correctional), the State Patrol Retirement Plan, the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Retirement Plan (PERA-P&F), the Minneapolis Employees Retirement Fund (MERF), and the Minneapolis Police Relief Association, and amends the special law governing the Minneapolis Fire Department Relief Association, by adding authority to purchase defined benefit pension plan allowable service credit for periods of previously uncredited parental or family maternity leave or periods of employment gaps related to pregnancy, maternity, parenting, or other family care responsibilities. The purchase payment requirement is the full actuarial value of the benefit obtained by the purchase and is the obligation of the member unless a current or prior employer agrees to pay a portion of the payment amount. The purchase authority expires in 2003, the same expiration date as the 1999 teacher maternity leave or break-in-employment service credit purchase legislation.

Discussion Of The Draft Proposed Legislation

Revised draft proposed legislation LCPR00-211 would permit members of eight public pension plans to purchase allowable service credit for previous parental or family leaves-of-absence or for previous parental or family breaks-in-employment by paying the full actuarial value of the benefit to be obtained by the purchase. The pension plans involved are the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the MSRS Correctional Employees Retirement Plan (MSRS-Correctional), the State Patrol Retirement Plan, the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Plan (PERA-P&F), the Minneapolis Employees Retirement Fund (MERF), the Minneapolis Police Relief Association, and the Minneapolis Fire Department Relief Association.

Although the revised draft proposed legislation essentially extends legislation previously enacted (see Laws 1999, Chapter 223, Article 16, Sections 3 and 9) for other pension plans, it will still likely raise several pension and other public policy issues for the Legislative Commission on Pensions and Retirement, as follows:

1. Appropriateness Of Current Precedent Extension; Comparability. The policy issue is the appropriateness of this proposed extension of the 1999 teacher maternity leave/break-in-service purchase legislation and the comparability between the employment rules and the situation of the

general public employees and public safety employees to whom the proposed legislation would apply and the previously affected teacher groups. When the Legislative Commission on Pensions and Retirement recommended the teacher maternity leave/break-in-service purchase in 1999, following extended hearings conducted during the 1998 Interim, there was considerable testimony and anecdotal information about the problematic treatment of pregnant school teachers by school districts in the past. It is not clear that the State of Minnesota, the University of Minnesota, and Minnesota counties, cities, and townships generally engaged in similar problematic employment practices. Some testimony on the prior employment practices of those employing units will probably be necessary. A number of the public pension plans involved in the draft proposed legislation also, historically, have had more expansive authorized leave of absence service crediting provisions than did teacher pension plans. These differences may be sufficient to distinguish the public employees affected by the proposed legislation from teachers when addressing maternity-related or family-related service credit interruptions and to argue for less generous service credit purchase authority.

2. Need For Authority. The policy issue is the extent of any demonstrable need for the enactment of a maternity leave/break-in-service credit purchase provision for MSRS-General, MSRS-Correctional, State Patrol, PERA-General, PERA-P&F, MERF, the Minneapolis Police Relief Association, or the Minneapolis Fire Department Relief Association. In 1998-1999, the Legislative Commission on Pensions and Retirement was provided with considerable evidence of a desire among various teachers to have an opportunity to purchase gaps in their pension coverage caused by maternity periods. Since the 1999 teacher maternity service credit purchase was enacted, there has not been any comparable demand or expression of desire by general public employees or by public safety personnel to be provided an opportunity to purchase this service credit. If there is no significant demand or desire for this service credit purchase authority extension by the various applicable employee groups, the Legislature may be well advised not to spend any significant effort on this topic.
3. Appropriateness Of The Underlying Impetus For The Service Credit Purchase. The policy issue is the appropriateness of the Legislature in rewarding the apparent underlying impetus for many recent service credit purchase demands, which is the acquisition of access to early retirement. Since the 1989 inclusion of MSRS-General and TRA in the "Rule of 90" early normal retirement age authority (unreduced retirement benefit payable when the sum of age and accrued service credit totals at least 90), the demands for service credit purchases have grown. A purchased year of service credit gains a public pension plan member a six month earlier potential retirement age under the Rule of 90 among a general public employee population that appears to seek to retire at its earliest possible opportunity. Given the manner in which Social Security is funded (i.e., an intergenerational fund transfer), given the growing actual or perceived shortage of workers in the economy, and given the cost of providing health insurance coverage to retirees, there are reasons for the Legislature to adopt a policy that encourages delayed retirement ages rather than one that promotes early retirement ages. If the growing early retirement trend among general public employees has public policy problems, proposed pension legislation that tends to favor early retirement should be scrutinized by the Commission and the Legislature very carefully.
4. Appropriateness Of Proposed Legislation As Precedent For Additional Extension. The policy issue is the appropriateness of the draft proposed legislation serving as a further precedent for extensions of other service credit purchases. In 1999, the Legislature authorized teachers to purchase allowable service credit for a number of potential gaps in their working career, which were prior or uncredited interim military service, maternity-related gaps, out-of-state public school teaching service credit, foreign or parochial school teaching service credit, charter school teaching service credit, prior uncredited part-time teaching service, and VISTA or Peace Corps service credit. The military service credit purchase was extended to MSRS-General, PERA, and various public safety employee pension plans by the 2000 Legislature. This proposed maternity gap service credit purchase is a further extension to MSRS-General, PERA, MERF, and various public safety employee pension plans and its enactment would appear to make extensions of those other 1999 service credit authorizations more inevitable.

Conclusion

I hope that the attached revised draft proposed legislation and this discussion memorandum are of assistance. If you desire to have the draft proposed legislation further modified or if you have any questions about this memorandum, please contact me (651-296-6806). If the draft revised proposed legislation matches your intent, it can be forwarded to the Office of the Revisor of Statutes (Attention: Craig Gustafson) for final drafting services and the preparation of jacketed bill copies.

Senator Betzold introduced--

S.F. No. 517: Referred to the Committee on State and Local Government Operations.

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A bill for an act

relating to retirement; various retirement plans; authorizing the purchase of service credit for parental or family leaves of absence or breaks in service; amending Minnesota Statutes 2000, sections 352.01, subdivision 11; 352B.01, subdivision 3; 353.01, subdivision 16; 422A.155; and 423B.01, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 356.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

11 Section 1. Minnesota Statutes 2000, section 352.01,
12 subdivision 11, is amended to read:

13 Subd. 11. [ALLOWABLE SERVICE.] "Allowable service" means:

14 (1) Service by an employee for which on or before July 1,
15 1957, the employee was entitled to allowable service credit on
16 the records of the system by reason of employee contributions in
17 the form of salary deductions, payments in lieu of salary
18 deductions, or in any other manner authorized by Minnesota
19 Statutes 1953, chapter 352, as amended by Laws 1955, chapter 239.

20 (2) Service by an employee for which on or before July 1,
21 1961, the employee chose to obtain credit for service by making
22 payments to the fund under Minnesota Statutes 1961, section
23 352.24.

24 (3) Except as provided in clauses (8) and (9), service by
25 an employee after July 1, 1957, for any calendar month in which
26 the employee is paid salary from which deductions are made,
27 deposited, and credited in the fund, including deductions made,

1 deposited, and credited as provided in section 352.041.

2 (4) Except as provided in clauses (8) and (9), service by
3 an employee after July 1, 1957, for any calendar month for which
4 payments in lieu of salary deductions are made, deposited, and
5 credited in the fund, as provided in section 352.27 and
6 Minnesota Statutes 1957, section 352.021, subdivision 4.

7 For purposes of clauses (3) and (4), except as provided in
8 clauses (8) and (9), any salary paid for a fractional part of
9 any calendar month, including the month of separation from state
10 service, is deemed the compensation for the entire calendar
11 month.

12 (5) The period of absence from their duties by employees
13 who are temporarily disabled because of injuries incurred in the
14 performance of duties and for which disability the state is
15 liable under the workers' compensation law until the date
16 authorized by the director for the commencement of payments of a
17 total and permanent disability benefit from the retirement fund.

18 (6) Service covered by a refund repaid as provided in
19 section 352.23 or 352D.05, subdivision 4, except service
20 rendered as an employee of the adjutant general for which the
21 person has credit with the federal civil service retirement
22 system.

23 (7) Service before July 1, 1978, by an employee of the
24 transit operating division of the metropolitan transit
25 commission or by an employee on an authorized leave of absence
26 from the transit operating division of the metropolitan transit
27 commission who is employed by the labor organization which is
28 the exclusive bargaining agent representing employees of the
29 transit operating division, which was credited by the
30 metropolitan transit commission-transit operating division
31 employees retirement fund or any of its predecessor plans or
32 funds as past, intermediate, future, continuous, or allowable
33 service as defined in the metropolitan transit
34 commission-transit operating division employees retirement fund
35 plan document in effect on December 31, 1977.

36 (8) Service after July 1, 1983, by an employee who is

1 employed on a part-time basis for less than 50 percent of full
2 time, for which the employee is paid salary from which
3 deductions are made, deposited, and credited in the fund,
4 including deductions made, deposited, and credited as provided
5 in section 352.041 or for which payments in lieu of salary
6 deductions are made, deposited, and credited in the fund as
7 provided in section 352.27 shall be credited on a fractional
8 basis either by pay period, monthly, or annually based on the
9 relationship that the percentage of salary earned bears to a
10 full-time salary, with any salary paid for the fractional
11 service credited on the basis of the rate of salary applicable
12 for a full-time pay period, month, or a full-time year. For
13 periods of part-time service that is duplicated service credit,
14 section 356.30, subdivision 1, clauses (i) and (j), govern.

15 Allowable service determined and credited on a fractional
16 basis shall be used in calculating the amount of benefits
17 payable, but service as determined on a fractional basis must
18 not be used in determining the length of service required for
19 eligibility for benefits.

20 (9) Any period of authorized leave of absence without pay
21 that does not exceed one year and for which the employee
22 obtained credit by payment to the fund in lieu of salary
23 deductions. To obtain credit, the employee shall pay an amount
24 equal to the employee and employer contribution rate in section
25 352.04, subdivisions 2 and 3, multiplied by the employee's
26 hourly rate of salary on the date of return from leave of
27 absence and by the days and months of the leave of absence
28 without pay for which the employee wants allowable service
29 credit. The employing department, at its option, may pay the
30 employer amount on behalf of its employees. Payments made under
31 this clause must include interest at an annual rate of 8.5
32 percent compounded annually from the date of termination of the
33 leave of absence to the date payment is made unless payment is
34 completed within one year of the return from leave of absence.

35 (10) A period purchased under section 356.555.

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1 Sec. 2. Minnesota Statutes 2000, section 352B.01,
2 subdivision 3, is amended to read:

3 Subd. 3. [ALLOWABLE SERVICE.] (a) "Allowable service"
4 means:

5 (1) for members defined in subdivision 2, clause (a),
6 monthly service is granted for any month for which payments have
7 been made to the state patrol retirement fund, and

8 (2) for members defined in subdivision 2, clauses (b) and
9 (c), service for which payments have been made to the state
10 patrol retirement fund, service for which payments were made to
11 the state police officers retirement fund after June 30, 1961,
12 and all prior service which was credited to a member for service
13 on or before June 30, 1961.

14 (b) Allowable service also includes any period of absence
15 from duty by a member who, by reason of injury incurred in the
16 performance of duty, is temporarily disabled and for which
17 disability the state is liable under the workers' compensation
18 law, until the date authorized by the executive director for
19 commencement of payment of a disability benefit or return to
20 employment.

21 (c) Allowable service also includes a period purchased
22 under section 356.555.

23 Sec. 3. Minnesota Statutes 2000, section 353.01,
24 subdivision 16, is amended to read:

25 Subd. 16. [ALLOWABLE SERVICE.] (a) "Allowable service"
26 means service during years of actual membership in the course of
27 which employee contributions were made, periods covered by
28 payments in lieu of salary deductions under section 353.35, and
29 service in years during which the public employee was not a
30 member but for which the member later elected, while a member,
31 to obtain credit by making payments to the fund as permitted by
32 any law then in effect.

33 (b) "Allowable service" also means a period of authorized
34 leave of absence with pay from which deductions for employee
35 contributions are made, deposited, and credited to the fund.

36 (c) "Allowable service" also means a period of authorized

1 leave of absence without pay that does not exceed one year, and
2 during or for which a member obtained credit by payments to the
3 fund made in place of salary deductions, provided that the
4 payments are made in an amount or amounts based on the member's
5 average salary on which deductions were paid for the last six
6 months of public service, or for that portion of the last six
7 months while the member was in public service, to apply to the
8 period in either case immediately preceding commencement of the
9 leave of absence. If the employee elects to pay employee
10 contributions for the period of any leave of absence without
11 pay, or for any portion of the leave, the employee shall also,
12 as a condition to the exercise of the election, pay to the fund
13 an amount equivalent to both the required employer and
14 additional employer contributions for the employee. The payment
15 must be made within one year from the expiration of the leave of
16 absence or within 20 days after termination of public service
17 under subdivision 11a. The employer by appropriate action of
18 its governing body, made a part of its official records, before
19 the date of the first payment of the employee contribution, may
20 certify to the association in writing its commitment to pay the
21 employer and additional employer contributions from the proceeds
22 of a tax levy made under section 353.28. Payments under this
23 paragraph must include interest at an annual rate of 8.5 percent
24 compounded annually from the date of the termination of the
25 leave of absence to the date payment is made. An employee shall
26 return to public service and receive a minimum of three months
27 of allowable service to be eligible to pay employee and employer
28 contributions for a subsequent authorized leave of absence
29 without pay.

30 (d) "Allowable service" also means a periodic, repetitive
31 leave that is offered to all employees of a governmental
32 subdivision. The leave program may not exceed 208 hours per
33 annual normal work cycle as certified to the association by the
34 employer. A participating member obtains service credit by
35 making employee contributions in an amount or amounts based on
36 the member's average salary that would have been paid if the

1 leave had not been taken. The employer shall pay the employer
2 and additional employer contributions on behalf of the
3 participating member. The employee and the employer are
4 responsible to pay interest on their respective shares at the
5 rate of 8.5 percent a year, compounded annually, from the end of
6 the normal cycle until full payment is made. An employer shall
7 also make the employer and additional employer contributions,
8 plus 8.5 percent interest, compounded annually, on behalf of an
9 employee who makes employee contributions but terminates public
10 service. The employee contributions must be made within one
11 year after the end of the annual normal working cycle or within
12 20 days after termination of public service, whichever is
13 sooner. The association shall prescribe the manner and forms to
14 be used by a governmental subdivision in administering a
15 periodic, repetitive leave.

16 (e) "Allowable service" also means a period during which a
17 member is on an authorized sick leave of absence, without pay,
18 limited to one year. An employee who has received one year of
19 allowable service shall return to public service and receive a
20 minimum of three months of allowable service to receive
21 allowable service for a subsequent authorized sick leave of
22 absence.

23 (f) "Allowable service" also means an authorized temporary
24 layoff under subdivision 12, limited to three months allowable
25 service per authorized temporary layoff in one calendar year.
26 An employee who has received the maximum service allowed for an
27 authorized temporary layoff shall return to public service and
28 receive a minimum of three months of allowable service to
29 receive allowable service for a subsequent authorized temporary
30 layoff.

31 (g) Notwithstanding any law to the contrary, "allowable
32 service" also means a parental leave. The association shall
33 grant a maximum of two months service credit for a parental
34 leave, within six months after the birth or adoption, upon
35 documentation from the member's governmental subdivision or
36 presentation of a birth certificate or other evidence of birth

1 or adoption to the association.

2 (h) "Allowable service" also means a period during which a
3 member is on an authorized leave of absence to enter military
4 service, provided that the member returns to public service upon
5 discharge from military service under section 192.262 and pays
6 into the fund employee contributions based upon the employee's
7 salary at the date of return from military service. Payment
8 must be made within five years of the date of discharge from the
9 military service. The amount of these contributions must be in
10 accord with the contribution rates and salary limitations, if
11 any, in effect during the leave, plus interest at an annual rate
12 of 8.5 percent compounded annually from the date of return to
13 public service to the date payment is made. The matching
14 employer contribution and additional employer contribution under
15 section 353.27, subdivisions 3 and 3a, must be paid by the
16 governmental subdivision employing the member upon return to
17 public service if the member makes the employee contributions.
18 The governmental subdivision involved may appropriate money for
19 those payments. A member may not receive credit for a voluntary
20 extension of military service at the instance of the member
21 beyond the initial period of enlistment, induction, or call to
22 active duty.

23 (i) For calculating benefits under sections 353.30, 353.31,
24 353.32, and 353.33 for state officers and employees displaced by
25 the Community Corrections Act, chapter 401, and transferred into
26 county service under section 401.04, "allowable service" means
27 combined years of allowable service as defined in paragraphs (a)
28 to (i) and section 352.01, subdivision 11.

29 (j) For a public employee who has prior service covered by
30 a local police or firefighters relief association that has
31 consolidated with the public employees retirement association or
32 to which section 353.665 applies, and who has elected the type
33 of benefit coverage provided by the public employees police and
34 fire fund either under section 353A.08 following the
35 consolidation or under section 353.665, subdivision 4,
36 "applicable service" is a period of service credited by the

1 local police or firefighters relief association as of the
2 effective date of the consolidation based on law and on bylaw
3 provisions governing the relief association on the date of the
4 initiation of the consolidation procedure.

5 (k) "Allowable service" also means a period purchased under
6 section 356.555.

7 Sec. 4. [356.555] [PARENTAL OR FAMILY LEAVE SERVICE CREDIT
8 PURCHASE.]

9 Subdivision 1. [SERVICE CREDIT PURCHASE AUTHORIZATION.] (a)
10 Notwithstanding any provision to the contrary of the laws
11 governing a plan enumerated in subdivision 4, a member of the
12 pension plan who has at least three years of allowable service
13 covered by the applicable pension plan and who was granted by
14 the employer a parental leave of absence as defined in paragraph
15 (b), or who was granted by the employer a family leave of
16 absence as defined in paragraph (c), or who had a parental- or
17 family-related break in employment, as defined in paragraph (d),
18 for which the person did not previously receive service credit
19 or for which the person did not receive or purchase service
20 credit from another defined benefit public employee pension
21 plan, is entitled to purchase the actual period of the leave or
22 of the break in service, up to five years, of allowable service
23 credit in the applicable retirement plan. The purchase payment
24 amount is governed by section 356.55.

25 (b) For purposes of this section, a parental leave of
26 absence is a temporary period of interruption or of separation
27 from active employment for the purposes of handling maternity or
28 paternity duties that has been approved by the employing unit
29 and that includes the right of reinstatement to employment.

30 (c) For purposes of this section, a family leave of absence
31 is a family leave under United States Code, title 42, section
32 12631, as amended.

33 (d) For purposes of this section, a parental- or
34 family-related break in employment is a period following a
35 termination of active employment primarily for the purpose of
36 the birth of a child, the adoption of a child, or the provision

1 of care to a near relative or in-law, after which the person
2 returned to the prior employing unit or an employing unit
3 covered by the same pension plan that provided retirement
4 coverage immediately prior to the termination of employment.

5 Subd. 2. [APPLICATION AND DOCUMENTATION.] A person who
6 desires to purchase service credit under subdivision 1 must
7 apply for the service credit purchase with the chief
8 administrative officer of the enumerated pension plan. The
9 application must include all necessary documentation of the
10 qualifications of the person to make the purchase, signed
11 written permission to allow the chief administrative officer to
12 request and receive necessary verification of all applicable
13 facts and eligibility requirements, and any other relevant
14 information that the chief administrative officer may require.

15 Subd. 3. [SERVICE CREDIT GRANT.] Allowable service credit
16 in the applicable enumerated pension plan for the purchase
17 period must be granted to the purchaser upon receipt of the
18 purchase payment amount calculated under section 356.55.
19 Payment of the purchase price must be made before the person
20 retires.

21 Subd. 4. [COVERED PENSION PLANS.] This section applies to
22 the following pension plans:

23 (1) general state employees retirement plan governed by
24 chapter 352;

25 (2) correctional state employees retirement plan governed
26 by chapter 352;

27 (3) general public employees retirement plan governed by
28 chapter 353;

29 (4) public employees police and fire plan governed by
30 chapter 353;

31 (5) Minneapolis employees retirement plan governed by
32 chapter 422A;

33 (6) Minneapolis police relief association governed by
34 chapter 423B; and

35 (7) Minneapolis fire department relief association governed
36 by sections 69.25 to 69.53 and augmented by Laws 1959, chapters

1 213, 491, and 568, and other special local legislation.

2 Sec. 5. Minnesota Statutes 1998, section 422A.155, is
3 amended to read:

4 422A.155 [DETERMINATION OF SERVICE CREDIT.]

5 (a) Notwithstanding the provisions of section 422A.15,
6 subdivision 1, no employee of the contributing class of the
7 Minneapolis employees retirement fund shall be entitled to
8 receive a year of service credit during the employee's final
9 year of service unless the employee is employed and has received
10 compensation from the city of Minneapolis or other applicable
11 employing unit during each of the calendar months making up the
12 year for which the employee would usually be employed. Any
13 employee of the contributing class who is employed and receives
14 compensation in fewer than the usual number of calendar months
15 during the final year of service shall receive credit for that
16 portion of a year that the employee's completed months of
17 employment and receipt of compensation bears to the usual number
18 of months which the employee would usually be employed.

19 (b) Notwithstanding any provision of this chapter to the
20 contrary, service credit also means a period purchased under
21 section 356.555.

22 Sec. 6. Minnesota Statutes 2000, section 423B.01, is
23 amended by adding a subdivision to read:

24 Subd. 3a. [ALLOWABLE SERVICE CREDIT.] "Allowable service
25 credit" means:

26 (1) service rendered as an active member;

27 (2) service as an elected public official under section
28 423B.03;

29 (3) military service credited under section 423B.09,
30 subdivision 3; and

31 (4) a period of service purchased under section 356.555.

32 Sec. 7. [MINNEAPOLIS FIRE DEPARTMENT RELIEF ASSOCIATION;
33 PARENTAL LEAVE PURCHASE.]

34 Notwithstanding any provision of Minnesota Statutes,
35 sections 69.25 to 69.53; Laws 1959, chapters 213, 491, and 568;
36 or any other special local law governing the Minneapolis fire

1 department relief association to the contrary, service credit
2 for the purposes of calculating service pensions, disability
3 benefits, or survivor benefits includes a period purchased under
4 Minnesota Statutes, section 356.555.

5 Sec. 8. [REPEALER.]

6 Sections 1 to 7 are repealed on May 16, 2003.

7 Sec. 9. [EFFECTIVE DATE.]

8 Sections 1 to 7 are effective on July 1, 2001.