

S.F. 777
(Tomassoni)

H.F. 1161
(Sertich)



Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-General; MSRS-Correctional
Relevant Provisions of Law: Minnesota Statutes, Section 352, Subdivision 2
General Nature of Proposal: Make Current Refund Law (Employee Contributions Plus Six Percent Interest) Retroactive
Date of Summary: March 16, 2001

Specific Proposed Change(s)

- Refund Provision Retroactivity. Current refund law (employee contributions plus six percent interest) would be made retroactive, to apply to all past terminations when applicable law permitted lesser refund.

Policy Issues Raised by the Proposed Legislation

1. Retroactivity Issues. The proposal undermines the presumption against retroactivity, found in Minnesota Statutes and in the Commission's Principles of Pension Policy statement. The broader concern is that this may lead to retroactivity for any benefit annuity changes.
2. Implementation Problems, Fairness Issues. If MSRS were to try implementing the provision as drafted, it would be necessary to send additional amounts to many individuals who have already received refunds, but this would be difficult to do because no effort is made to maintain current addresses for refund recipients. Accepting a refund presumably terminates all rights in a plan. MSRS is requesting an amendment to exclude this pre-refund group, but that exclusion is likely to lead to numerous requests to make them whole.
3. Scope Issues. Generally, the Legislature tries to maintain consistent treatment across plans, suggesting that if S.F. 777; H.F. 1161 is appropriate for MSRS-General, the policy should be extended to other plans. This could lead to concerns in the Legislators Plan, and the proposal conflicts with other proposals for other plans.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: S.F. 777 (Tomassoni); H.F. 1161 (Sertich): MSRS-General: Making Six Percent Interest on Refunds Retroactive to Past Terminations
DATE: March 16, 2001

Summary

S.F. 777 (Tomassoni); H.F. 1161 (Sertich): MSRS-General: Making Six Percent Interest on Refunds Retroactive to Past Terminations, amends Minnesota Statutes, Section 352, Subdivision 2, the MSRS-General refund provision, by specifying that refunds can be paid under the current refund provision (employee contributions plus six percent interest) to any individual who terminated covered service at any time in the past.

Background

Public employee retirement plans have been designed to attract capable employees, retain those employees, and out-transition those employees at the end of their productive working careers. Historically, many of the plans were designed with a strong emphasis on retention. One feature which encouraged employees to remain in covered employment was service accrual rates which are back-loaded (accrual rates which provide a low accrual rate for early years of service, and an increased accrual rate per year of service after the individual has provided a considerable length of service). A remnant of that feature continues to exist for Rule-of-90 retirements and for early retirement in general for pre-July 1, 1989, hires. Under a Rule-of-90 retirement in a coordinated plan, the individual receives 1.2 percent of the high-five average salary for each of the first ten years of service, and 1.7 percent per year of service for each year thereafter. Another retention element is a long vesting period to qualify for any annuity at retirement age. Members may be familiar, given past bills the Commission has heard, with the vesting requirements in the old local police and paid fire plans. Years ago in those plans, vesting requirements as long as twenty years were fairly common. Some of those plans also did not provide any refund to any terminating member (an example is the Saint Paul Police Relief Association plan). In non-public-safety plans, vesting requirements tended to be shorter, but it was not that many years ago that ten years of service was required to vest for an annuity in the statewide non-public-safety plans. That vesting requirement was reduced to five years in the mid-1980s, and to three years in 1989.

When individuals do leave covered service in non-public-safety plans, and in the newer statewide public safety plans (the State Patrol Plan and the Public Employees Retirement Association Police and Fire (PERA-P&F) Plan) individuals are entitled to a refund. Since vesting requirements are now modest, only three years of covered service, many shorter term public employees are vested for a retirement annuity upon reaching retirement age, but that annuity may have little value because so little service was provided. Thus, even if a terminating public employee is vested, the individual's best economic option may be to take a refund.

Under Minnesota public pension law for the Minnesota State Retirement System (MSRS) plans, the Public Employees Retirement Association (PERA) plans, the Teachers Retirement Association (TRA) plan, and other larger public plans, the policy in current law is to provide a refund of the employee's contributions plus six percent interest. (An exception is the MSRS-Judges Plan, which provides a refund including five percent interest. So few judges terminate and take refunds that the lower interest rate provided in law may have little practical significance.)

The refund feature in these plans can be viewed as a design feature to encourage individuals to remain in covered employment. Individuals are encouraged to remain in covered service by not making the individual whole if they leave. Under current law, individuals who terminate service and request a refund receive the employee contributions plus six percent interest. This creates a gain for the fund equal to the employer contributions made on behalf of the employee, the full investment earnings on the employer contributions, and the investment earnings on the employee contributions in excess of six percent. Turnover gain is an essential feature of our defined benefit plans. Turnover gain helps to cover the plan

liabilities for those who remain in covered employment. Without turnover gain, plan costs would be a higher percentage of covered payroll.

The cost of a plan's refund provision as a percentage of covered salary will increase the higher the interest paid on refunds. If interest equal to the plan's rate of return were provided on the refunded employee contributions, there would be no turnover gain on those employee contributions. If a portion, or all, of the employer contributions plus interest were also included in a refund, turnover gain would be correspondingly reduced. In the extreme, if everyone were to receive the value of the employee and employer contributions plus the investment return, regardless of when the individual terminated employment (at retirement or well before), what we have is a defined contribution plan.

MSRS-General Refund Provision, Changes Over Time

Past versions of Section 352.22, the MSRS refund provision, indicate that covered members were strongly encouraged to remain in covered employment due to the minimal value of refunds that they would receive if they terminated, coupled with long vesting requirements. As of the mid-1960s, the version of Section 352.22 that was then found in Minnesota Statutes indicated that individuals who terminated from covered service could receive a refund of the employee contributions, but with no interest. In 1973, the refund provision was amended to allow 3.5 percent interest on a refund, but the interest only applied to the employee contributions made after the third year of service. The first three years were excluded from receiving any interest. In 1984, the MSRS refund law was amended to permit five percent interest on the employee contributions for all years of service. In 1989, the interest rate was increased from five percent of service to six percent.

Other Minnesota general employee plans display a similar pattern. In some cases, in the distant past no refund was permitted. This is likely to be followed by a period when the employee was permitted to receive a refund of employee contributions without any interest, followed by a period where minimal interest was permitted, and since approximately 1989, six percent interest has been included in the refunds from the applicable plan.

Relationship to Past MSRS Minor Benefit Improvement Bills and Other Current Session Bills

The change which S.F. 777 (Tomassoni); H.F. 1161 (Sertich) proposes in the MSRS-General refund provision is substantively identical to changes proposed in minor benefit improvement/administrative bills which MSRS, PERA, and TRA have submitted in recent past legislative sessions. Those past session bills would have made the change proposed here in all the MSRS plans, not just the General Plan, and in the PERA and TRA plans. This reflects the notion that if proposed revision in refund procedures reflects good policy for the MSRS-General Plan, it should be extended to all comparable plans. In some cases, those past bills were not heard by the Commission, or the Commission only included on its agenda those portions of the original bills which the plan administrators felt was most vital to its administrative operations, or which were least controversial. The proposed changes in the plan refund provisions, comparable to that appearing in S.F. 777 (Tomassoni); H.F. 1161 (Sertich) for the MSRS-General Plan, were not heard in the past or were deleted from the bills the Commission recommended to pass.

In the current session the MSRS, PERA, and TRA plan administrators had a bill introduced on behalf of their plans. Many of the provisions are minor benefit improvements; some are administrative in nature. The two applicable companion bills are S.F. 1439 (Johnson, Dean); H.F. 1482 (Murphy). Article 5 is entitled "Refunds" and proposes changes in the MSRS, PERA, and TRA refund provisions, similar in nature to the change proposed here. Since there is an argument that any policy changes in the MSRS refund provision as proposed in S.F. 777 (Tomassoni); H.F. 1161 (Sertich), as it may be amended, should also be extended to comparable plans—TRA, PERA plans, first class city teacher plans, and possibly others, the LCPR may wish to defer action on S.F. 777 (Tomassoni); H.F. 1161 (Sertich), and take up these issues in the context of S.F. 1439 (Johnson, Dean); H.F. 1482 (Murphy), either this year, during the Interim, or in the next year of the legislative Session.

Retroactive Concerns

In interpreting general law, and public pension law in particular, there is a presumption against retroactivity in benefit provisions. When the Legislature makes a change in public pension benefit provisions, the change is presumed to apply to benefits which commence after the effective date of the provision, unless clearly indicated in law that some other interpretation is intended. Minnesota Statutes, Chapter 645, Interpretation of Statutes, in Section 645.21, Presumption Against Retroactive Effect, reads

in its entirety, “No law shall be construed to be retroactive unless clearly and manifestly so intended by the legislature.” The LCPR Principles of Pension Policy statement, as the 14th principle in the Pension Benefit Coverage Section, states, “Retroactivity of benefit increases for retirees and other benefit recipients should not be permitted.”

The effect of S.F. 777 (Tomassoni); H.F. 1161 (Sertich) is to make the current law refund treatment—refund of the employee contributions plus six percent interest—retroactive to any individual who terminated from the MSRS-General Plan (and MSRS-Correctional Plan, since the MSRS-General refund provision also applies to that plan) at any time in the past, notwithstanding the refund law in effect at the time that the individual terminated service. Thus S.F. 777 (Tomassoni); H.F. 1161 (Sertich), and also the refund provisions in S.F. 1439 (Johnson, Dean); H.F. 1482 (Murphy), in Article 5, are in direct conflict with the presumption against retroactivity in general law and in the Commission’s policy statement. If a presumption against retroactivity is eroded, and it becomes expected that any benefit increases apply retroactively as well as prospectively, it can become prohibitively expensive for the Legislature to make needed policy changes.

The primary forms of benefit provided by MSRS-General and other Minnesota public pension plans are refunds and various annuities (to disabilitants, service pensioners, and survivors). In considering S.F. 777 (Tomassoni); H.F. 1161 (Sertich), or similar proposed changes in refund provisions as contained in S.F. 1439 (Johnson, Dean); H.F. 1482 (Murphy), in Article 5, the LCPR may wish to consider whether it is a tenable position, legally or politically, to adopt a position that improvement in a plan’s refund provision are retroactive, but improvements in a plan’s annuity provisions are not.

Policy Issues

S.F. 777 (Tomassoni); H.F. 1161 (Sertich): MSRS-General: Making Six Percent Interest on Refunds Retroactive to Past Terminations, amends Minnesota Statutes, Section 352, Subdivision 2, the MSRS-General refund provision, by specifying that refunds can be paid under the current refund provision (employee contributions plus six percent interest) to any individual who terminated covered service at any time in the past.

Pension policy issues raised by these bills are:

1. Break From Established Policy, Presumption Against Retroactivity. The proposed revisions are a significant step away from a presumption against retroactivity in retirement law. That is a significant policy change, one which warrants careful consideration of the implications.
2. Need Or Justification For Change. The LCPR may wish to hear testimony from plan administrators regarding why they contend that the changes are needed, and why a move away from a presumption against benefit retroactivity is appropriate in this instance. LCPR staff’s understanding, when this proposal appeared in past minor benefit improvement bills submitted by the pension fund administration, was that the proposed change was motivated by a desire for administrative ease. Plan administrative personnel would not need to keep track of the refund policy in past law that applied when the ex-employee terminated from service, and staff would not have to deal with angry ex-MSRS-covered employees who terminated in the distant past, and who many years later are requesting a refund, only to discover that the refund includes no interest or minimal interest.

In effect, the LCPR is being asked to weigh these administrative convenience issues against the violence that would be done to standard pension policy.

3. Implementation Problems, Fairness Issues. The LCPR may wish to consider whether the proposed change can be implemented with any degree of consistency, fairness, or efficiency. The proposed law can be interpreted as implying that any individual, who accepted a refund which did not include six percent interest, is now entitled to an additional payment equal to the difference between the past total refunded amount and the amount that would have been received if six percent interest were provided. It will be difficult to identify the individuals in that category, since the plans will not have current addresses for many of these individuals. The act of taking a refund was presumed to terminate all further rights the individual had in the plan. Because of that, no Minnesota public pension plan has made any effort to keep current addresses for past refund recipients. Given the passage of time, it will be difficult, expensive, and time-consuming to locate these individuals to inform them of their new right under law and to pay them whatever additional interest is payable. Many will be missed. For those who are located, the added payment is a windfall, something they never expected under law applicable on their termination date.

MSRS has requested an amendment to the bills, which is provided in the attachments, which would specify that any individual who already accepted a refund from the applicable MSRS plan of plans is *not* entitled to any additional increment of payment due to the new law. With the proposed amendment, the revised law would apply only to individuals who have not yet applied for a refund. While this would allow MSRS to avoid the difficulties of trying to locate all the individuals who accepted past refunds, it may put the Legislature in a difficult position. Many people who did accept refunds in the past will hear about the changed refund policy and will claim they were unfairly treated. The treatment may not actually be unfair, but this may not keep legislators from hearing many complaints from constituents. The constituents will note that they received refunds with no interest, 3.5 percent interest, or five percent interest, and if they had waited until this law change, they would have received six percent interest.

There is a justifiable economic argument that individuals who took refunds some time ago, when five percent or less interest was paid, are not unfairly treated under the proposed law change because the individuals received control of that money and were able to invest it at rates of return considerably in excess of six percent. A comparable individual who also terminated service many years ago, but who delayed requesting a refund until after the passage of this law change would receive six percent interest rather than some lesser amount, but the value today would be less than those who received a refund earlier and invested their money at rates considerably in excess of six percent. While the argument has validity in many cases, logic and economics often have little to do with requests made to the Legislature. The Legislature is likely to receive numerous requests for special bills or general legislation to cover any perceived “shortfall” stemming from a past refund with less than six percent interest.

4. Cost. The cost of these additional refund amounts due to paying six percent interest on a refund, rather than using law in effect at the time of termination, will add to plan liabilities. That immediate cost impact is unlikely to be significant. As noted previously, the larger concern is the conflict with established policy and the general erosion of the presumption against retroactivity. Ultimately, if retroactivity becomes the norm, that could have a very significant cost implication.
5. Scope Issues, Conflicts. If the proposed change in MSRS-General refund policy is deemed appropriate for some or all MSRS plans, presumably the policy change is appropriate for other public plans. Similar legislation that was submitted in past sessions would have extended the new policy to all or nearly all MSRS plans, including the Legislators Plan, the PERA plans, and TRA. If the change makes sense for TRA, presumably it makes sense for the first class city teacher plans. The LCPR may need to consider whether it is appropriate to include the Legislators Plan in a potential amendment to these bills. While the Legislature has long strived to maintain consistent policy between MSRS-General and the PERA-General Plan, the treatment proposed here is in conflict with the “enhanced refund” concept which PERA has proposed elsewhere. In any change, the LCPR may need to consider the cost impact on PERA, given the funding problems with that plan. While the immediate cost impact is not significant, any change which adds any recognized liabilities to PERA-General or reduces turnover gain in any amount warrants consideration given that plan’s funding problem. Similar issues would arise with the Minneapolis Teacher Retirement Fund Association (MTRFA), which has a contribution deficiency greater than that of PERA-General.
6. Amendments. There are policy arguments for amendments to S.F. 777 (Tomassoni); H.F. 1161 (Sertich): MSRS-General: Making Six Percent Interest on Refunds Retroactive to Past Terminations, which would extend the proposed treatment to plans other than MSRS-General—to the other MSRS plans, PERA, TRA, first class city teacher plans, and perhaps some others. However, the LCPR would need to consider many implications of an extension to other plans, including issues related to increasing refunds to legislators who left office and who may seek the enlarged refund, alternative refund proposals that have been introduced in current session bills or been discussed by the Commission or various committees, and policy concerns about the retroactivity implications of S.F. 777 (Tomassoni); H.F. 1161 (Sertich). Given these and other questions, the Commission may conclude that any extension of the policy suggested in S.F. 777 (Tomassoni); H.F. 1161 (Sertich), or some related policy, is best considered in the context of S.F. 1439 (Johnson, Dean); H.F. 1482 (Murphy), in Article 5 of those bills.

If the Commission does wish to take action on S.F. 777 (Tomassoni); H.F. 1161 (Sertich), staff has two amendments for consideration which as drafted are restricted to MSRS-General (and the MSRS-Correctional Plan, since the MSRS-General refund provision also applies to the Correctional Plan). The Commission should be aware, however, that any action taken on S.F. 777 (Tomassoni); H.F. 1161

(Sertich) is likely to lead to comparable changes, if not this Session, then in the near future, in other plans. Amendment LCPR01-99 is an amendment which more clearly indicates how MSRS would interpret the provision. Amendment LCPR01-100 is the amendment requested by MSRS, to stipulate that anyone who already received a refund is not eligible for any additional amount due to S.F. 777 (Tomassoni); H.F. 1161 (Sertich). As noted in the text, that may put the Legislature in a difficult position, leading to numerous requests for a remedy for individuals who received refunds in the past and who contend that the exclusion is unfair. The two amendments should not be used together.

LCPR Principles of Pension Policy

7. Adequacy of Benefits at Retirement

- a. Benefit adequacy requires that retirement benefits respond to changes in the economy.
- b. The retirement benefit should be adequate at the time of retirement.
- c. Except for local police or firefighter relief associations, the retirement benefit should be related to an individual's final average salary, determined on the basis of the highest five successive years average salary unless a different averaging period is designated by the Legislature.
- d. Except for local police or firefighter relief associations, the measure of retirement benefit adequacy should be at a minimum of thirty years service, which would be a reasonable public employment career, and at the generally applicable normal retirement age.
- e. Retirement benefit adequacy must be a function of the Minnesota public pension plan benefit and any Social Security benefit payable on account of Minnesota public employment.

8. Postretirement Benefit Adequacy

- a. The retirement benefit should be adequate during the period of retirement.
- b. Postretirement benefit adequacy should function to replace the impact of economic inflation over time in order to maintain a retirement benefit that was adequate at the time of retirement.
- c. The system of periodic post retirement increases should be funded on an actuarial basis.
- d. In order to replace inflation, the post retirement adjustment system should follow a valid recognized economic indicator.

9. Portability

To the extent feasible, portability should be established as broadly as possible for employment mobile public employees.

10. Purchases of Prior Service Credit

Purchases of public pension plan credit for periods of prior service should be permitted only if, on a case-by-case basis, it is determined that the period to be purchased is public employment or substantially akin to public employment, that the prior service period must have a significant connection to Minnesota, that the purchase payment from the member or from a combination of the member and the employer must equal the actuarial liability to be incurred by the pension plan for the benefit associated with the purchase, appropriately calculated, without the provi-

sion of a subsidy from the pension plan, and that the purchase must not violate notions of equity.

11. Deadline Extensions and Waivers

Deadline extensions or waivers should be permitted only if, on a case-by-case basis, it is determined that there is a sufficient equitable basis for the extension or waiver, the extension or waiver does not involve broader applicability than the pension plan members making the request, and that the extension or waiver is unlikely to constitute an inappropriate precedent for the future.

12. Vesting Requirement Waivers

Waivers of vesting requirements should be permitted only if, on a case-by-case basis, it is determined that there is a strong equitable argument to grant the waiver for the requesting public employees.

13. Reopening Optional Annuity Elections

Reopenings of optional annuity elections should not be permitted.

*14. Benefit Increase Retroactivity

Retroactivity of benefit increases for retirees and other benefit recipients should not be permitted.

15. Repayment of Previously Paid Benefits and Resumptions of Active Member Status

Repayments of previously paid benefits and resumptions of active member status should not be permitted.

16. Duplicate Public Pension Coverage For the Same Employment

Unless supplemental pension plan coverage is involved, public employees should not have coverage by more than one Minnesota public pension plan for the same period of service with the same public employer.

17. Reemployed Annuitant Earnings Limitations

- a. Limitations on the earnings by reemployed annuitants should apply only to the reemployment of an annuitant by an employing unit that is a participating employer in the same public pension plan from which the annuitant is receiving a pension benefit.
- b. Reemployed annuitant earnings limitations should be standardized to the extent possible among the various Minnesota public pension plans.

18. Disability Definitions

The definitions of what constitutes a disability giving rise to a disability benefit should be standardized to the extent possible, recognizing the differences in the hazards inherent in various types of employment.

1 and after March 30, 1978, unless the person has, as of the later
 2 of March 30, 1978, or the date of employment, sufficient service
 3 credit in the retirement association to meet the minimum vesting
 4 requirements for a deferred retirement annuity, or the employer
 5 agrees in writing on forms prescribed by the executive director
 6 to make the required employer contributions, including any
 7 employer additional contributions, on account of that person
 8 from revenue sources other than funds provided under the federal
 9 Comprehensive Training and Employment Act, or the person agrees
 10 in writing on forms prescribed by the executive director to make
 11 the required employer contribution in addition to the required
 12 employee contribution;

13 (3) a person holding a part-time adult supplementary
 14 technical college license who renders part-time teaching service
 15 or a customized trainer as defined by the Minnesota state
 16 colleges and universities system in a technical college if (i)
 17 the service is incidental to the regular nonteaching occupation
 18 of the person; and (ii) the applicable technical college
 19 stipulates annually in advance that the part-time teaching
 20 service or customized training service will not exceed 300 hours
 21 in a fiscal year and retains the stipulation in its records; and
 22 (iii) the part-time teaching service or customized training
 23 service actually does not exceed 300 hours in a fiscal year; or

24 (4) a person exempt from licensure under section 122A.30.

25 Sec. 6. [EFFECTIVE DATE.]

26 Sections 1 to 5 are effective July 1, 2001.

27 ARTICLE 5
 28 REFUNDS

29 Section 1. Minnesota Statutes 2000, section 352.22,
 30 subdivision 2, is amended to read:

31 Subd. 2. [AMOUNT OF REFUND.] Except as provided in
 32 subdivision 3, the refund payable to a person who ~~ceased to~~
 33 be is no longer a state employee by reason of termination of
 34 state service and applies for a refund after July 1, 2001,
 35 regardless of termination date and only applies for amounts not
 36 yet refunded, is in an amount equal to employee accumulated

1 contributions plus interest at the rate of six percent per year
2 compounded annually. Included with the refund is any interest
3 paid as part of repayment of a past refund, plus interest
4 thereon from the date of repayment. Interest must be computed
5 to the first day of the month in which the refund is processed
6 and must be based on fiscal year or monthly balances, whichever
7 applies.

8 Sec. 2. Minnesota Statutes 2000, section 352B.11,
9 subdivision 1, is amended to read:

10 Subdivision 1. [REFUND OF PAYMENTS.] A member who has not
11 received other benefits under this chapter is entitled to a
12 refund of payments made by salary deduction, plus interest, if
13 the member is separated no longer a state employee, either
14 voluntarily or involuntarily, from state service that entitled
15 the member to membership and applies for a refund after July 1,
16 2001, regardless of termination date and only applies for
17 amounts not yet refunded. In the event of the member's death,
18 if there are no survivor benefits payable under this chapter, a
19 refund is payable to the last designated beneficiary on a form
20 filed with the director before death, or if no designation is
21 filed, the refund is payable to the member's estate. Interest
22 must be computed at the rate of six percent a year, compounded
23 annually. To receive a refund, application must be made on a
24 form prescribed by the executive director.

25 Sec. 3. Minnesota Statutes 2000, section 353.34,
26 subdivision 2, is amended to read:

27 Subd. 2. [REFUND WITH INTEREST.] Except as provided in
28 subdivision 1, any person who ceases to be a public employee and
29 applies for a refund after July 1, 2001, shall receive a refund
30 in an amount equal to accumulated deductions with interest to
31 the first day of the month in which the refund is processed at
32 the rate of six percent compounded annually based on fiscal year
33 balances. If a person repays a refund and subsequently applies
34 for another refund, the repayment amount, including interest, is
35 added to the fiscal year balance in which the repayment was made.

36 Sec. 4. Minnesota Statutes 2000, section 354.49,

1 subdivision 3, is amended to read:

2 Subd. 3. [REFUND IN CERTAIN INSTANCES.] Any person not
3 covered by the formula program who has attained normal
4 retirement age with less than the minimum service required for
5 an annuity and who ceases to be a member because of termination
6 of teaching service is entitled upon application to a refund in
7 an amount equal to the person's accumulated deductions plus
8 interest at the rates used to compute annuities under section
9 354.44, subdivision 2 in lieu of a proportionate annuity
10 pursuant to section 356.32. If a person who has attained normal
11 retirement age is eligible for an annuity or is covered by the
12 formula program, the refund is an amount equal to the
13 accumulated deductions credited to the person's account as of
14 June 30, 1957, and after July 1, 1957, the accumulated
15 deductions plus interest at the rate of six percent compounded
16 annually regardless of when the employee terminated. For the
17 purpose of this subdivision, interest must be computed on fiscal
18 year end balances to the first day of the month in which the
19 refund is issued.

20 Sec. 5. Minnesota Statutes 2000, section 490.124,
21 subdivision 12, is amended to read:

22 Subd. 12. [REFUND.] (a) Any person who ceases to be a
23 judge but who does not qualify for a retirement annuity or other
24 benefit under section 490.121 shall be entitled to a refund in
25 an amount equal to all the person's contributions to the judges'
26 retirement fund, regardless of when they were made, plus
27 interest computed to the first day of the month in which the
28 refund is processed based on fiscal year balances at an annual
29 rate of ~~five~~ six percent compounded annually and applies to any
30 refund issued after July 1, 2001.

31 (b) A refund of contributions under paragraph (a)
32 terminates all service credits and all rights and benefits of
33 the judge and the judge's survivors. A person who becomes a
34 judge again after taking a refund under paragraph (a) may
35 reinstate previously terminated service credits, rights, and
36 benefits by repaying all refunds. A repayment must include

1 interest at an annual rate of 8.5 percent compounded annually.

2 Sec. 6. [EFFECTIVE DATE.]

3 Sections 1 to 5 are effective July 1, 2001.

4 ARTICLE 6

5 SURVIVOR BENEFITS

6 Section 1. Minnesota Statutes 2000, section 352.12,
7 subdivision 2, is amended to read:

8 Subd. 2. [SURVIVING SPOUSE BENEFIT.] (a) If an employee or
9 former employee has credit for at least three years allowable
10 service and dies before an annuity or disability benefit has
11 become payable, notwithstanding any designation of beneficiary
12 to the contrary, the surviving spouse of the employee may elect
13 to receive, in lieu of the refund with interest under
14 subdivision 1, an annuity equal to the joint and 100 percent
15 survivor annuity which the employee or former employee could
16 ~~have-qualified-for-on-the-date-of-death~~ had earned based on
17 length of service, average salary, and age the employee would
18 have been at the date payment begins.

19 (b) If the employee was under age 55 and has credit for at
20 least 30 years of allowable service on the date of death, the
21 surviving spouse may elect to receive a 100 percent joint and
22 survivor annuity based on the age of the employee would have
23 been and the age of the surviving spouse on the date of-death
24 payment begins. The annuity is payable using the full early
25 retirement reduction under section 352.116, subdivision 1,
26 paragraph (a), to age 55 and one-half of the early retirement
27 reduction from age 55 to the age payment begins.

28 (c) If the employee was under age 55 and has credit for at
29 least three years of allowable service credit on the date of
30 death but did not yet qualify for retirement, the surviving
31 spouse may elect to receive a 100 percent joint and survivor
32 annuity based on the age of the deceased employee would have
33 been and the age of the surviving spouse at the time-of-death
34 date payment begins. The annuity is payable using the full
35 early retirement reduction under section 352.116, subdivision 1
36 or 1a, from age of full retirement to age 55 and one-half of the

1 M moves to amend S.F. No. 777; H.F. No.
2 1161, as follows:

3 Page 1, line 15, after "annually" insert ", notwithstanding
4 law in effect on the date of termination which may have
5 specified a lesser total refund amount"

1 M moves to amend S.F. No. 777; H.F. No.
2 1161, as follows:

3 Page 1, line 10, before "Except" insert "(a)"

4 Page 1, line 15, after "annually" insert ", notwithstanding
5 law in effect on the date of termination which may have
6 specified a lesser total refund amount"

7 Page 1, after line 20, insert:

8 "(b) Paragraph (a) should not be interpreted as authorizing
9 payment of an additional refund amount to any person who
10 terminated service and previously received a refund amount
11 correctly computed under law then applicable to the refund
12 payment."

Senator Tomassoni introduced--

S.F. No. 777: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to retirement; Minnesota state retirement
3 system; providing for a refund of employee
4 contributions with interest for state employees who
5 terminated service at any time in the past; amending
6 Minnesota Statutes 2000, section 352.22, subdivision 2.

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

8 Section 1. Minnesota Statutes 2000, section 352.22,
9 subdivision 2, is amended to read:

10 Subd. 2. [AMOUNT OF REFUND.] Except as provided in
11 subdivision 3, the refund payable to a person who at any time in
12 the past ceased to be a state employee by reason of termination
13 of state service is in an amount equal to employee accumulated
14 contributions plus interest at the rate of six percent per year
15 compounded annually. Included with the refund is any interest
16 paid as part of repayment of a past refund, plus interest
17 thereon from the date of repayment. Interest must be computed
18 to the first day of the month in which the refund is processed
19 and must be based on fiscal year or monthly balances, whichever
20 applies.

21 Sec. 2. [EFFECTIVE DATE.]

22 Section 1 is effective the day following final enactment.