

S.F. 841

(Kiscaden)

H.F. _____

()

**Executive Summary of Commission Staff Materials**

Affected Pension Plan(s): Teachers Retirement Association (TRA)
Relevant Provisions of Law: Minnesota Statutes 2000, Section 354.44
General Nature of Proposal: Exempts Certain Reemployed TRA Annuitants From Earnings Limits and Benefit Escrowing
Date of Summary: March 12, 2001

Specific Proposed Changes

- Exempts Substitute Teachers From TRA Reemployed Annuitant Limits. All Teachers Retirement Association (TRA) retirees service as substitute teachers would be exempt from the TRA reemployed annuitant limits.
- Exempts Special Expertise Area Teachers From TRA Reemployed Annuitant Limits. Retired TRA members teaching in agricultural education, English as a second language, world languages or cultures, mathematics, science, or special education would be exempt from the TRA reemployed annuitant limits.

Policy Issues Raised by the Proposed Legislation

1. Unclear Need. 2000 Session amendments to the TRA reemployed annuitant earnings limits should have addressed the problem and should be allowed to work before being further liberalized.
2. Areas for Exemption May Not Be The Right Ones. Not all of the areas identified by school districts for past or future problems are included in the exemptions.
3. No Limitations on Exemption. Reemployed retiree interim superintendents have limits on their exemption, but no limits are proposed for this exemption.
4. First Class City Plans Are Not Included. A similar change for the first class city teacher plans should be considered.
5. The Exemption Request Is Caused By Too Early Retirements. Recent measures increasing access to early normal retirement has likely caused much of the problem addressed by the proposed legislation.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: S.F. 841 (Kiscaden); H.F. ____ (): TRA; Exempting Certain Teachers From Post-Retirement Earnings Limits and Annuity Reductions

DATE: March 9, 2001

Summary of S.F. 841 (Kiscaden); H.F. ()

S.F. 841 (Kiscaden); H.F. ____ () amends Minnesota Statutes, Section 354.44, which governs the qualifications for, calculation of, and limitations on retirement annuities from the Teachers Retirement Association (TRA), by adding an exemption from the reemployed annuitant earnings limitations for any retired teacher employed as a substitute teacher or employed as a licensed teacher in agricultural education, English as a second language, world languages or cultures, mathematics, science or special education.

Background Information on Reemployed Annuitant Earnings Limitations

Reemployed annuitant earnings limitations are the maximum compensation levels available to be earned by annuitants who are reemployed by a public employer after retirement without having the amount of their retirement annuity reduced or otherwise affected.

Among Minnesota public pension plans, the termination of a public employee from active public employment is a condition for the receipt of a public employee retirement annuity. Minnesota public pension plans typically specify a reemployed annuitant earnings limit, where compensation beyond the specified amount will either cause a reduction in or a suspension of the retirement annuity. The applicable compensation is public employment compensation from the pre-retirement employer or another public employer covered by the same public retirement plan. The following compares the reemployed annuitant earnings limitations of the various public retirement plans:

<u>Retirement Plan</u>	<u>Applicable Compensation</u>	<u>Limit Threshold</u>	<u>Effect After Threshold Exceeded</u>	<u>Reemployment Period Retirement Coverage</u>	<u>Exceptions</u>
1. General State Employees Retirement Plan of Minnesota State Retirement System (MSRS-General)	Salary or wages from State of from employer of MSRS-General members	Social Security maximums (\$9,600 annually if under age 65; \$15,500 annually if age 66-69 (1999))	Suspension of annuity for the balance of the calendar year or until reemployment termination, with suspended benefit amount escrowed, with interest, until age 65 or reemployment termination, whichever is later.	No retirement coverage	No application to service as temporary legislative employee. No application to retired Minnesota State Colleges and Universities faculty working between 33.3 percent and 66.7 percent of full-time with a salary under \$46,000 or application to higher education salary over \$46,000 if total higher education salary is greater than \$46,000. Suspension lifted during any sick leave.
2. MSRS Correctional Employees Retirement Plan (MSRS-Correctional)	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General
3. State Patrol Retirement Plan	No provision	No provision	No provision	No provision	No provision
4. Legislators Retirement Plan*	No provision	No provision	No provision	No provision	No provision

<u>Retirement Plan</u>	<u>Applicable Compensation</u>	<u>Limit Threshold</u>	<u>Effect After Threshold Exceeded</u>	<u>Reemployment Period Retirement Coverage</u>	<u>Exceptions</u>
5. Elective State Officers Retirement Plan	No provision	No provision	No provision	No provision	No provision
6. Judges Retirement Plan	No provision	No provision	No provision	No provision	No provision
7. MSRS Unclassified State Employees Retirement Program	No provision	No provision	No provision	No provision	No provision
8. Public Employees Retirement Association (PERA)	Salary from governmental subdivision employment or public employee labor union employment	Social Security maximums (\$9,600 annually if under age 65; \$15,500 annually if age 66-69 (1999))	Suspension or reduction, whichever produces higher annual amount. Suspension of amount is for the balance of the calendar year or until reemployment termination. Reduction is one-half of the excess over the maximum if under age 65 and one-third of the excess over the maximum if age 66-69. The suspended or reduced amounts are escrowed, with interest, until age 65 or the termination of the reemployment, whichever is later.	No retirement coverage	No application to service as a local government elected official
9. Public Employees Police and Fire Fund (PERA-P&F)	Same as PERA	Same as PERA	Same as PERA	Same as PERA	Same as PERA
10. Teachers Retirement Association (TRA)	Income from teaching for employing unit covered by TRA, income from consultant or independent contractor teaching services for employing unit covered by TRA, or income received by comparable position if greater than actual income received	Social Security maximums (\$9,600 annually if under age 65; \$15,500 annually if age 66-69 (1999))	Reduction in following calendar year annuity of one-half of the excess over the maximum, with the reduction amounts escrowed, with interest, until age 65 or the termination of the reemployment, whichever is later.	No retirement coverage	No application to interim superintendents during a lifetime limit of three 90-day exemption periods or to reemployed retired Minnesota State Colleges and Universities faculty working between 33.3 and 66.7 percent of full time with a salary under \$46,000 or application to higher education salary over \$46,000 if total higher education salary is greater than \$46,000. Same as TRA
11. First Class City Teacher Retirement Fund Association	Same as TRA, except for applicable employers	Same as TRA	Same as TRA, except reduction is one-third of excess over the maximum	Same as TRA	Same as TRA
12. Minneapolis Employees Retirement Fund (MERF)	No provision	No provision	No provision	No provision	No provision
13. Local Police and Salaried Firefighter Relief Association	Typically no provision	Typically no Provision	Typically no provision	Typically no provision	Typically no provision

Reemployed annuitant earnings limitations buttress the requirement that a public employee must terminate the employment relationship in order to receive a retirement benefit. The limitations ensure that politically connected public employees cannot manipulate the personnel system and also maximize their income by drawing a full retirement benefit along with a full salary. In doing this, the reemployed annuitant earnings limitations follow one of the traditional purposes for a retirement plan, which is to assist the personnel system in producing an orderly and systematic out-transitioning of senior employees who have reached the end of their normal working lifetime.

However, as is the case of current law, when reemployed annuitant earnings limitations do not apply uniformly, when some plans have no limits, when the limitations impact differently when applicable, or when no limitations apply to most reemployed annuitant situations (i.e. annuitant employed by a private sector employer or by a public sector employer of a different level or branch of government), the basic fairness of the limitations can be questioned.

Discussion

S.F. 841 (Kiscaden); H.F. ____ () would modify the statewide Teachers Retirement Association (TRA) reemployed annuitant earnings limitation provision by exempting from the limitation two sets of reemployed TRA annuitants:

1. Substitute Teachers. Any substitute teacher services performed by a licensed teacher; and
2. Special Expertise Area Teachers. Teaching services performed by a teacher licensed in the area for the following areas:
 - a. agricultural education;
 - b. English as a second language;
 - c. world languages or cultures;
 - d. mathematics;
 - e. science; or
 - f. special education.

The proposed legislation raises several pension and related public policy issues that may merit Commission consideration, as follows:

1. Need. The policy issue is whether or not there is an actual or perceived need for exemptions from the current Teachers Retirement Association (TRA) reemployed annuitant earnings limitations. In 2000 (Laws 2000, Chapter 461, Article 2), the Commission recommended and the Legislature enacted a significant relaxation in the various reemployed annuitant earnings limitations. A combination of federal and state law changes in 2000 made the following improvements for retired teachers who retire and then return to public school teaching:
 - 1) Under Age 65 Limit Increased to \$10,080 (State Law and Pre-2000 Federal Law). Retirees under age 65 can earn up to \$10,080 in 2000 from subsequent (post retirement) public service without impacting on their retirement annuity, up from a limit of \$9,600 in 1999;
 - 2) No Reemployed Annuitant Earnings Limit at Age 65 and Older (2000 Federal Law Change). Retirees at age 65 or older can earn any amount from subsequent (post retirement) public service without any impact on their retirement annuity, up from a limit of \$17,000 in 1999;
 - 3) Reductions From Under Age 65 Retirees Deferred to Age 65 (2000 State Law Change). Retirees who are under age 65 and who earn more than \$10,080 in 2000 from subsequent (post retirement) public service will have their retirement annuity reduced based on earnings in excess of \$10,080, but the reduction amount will not any longer cancel to the retirement fund and will be paid to the retiree with six percent compound interest at age 65 or one year after the conclusion of the reemployment service, whichever is later.

Reemployed annuitants, under the 2000 legislation, do not lose any economic value from their reemployment, but have the receipt of some of that value delayed. While enforced savings, which the limitations now require, may still be an irritant to retired teachers reemployed as substitutes or otherwise, the 2000 legislation removed much of the

impediment that previously existed for retired teachers faced in attempting to return to teaching. The 2000 legislation has had less than one year of operation, which may not be enough time to determine its effect and benefits.

2. Appropriate Areas For Exemption. The policy issue is the appropriateness of the teaching areas designated for a total exemption from the reemployed annuitant earnings limitation in the proposed legislation. The proposed legislation would effectively exempt all annuitants serving as substitute teachers and will exempt annuitants serving as teachers in six licensure areas (agricultural education, English as a second language, world languages or cultures, mathematics, science, or special education). In a recent report on teacher supply and demand under Minnesota Statutes, Section 127A.05, Subdivision 6, the Department of Children, Families and Learning reported that there were ten teaching areas with the greatest difficulty for school districts to fill for the 2000-2001 school year, which, in the order of difficulty, were:

- Special Education: Education and Behavioral Disorders; (EBD);
- Special Education: Learning Disabilities (LD);
- Mathematics Education;
- English as a Second Language Education;
- Spanish Education;
- Business Education;
- Music Education;
- Technology Education;
- Special Education: Deaf and Hard of Hearing; and
- Library Media.

The report indicates that school districts did not have significant difficulty in staffing science positions for the 2000-2001 school year. The report also indicated difficulties in hiring substitute teachers. School districts forecasted in the report that they anticipated future problems in filling teaching positions in the following teaching areas:

- Special Education: Education and Behavioral Disorders (EBD);
- Mathematics Education;
- Technology Education;
- Spanish Education;
- Special Education: Learning Disabilities (LD);
- Science Education (all areas: Life, Earth, Physical, General);
- English as a Second Language Education;
- Agricultural Education;
- Business Education; and
- Music Education.

Given this past experience and these future expectations, a question arises whether the correct or optimal exceptions are specified in the proposed legislation. Appendix A sets forth a complete list of the various teacher licensure areas.

3. Appropriateness of The Lack of Any Limitations On The Exception. The policy issue is the appropriateness of the proposed legislation, which specifies no limitations on the exemption to the TRA reemployed annuitant earnings limitation, when compared to the current law exemption for retired interim superintendents. Under Minnesota Statutes, Section 354.44, Subdivision 5a, a Teachers Retirement Association (TRA) annuitant can be hired as an interim superintendent upon the death, disability, termination or resignation of the previous superintendent without any limit on the annuitant's earnings or reduction in the annuitant's TRA annuity for up to 90 working days as an interim superintendent. The exemption must be approved unanimously by the applicable school board and must be preapproved by the TRA executive director. Only one exemption may be applied for by a school district and by a TRA retiree in a fiscal year and only three exemptions may be approved for a TRA retiree during the person's lifetime. A minimum one year separation from active teaching service also applies for an annuitant seeking to return as an interim superintendent for the same school district from which the annuitant retired. The exemption from the reemployed annuitant earnings limitation for interim superintendents was added to TRA law in 1989 (Laws 1989, Chapter 319, Article 2, Section 15), when the TRA reemployed annuitant earnings limitation was last substantively amended. The

interim superintendent exemption was not recommended by the Legislative Commission on Pensions and Retirement when it reviewed the 1989 TRA Administrative Provisions bill, but the superintendent exemption was added to pending 1989 legislation either by TRA or with TRA's acquiescence when the TRA Administrative Provisions bill was rolled into the House floor amendment that became the 1989 Omnibus Retirement Legislation. Hence, the case was never made to the Legislative Commission on Pensions and Retirement why interim superintendents merit this type of treatment, as compared to principals, teachers, school business managers, school maintenance workers, or school bus drivers. Also, given the lack of any legislative hearings on this provision, it is unclear why a 90 working day exemption is appropriate, why a limit of a single exemption per annuitant per year is appropriate, why a limit of three exemptions per annuitant lifetime is appropriate, and why the TRA Executive Director is given full discretion to approve or disapprove exemption applications without any legislative guidance or limitation in the exercise of that discretion. Amendment LCPR01-34 replicates the applicable limitations from the current law superintendent exemption for the proposed exemptions.

4. Appropriateness of An Extension To The First Class Teacher Retirement Fund Associations. The policy issue is the appropriateness of creating exemptions from the reemployed annuitant savings limitation for the Teachers Retirement Association (TRA), but not creating similar exemptions for the three first class city teacher retirement fund associations. If there is a need for retirees to serve as substitute teachers or as teachers in selected teaching areas statewide, there likely is a need for similar treatment of Duluth Teachers Retirement Fund Association, Minneapolis Teachers Retirement Fund Association, or St. Paul Teachers Retirement Fund Association retirees. Amendment LCPR01-35 adds the same exemptions to the first class city teacher retirement fund association law.
5. Proposed Legislation As An Outgrowth of Too Early Retirement Provisions. The policy issue is the functioning of the proposed legislation as an indication that the current law early retirement provisions allow teachers to retire too early. If a sizable number of teachers have a need or a desire to return to teaching after they have retired, then a logical conclusion can be drawn that the pension plan (TRA) allows teachers to retire too early. Currently, TRA members can retire with a normal (unreduced for early retirement) retirement annuity at age 65 (66 for post-7/1/1989 hirees), or at age 62 with 30 years of service, or, if hired before 7/1/1989, when the sum of age and accrued service totals 90 (or age 56 for a teacher who begins teaching at age 22). TRA members can retire with a retirement annuity reduced for early retirement at age 55, or, if hired before 7/1/1989, at any age with 30 years of service. The Commission's Principles of Pension Policy (II.A.1 and II.C.4) indicate that

Minnesota public pension plans exist to augment the Minnesota public employer's personnel and compensation system by assisting in the recruitment of new qualified public employees, the retention of existing qualified public employees, and the systematic out-transitioning of existing public employees at the normally expected conclusion of their working careers by providing, in combination with federal Social Security coverage, personal savings and other relevant financial sources, retirement income that is adequate and affordable.

The normal retirement age should be set in a reasonable relationship to the employability limits of the average public employee... .

The considerable interest shown over the past three decades in creating earlier and earlier normal retirement ages has helped produce the current situation where teachers feel compelled economically to retire early, leaving school districts with shortages in some or all areas of teaching, and with some portion of retired teachers feeling a personal need or desire to continue teaching that results in demands to relax or remove reemployed annuitant earnings limitations.

Technical Commission Staff Amendment

Amendment LCPR01-36 restructures the proposed legislation to more clearly set forth the teaching areas that would be exempted from the reemployed annuitant earnings limitations.

**Minnesota Department of Children, Families
And Learning: Teacher Licensure Areas**

Early Childhood Education
Parent and Family Education
Elementary Education With A Specialty
Adult Basic Education
Agriculture
American Indian Language, History, and Culture
Bilingual/Bicultural Education
Business
Communication Arts and Literature
Dance and Theatre Arts
Driver and Traffic Safety
English as a Second Language
Family and Consumer Sciences
Health
Library Media Specialists
Mathematics
Vocal Music and Instrumental Music
Physical Education
Science
Social Studies
Coordinators of Work-Based Learning
Technology
Visual Arts
World Languages and Cultures
Special Education: Blind or Visually Impaired
Special Education: Deaf or Hard of Hearing
Special Education: Developmental Adapted Physical Education
Special Education: Developmental Disabilities
Special Education: Early Childhood
Special Education: Emotional Behavioral Disorders
Special Education: Learning Disabilities
Special Education: Physical and Health Disabilities
Educational Speech-Language Pathologist
School Nurse
School Psychologist
School Social Worker
School Counselor

1 M moves to amend S.F. No. 841, H.F.,
2 as follows:

3 Page 1, line 11, before "A" insert "(a) Subject to the
4 limitations specified in paragraph (b),"

5 Page 1, after line 17, insert:

6 "(b) The school board hiring the teacher must apply for the
7 exemption with the executive director, on a form prescribed by
8 the executive director. The school board must unanimously
9 approve the exemption. The school board may not apply for
10 exemptions for more exemptions than five percent of its average
11 full time equivalent teaching positions, rounded up to the
12 nearest whole number, in force during the immediately prior
13 school year. No more than three exceptions may be approved for
14 any person during the person's lifetime and no more than one
15 exemption may be approved for any person during a school year.
16 The exemption continues for 90 working days as a teacher in a
17 school year."

1 M moves to amend S.F. No. 841; H.F. No.
2, as follows:

3 Page 1, after line 17, insert:

4 "Sec. 2. Minnesota Statutes 2000, section 354A.31, is
5 amended by adding a subdivision to read:

6 Subd. 3b. [EXEMPTION FOR SUBSTITUTE AND CERTAIN OTHER
7 LICENSED TEACHERS.] (a) A licensed teacher who performs services
8 as a substitute teacher or as a licensed teacher in an area
9 specified in paragraph (b) who performs service as a teacher in
10 the area in which the teacher is licensed is exempt from the
11 earnings limitations and reductions in annuity payments in
12 subdivision 3.

13 (b) The applicable teaching areas are:

- 14 (1) agricultural education;
- 15 (2) English as a second language;
- 16 (3) mathematics;
- 17 (4) science;
- 18 (5) special education; or
- 19 (6) world languages or cultures."

20 Amend the title accordingly

1 M moves to amend S.F. No. 841, H.F.,
2 as follows:

3 Page 1, line 11, before "A" insert "(a)"

4 Page 1, line 12, before the second "a" insert "as" and
5 delete "of agricultural" and insert "in an area specified in
6 paragraph (b)"

7 Page 1, delete line 13

8 Page 1, line 14, delete the line up to "who"

9 Page 1, after line 17, insert:

10 "(b) The applicable teaching areas are:

11 (1) agricultural education;

12 (2) English as a second language;

13 (3) mathematics;

14 (4) science;

15 (5) special education; or

16 (6) world languages or cultures."

Senators Kiscaden, Krentz, Stumpf, Robertson and Scheevel introduced—
S.F. No. 841: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to retirement; exempting substitute teachers and certain other licensed teachers from earnings limitations and annuity reductions upon performing teaching services after retirement; amending Minnesota Statutes 2000, section 354.44, by adding a subdivision.

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

Section 1. Minnesota Statutes 2000, section 354.44, is amended by adding a subdivision to read:

Subd. 5b. [EXEMPTION FOR SUBSTITUTE AND CERTAIN OTHER LICENSED TEACHERS.] A licensed teacher who performs services as a substitute teacher or a licensed teacher of agricultural education, English as a second language, world languages or cultures, mathematics, science, or special education who performs service as a teacher in the area in which the teacher is licensed is exempt from the earnings limitations and reductions in annuity payments in subdivision 5.