




TO: Senator Lawrence Pogemiller  
Representative Harry Mares

FROM: Lawrence A. Martin, Executive Director 

RE: Potential Amendments For S.F. 2038 (Pogemiller); H.F. 2215 (Mares): Various Plans;  
Closed Charter School Retirement Contributions

DATE: March 29, 2001

Summary of S.F. 2038 (Pogemiller); H.F. 2215 (Mares)

S.F. 2038 (Pogemiller); H.F. 2215 (Mares) appropriates from the State General Fund an amount of money to be specified to pay unpaid member and employer contributions from closed charter schools to the Teachers Retirement Association (TRA), the Duluth Teachers Retirement Fund Association (DTRFA), the Minneapolis Teachers Retirement Fund Association (MTRFA), the St. Paul Teachers Retirement Fund Association (StPTRFA), and the Public Employees Retirement Association (PERA).

Commission Staff Technical Amendment LCPR01-155

Amendment LCPR01-155 attempts to clarify unclear references in the proposed legislation and divides into paragraphs the main provision into its respective component parts. The amendment replaces “designated charter school” with “charter school approved by the department of children, families, and learning,” since the bill does not designate charter schools, nor does current State law. The amendment also clarifies the retirement fund payment crediting provision and other references.

Substantive Amendment LCPR01-156

Amendment LCPR01-156 includes interest on unpaid charter school member and employer contributions in the proposed State payments. Interest is normally due on omitted contributions and offsets investment income losses from the contribution delay. The addition of interest, however, would increase the State appropriation.

Substantive Amendment LCPR01-157

Amendment LCPR01-157 provides that any State payment of unpaid charter school member contributions is available for inclusion in a future member refund if a charter school employee terminates and elects not to take a deferred annuity. If the unpaid charter school member contribution was not deducted from the charter school employee’s salary before the closure of the charter school in fact, the employee has less of a claim to that State paid contribution in a refund situation.

Substantive Amendment LCPR01-158

Amendment LCPR01-158 indicates that the State payment of omitted member and employer contributions does not relieve the charter school sponsor or operator from liability to pay these amounts and obligates the Finance Department to pursue recovery of these State payments. A State payment of omitted charter school contribution amounts could be misconstrued by a court in a bankruptcy or other legal proceeding as eliminating any payment obligation by persons or entities associated with a closed charter school.

Conclusion

I hope that this memorandum and attached amendments are of assistance. If you have any questions about these items, please contact me ((651) 296-6806).

1 M ..... moves to amend S.F. No. 2038; H.F. 2215,  
2 as follows:

3 Page 1, line 6, before "CHARTER" insert "STATE PAYMENT OF  
4 CERTAIN UNPAID"

5 Page 1, line 7, before "The" insert "(a)"

6 Page 1, line 10, after "teaching" insert "or other" and  
7 delete "designated" and after "school" insert "approved by the  
8 department of children, families, and learning"

9 Page 1, line 12, after "association." insert "(b)"

10 Page 1, line 17, after "section." insert "(c)"

11 Page 1, line 18, after "credit" insert "employee  
12 contribution" and after "to" insert "the applicable member  
13 accounts and shall credit to applicable members allowable and  
14 formula service and"

15 Page 1, line 19, after "teaching" insert "or other"

16 Page 1, delete line 23 and insert "providing retirement  
17 coverage for employees in charter"

18 Page 2, line 7, after "school" insert "that has closed and  
19 that is"

20 Page 2, line 8, after "retirement" insert "for coverage by  
21 this section"

1 M ..... moves to amend S.F. No. 2038; H.F. No.  
2 2215, as follows:  
3 Page 1, line 14, after "contributions" insert ", plus  
4 applicable interest,"

1 M ..... moves to amend S.F. No. 2038; H.F. No.  
2 2215, as follows:

3 Page 1, line 20, after "school." insert "State payments  
4 representing unpaid employee contributions must be considered  
5 accumulated employee or member deductions for purposes of  
6 Minnesota Statutes, section 353.34; 354.49; or 354A.37."

1 M ..... moves to amend S.F. No. 2038; H.F. No.  
2 2215, as follows:

3 Page 2, after line 8, insert:

4 "Sec. 2. [CONTINUING RECOVERY AUTHORITY.]

5 Nothing in section 1 relieves from the sponsor of a closed  
6 charter school or the operator of a closed charter school any  
7 financial responsibility that those parties may have to pay  
8 unpaid employee or employer contributions to applicable public  
9 retirement plans. The commissioner of finance shall undertake  
10 all reasonable efforts to recover these amounts. Any recovered  
11 amounts must be deposited in the general fund."

12 Renumber the sections in sequence

13 Correct internal cross-reference

Senator Pogemiller introduced--

S.F. No. 2038: Referred to the Committee on State and Local Government Operations.

HF 2215

1

A bill for an act

2

relating to retirement; providing for payment of  
certain retirement contributions at certain charter  
schools; appropriating money.

3

4

5

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

6

Section 1. [CHARTER SCHOOL RETIREMENT CONTRIBUTIONS.]

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Subdivision 1. [UNPAID CONTRIBUTIONS.] The state of

8

Minnesota shall make any unpaid employee and employer

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contributions to the applicable retirement association for

10

teaching service in a designated charter school which closed

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without having paid such contributions to the retirement

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association. The chief administrative officer of the retirement

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association shall certify to the commissioner of finance the

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amount of accrued contributions which were not paid by each

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designated charter school before its closure. The commissioner

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of finance shall remit directly to the retirement association

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the amounts certified under this section. The applicable

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retirement association shall credit payments to covered salary

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for the period when the teaching service was actually performed

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in the charter school.

21

Subd. 2. [COVERED RETIREMENT ASSOCIATIONS.] This section

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applies to the following public retirement associations

23

administering retirement contributions for teachers in charter

24

schools:

25

(1) teachers retirement association;

- 1       (2) Minneapolis teachers retirement fund association;
- 2       (3) St. Paul teachers retirement fund association;
- 3       (4) Duluth teachers retirement fund association; and
- 4       (5) public employees retirement association.

5       Subd. 3. [DESIGNATED CLOSED CHARTER SCHOOLS.] This section  
6 applies to the Frederick Douglass charter school and any other  
7 charter school approved by the legislative commission on  
8 pensions and retirement.

9       Sec. 2. [APPROPRIATION.]

10       \$..... is appropriated from the general fund to the  
11 commissioner of finance for the purposes of section 1, to be  
12 available on the day following final enactment.

13       Sec. 3. [EFFECTIVE DATE.]

14       Sections 1 and 2 are effective the day following final  
15 enactment.