

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. xxx (Pogemiller); H.F. xxx: PERA-General; Providing Interest on MCDA Service Credit Purchase Payment Overages

DATE: April 18, 2005

Summary of S.F. xxx (Pogemiller); H.F. xxx

S.F. xxx (Pogemiller); H.F. xxx, in the form of LCPR05-091, allows the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) to pay interest on prior service credit purchase overpayments made by former Minneapolis Community Development Agency (MCDA) employees and to permit MCDA employees who so desire to undo the prior service credit purchase and receive a return of the payment amount and interest.

Background on MCDA Prior Service Credit Purchase Problem

In 2003 (Laws 2003, Chapter 127, Article 12, Sections 31-34), Minneapolis was authorized to establish a community planning and economic development department and to transfer to that department the functions and the employees of the former Minneapolis Community Development Agency (MCDA). Transferred MCDA employees had the option for six months to elect retirement coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) or to retain coverage by the prior MCDA defined contribution retirement plan. A former MCDA employee transferring to the Minneapolis Community Planning and Economic Development Department and electing PERA-General coverage is also permitted to purchase prior MCDA employment as service credit in PERA-General under the prior full actuarial value service credit purchase payment determination procedure and with an institution-to-institution purchase payment transfer from another federal tax qualified retirement plan.

According to PERA, when the prior service credit purchase payment amounts were calculated, MCDA certified the incorrect salary figures for some or all of the potential purchasers, causing the prior service credit purchase payment requirements to be overstated. The overages have been returned to the purchasers under Minnesota Statutes, Section 353.27, Subdivision 7, the authority to adjust for erroneous receipts or disbursements, but PERA lacks any authority to pay interest on the overage returns.

Also, at least one former MCDA employee was disgruntled over the overcharge problem and now desires to revoke the previous prior service credit purchase and have the purchase payment returned, plus interest.

Analysis and Discussion

S.F. xxx (Pogemiller); H.F. xxx, in the form of LCPR05-091, permits the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) to pay interest on a prior service credit purchase by former Minneapolis Community Development Agency employees resulting from a clerical or reporting error and permits one or more purchasers to revoke the purchase.

The proposed legislation raises several pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Appropriateness of Paying Interest on Prior Service Credit Purchase Payment Overages. The policy issue is the appropriateness of legislation authorizing the payment of interest on an overpayment of a prior service credit purchase. Prior service credit purchase payments are relatively rare occurrences, especially when they involve purchasers who have had no prior coverage by the public pension plan and no independent way for the plan to validate or verify the salary figures used in making the “full actuarial value” service credit purchase. Prior service credit purchase authorizations, including the 2003 Minneapolis Community Development Agency prior service credit purchase authorization, include a requirement that the purchaser supply all of the documentation of the service credit period and related information, so these errors should be rare and are preventable by the purchaser and the purchaser’s employer. Although pension plans are financial entities, pension plans are not banks and perhaps should not be in the business of paying interest in these circumstances.

2. Appropriateness of the Source of the Interest Payment. The policy issue is the appropriateness of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) bearing the burden of paying the interest when the error causing the overpayment apparently was the responsibility of the former Minneapolis Community Development Agency or of the new Minneapolis Community Planning and Economic Development Department. If the error was made by PERA-General, it would be wholly appropriate for the pension plan to bear the cost of the interest charge, but verbal information from PERA suggests that the error occurred with the former or the current Minneapolis employing unit. The interest charge, thus, may more appropriately reside with the City of Minneapolis.
3. Appropriate Interest Rate. The policy issue is the determination of the appropriate rate of interest that should be payable on any prior service credit purchase overpayments. The proposed legislation provides for six percent interest, as suggested by the Public Employees Retirement Association (PERA). That interest rate mirrors the interest paid on refunds of member contributions and is less than the actuarial interest rate assumption, but the amount far exceeds the interest rate available from any bank or any other short-term investment opportunity currently.
4. Appropriateness of Special Law Provision Rather Than General Law Provision. The policy issue is the appropriateness of a special law interest provision rather than adding the prior service purchase overpayment interest authority as a general provision of Minnesota Statutes rather than utilizing a special law. The problem arose with the Minneapolis Community Development Agency prior service credit purchases in the Public Employees Retirement Association (PERA) and may have some application to the St. Paul Port Authority prior service credit purchases in PERA, but it is unclear whether the need is broad enough among the various retirement plans and whether the factual circumstances that have occurred or may occur in the future are sufficiently identical that a general law provision is the optimal response. However, if there are future substantially similar circumstances, any 2005 special law provision could be broadened as appropriate in the future.
5. Appropriateness of Permitting a Revocation of an MCDA Service Credit Purchase. The policy issue is the appropriateness of permitting one or more former Minneapolis Community Development Agency (MCDA) employees who purchased service credit in the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) to revoke that purchase election and receive a return of the purchase payment, plus interest. The MCDA service credit purchase special legislation clearly provided that the purchase was irrevocable, but at least one purchaser now wants to revoke the purchase. The purchaser, according to PERA, was distressed by the errors made in calculating the purchase and now wants nothing to do with the purchase. Some testimony may be needed for the Commission to determine whether or not the former MCDA employee has a reasonable rationale for seeking a reversal of the irrevocability of service credit purchases. Revoking service credit purchases creates additional administrative efforts by the retirement plan beyond the efforts already expended in the purchase, and revocations can or will involve potential adverse actuarial impacts on the retirement plan.