**S.F. xxx****H.F. 2523**

(Ozment)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special Law Provision
General Nature of Proposal: Service Credit Purchase
Date of Summary: January 24, 2006

Specific Proposed Changes

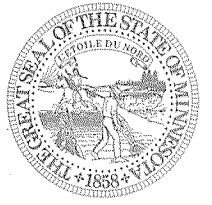
- Permits nine Bloomington Public School District custodians to purchase PERA-General service credit for periods of initial employment where the school district failed to report their membership eligibility to PERA in a timely fashion, with the school district responsible for a substantial portion of the purchase payment.

Policy Issues Raised by the Proposed Legislation

1. Equitable Considerations.
2. Appropriate Prior Service Credit Purchase Payment Amount.
3. School District Culpability.
4. Need For Greater PERA Membership Scrutiny.

Potential Amendments

No Commission staff amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
 FROM: Lawrence A. Martin, Executive Director *JAM*
 RE: S.F. xxx; H.F. 2523 (Ozment): PERA-General; Service Credit Purchase For
 Bloomington Custodians
 DATE: January 24, 2006

Summary of S.F. xxx; H.F. 2523 (Ozment)

S.F. xxx; H.F. 2523 (Ozment) permits nine custodians currently employed by Independent School District No. 271, Bloomington, to purchase service credit from the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) for a period when the custodian was not reported by the school district to PERA, from a period of one-quarter of one year to a period of three years and five months, with the payment of the full actuarial value of the benefit obtained, with the member responsible for the equivalent member contribution, plus interest, and with the school district responsible for the balance of the full purchase payment amount.

Public Pension Problem of Bloomington School District Custodians

There are 12 custodians employed by Independent School District No. 271, Bloomington, who were hired by the school district between 1985 and 1989 and of that total group, nine custodians were not reported by the school district for retirement coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) until several months or several years after their employment. The following summarizes the situation of the nine individuals involved:

Custodian	Hire Date	Start Date (as recorded at PERA)	Service Uncovered by PERA-General
A	08/29/1985	01/01/1989	3 yrs, 5 mos
B	04/29/1986	11/16/1988	2 yrs, 7 mos
C	01/07/1987	06/12/1989	2 yrs, 5 mos
D	07/21/1986	07/01/1989	3 yrs, 0 mos
E	05/22/1988	06/12/1989	1 yr, 1 mo
F	09/11/1988	06/12/1989	0 yrs, 9 mos
G	02/09/1989	06/16/1989	0 yrs, 4 mos
H	02/15/1989	06/16/1989	0 yrs, 4 mos
I	03/25/1989	06/12/1989	0 yrs, 3 mos

The custodians with the omitted service, a problem which cannot be handled administratively because the three-year correction period has passed, now desire to receive credit for that employment period.

Background Information on PERA-General Membership Coverage Enforcement

Membership in the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) is largely mandatory for employees of most governmental subdivisions and related local governmental entities, with 24 exclusions from coverage and with seven optional memberships. The membership provisions are largely contained in Minnesota Statutes, Section 353.01, Subdivisions 2, 2a, 2b, and 2d.

The PERA-General membership exclusions include local government employees who consistently receive compensation less than \$425 per month, elected officials other than county sheriffs, election officers and judges, patient or inmate workers, temporary employees, employees hired for a specific emergency, employees required to be covered by another Minnesota public pension plan, certain religious order members, full-time students under age 23, medical residents in a degree program, foreign citizens with a short-term visa, certain volunteer ambulance service and volunteer fire service personnel, certain St. Paul city and school district trades personnel, certain Metropolitan Airports Commission trades personnel, seasonal personnel hired after 2002 for not more than 185 consecutive days per year, work study employees, independent contractors, and reemployed annuitants.

PERA-General optional memberships, by election of the person, are labor organization employees, appointees to some non-local government elected positions, State department heads appointed by the

Governor, city managers, and St. Paul Port Authority employees, and by election of the employing unit, are Minnesota Association of Townships employees and county historical society employees.

As a mechanism to ensure that all local government employees who should be covered by PERA-General are covered by PERA-General, Minnesota Statutes, Section 353.27, Subdivision 10, requires that all PERA-covered employing units file an exclusion report with PERA annually. The exclusion report is required to list those employees in potentially PERA-eligible employment positions who were not reported as members and must be certified by the employer as to accuracy and completeness. PERA has authority to conduct field audits to review governmental subdivision payroll records. Additionally, under Minnesota Statutes, Section 353.27, Subdivision 11, participating employing units are required to provide prompt responses to PERA upon request about the status of employees or former employees. PERA also is empowered to request payroll abstracts and salary schedules.

Under Minnesota Statutes, Section 353.27, Subdivision 12, if PERA member deductions were omitted, the employing unit is required to inform PERA upon the discovery and correct the omission, with deductions omitted for longer than 60 days becoming the liability of the employer. PERA is permitted to pursue the recovery of omitted member contributions up to the expiration of the third calendar year after the calendar year in which the omitted deductions occurred and if an action for recovery has been initiated within the time period, PERA is permitted to continue recovery efforts.

Discussion and Analysis

S.F. xxx; H.F. 2523 (Ozment) is a full actuarial value service credit purchase from the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) for nine Bloomington public school custodians who were not immediately reported by the school district to PERA, with mandatory school district payment of a substantial portion of the purchase payment.

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

1. Equitable Considerations. The policy issue is what equitable considerations favor or disfavor the proposed special service credit purchase authorization. The Commission's longstanding policy requirements are that the service period must be public employment or the type of employment that can be found in the public sector, that a full actuarial value payment accompany the purchase, and that the purchase not violate equitable considerations on the part of the purchaser. There are two adverse potential equitable considerations. A sizable period of time has elapsed since the custodians were reported to the Public Employees Retirement Association (PERA) and that the problem of uncovered employment was potentially first realized (November 1988 through June 1989) and now, when it is being pursued for resolution, one potential adverse equitable consideration is that the custodians were inattentive to solving the problem in a timely fashion. The other potential adverse equitable consideration is the factual question of whether or not the uncredited employment period was eligible for coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) at the time that the employment was rendered. The primary determinants would be whether or not the minimum salary threshold (\$325 per month in any month during the period 1985 to mid-1988 and \$425 after mid-1988) was met and whether the employment was regular employment or temporary employment.
2. Appropriate Prior Service Credit Purchase Payment Amount. The policy issue is the appropriateness of a very expensive full actuarial value prior service credit payment. The full actuarial value payment amount is likely to be very sizable and will be an amount greater than the "full actuarial value-light" payment determination procedure that was in place from 1998 until May 2004 under Minnesota Statutes 2002, Section 356.55. While the Minnesota Statutes, Section 356.55, procedure charged purchasers less than the Minnesota Statutes, Section 356.551, procedure does, the pre-May 2004 procedure clearly appeared to undercharge late career purchases and to overcharge earlier career purchases and was allowed to expire for that reason. Although Minnesota Statutes 2002, Section 356.55, constituted a "full actuarial value-light payment requirement," the Minnesota Statutes, Section 356.551, procedure could constitute a "full actuarial value-heavy payment requirement" and it may merit from additional study and review by the Commission and other interested parties. PERA has calculated the full actuarial value prior service credit purchase payment requirement under Minnesota Statutes, Section 356.551, for the nine custodians covered by the proposed legislation, as follows:

Custodian	Additional Service to be Purchased	Full Actuarial Cost of Additional Service	Member Contribution Minimum Payment	Difference Between Actuarial Cost and Minimum Payment
A	3 yrs, 5 mos	\$54,262.50	\$10,438.59	\$43,823.91
B	2 yrs, 7 mos	\$51,894.84	\$7,828.41	\$44,066.43
C	2 yrs, 5 mos	\$61,859.67	\$7,080.17	\$54,779.50
D	3 yrs, 0 mos	\$9,786.76	\$8,910.89	\$875.87
E	1 yr, 1 mo	\$27,394.96	\$3,097.31	\$24,297.65
F	0 yrs, 9 mos	\$23,562.20	\$2,131.28	\$21,430.92
G	0 yrs, 4 mos	\$12,048.64	\$932.30	\$11,116.34
H	0 yrs, 4 mos	\$46,038.23	\$897.71	\$45,140.52
I	0 yrs, 3 mos	\$5,665.58	\$699.15	\$4,966.43
	Total:	\$292,513.38	\$42,015.81	\$250,497.57

3. School District Culpability. The policy issue is whether or not Independent School District No. 271, Bloomington, was culpable in the events or lack of actions that resulted in the loss of pension credit for the nine custodians. The school district operates the payroll system and makes the initial determination of eligibility or ineligibility of non-teaching personnel for coverage by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) under PERA-General law. Since the determination responsibility was vested in the school district and the nine custodians were not properly reported for coverage, the rebuttable presumption would be that the school district made the error that caused the service credit loss. Under the past six or eight years, when the employer has been determined by the Commission to have caused a loss of pension coverage, the Commission has held the employer culpable for the majority of the full actuarial value cost of the service credit purchase. In one instance, in 2001 (First Special Session Laws 2001, Chapter 10, Article 17, Section 3), Independent School District No. 624, White Bear Lake, was obligated to pay the full purchase payment amount, including the member portion, for a former school district clerical employee who became a teacher for the initial year of clerical employment after shifting from casual clerical employment to full-time clerical employment.

4. Need For Greater PERA Membership Scrutiny. The policy issue is the appropriateness of past and current efforts by PERA to monitor the membership eligibility of local government employees. Membership in a retirement plan administered by PERA is mandatory for virtually all local government employees and PERA-covered employing units are required to file exclusion reports with PERA covering all of its employees determined by the employer to be ineligible for PERA retirement plan coverage. Since PERA-covered employers are required to report to PERA both PERA retirement plan members and all employees excluded from PERA retirement plan coverage, the process of catching improperly omitted employees should be seamless and timely. For whatever reason, the process for properly determining retirement coverage for these nine custodians in 1986-1989 was not seamless or timely. The Commission may wish to pursue the topic of proper scrutiny of membership provisions and employer exclusion reports with PERA either at a hearing during the session or during the interim. A fair number of service credit purchase requests each year are attributable to unidentified omissions of employees from PERA coverage and could have been avoided with greater PERA scrutiny and vigilance in the past.

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FOURTH
SESSION

HOUSE FILE No. **2523**

May 19, 2005

Authored by Ozment

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs

1 A bill for an act

2 relating to retirement; general employees retirement
3 plan of the Public Employees Retirement Association;
4 permitting the purchase of service credit for which
5 Independent School District No. 271, Bloomington,
6 failed to make member deductions.

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

8 Section 1. [PUBLIC EMPLOYEES RETIREMENT

9 ASSOCIATION-GENERAL; BLOOMINGTON PUBLIC SCHOOLS CUSTODIAN

10 SERVICE CREDIT PURCHASE AUTHORIZATION.]

11 (a) Notwithstanding any provision of law to the contrary,

12 an eligible person specified in paragraph (b) may purchase

13 allowable service credit in the general employees retirement

14 plan of the Public Employees Retirement Association for the

15 years and months that elapsed between the date of hire by

16 Independent School District No. 271, Bloomington, and the date

17 on which the person was recorded as a member of the general

18 employees retirement plan of the Public Employees Retirement

19 Association upon the payment of the amount set forth in

20 paragraph (c).

21 (b) An eligible person is a person who was employed by

22 Independent School District No. 271, Bloomington, on the

23 applicable indicated employment date, but who was not reported

24 to the Public Employees Retirement Association as a member of

25 the general employees retirement plan until the applicable

26 indicated membership record date, and who consequently has an

1 uncredited period of school district employment, as follows:

2	<u>employee</u>	<u>employment date</u>	<u>membership record date</u>
3	<u>A</u>	<u>August 29, 1985</u>	<u>January 1, 1989</u>
4	<u>B</u>	<u>April 29, 1986</u>	<u>November 16, 1988</u>
5	<u>C</u>	<u>January 7, 1987</u>	<u>June 12, 1989</u>
6	<u>D</u>	<u>July 21, 1986</u>	<u>July 1, 1989</u>
7	<u>E</u>	<u>May 22, 1988</u>	<u>June 12, 1989</u>
8	<u>F</u>	<u>September 11, 1988</u>	<u>June 12, 1989</u>
9	<u>G</u>	<u>February 9, 1989</u>	<u>June 16, 1989</u>
10	<u>H</u>	<u>February 15, 1989</u>	<u>June 16, 1989</u>
11	<u>I</u>	<u>March 25, 1989</u>	<u>June 12, 1989</u>

12 (c) The prior service credit purchase payment amount is the
 13 amount determined for each eligible person by the executive
 14 director of the Public Employees Retirement Association under
 15 Minnesota Statutes, section 356.551.

16 (d) The eligible person shall pay an amount equal to the
 17 member contribution that the person would have paid if the
 18 person had been a member of the general employees retirement
 19 plan of the Public Employees Retirement Association during the
 20 period between the applicable employment date and the applicable
 21 membership record date, plus annual compound interest on the
 22 total amount at the rate of 8.5 percent from the midpoint date
 23 of the uncredited employment period until the date on which the
 24 equivalent member contribution is paid. Payment must be made by
 25 July 1, 2006, or by the date of the termination of employment,
 26 whichever is earlier.

27 (e) If the eligible person makes the required payment under
 28 paragraph (d) in a timely fashion, Independent School District
 29 No. 271, Bloomington, may pay the difference between the amount
 30 determined under paragraph (c) and the amount paid under
 31 paragraph (d). If Independent School District No. 271,
 32 Bloomington, does not pay that balance within 30 days of
 33 notification by the executive director of the Public Employees
 34 Retirement Association of the payment by an eligible person
 35 under paragraph (d), the executive director shall notify the
 36 commissioner of finance of that fact and the commissioner of

1 finance shall deduct the balance, plus compound interest on that
2 amount at the rate of 1.5 percent per month or portion of a
3 month that has elapsed from the effective date of this section,
4 from any state aid payable to the school district and shall
5 transmit that amount to the executive director of the Public
6 Employees Retirement Association.

7 (f) The eligible person shall provide any relevant
8 documentation related to the eligibility to make this service
9 credit purchase that is required by the executive director of
10 the Public Employees Retirement Association.

11 (g) Only periods of employment when the eligible person
12 would have been eligible for coverage by the general employees
13 retirement plan of the Public Employees Retirement Association
14 is purchasable under this section.

15 Sec. 2. [EFFECTIVE DATE.]

16 Section 1 is effective the day following final enactment.