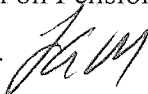


TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director 

RE: Amendment LCPR06-121-A6; PERA-General, Authorizing the Purchase of Allowable Service Credit for Public Employment Covered by the Illinois Municipal Retirement Plan by Amendment to S.F. 2239 (Pogemiller); H.F. 2362 (Smith), Omnibus Retirement Bill I, in House Committee

DATE: March 22, 2006

#### Summary of Amendment LCPR06-121-A6

S.F. 2239 (Pogemiller); H.F. 2362 (Smith), the Commission's Omnibus Retirement Bill I, was amended in the House Governmental Operations Committee, by amendment LCPR06-121-A6, to permit any former member of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) who was subsequently in public employment covered by the Illinois Municipal Retirement Plan and who then returns to PERA-General covered service to purchase the Illinois Municipal Retirement Plan service credit from PERA-General at its full actuarial value if the person waives any future Illinois Municipal Retirement Plan benefit eligibility.

#### Public Pension Problem of Dale Powers of Clear Lake, Minnesota

Dale Powers, AICP, of Clear Lake, Minnesota, is currently employed as a Senior Planner with the Planning, Building, and Zoning Department of Kendall County, Illinois, was previously employed in local government service in Minnesota covered by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), and plans to return to Minnesota public employment in the future. Mr. Powers is covered by the Illinois Municipal Retirement Plan for his Illinois public employment. Mr. Powers indicates that he was informed by PERA that his prior PERA-General coverage and his Illinois Municipal Retirement Plan coverage are portable and that he could redeem his Illinois Municipal Retirement Plan contributions as PERA-General service credit upon his return to Minnesota. He now has discovered that this is not possible under current law and seeks legislative authority to be able to purchase PERA-General service credit for the Illinois Municipal Retirement Plan-covered employment.

#### Background Information on the Illinois Municipal Retirement Plan

The Illinois Municipal Retirement Fund (IMRF) was created in 1939 by the Illinois General Assembly and began operating in 1941 with five original employers and \$5,000 in assets. IMRF serves approximately 2,900 employers and has more than \$16 billion in assets.

IMRF covers employees of local governments and school districts in Illinois (with the exception of the City of Chicago and Cook County) with retirement, disability, and death benefits.

As of December 2004, IMRF covered 168,536 active members, 78,242 annuitants, and 2,883 local units of government in Illinois.

The IMRF is established under statutes adopted by the Illinois General Assembly. It is governed by a board of eight trustees who must also be participating members and one trustee who must be receiving an IMRF annuity. Four trustees are elected by employers, three are elected by participating members, and one non-voting annuitant trustee is elected by IMRF annuitants. Trustees receive no compensation, but receive reimbursement for expenses. The Board appoints an Executive Director who is responsible for all administrative functions and supervision of staff employees. The Board also appoints medical and investment consultants, an actuary and an independent auditor.

The IMRF administers three plans: the Regular Illinois Municipal Retirement Fund, the Sheriff's Law Enforcement Personnel Plan (SLEP), and the Elected County Official Plan (ECO). The regular IMRF serves employers including cities, villages, counties, school districts, townships and various special districts, such as parks, forest preserves and sanitary districts. Total participation exceeds 168,000 members. Each employer covered by IMRF builds up an account to provide future benefits for its own employees. The IMRF SLEP program currently serves approximately 130 units of government and has a membership of more than 3,000 participants. Each SLEP-covered employer builds up a savings account

to provide pensions for its SLEP members. The ECO plan is an alternative benefit plan for elected county officials providing enhanced disability, retirement, and death benefits. The ECO plan is an employer option; the county must first adopt the plan in order for the elected county official to participate in it.

Each IMRF employer appoints one of its employees to serve as an IMRF authorized agent, who handles the operation of the plan locally and has the necessary forms to apply for all IMRF benefits.

### Discussion and Analysis

Amendment LCPR06-121-A6 allows members of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) who left PERA-General-covered employment for public employment covered by the Illinois Municipal Retirement Plan-covered employment.

The amendment raises the following pension and related public policy issues for potential Commission consideration and discussion, as follows:

1. Appropriateness of the Proposed Service Credit Purchase. The policy issue is the appropriateness of the proposed general service credit purchase based on the Commission's established policy on the issue. Currently, the Commission has reduced the number of elements required for a prior service credit purchase based on the post-1998 prior service credit legislation enacted, as follows:
  - a. Presumption of Active Member Status at the Time of Purchase. There should be contributions from the member, or in combination from the member and employer. There is a consequent presumption that the individual covered by the service purchase request is an active employee. Active plan members contribute to the plan, and certainly once an employee terminates service or retires from public employment, the former public employee no longer has a public employer. If there are unresolved issues of whether an individual should have service credit for a given period, those issues should be resolved before the individual terminates from public service, and certainly before the individual retires. The act of retiring undermines a claim that there is sufficient need for the Legislature to consider the coverage issue. If there were considerable hardship caused by the lack of service credit, presumably the individual would not have retired. Entering retirement suggests that the associated pension benefit is adequate without any further increase in the benefit level due to a purchase. Only on very rare occasions have the Commission and the Legislature authorized service credit purchases by retirees.
  - b. Presumption of Purchase in a Defined Benefit Plan. The prior service credit purchase contributions in total should match the associated actuarial liability. The specific procedures in Minnesota statutes and law for computing service credit purchase amounts, Minnesota Statutes, Sections 356.55 and 356.551, presume that the purchase is in a defined benefit plan with a benefit based on the individual's high-five average salary. There is no process in law specifying a procedure for computing a "full actuarial value" purchase in a defined contribution plan, or even defining what that concept means in the context of a service purchase or service credit purchase in a defined contribution plan.
  - c. Full Actuarial Value Purchase. Within the context of a defined benefit plan, the pension fund should receive a payment from the employee or from the employee and employer in combination, an amount which equals the additional liability placed on the fund due to the purchase. This is referred to as the full actuarial value of the service credit purchase. The procedure used to compute this full actuarial value should be a methodology that accurately estimates the proper amounts. The Commission has purposely departed from the full actuarial value requirement when there is evidence that the pension plan administration created the lack of service credit coverage due to pension plan administration error. In situations of pension plan error, the employee may be required to pay the contributions that would have been required for the relevant time period, plus 8.5 percent interest to adjust for the time value of money and any difference between the payment and the full actuarial value would be absorbed by the pension fund. Where there is clear evidence that the employing unit committed an error which caused the individual to not receive pension plan coverage, the Commission has permitted the employee to make the employee contribution for the relevant time period, plus 8.5 percent interest, and the employer has been mandated to cover the remainder of the computed full actuarial value payment rather than simply permitted to make a portion of the total payment. If the employer does not directly make the payment following notification that the employee has made his or her portion of the full payment, the Commission has required a sufficient amount to cover the remainder of the full actuarial value be deducted from any state aids that would otherwise be transmitted to the employer.

- d. No Violation of Equity Considerations. Purchases of service credit should not violate equity considerations. Equity is a resort to general principles of fairness and justice whenever the existing law is inadequate. Requests by existing retirees to purchase additional service credit and have their annuities recomputed could be viewed as being a situation that violated equity considerations. New requests on behalf of individuals who were covered by purchase of service credit authorizations passed by earlier Legislatures but who are dissatisfied with the purchase of service credit terms that were provided can be considered as violating equity considerations. Individuals requesting service credit purchases for periods specifically excluded from plan coverage under the applicable law could also be considered as violating equity considerations, among other policy concerns relating to those considerations. Long delays in seeking remedial action can also be considered a violation of equity considerations. Individuals tend to wait until late in their career before seeking any remedial action for lost service credit. Prompt action, closer to the time period when the service credit problem occurred, would often result in a solution at lower cost and would avoid efforts by the Commission to try to determine the factual situation many years, or even decades, after the event occurred. In general, any issue or factor associated with a service credit purchase request which can be viewed as lacking fairness or being less than impartial can be a basis for rejecting a request.
2. Appropriateness of a Generalized Service Credit Purchase Rather Than a Special Service Credit Purchase. The policy issue is the appropriateness of the proposed general service credit purchase rather than of a service credit purchase crafted specifically for Dale Powers. The general service credit purchase provision was drafted as such primarily because the Commission staff lacked the pertinent demographic information to specify Dale Powers as a member of a narrowly drawn class of individuals limited to him or essentially limited to him. As a generally applicable purchase, any equitable considerations favoring Mr. Powers specifically are made largely irrelevant and the equitable considerations of an unknown class of members of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) are impossible to determine.
3. Appropriateness of the Absence of a Sunset on the Service Credit Purchase. The policy issue is the appropriateness of the proposed service credit purchase lacking any sunset provision. When somewhat similar general service credit purchases for teachers were enacted in 1999, those purchases were sunsetted and many of them were not reenacted.
4. Precedent. The policy issue is the existence of any prior legislation establishing a comparable prior service credit purchase and the potential for the proposed purchase to become a precedent for other service credit purchases. A number of the teacher retirement plan prior service credit purchases enacted in 1999 were general service credit purchases and related to service that was not Minnesota-connected employment. Another service credit purchase recommended by the Commission this session, the Montana teaching service credit purchase, also would constitute a precedent for this proposed purchase. The proposed purchase likely would be a precedent for similar extensions of current and past teacher-related service credit purchases to the Public Employees Retirement Association (PERA) and other retirement systems.

1.1 ..... moves to amend the delete everything amendment (Document  
1.2 LCPR06-121) to S.F. No. 2239; H.F. No. 2362, as follows:

1.3 Page 39, after line 5, insert:

1.4 "Sec. 36. **PERA-GENERAL; PURCHASE OF SERVICE CREDIT FOR**  
1.5 **ILLINOIS MUNICIPAL RETIREMENT PLAN COVERED SERVICE.**

1.6 (a) Notwithstanding any provision of Minnesota Statutes, chapter 353, to the  
1.7 contrary, a member of the general employees retirement plan of the Public Employees  
1.8 Retirement Association who left active employment covered by Minnesota Statutes,  
1.9 chapter 353, was employed in public employment covered by the Illinois municipal  
1.10 retirement plan, and returned to active Minnesota local government employment may  
1.11 purchase allowable service credit in the general employees retirement plan of the Public  
1.12 Employees Retirement Association for the period of service covered by the Illinois  
1.13 municipal retirement plan by authorizing the transfer of funds specified in paragraph (b)  
1.14 and by making the payment specified in paragraph (c).

1.15 (b) If a person elects to obtain service credit under this section, the person shall  
1.16 authorize an institution-to-institution transfer of the person's account in the Illinois  
1.17 municipal retirement plan to the general employees retirement fund of the Public  
1.18 Employees Retirement Association.

1.19 (c) If a person elects to obtain service credit under this section and authorizes an  
1.20 account transfer under paragraph (b), the person shall pay the balance of the prior service  
1.21 credit purchase payment calculated under Minnesota Statutes, section 356.551, in excess  
1.22 of the account transfer amount.

1.23 (d) The election under this section must be made in writing on a form prescribed  
1.24 by the executive director of the Public Employees Retirement Association. The person  
1.25 making this election also must waive any retirement annuity or benefit from the Illinois  
1.26 municipal retirement fund and must provide any reasonable documentation of the person's

- 2.1 compliance with qualification requirements to the executive director of the Public
- 2.2 Employees Retirement Association that is requested by the director."
- 2.3 Renumber the sections in sequence and correct internal cross-references
- 2.4 Amend the title accordingly