**S.F. 432**

(Betzold)

H.F. 2087

(Smith)

Executive Summary of Commission Staff Materials

<i>Affected Pension Plan(s):</i>	First Class City Teacher Retirement Fund Associations
<i>Relevant Provisions of Law:</i>	Minnesota Statutes, Section 354A.091
<i>General Nature of Proposal:</i>	Updates Extended Leave of Absence Provision to Match Recent TRA Changes
<i>Date of Summary:</i>	March 28, 2005

Specific Proposed Change(s)

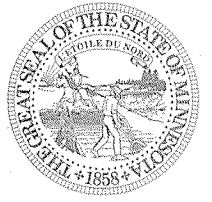
- The first class city teacher retirement fund associations extended leave of absence provision is amended to conform with recent modifications in the TRA extended leave of absence provision.

Policy Issues Raised by the Proposed Legislation

1. Appropriateness of TRA conformity.
2. Unclear future of extended leave of absence provisions.
3. Broader problem of various inconsistent leave programs in various retirement plans.

Potential Amendments

No technical or substantive amendments.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: S.F. 432 (Betzold); H.F. 2087 (Smith) ; First Class City Teacher Retirement Fund Associations; Updated Extended Leave of Absence Service Credit Provision

DATE: March 28, 2005

Summary of S.F. 432 (Betzold); H.F. 2087 (Smith)

S.F. 432 (Betzold); H.F. 2087 (Smith) amends Minnesota Statutes, Section 354A.091, the first class city teacher retirement fund association provision governing the acquisition of allowable service credit for an extended leave of absence, by updating the provision to make it conform with the Teachers Retirement Association (TRA) extended leave of absence provision, Minnesota Statutes, Section 354.094.

Background Information on Extended Leaves of Absence Service Credit

Minnesota's public defined benefit plans are a personnel policy tool of the employer in that they serve to attract sufficient numbers of new employees, to promote retention of capable existing employees, and to out-transition long-term employees at the end of their fully productive working life, by providing those long-term employees with retirement plan income which is sufficient, in conjunction with personal savings and social security, to allow the individual to retire without a significant drop in the standard of living.

Leave of absence provisions are found in most Minnesota defined benefit public pension plans. They permit the individual to receive either full or partial service credit for a period of break in service to the employer. The provisions are somewhat unusual in that they are providing service credit in the retirement plan for a period of time during which the individual was not providing service to the employer. The provisions presumably are justified in that they serve as retention tools. Another factor may be that the leave, if used to receive additional training or education, further enhances the productivity and value of the employee to the employer.

Minnesota public pension plans vary in the number of leave of absence provisions that apply, with teacher retirement plans typically having the largest number of leave of absence provisions because of unique aspects to that type of public employment.

Generally, the employee, the employer, or both, are required to make contributions to the pension fund if the individual is to receive service credit for a leave period. The general intention is to approximate, as closely as feasible, the treatment that would have occurred if the employee had not been on leave. If the individual had worked during the period, employee and employer contributions would have been deducted from pay. Some allowance is typically provided in law in recognition that the employee may have a reduced compensation during the leave or possibly no compensation at all. Because of this, it is not uncommon to allow all or a portion of required or optional employee contributions to be made by some date a year or more following the end of the leave. If employee contributions are made, the employer is then notified of the contributions and the employer is mandated to make corresponding employer contributions.

In 1977 (Laws 1977, Chapter 447, Article IX), several teacher mobility incentives were enacted by the Legislature. The teacher mobility incentives included extended leaves of absences, with a continuation of full teacher retirement plan pension coverage, a teacher early retirement incentive program, and a part-time teaching with full-time teacher retirement plan pension coverage. The teacher mobility incentives were enacted as part of the 1977 school aids bill, represented a policy initiative of the House of Representatives under Speaker Martin O. Sabo, and were developed to reduce a growing proportion of senior, highly compensated teachers. The program was intended to allow a teacher to take a five-year leave of absence to attempt to make a career change without disrupting the teacher's retirement coverage for the period. The program was not reviewed by the Commission in 1977 and has never been subjected to any detailed scrutiny by the Commission.

The extended leaves of absence program as enacted in 1977 (Laws 1977, Chapter 447, Article IX, Sections 1, 3, and 6) permitted school district boards to grant an extended leave of absence without pay to

full-time elementary or secondary school teachers with between 10 and 20 years of total teaching service and is under age 55, with the leave length of up to five years in duration. A teacher on an extended leave had a reinstatement right at the beginning of any school year during the leave, retained seniority and teaching contract rights during the leave, but the leave period was not included for the teacher's placement on the steps and lanes salary grid. If granted an extended leave of absence, the teacher was eligible to receive allowable service and salary credit if the teacher paid the member contribution to the Teachers Retirement Association (TRA) or the first class city teacher retirement fund association, based on the salary for the year preceding the leave and payable no later than the end of each fiscal year for which service and salary credit is sought. If the teacher pays the member contributions, the school district is obligated to pay the applicable employer contributions. No service credit was available if the teacher was placed on an unrequested leave of absence, if the teacher's contract was terminated, or if the teacher was covered by a Minnesota public pension plan other than a volunteer firefighter relief association for the same period.

The extended leaves of absence program (Minnesota Statutes, Sections 122A.46, 136F.43, 354.094, and 354A.091) has been modified 17 times since 1977.

- In 1978 (Laws 1978, Chapter 764, Sections 79 through 82, 116, and 120), the school aid bill, modified the qualifications for an extended leave to require five years of employment by the school district and ten years of total teaching service, required a school district report on denials of extended leave of absence requests, and shifted the responsibility for the payment of employer retirement contributions to the State of Minnesota.
- In 1979 (Laws 1979, Chapter 334, Article VIII), superintendents and area vocational technical schools were included in the extended leave of absence program, but superintendents were not obligated to be reinstated at the conclusion of the leave, and teachers on an extended leave of absence were permitted to render substitute teaching service.
- In 1980 (Laws 1980, Chapter 454, Sections 1, 2, 3, 4, and 5), state university and state community college faculty members were permitted to utilize the extended leave of absence program.
- In 1981 (Laws 1981, chapter 358, Article 8, Sections 2, 9 through 12, and 14 through 17), in the school aids bill, an annual limit of 300 applications was set for the State payment of employer contributions for extended leaves of absence and the State payment was limited to the first three years of the extended leave of absence.
- In 1983 (Laws 1983, Chapter 314, Article 10), part-time teachers were included in the extended leaves of absence program and the limit on the number of teachers covered by State-paid employer contributions for extended leaves of absence was reduced from 300 to 250.
- In 1985 (First Special Session 1985, Chapter 12, Article 11, Section 5), the deadline on extended leave of absence member contribution payments was extended to 30 days after TRA notification if that is later than June 30 of the year to be credited.
- In 1986 (Laws 1986, Chapter 444), gender-specific provisions in the extended leaves of absence provisions were replaced with non-gender-specific references.
- In 1987 (Laws 1987, Chapter 284, Article 6, Section 5), the TRA extended leave of absence provision member contribution payment deadline was further extended, to September 30, with six percent interest after June 30.
- In 1989 (Laws 1989, Chapter 293, Sections 77 through 79), in an education bill, "area vocational technical school" references were revised as "technical institute" references, and also in 1989 (Laws 1989, Chapter 329, Sections 20, 21, 23, and 24), the school aids bill, the State payment of extended leave of absence employer contribution amounts ended.
- In 1991 (Laws 1991, Chapter 130, Section 34), references to the State payment of extended leave of absence employer contribution amounts were removed, and also in 1991 (Laws 1991, Chapter 340, Section 12), the TRA extended leave of absence provision was amended to require that each employing unit certify extended leaves of absence it granted before the end of the fiscal year in which the leave was granted and eligibility for participation in the program was restricted to teachers who have a right of reinstatement to their position at the conclusion of the leave.

- In 1992 (Laws 1992, Chapter 598, Article 3, Section 1), interest on late extended leaves of absence employee contributions was increased from six percent to 8.5 percent.
- In 1995 (Laws 1995, Chapter 141, Article 3, Section 20), references to “teachers retirement fund” and teachers retirement association in the TRA extended leaves of absence provision were clarified.
- In 1996 (Laws 1996, Chapter 305, Article 1, Section 80), references to the Minnesota State Colleges and Universities System extended leave of absence provision were revised.
- In 1998 (Laws 1998, Chapter 397, Article 11, Section 3), cross-references affected by an educational law recodification were revised.
- In 2000 (Laws 2000, Chapter 461, Article 3, Section 32), the employer extended leave of absence certification deadline was reset to the date that the leave was granted from the end of the applicable fiscal year.
- In 2001 (First Special Session Laws 2001, Chapter 1, Article 2, Section 22), a reference to the Minnesota State Colleges and Universities System was corrected.
- In 2003 (First Special Session Laws 2003, Chapter 12, Article 3, Section 2), the TRA extended leaves of absence provision permitted school districts and collective bargaining units to enter into an agreement for the employer to pay all or part of the member and employer retirement contributions for teachers on leave.

The following compares the provisions of the general statewide and major local retirement defined benefit plans with respect to crediting allowable service for extended leaves of absence:

Plan	Extended Leave of Absence Provision
MSRS-General	No provision.
PERA-General	No provision.
TRA	An extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, if certified to TRA, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before September 30 following the end of the fiscal year for which the teacher is to receive credit and is required to include annual compound interest at 8.5 percent from June 30 until the end of the month in which payment is made if the payment is not made before June 30. The teacher must have a right to reinstatement of employment after or during the leave to be creditable. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan. [Minn. Statutes, Sec. 354.094]
DTRFA	An extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before June 30 of the fiscal year for which the teacher is to receive credit. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan. [Minn. Statutes, Sec. 354A.091]
MTRFA	An extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before June 30 of the fiscal year for which the teacher is to receive credit. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan. [Minn. Statutes, Sec. 354A.091 and MTRFA Articles of Incorporation, Art. 20, Sec. 20.1, Clause (h)]
SPTRFA	An extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before June 30 of the fiscal year for which the teacher is to receive credit. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan. [Minn. Statutes, Sec. 354A.091]
MERF	No provision.

Discussion and Analysis

S.F. 432 (Betzold); H.F. 2087 (Smith) updates the first class city teacher retirement fund associations coordinated program extended leave of absence provision, Minnesota Statutes, Section 354A.091, Subdivisions 1, 2, 3, 4, 5, and 6, to more closely replicate the Teachers Retirement Association (TRA) extended leave of absence provision and repeals Minnesota Statutes, Section 354A.091, Subdivisions 1a and 1b, as obsolete.

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

1. Appropriateness of Pursuing Conformity with TRA Extended Leave of Absence Provision. The policy issue is the appropriateness of having the first class city teacher retirement fund association coordinated program extended leave of absence provision more closely conform to the Teachers Retirement Association (TRA) extended leave of absence provision. When the first class city teacher retirement fund association coordinated program was created by a set of cross-references to TRA law in 1976 and codified in full language provisions as Minnesota Statutes, Chapter 354A in 1979, the first class city teacher retirement fund association coordinated program was intended to and did replicate the TRA coordinated program. Changes have been proposed by TRA to the extended leave of absence provision over time, but those changes were enacted without anyone consistently reviewing them for their applicability to the first class city teacher retirement fund association extended leave of absence provision. While the first class city teacher retirement fund associations have pursued some of the administrative changes proposed by TRA over time, such as employer reporting requirements, the first class city teacher retirement fund associations have not been consistent in maintaining full consistency between the TRA coordinated program provision and the first class city teacher retirement fund association coordinated program provision.
2. Unclear Future of Extended Leave of Absence Programs. The policy issue is the appropriateness of retaining the special service credit rules for extended leaves of absence if recent or future changes in teacher employment make extended leaves of absence a less desirable benefit for school districts to offer. Extended leaves of absence were created almost 30 years ago to assist school districts with a glut of senior teachers to induce those teachers to try other career paths without harming their eventual pension coverage. The program was created when there was a surplus of prospective teachers. The situation apparently has changed, with a looming teacher shortage identified by education professionals, especially in the fields of mathematics, science, and special education. Without a ready supply of replacement teachers, it does not appear to be a wise course of action to induce existing teachers to leave the teaching field through an extended leave to try other employment opportunities. This is especially true if the leave requires the payment of employer contributions for the leave by the school district and may require an employer payment of future member contributions. In 2003, teacher representatives sought broadened opportunities for employer-paid member contributions as part of a reconfiguration of the leave program as an early retirement incentive. While not wholly inconsistent with the original intent, the reformulation of the program as an early retirement incentive program at the request of the member, rather than the employer, suggests that a thorough reevaluation of the whole program by the Commission would be in order. The Commission may wish to request testimony from Education Minnesota and from the Minnesota School Boards Association about the current extent of the utilization of extended leaves of absence in both TRA and in the first class city teacher retirement fund associations and their future hopes for the programs.
3. Inconsistencies in Various Leave Provisions. The policy issue is the broader need for the Commission to reevaluate the retirement service credit for leave provisions of the various retirement plans because the provisions vary between plans and those inconsistencies may not be based on sound policy differences. In surveying the leave provisions of the various plans, differences are obvious. There is a particularly troubling lack of consistency within plans or across similar plans regarding leave payment requirements. Contribution requirements often differ, and there are often differences in salary bases used to compute any required contribution amounts, the time limits for making contributions, and interest payment requirements when payments are not received until a considerable amount of time has elapsed since the leave occurred. This lack of consistency creates unequal treatment of similarly situated individuals, raising equity issues for the individuals and subsidy effects among employees and contributing employers.

Senator Betzold introduced—

S. F. No. 432 Referred to the Committee on State & Local Government Operations

1 A bill for an act

2 relating to retirement; first class city teacher
3 retirement fund associations; making various
4 conforming changes to the Teachers Retirement
5 Association provision in the extended leave of absence
6 program; amending Minnesota Statutes 2004, section
7 354A.091, subdivisions 1, 2, 3, 4, 5, 6; repealing
8 Minnesota Statutes 2004, section 354A.091,
9 subdivisions 1a, 1b.

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

11 Section 1. Minnesota Statutes 2004, section 354A.091,
12 subdivision 1, is amended to read:

13 Subdivision 1. [ELIGIBILITY; RETIREMENT CONTRIBUTIONS.]

14 (a) Upon granting an extended leave of absence under section
15 122A.46 or 136F.43, the employing unit of the teacher granting
16 the leave must certify the leave to the respective teacher
17 retirement fund association on a form specified by the chief
18 administrative officer of the association.

19 (b) Notwithstanding any provision to the contrary of this
20 chapter or the articles of incorporation or bylaws of an
21 association relating to the salary figure to be used for the
22 determination of contributions or the accrual of service
23 credit an-elementary, secondary, or technical college, a teacher
24 in-the-public-schools-of-a-city-of-the-first-class as defined in
25 section 354A.011, subdivision 27, who is granted an extended
26 leave of absence pursuant to under section 122A.46, or a teacher
27 who-is-granted-an-extended-leave-of-absence-under-section

1 136F.43, may pay employee contributions to the applicable
 2 association and ~~shall be~~ is entitled to receive allowable
 3 service credit in that association for each year of leave,
 4 provided. The member and the employing board must make the
 5 required employer contributions, in any proportion that they may
 6 agree upon, to ~~that~~ the applicable association during the period
 7 of the leave which shall. The leave may not exceed five years
 8 and a teacher may not receive more than five years of allowable
 9 service credit under this section. The state shall not make an
 10 employer contribution on behalf of the teacher. The employee
 11 and employer contributions ~~shall~~ must be based upon the rates of
 12 contribution prescribed by section 354A.12 as and must be
 13 applied to a salary figure equal to the teacher's actual covered
 14 salary for the plan year immediately preceding the leave.
 15 Payment of the employee and employer contributions
 16 authorized ~~pursuant to~~ under this section ~~shall~~ must be made on
 17 or before June 30 of the fiscal year for which service credit is
 18 to be received or within 30 days after the first notification of
 19 the amount. No payment is permitted after the following
 20 September 30. Payments received after June 30 must include
 21 annual compound interest at the rate of 8.5 percent from June 30
 22 through the end of the month in which payment is received. No
 23 allowable service with respect to a year of extended leave of
 24 absence ~~shall~~ may be credited to a teacher until the payment of
 25 the required employee and employer contributions has been
 26 received by the association.

27 (c) Notwithstanding the provisions of any agreement to the
 28 contrary, employee and employer contributions may not be made to
 29 receive allowable service credit if the teacher does not have
 30 full reinstatement rights as provided in section 122A.46 or
 31 136F.43, both during and at the end of the extended leave.

32 Sec. 2. Minnesota Statutes 2004, section 354A.091,
 33 subdivision 2, is amended to read:

34 Subd. 2. [MEMBERSHIP RETENTION.] A teacher who is on an
 35 extended leave of absence under either section 122A.46 or
 36 136F.43 and whose employee and employer contributions are made

1 to the applicable teachers retirement fund association pursuant
2 to under subdivision 1 ~~shall-retain~~ in a timely fashion retains
3 membership in the association for each year during which the
4 contributions are made, under the same terms and conditions as
5 if the teacher had continued to teach in for the ~~district~~
6 employing unit.

7 Sec. 3. Minnesota Statutes 2004, section 354A.091,
8 subdivision 3, is amended to read:

9 Subd. 3. [EFFECT OF NONPAYMENT.] (a) A teacher who is on an
10 extended leave of absence under either section 122A.46 or
11 136F.43 and who does not make employee contributions or whose
12 employer contribution is not made to the applicable teachers
13 retirement fund association in any year ~~shall-be~~ is deemed to
14 have ceased to be an active member of the association and, is
15 deemed to have ceased to render teaching services beginning in
16 that year for purposes of this chapter and the articles of
17 incorporation and bylaws of the association, and may not pay
18 employee or employer contributions into the fund in any
19 subsequent year of the leave.

20 (b) The nonpayment of contributions into the fund ~~shall~~
21 does not affect the rights or obligations of the teacher or of
22 the employing school district under section 122A.46 or of the
23 Minnesota State Colleges and Universities system under section
24 136F.43.

25 Sec. 4. Minnesota Statutes 2004, section 354A.091,
26 subdivision 4, is amended to read:

27 Subd. 4. [TEACHERS WHO DO NOT RESUME SERVICE.] ~~If~~ A
28 teacher who has made employee contributions to the applicable
29 teachers retirement fund association for the agreed maximum
30 duration of an extended leave and who does not resume teaching
31 service in the first school year after that maximum duration of
32 the leave has elapsed, the teacher ~~shall-be~~ is deemed, for
33 purposes of this chapter and the articles of incorporation and
34 bylaws of the association, to have ceased to be an active member
35 of the association and to have ceased to render teaching
36 services beginning in that first school year after that maximum

1 duration has elapsed ~~for purposes of this chapter and the~~
 2 ~~articles of incorporation and bylaws of the association.~~

3 Sec. 5. Minnesota Statutes 2004, section 354A.091,
 4 subdivision 5, is amended to read:

5 Subd. 5. [APPLICABILITY IN THE EVENT OF DISCHARGE OR
 6 LAYOFF.] ~~The provisions of~~ This section ~~shall~~ does not apply to
 7 a teacher who is discharged ~~pursuant to~~ under section 122A.41,
 8 who is placed on an unrequested leave of absence, who is
 9 retrenched, or who is laid off while the teacher is on an
 10 extended leave of absence ~~pursuant to~~ under section 122A.46.
 11 The provisions of this section also do not apply to a teacher
 12 who is discharged for cause or whose contract is terminated
 13 while the teacher is on an extended leave of absence under
 14 section 136F.43.

15 Sec. 6. Minnesota Statutes 2004, section 354A.091,
 16 subdivision 6, is amended to read:

17 Subd. 6. [EXCLUSIVE COVERAGE; LIMITS ON OTHER SERVICE
 18 CREDIT.] (a) A teacher who makes employee contributions to and
 19 receives allowable service credit in the applicable teacher's
 20 retirement fund association ~~pursuant to~~ under this section may
 21 not make employee contributions or receive allowable service
 22 credit for the same period of time in any other Minnesota public
 23 employee pension plan, except a volunteer firefighters relief
 24 association governed by sections 69.771 to 69.776.

25 (b) This subdivision ~~shall~~ may not be construed to prohibit
 26 a member who pays employee contributions and receives allowable
 27 service credit in the ~~fund pursuant to~~ applicable retirement
 28 association under this section in any year from being employed
 29 as a substitute teacher by any school district during that
 30 year. Notwithstanding the provisions of this chapter or of the
 31 articles of incorporation or the bylaws of a retirement
 32 association, a teacher may not pay retirement contributions or
 33 receive allowable service credit in the ~~fund~~ applicable
 34 retirement association for teaching service rendered for any
 35 part of any year for which the teacher pays retirement
 36 contributions or receives allowable service credit ~~pursuant to~~

1 under section 354.094 or this section while on an extended leave
2 of absence under either section 122A.46 or 136F.43.

3 Sec. 7. [REPEALER.]

4 Minnesota Statutes 2004, section 354A.091, subdivisions la
5 and lb, are repealed.

6 Sec. 8. [EFFECTIVE DATE.]

7 Sections 1 to 7 are effective July 1, 2005.

APPENDIX
Repealed Minnesota Statutes for 05-0672

354A.091 TEACHERS ON EXTENDED LEAVE.

Subd. 1a. **Exception for leaves since 1981-1982.**

Notwithstanding subdivision 1, the following provisions apply to elementary and secondary school and technical institute teachers whose extended leaves begin in the 1981-1982, 1982-1983, or 1983-1984 school year:

(a) A member whose application states the intention to pay employee contributions to the applicable association, requests state payment of the employer contribution, and is approved by the commissioner within the limits of section 125.60, subdivision 7, may pay employee contributions to the applicable association and receive allowable service credit in that association for each year of leave during the period of the leave, which shall not exceed five years;

(b) The state shall pay employer contributions for a member described in clause (a) for no more than the first three years of the leave, provided the member who is on extended leave pays the employee contribution to the applicable association by the payment date specified in subdivision 1;

(c) A member whose application is approved as to the member's eligibility under section 122A.46, subdivisions 1 and 2, but whose application does not request state payment of employer contributions or is disapproved as to state payment of employer contributions, or who is in the fourth or fifth year of leave affected by clause (b) may pay employee contributions and receive allowable service credit as provided in subdivision 1 if the member and the employing school board make the required employer contribution, in any proportion which they may agree upon, by the payment date specified in subdivision 1.

Subd. 1b. **Pre-May 16, 1981, leave exception.**

Notwithstanding subdivision 1, the following provisions apply only to elementary, secondary, and area vocational technical school teachers whose extended leaves began in the 1978-1979, 1979-1980, or 1980-1981 school years:

(a) A member whose period of extended leave began on or before May 15, 1981, may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter for each year of the leave during the period of the leave which does not exceed five years;

(b) The state shall pay employer contributions into the applicable fund for a member described in clause (a) for each year of the leave for which the member who is on extended leave pays the employee's contribution into the fund by the payment date specified in subdivision 1.