



H.F. 1688
(Kahn)

S.F. 1403
(Pappas)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS
Relevant Provisions of Law: Special law provision
General Nature of Proposal: Retroactive request for inclusion in early retirement incentive
Date of Summary: February 22, 2012

Specific Proposed Changes

- Allows a former Senate employee who is now a retiree to apply for an early retirement incentive despite having terminated service without applying for the incentive. *(The program was intended to induce employees to terminate service to enable the employer to achieve cost savings, by offering up to 24 months of employer-paid health care.)*

Policy Issues Raised by the Proposed Legislation

1. Need for consideration. It is unclear whether the individual would receive any incentive payment (up to 24 months of employer-paid health care payments) even if the bill were to pass.
2. Cost to the Senate of providing the payments, if any.
3. Equity arguments that might justify providing the proposed treatment.
4. Potential for similar requests.
5. Existence of possible alternative actions without the need for legislation.
6. Drafting issues. The bill needs to be revised to correctly describe the affected person and to revise the acceptance due date due to the passage of a year since the bill was drafted.

Technical Amendment

H1688-1A corrects inaccurate employment dates, revises the deadline by which the person can accept the incentive from June 30, 2011, to June 20, 2012, and makes certain stylistic revisions.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: H.F. 1688 (Kahn); S.F. 1403 (Pappas): Special Law Provision; Permitting a Certain Former Senate Employee Access to the 2010 Early Retirement Incentive Provision
DATE: February 22, 2012

Summary of H.F. 1688 (Kahn); S.F. 1403 (Pappas)

H.F. 1688 (Kahn); S.F. 1403 (Pappas) would permit a certain former Senate employee, identified by date of birth and other identifying information, to be eligible for an early retirement incentive under a 2010 early retirement incentive provision (Laws 2010, Ch. 337), despite not applying for an incentive under that program and having already terminated service.

Public Pension Situation of Sheryl LaRue

Commission staff has no specific information regarding the applicable employee and the circumstances. The Commission will need to learn about the situation through testimony.

Information on the 2010 Early Retirement Incentive Legislation

Laws 2010, Chapter 337, was an uncoded early retirement incentive provision applicable to persons covered by Minnesota State Retirement System (MSRS) plans, the Higher Education Individual Account Retirement Plan (IRAP), Public Employees Retirement Association (PERA) defined benefit plans, the Teachers Retirement Association (TRA), and the first class city teacher retirement plans.

An eligible appointing authority was permitted to offer the incentive to a terminating employee who:

- (1) was immediately eligible for an annuity;
- (2) had at least 15 years of covered service in Higher Education IRAP or one or more of the combined service annuity plans;
- (3) accepted the incentive no later than December 31, 2010;
- (4) retired no later than June 30, 2011; and
- (5) was not already receiving an annuity from one of the included plans.

An eligible appointing authority was defined as PERA, MSRS, TRA, or the Minnesota State Colleges and Universities System (MnSCU), or any appointing authority in the executive, legislative, or judicial branch of state government. Appointing authorities were permitted but not required to offer the early retirement incentive. The incentive was an amount, not to exceed 24 months of the employer contribution, as specified in the collective bargaining agreement or compensation plan, for health and dental insurance. If the employee had dependent coverage at the time of separation, the amount would include dependent coverage. Appointing authorities in the executive branch had to apply for approval from the commissioner of Minnesota Management & Budget before providing an early retirement incentive. Unilateral implementation was stated not to be an unfair labor practice. Acceptance of an incentive had to be in writing. Anyone accepting an incentive could not be rehired or provide consulting services for three years to any entity that participates in the State Employee Group Insurance Program. The commissioner of Minnesota Management and Budget had to report to the Legislature by April 2, 2011, regarding the incentive program for 2010, with a recommendation regarding whether the program should be renewed.

Discussion and Analysis

H.F. 1688 (Kahn); S.F. 1403 (Pappas) permits former Senate employee Sheryl LaRue to be eligible for an early retirement incentive under a 2010 early retirement incentive provision (Laws 2010, Ch. 337), despite not applying for an incentive under that program and having already terminated service.

The proposed legislation raises a number of pension and related public policy issues for consideration by and possible discussion by the Commission, as follows:

1. Intent of the Senate to Offer an Incentive. The issue is whether the person would receive an incentive amount even if the bill were to pass; which would depend on the will of the Senate. The 2010 early retirement provision was permissive. If this bill were to pass, the Senate might not offer the incentive to the former employee, and if an offer were made, the amount could be any amount between zero and the equivalent of 24 months of employer health care contributions. If no payment or only a trivial payment will be offered if the bill were to pass, the bill may not warrant further consideration.
2. Equity of the Situation. The issue is equity of the situation, to be determined by testimony or through some other presentation of the situation, which the Commission may wish to weigh against the cost and other policy considerations.
3. Cost. The cost to the employing unit is uncertain. If this bill were to pass, the cost to the Senate would be between zero and the equivalent of 24 months of employer health care contributions, depending upon whether the Senate chose to grant the incentive and the amount offered.
4. Policy Inconsistencies. The issue is the inconsistency of the request with the presumed policy purpose of the 2010 early retirement incentive legislation. The incentive was to induce retirement-eligible employees to terminate service so that cost savings could occur. This employee terminated service without the need to offer an incentive. It is unclear what labor force policy is supported by offering a financial payment to the applicable terminated employee, or what responsibility the employer has to the terminated employee.
5. Scope, Precedent, Other Requests. The issue is the unusual nature of the request and the likelihood that this request, if granted, would encourage requests by others for similar treatment. Commission staff is not aware of any previous requests of a similar nature. The Commission may wish to consider adding some language to the bill to indicate the unique nature of this situation justifying the Legislature's action, without opening a broad gate to similar requests.
6. Possible Alternative Remedy. The issue is whether this situation can be addressed in some other way, without the need for legislation, given the policy concerns the request raises. Perhaps some form of payment could be arranged without the need for legislation, including, but not limited to, some form of full-time or part-time re-employment.
7. Pension Fund Implications. The issue is the impact this proposal would have on the pension plan which provided coverage. There should be no impact on the plan. Providing an incentive payment to the individual would not impact the termination date, since this person has already terminated service, and the timing of retirement will not be materially impacted if it is impacted at all. The incentive payment is made by the former employer, not the pension fund.
8. Drafting Issues. The issue is that certain revisions are needed to correct factual errors. Technical amendment H1688-1A would correct these errors and make other technical and stylistic revisions.

Technical Amendment for Commission Consideration

Amendment H1688-1A corrects inaccurate employment dates, revises the deadline by which the person can accept the incentive from June 30, 2011, to June 20, 2012, and makes certain stylistic revisions.

CHAPTER 337--S.F.No. 1481

An act

relating to state government finance; authorizing retirement incentives for certain state employees.

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

Section 1. **RETIREMENT INCENTIVE.**

Subdivision 1. Eligibility. (a) An eligible appointing authority may provide the retirement incentive in this section to an employee who: (1) has at least 15 years of allowable service in one or more of the funds listed in Minnesota Statutes, section 356.30, subdivision 3, or has at least 15 years of coverage by the individual retirement account plan governed by Minnesota Statutes, chapter 354B, and upon retirement is immediately eligible for a retirement annuity or benefit from one or more of these funds;

(2) accepts the incentive no later than December 31, 2010, and retires no later than June 30, 2011;
and

(3) is not in receipt of a retirement plan, retirement annuity, retirement allowance, or service pension from a fund listed in Minnesota Statutes, section 356.30, subdivision 3, during the month preceding the termination of qualified employment.

(b) An eligible appointing authority is any appointing authority in the executive, legislative, or judicial branch of state government, the Public Employees Retirement Association, the Minnesota State Retirement System, the Teachers Retirement Association, or the Minnesota State Colleges and Universities.

(c) An elected official is not eligible to receive an incentive under this section.

(d) An employee who, after termination of employment, receives an employer contribution for health insurance may not receive a payment for health insurance under this section from that appointing authority.

Subd. 2. Incentive. For an employee eligible under subdivision 1, the appointing authority will deposit into the employee's account in the health care savings plan established in Minnesota Statutes, section 352.98, up to 24 months of the employer contribution, as specified in the collective bargaining agreement or compensation plan covering the position from which the employee terminates service, for health and dental insurance for the employee, and, if the employee had dependent coverage immediately before retirement, for the employee's dependents. The contributions provided under this section are those the employee was receiving as of the date of termination, subject to any changes in contributions specified in the collective bargaining agreement or compensation plan covering the position from which the employee terminated service.

Subd. 3. Employer discretion; implementation. Provision of an incentive under this section is at the discretion of the appointing authority. Appointing authorities in the executive branch must apply for approval from the commissioner of management and budget before providing early retirement incentives under this section. All appointing authorities and the commissioner's review must give consideration to issues such as equity within the agency, budgetary constraints, and workforce planning concerns. The appointing authority will determine the date of retirement upon consultation with the employee. Unilateral implementation of this section by the appointing authority is not an unfair labor practice under Minnesota Statutes, chapter 179A.

Subd. 4. Acceptance. An employee who is eligible for an incentive under this section, who is offered an incentive by the appointing authority, and who accepts the incentive offer must do so in writing. A copy of the acceptance document must be provided by the appointing authority to the applicable retirement plan within 15 days of its execution.

Subd. 5. Reemployment prohibition. An individual who receives an incentive payment under this section may not be reemployed or hired as a consultant by any agency or entity that participates in the State Employee Group Insurance Program for a period of three years after termination of service.

Subd. 6. Report. The commissioner of management and budget must report to the legislature by April 2, 2011, regarding use of the retirement incentive for calendar year 2010, with a recommendation regarding renewal of the incentive.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

- 1.1 moves to amend H.F. No. 1688; S.F. No. 1403, as follows:
- 1.2 Page 1, line 6, before "any" insert "subdivision 1, paragraph (a), clause (2)."
- 1.3 Page 1, line 7, delete everything after "on"
- 1.4 Page 1, line 8, delete everything before "of" and insert "May 27, 1978, provided 32
- 1.5 years and nine months"
- 1.6 Page 1, line 11, after "person" insert "under paragraph (a)" and delete "2011" and
- 1.7 insert "2012"

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH
SESSION

HOUSE FILE No. **1688**

May 9, 2011

Authored by Kahn

The bill was read for the first time and referred to the Committee on Government Operations and Elections

1.1 A bill for an act
1.2 relating to state government; waiving the deadline for electing retirement
1.3 incentives for certain public employees.

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

1.5 Section 1. RETIREMENT INCENTIVE FOR CERTAIN PUBLIC EMPLOYEES.

1.6 (a) Notwithstanding Laws 2010, chapter 337, section 1, any person who began
1.7 employment with the Minnesota Senate on September 20, 1972, provided 38 years, five
1.8 months, and three days of service to the Minnesota Senate, retired on January 4, 2011, and
1.9 was born on July 24, 1955, is still eligible to elect to participate in the retirement incentive
1.10 provided under Laws 2010, chapter 337.

1.11 (b) An eligible person must accept the retirement incentive by June 30, 2011.

1.12 EFFECTIVE DATE. This section is effective the day following final enactment.