



H.F. 1712
(Hortman)

S.F. 2015
(Kruse)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Teachers Retirement Association (TRA)
Relevant Provisions of Law: Uncoded provision
General Nature of Proposal: Service credit purchase; voluntary layoff & extended leave periods
Date of Summary: February 23, 2012

Specific Proposed Changes

- Permits Herbert Reiersen to purchase service credit in TRA for a period of voluntary layoff or "other leave" (July 1, 1989, to June 30, 1991) and extended leave of absence (July 1, 1991, to June 30, 1994), a total of five years, for which the individual does not have service credit. Mr. Reiersen would be required to make a full actuarial value purchase payment to receive the service credit.

Policy Issues Raised by the Proposed Legislation

1. Sufficient Need or Merit. Whether there is sufficient need or merit to consider the proposal.
2. Equitable Considerations. Whether the equity considerations support relief for Mr. Reiersen. There is a factor supporting his request for relief, and some factors that are not in his favor.
3. Payment Terms; Payment Amount. The issue is the amount of the required full actuarial value purchase payment, and whether or not Mr. Reiersen is willing to make the payment if this proposal were to be enacted. TRA has calculated the purchase payment to be \$116,471. A full actuarial value payment is consistent with Commission policy and avoids harm to TRA if the purchase amount is computed correctly and if reality matches the retirement date, life-expectancy, and future investment earnings assumptions.
4. Question of Harm. Whether any party harmed Mr. Reiersen.
5. TRA Position. The issue is whether TRA supports or opposes the legislation.

Potential Amendments

H1712-1A removes the authority to purchase service credit for the period of voluntary layoff or "other" leave, since purchasing or receiving service credit for such a period is not permitted under general law.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director *EB*
RE: H.F. 1712 (Hortman); S.F. 2015 (Kruse): TRA; Service Credit Purchase; Anoka-Hennepin Teacher Voluntary Layoff and Extended Leave of Absence.
DATE: February 23, 2012

Summary of H.F. 1712 (Hortman); S.F. 2015 (Kruse)

H.F. 1712 (Hortman); S.F. 2015 (Kruse) permits Herbert Reiersen, identified by date of birth and other identifier information, to purchase service credit in Teachers Retirement Association (TRA) for a period of voluntary layoff or "other leave" (July 1, 1989, to June 30, 1991) and extended leave of absence (July 1, 1991, to June 30, 1994), a total of five years, for which the individual does not have service credit. Mr. Reiersen would be required to make a full actuarial value purchase payment to receive the service credit.

Background Information on Relevant Topics

The following attachments provide background information on topics relevant to the proposed legislation:

- **Attachment A:** Background information on special law service credit purchases.
- **Attachment B:** Background information on extended leaves of absence qualification requirements and payment requirements for service credit. There is no TRA provision which permits service credit purchase for a miscellaneous "other" leave.

Public Pension Problem of Herbert Reiersen

Herbert Reiersen began his teaching career in 1977, and in 1979 he started teaching in the Anoka-Hennepin school district. In 1989 he took a break from teaching to concentrate on a business which he started. It is unclear what term best describes the first two years of the break period. Information Commission staff initially received referred to it as a voluntary layoff. The school district, however, reported it to TRA as a leave in a miscellaneous "other" category. In either case, it does not appear that the period was eligible for service credit. TRA law permits service credit purchase for several types of leave (sabbatical leave, parental leave, extended leave, medical leave, family leave, breaks in service to provide military service), but not for voluntary layoffs or "other" leave.

From July 1, 1991, to June 30 1994, the Anoka-Hennepin school district reported to TRA that Mr. Reiersen was on an extended leave of absence. It was not until sometime in 1992, however, that TRA received the initial notification. TRA claims it then sent a letter to Mr. Reiersen telling him to contact TRA to arrange for contributions for the leave, so that he would receive TRA service credit. TRA claims that Mr. Reiersen did not respond to the request.

During the 1990s, to receive service credit for an extended leave the contributions had to be made by June 30 of each year of the leave, without interest, or by September 30 with interest. If not, the person lost any right to obtain the service credit. In an email to Representative Melissa Hortman (attached), Mr. Reiersen contends that he was unaware that he could have purchased service credit for the extended leave. He states in that email, "I wasn't thinking about retirement when I took the leave and was not aware that I could buy back the years that I was gone." Mr. Reiersen did not return to teaching at the end of the leave (June 30, 1994). He did not return until six years later, in 2000.

Now that Mr. Reiersen is nearing retirement age, he is seeking authority to purchase service credit for the years of voluntary layoff or "other" leave and for the extended leave. Mr. Reiersen's email indicates an interest in a Rule of 90 annuity, and the service credit purchase would enable him to qualify sooner for a Rule of 90 retirement annuity. The Rule of 90 benefit tier provides a subsidized unreduced early retirement annuity for which teachers and members of other public employee retirement plans can qualify if they began covered employment before July 1, 1989. The person can qualify for a Rule of 90 annuity when the person's age plus years of service credit total at least 90. The Rule of 90 annuity is computed with a somewhat lower accrual rate for the first ten years of service compared to a level benefit, but no other reduction is taken to compensate for early receipt of the annuity.

Discussion and Analysis

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. Sufficient Need or Merit; Commission Acting as a Judicial Body. The issue is whether there is sufficient need or merit to consider the proposal. Consideration may require the Commission to act more like a judicial body, considering documentation and testimony from various parties and determining equity, merit, and possible harm, which the Commission is not ideally suited to do.
2. Equitable Considerations. The issue is whether the equity considerations support relief for Mr. Reiersen. There is a factor supporting his request for relief, and some factors that are not in his favor.

An equity argument in favor of Mr. Reiersen's request, at least for the extended leave period, is that current general law would permit an individual in a situation similar to that of Mr. Reiersen to make a full actuarial value service credit purchase for that leave period. A TRA statute enacted in 2007 (coded as Minn. Stat., Sec. 354.72) permits individuals who failed to make contributions in a timely manner to receive service credit for an extended leave to make a full actuarial value service credit purchase to receive that service credit. However, the general law provision only applies to leaves that commenced after July 1, 2007. Mr. Reiersen began his extended leave many years earlier, in 1991.

An argument against relief is that some or all of the foregone service credit appears due to Mr. Reiersen's lack of interest in retirement matters at the time; thus, to an extent the harm is self-inflicted. An email from Mr. Reiersen acknowledges that lack of interest, and he also states that he was not aware that he could purchase the years of extended leave by making timely contributions under general law provisions. If that is the case, then presumably Mr. Reiersen took an initial "other" leave or voluntary layoff, and the extended leave of absence, with an expectation that these years would not be covered by the pension plan. If that was acceptable to him at the time, then his pension problem is self-inflicted and it is unclear why the Legislature should address his pension problem now through special legislation, many years after these events occurred, when resolving his problem is more complicated and much more expensive. Also not in his favor is that TRA attempted to contact him during that extended leave to advise him to make contributions in order to receive service credit for the leave, but he did not respond.

In addition, part of the full period this request covers was for a period of voluntary layoff or "other" leave. The inclusion of the "other" leave period in this service credit purchase request raises more issues. General law does not permit service credit to be received or purchased for such a period. Permitting a special law service credit purchase is not consistent with equity, is in conflict with general law, and may create a precedent leading to a general law provision covering these situations.

3. Payment Terms. The proposal does require payment to TRA of the full actuarial value of the service credit purchase. This requirement is consistent with Commission policy and avoids harm to TRA, if the purchase amount is computed correctly and if reality matches the retirement date, life-expectancy, and future investment earnings assumptions.
4. Payment Amount. The issue is the amount of the required full actuarial value purchase payment, and whether or not Mr. Reiersen is willing to make the payment if this proposal were to be enacted. If Mr. Reiersen is unwilling to make the payment, the Commission may not wish to give the proposal further consideration. TRA has calculated the purchase payment to be \$116,471. This is a sizeable payment amount and, if computed correctly and all assumptions are met, it will provide no net gain to Mr. Reiersen. The amount he would pay is the equal to the present value of the additional payments he will receive over his lifetime due to the additional service credit. The Commission may wish to determine through testimony whether Mr. Reiersen is willing to make the payment, given its considerable cost and given that it is not expected to provide him with any net gain.

The purchase can be expected to provide Mr. Reiersen with a net gain only if some other party pays some of the cost for him. The full actuarial payment provision (Minnesota Statutes, Section 356.551), allows, but does not require, the employer to cover part of the cost. The Commission may be interested in determining, through testimony or other means, whether the Anoka-Hennepin school district is willing to cover part of the payment.

5. Question of Harm. The issue is whether any party harmed Mr. Reiersen. The Commission may wish to investigate this question through testimony or other means. Perhaps the school district failed to adequately advise Mr. Reiersen or to inform him of opportunities to make payment for the leave at the time these leaves were taken. If the Commission were to conclude that the employer harmed

Mr. Reiersen, that may justify mandating that the employer cover a large part of the full actuarial value. If TRA somehow created harm, that could justify a departure from requiring full actuarial value payment. In the past, the Commission has required an employer to cover part of the full actuarial value payment, or has permitted a less than full actuarial value payment in cases of pension plan administration error. So, neither action would set a precedent. Regarding this issue of harm, however, the Commission may wish to consider that Mr. Reiersen has not contended that any party harmed him. Under these circumstances, revising the bill to mandate that the school district cover part of the cost or that TRA accept less than full actuarial value, would be an unusual action.

6. TRA Position. The issue is whether TRA supports or opposes the legislation.

Potential Amendment for Commission Consideration

H1712-1A removes the authority to purchase service credit for the period of voluntary layoff or "other" leave, since purchasing or receiving service credit for such a period is not permitted under general law.

Background Information on Special Law Service Credit Purchases

In Minnesota, until 1999, there were few general law service credit purchase authorizations, and service credit purchase authorizations were generally special law provisions.

The primary general law service credit purchase authorization was Minnesota Statutes 2004, Section 354.51, enacted in 1931, when the Teachers Retirement Association (TRA) was a defined contribution retirement plan, which allows TRA members with 15 years of service who have pre-1953 out-of-state teaching service to purchase that service by making equivalent member contributions, plus interest at the rate of 8.5% per annum.

During the period 1957-2010, the Legislature has enacted 264 special laws authorizing one person or a small group of individuals to purchase prior service credit, distributed as follows:

<u>Year</u>	<u>#</u>	<u>Year</u>	<u>#</u>	<u>Year</u>	<u>#</u>	<u>Year</u>	<u>#</u>	<u>Year</u>	<u>#</u>
1957	1	1973	4	1981	14	1989	12	1997	3
1959	4	1974	5	1982	16	1990	10	1998	9
1961	5	1975	10	1983	2	1991	6	1999	8
1963	6	1976	4	1984	3	1992	6	2000	8
1965	5	1977	9	1985	2	1993	7	2001	10
1967	1	1978	9	1986	6	1994	8	2002	2
1969	2	1979	7	1987	3	1995	7	2003	6
1971	2	1980	4	1988	7	1996	6	2004	1

A majority of special prior service credit purchase laws relate to the three major general employees retirement plans, with 33 special laws relating to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), with 84 special laws relating to the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), and with 52 special laws relating to TRA.

In considering special law service credit purchase requests, the Legislative Commission on Pensions and Retirement has generally followed its Principles of Pension Policy, which require:

- a. Individual Review. The Commission considers each service credit purchase request separately, whether the request is proposed legislation for a single person or is proposed legislation relating to a group of similarly situated individuals.
- b. Public Employment. The period requested for purchase should be a period of public employment or service that is substantially akin to public employment. This is consistent with the notion that public pension plans should be providing coverage for public employees for periods of time when they were serving the public through public employment or through quasi-public employment. Coverage for a period when an individual provided private sector employment is not consistent with this statement.
- c. Minnesota Connection. The employment period to be purchased should have a significant Minnesota connection. This is consistent with the notion that Minnesota taxpayers support these public pension plans and bear the investment risk in amassing plan assets. Given the support that taxpayers provide, it is appropriate that the service have a Minnesota connection, reflecting services provided to the people in the state.
- d. Presumption of Active Member Status at the Time of Purchase. The principle states that contributions should be made by the member or in combination by the member and by the employer. It is presumed that the individual covered by the service purchase request is an active employee, because retirees generally are not considered to be "members" of a plan and these individuals no longer have 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 was 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 rare occasions have the Commission and the Legislature authorized service credit purchases by retirees.

- e. 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.
- f. 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, which equals the additional liability placed on the fund due to the purchase. This amount 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. When clear evidence indicates that the employing unit committed an error that 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% interest, and the employer has been mandated to cover the remainder of the computed full actuarial value 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 that 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. 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% interest to adjust for the time value of money, leaving any difference between that payment and the full actuarial value to be absorbed by the pension fund.
- g. No Violation of Equitable Considerations. Purchases of service credit should not violate equitable considerations. Equity is a resort to general principles of fairness and justice whenever the existing law is inadequate. 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. 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 be considered as violating equity considerations, among other policy concerns relating to those considerations. Requests to purchase service credit for periods covered by another pension plan may raise equity concerns. Generally, a service credit purchase is intended to fill a gap in coverage, not to create double coverage. Long delays in seeking remedial action can also be considered a violation of equity considerations. Individuals tend to wait until late in their careers 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 a 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.

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 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, in the school aids bill (Laws 1977, Chapter 447, Article IX), several teacher mobility incentives were enacted by the Legislature. These 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 provision permitting full-time teacher retirement plan pension coverage. The teacher mobility incentives were a policy initiative of the House of Representatives under then Speaker Martin O. Sabo and were intended to reduce a growing proportion of senior, highly compensated teachers. The program allowed a teacher to take a leave of absence for up to five years to enable 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 leave 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 under age 55 who had between 10 and 20 years of total teaching service. The extended leave was for a period of up to five years. 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 leave of absence program (Minnesota Statutes, Sections 122A.46, 136F.43, 354.094, and 354A.091) has been modified numerous times since 1977.

- In 1978 (Laws 1978, Ch. 764, Sec. 79-82, 116, 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 (TRA and first class city teachers retirement fund associations).

- In 1979 (Laws 1979, Ch. 217, Sec. 6), the first class city teacher retirement fund associations coordinated program codification legislation, updated the provision to the style and usage conventions of the codification legislation and added a requirement that the applicable school district had a 30-day deadline to make its employer contribution for a leave after being notified by the teacher retirement fund association of receipt of the required member contribution payment. Also in 1979 (Laws 1979, Ch. 334, Art. 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 (TRA and first class city teachers retirement fund associations).
- In 1980 (Laws 1980, Ch. 454, Sec. 1-5), state university and state community college faculty members were permitted to utilize the extended leave of absence program (TRA only).
- In 1981 (Laws 1981, Ch. 358, Art. 8, Sec. 2, 9-12, 14-17), 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 (TRA and first class city teachers retirement fund associations).
- In 1983 (Laws 1983, Ch. 314, Art. 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 (TRA and first class city teachers retirement fund associations).
- In 1985 (First Special Session 1985, Ch. 12, Art. 11, Sec. 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 (TRA only; comparable change made for first class city teachers retirement fund associations in 1979).
- In 1986 (Laws 1986, Ch. 444), gender-specific provisions in the extended leaves of absence provisions were replaced with non-gender-specific references (TRA and first class city teachers retirement fund associations).
- In 1987, (Laws 1987, Ch. 258, Sec. 12), relating to the first class city teachers retirement fund associations, references to “area vocational institutes” were changed to “technical institutes.” Also in 1987 (Laws 1987, Ch. 284, Art. 6, Sec. 5), the TRA extended leave of absence provision member contribution payment deadline was further extended, to September 30, with 6% interest after June 30.
- In 1989 (Laws 1989, Ch. 246, Sec. 2), relating to the first class city teachers retirement fund associations, statutory references to “technical institutes” were changed to “technical colleges.” Also in 1989 (Laws 1989, Ch. 293, Sec. 77-79), in an education bill, “area vocational technical school” references were revised as “technical institute” references (TRA and first class city teacher retirement fund associations). Also in 1989 (Laws 1989, Ch. 329, Sec. 20-21, 23-24), in the school aids bill, the state payment of extended leave of absence employer contribution amounts were terminated (TRA and first class city teacher retirement fund associations).
- In 1991 (Laws 1991, Ch. 130, Sec. 34), references to the state payment of extended leave of absence employer contribution amounts were removed (TRA only). Also in 1991 (Laws 1991, Ch. 340, Sec. 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, Ch. 598, Art. 3, Sec. 1); interest on late extended leaves of absence employee contributions was increased from 6% to 8.5% (TRA only).
- In 1995 (Laws 1995, Ch. 141, Art. 3, Sec. 20), references to “teachers retirement fund” and teachers retirement association in the TRA extended leaves of absence provision were clarified (TRA only).
- In 1996 (Laws 1996, Ch. 305, Art. 1, Sec. 80), references to the Minnesota State Colleges and Universities System extended leave of absence provision were revised (TRA only).
- In 1998 (Laws 1998, Ch. 397, Art. 11, Sec. 3), cross-references affected by an educational law recodification were revised (TRA and first class city teacher retirement fund associations).
- In 2000 (Laws 2000, Ch. 461, Art. 12, Sec. 6-10), relating to the first class city teacher retirement fund associations, the extended leave of absence service credit provision was extended to plan members

employed by the Minnesota State Colleges and Universities System (MnSCU). Also in 2000 (Laws 2000, Ch. 461, Art. 3, Sec. 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 (TRA only).

- In 2001 (First Special Session Laws 2001, Ch. 1, Art. 2, Sec. 22), a reference to the Minnesota State Colleges and Universities System was corrected (TRA only).
- In 2003 (First Special Session Laws 2003, Ch. 12, Art. 3, Sec. 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.
- In 2005 (First Special Session Laws 2005, Ch. 8, Art. 3, Sec. 4), the TRA extended leave of absence member contributions were made payable annually by June 30 of the fiscal year for which service credit is to be received and a special authorization for the member contribution payment from pre-tax assets after June 30 was authorized if authorization for the payment was received by the third party administrator of the pre-tax asset plan before the applicable June 30 and the late payment includes monthly interest based on the 8.5% preretirement interest rate assumption.
- In 2007 (Laws 2007, Chapter 134, Art. 2, Sec. 33, 36, 41), the TRA extended leave of absence provision was modified by considerably revising and extending the permitted payment period for all leaves (including extended leaves) commencing after July 1, 2007. Rather than terminating any right to make payments soon after June 30 of each year of the extended leave, TRA was authorized to accept contributions until the following June 30 if paid with interest, and payments were authorized to be made after that date at full actuarial value.
- In 2008 (Laws 2008, Ch. 349, Art. 5, Sec. 30), the payment provision (M.S., Sec. 354.72) was revised by requiring payment to be received before the date of retirement in cases requiring a full actuarial value payment (when the payment is not made within one year following the year of the 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	<p>Service credit for an extended leave of absence for a period of up to five years granted under Minnesota Statutes, Section 122A.46 or Section 136F.43, if the leave is certified to TRA, may qualify for service credit providing proper payments are made to TRA.</p> <p>The extended leave of absence must include a right to reinstatement to employment during the leave and at the end of the leave. During the leave, the person receiving service credit for the leave has the status of an active member of the retirement plan. If there is a failure to pay required member or employer contribution equivalent amounts in any fiscal year, TRA membership terminates as of the start of the fiscal year. If a teacher does not resume teaching at the conclusion of the leave, TRA membership terminates as of the start of the fiscal year following the conclusion of the leave. The program does not apply to discharged teachers, teachers placed on an unrequested leave of absence, retrenched, or laid off, or a teacher whose contract is terminated. Teachers on an extended leave are prohibited from other Minnesota public pension plan coverage other than by a volunteer firefighter relief association, but a teacher on extended leave can serve as a substitute teacher.</p> <p>For an eligible extended leave, payment of member and employer equivalent amounts is due by June 30 of the year of the leave. If payment is not received by that date, payment requirements specified in Minnesota Statutes, Section 354.72 apply if the leave commenced after July 1, 2007. That provision permits payment to be made within one year after June 30 if payments include 8.5% interest. If payment is not made by that date, service credit for the period can be purchased at full actuarial value, if payment is received prior to the date of retirement.</p> <p>The contribution amounts must be calculated based on the covered salary for the year preceding the extended leave. The deadline for the member contribution equivalent payment is June 30 of the applicable fiscal year unless the payment is made from pre-tax assets, where the transfer paperwork has been filed with the third party administrator by June 30, where payment contains interest from June 30, and the payment transfer occurs before October 1. [M.S., Sec. 354.094 and 354.72]</p>

Plan	Extended Leave of Absence Provision
DTRFA	Service credit for 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 other than a volunteer firefighter relief association, but may serve as a substitute teacher. [M.S., Sec. 354A.091]
SPTRFA	Service credit for 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 other than a volunteer firefighter relief association, but may serve as a substitute teacher. [M.S., Sec. 354A.091]

From: Melissa Hortman [rep.melissa.hortman@house.mn]
Sent: Wednesday, January 05, 2011 1:41 PM
To: Larry Martin
Cc: reier@embarqmail.com; Mary Faust
Subject: Fwd: Request for LCPR Commission
Attachments: Request for LCPR Commission

Hi Larry,

I have a constituent who needs an individual situation addressed in the Pensions bill. I would appreciate your assistance in helping me to get the appropriate language drafted and properly submitted so that it can be considered when the new Pensions Commission convenes. Thank you.

I have attached my constituent's request to this email.

Sincerely,

Melissa Hortman
State Representative
District 47B - Brooklyn Park / Coon Rapids
Room 377, 100 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, MN 55155
tel. (651) 296-4280
email: rep.melissa.hortman@house.mn

From: reier@embarqmail.com
Sent: Sunday, February 21, 2010 12:54 PM
To: rep.melissa.hortman@house.mn
Subject: Request for LCPR Commission

Dear Melissa,

I am your old neighbor from across the pond in the former Puckett house. I've run into you a few times over the years including out on the ice. I taught in Anoka Hennepin #11 for 12 years and then took a 5 year leave to pursue a business that I had started. I did not go back to teaching at the end of my leave, but did go back after another 6 years when I sold my business. I wasn't thinking about retirement when I took the leave and was not aware that I could buy back the years that I was gone. I have now been back 10 years and am a senior teacher at the top of the pay scale. I am watching the younger teachers in my area get laid off. I would like to save someone's job, (which would also save the district money since my salary covers 2+ new teachers) but need to put in 5 more years to reach the rule of 90. I contacted the Teacher Retirement Assoc. and they suggested that I contact you to see if you would carry an individual rider to the Legislative Commission on Pensions and Retirement. They said that my request could possibly be added to the pension Omnibus bill that they are currently working on. I don't know what information you need, but am hoping that you will consider my request.

Thank you,

Herb Reiersen

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354.093 PARENTAL OR MATERNITY LEAVE.

Before the end of the fiscal year during which any parental or maternity leave is granted, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member of the fund granted parental or maternity leave of absence by the employing unit is entitled to service credit not to exceed one year for the period of leave upon payment to the fund by the end of the fiscal year following the fiscal year in which the leave of absence terminated. This payment must include the required employee, employer and amortization contributions for the period of leave prescribed in section 354.42. The payment must be based on the member's average full-time monthly salary rate on the date the leave of absence commenced, and must be without interest. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement at the end of the leave.

History: 1976 c 329 s 29; 1991 c 340 s 11

354.094 EXTENDED LEAVES OF ABSENCE.

Subdivision 1. Service credit contributions. Before the end of the fiscal year during which any extended leave of absence is granted pursuant to section 125.60 or 136.88, the employing unit granting the leave must certify the leave to the association on a form specified by the executive director. A member granted an extended leave of absence pursuant to section 125.60 or 136.88 may pay employee contributions and receive allowable service credit toward annuities and other benefits under this chapter, for each year of the leave provided the member and the employing board make the required employer contribution in any proportion they may agree upon, during the period of the leave which shall not exceed five years. A member may not receive more than five years of allowable service credit under this section. The employee and employer contributions must be based upon the rates of contribution prescribed by section 354.42 for the salary received during the year immediately preceding the extended leave. Payments for the years for which a member is receiving service credit while on extended leave must be made on or before the later of June 30 of each fiscal year for which service credit is received or within 30 days after first notification of the amount due, if requested by the member, is given by the association. No payment is permitted after the following September 30. Payments received after June 30 must include interest at an annual rate of 8.5 percent from June 30 through the end of the month in which payment is received. Notwithstanding the provisions of any agreements to the contrary, employee and employer contributions may not be made to receive allowable service credit if the member does not have full reinstatement rights as provided in section 125.60 or 136.88, both during and at the end of the extended leave.

Subd. 1a. [Repealed, 1991 c 130 s 38; 1991 c 340 s 34]

Subd. 1b. [Repealed, 1991 c 130 s 38; 1991 c 340 s 34]

Subd. 2. Membership; retention. Notwithstanding section 354.49, subdivision 4, clause (3), a member on extended leave whose employee and employer contributions are paid into the fund pursuant to subdivision 1 shall retain membership in the association for as long as the contributions are paid, under the same terms and conditions as if the member had continued to teach in the district, the community college system, or the state university system.

Subd. 3. Effect of nonpayment. A member on extended leave of absence pursuant to section 125.60 or 136.88 who does not pay employee contributions or whose employer contribution is not paid into the fund in any year shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter and may not pay employee or employer contributions into the fund in any subsequent year of the leave. Nonpayment of contributions into the fund shall not affect the rights or obligations of the member or the member's employer under section 125.60 or 136.88.

Subd. 4. A member who pays employee contributions into the fund for the agreed

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maximum duration of an extended leave and who does not resume teaching in the first school year after that maximum duration has elapsed shall be deemed to cease to render teaching services beginning in that year for purposes of this chapter.

Subd. 5. The provisions of this section shall not apply to a member who is discharged or placed on unrequested leave of absence or retrenchment or layoff or whose contract is terminated while the member is on an extended leave of absence pursuant to section 125.60 or 136.88.

Subd. 6. A member who pays employee contributions and receives allowable service credit in the fund pursuant to this section may not pay employee contributions or receive allowable service credit for the same fiscal year in any other Minnesota public employee pension plan, except a volunteer firefighters' relief association governed by sections 69.771 to 69.776. This subdivision shall not be construed to prohibit a member who pays employee contributions and receives allowable service credit in the fund pursuant to this section in any year from being employed as a substitute teacher by any school district during that year. Notwithstanding the provisions of sections 354.091 and 354.42, a teacher may not pay retirement contributions or receive allowable service credit in the fund for teaching service rendered for any part of any year for which the teacher pays retirement contributions or receives allowable service credit pursuant to this section or section 354A.091 while on an extended leave of absence pursuant to section 125.60.

History: 1977 c 447 art 9 s 3; 1978 c 764 s 116,117; 1979 c 334 art 8 s 14,15; 1980 c 454 s 2-5; 1980 c 618 s 4; 1981 c 358 art 8 s 9-12; 1983 c 314 art 10 s 6-8; 1Sp1985 c 12 art 11 s 5; 1986 c 444; 1987 c 284 art 6 s 5; 1989 c 293 s 77,78; 1989 c 329 art 9 s 20,21; 1991 c 130 s 34; 1991 c 340 s 12; 1992 c 598 art 3 s 1

354.095 MEDICAL LEAVE; PAYMENT PROCEDURES.

Upon granting a medical leave, an employing unit must certify the leave to the association on a form specified by the executive director. A member of the fund who is on an authorized medical leave of absence is entitled to receive allowable service credit, not to exceed one year, for the period of leave, upon making the prescribed payment to the fund. This payment must include the required employee and employer contributions at the rates specified in section 354.42, subdivisions 2, 3, and 5, as applied to the member's average full-time monthly salary rate on the date the leave of absence commenced plus compound annual interest at the rate of 8.5 percent from the end of the fiscal year during which the leave terminates to the end of the month during which payment is made. The member must pay the total amount required unless the employing unit, at its option, pays the employer contributions. The total amount required must be paid before the effective date of retirement or by the end of the fiscal year following the fiscal year in which the leave of absence terminated, whichever is earlier. A member may not receive more than one year of allowable service credit during any fiscal year by making payment under this section. A member may not receive disability benefits under section 354.48 and receive allowable service credit under this section for the same period of time. Notwithstanding the provisions of any agreement to the contrary, employee and employer contributions may not be made to receive allowable service credit under this section if the member does not retain the right to full reinstatement both during and at the end of the medical leave.

History: 1990 c 570 art 7 s 1; 1991 c 340 s 13

354.096 FAMILY LEAVE.

Subdivision 1. **Certification.** Upon granting a family leave to a member, an employing unit must certify the leave to the association on a form specified by the executive director before the end of the fiscal year during which the leave was granted.

Subd. 2. **Payment.** (a) Notwithstanding any laws to the contrary, a member who is granted a family leave under United States Code, title 42, section 12631, may receive allowable service credit for the leave by making payment of the employee, employer,

Laws 2007, Chapter 134, Article 2, Section 41

Sec. 41. [354.72] AUTHORIZED LEAVE OF ABSENCE AND STRIKE PERIOD SERVICE CREDIT PURCHASE PROCEDURE.

Subdivision 1. Application. This section applies to any strike period under section 354.05, subdivision 13, clause (9), and to any period of authorized leave of absence without pay under sections 354.093, 354.094, 354.095, and 354.096 for which the teacher obtains credit for allowable service by making payment as specified in this section to the Teachers Retirement Association fund. Each year of an extended leave of absence under section 354.094 is considered to be a separate leave for purposes of this section.

Subd. 2. Purchase procedure. (a) A teacher may purchase credit for allowable and formula service in the plan for a period specified in subdivision 1 if the teacher makes a payment as specified in paragraph (b) or (c), whichever applies. The employing unit, at its option, may pay the employer portion of the amount specified in paragraph (b) on behalf of its employees.

(b) If payment is received by the executive director within one year from the end of the strike period or authorized leave under section 354.093, 354.095, or 354.096, or after June 30 and before the following June 30 for an extended leave of absence under section 354.094, the payment must equal the total employee and employer contributions, including amortization contributions if applicable, given the contribution rates in section 354.42, multiplied by the member's average monthly salary rate on the commencement of the leave or period of strike, multiplied by the months and portions of a month of the leave of absence or period of strike for which the teacher seeks allowable service credit. Payments made under this paragraph must include compound interest at a monthly rate of 0.71 percent from the last day of the leave period or strike period, or from June 30 for an extended leave of absence under section 354.094, until the last day of the month in which payment is received.

(c) If payment is received by the executive director after the applicable last permitted date under paragraph (b), the payment amount is the amount determined under section 356.551.

EFFECTIVE DATE. This section is effective July 1, 2007, and applies to authorized leaves of absence that commence on or after that date.

- 1.1 moves to amend H.F. No. 1712; S.F. No. 2015, as follows:
- 1.2 Page 1, line 9, delete "the period of"
- 1.3 Page 1, line 10, delete "voluntary layoff or "other" leave, and for"
- 1.4 Amend the title accordingly

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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH
SESSION

HOUSE FILE No. 1712

May 14, 2011

Authored by Hortman

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 retirement; Teachers Retirement Association; authorizing an
1.3 Anoka-Hennepin school district teacher to purchase service credit for a voluntary
1.4 layoff and extended leave of absence despite a failure to make timely payments.

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

1.6 Section 1. TRA; PURCHASE OF SERVICE CREDIT FOR VOLUNTARY
1.7 LAYOFF AND EXTENDED LEAVE PERIODS; ANOKA-HENNEPIN TEACHER.

1.8 (a) An eligible person described in paragraph (b) is authorized to purchase allowable
1.9 and formula service credit in the Teachers Retirement Association for the period of
1.10 voluntary layoff or "other" leave, and for an extended leave of absence specified in
1.11 paragraph (b), notwithstanding Minnesota Statutes, section 354.05, subdivision 13, and
1.12 section 354.094.

1.13 (b) An eligible person is a person who:

1.14 (1) was born on August 13, 1951;

1.15 (2) became a member of the Teachers Retirement Association in 1977 due to
1.16 teaching service in Lynd, Minnesota;

1.17 (3) began Independent School District No. 11, Anoka-Hennepin, teaching service in
1.18 January 1979;

1.19 (4) went on a voluntary layoff or miscellaneous "other" leave of absence from
1.20 July 1, 1989, to June 30, 1991, followed by an extended leave of absence from July 1,
1.21 1991, to June 30, 1994;

1.22 (5) failed to make the contributions required to receive service credit for the
1.23 extended leave; and

2.1 (6) failed to return to teaching service until approximately six years after the end of
2.2 the extended leave.

2.3 (c) Minnesota Statutes, section 356.551, applies to this purchase.

2.4 (d) Authority for an eligible person to purchase service credit under this provision
2.5 expires one year from the effective date of this section.

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