



H.F. 1121
(Sanders)

S.F. xxxx

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special law provision
General Nature of Proposal: Service credit purchase for omitted contribution period.
Date of Summary: March 11, 2015

Specific Proposed Changes

- Permits a current Hennepin County Medical Center (HCMC) employee to purchase prior uncredited service credit for the nine years the employee was working at HCMC facilities under contract for two private, non-profit corporations by paying the equivalent of the unpaid member contributions, plus annual compound interest, and with HCMC responsible for the balance of the full actuarial value payment required to fund the benefit obtained by the purchase.

Policy Issues Raised by the Proposed Legislation

1. Conformity with Commission Policy Principles.
2. Equity considerations; whether the service credit purchase would violate notions of equity.
3. Appropriateness of the manner in which the full actuarial value purchase payment is proposed to be divided.
4. Extent to which identical or similar previously enacted special legislation exists.

Potential Amendments

No suggested amendments by Commission staff.

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TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Rachel Thurlow, Deputy Director *RT*
RE: H.F. 1121 (Sanders); S.F. xxxx: PERA; Service Credit Purchase for Omitted Contribution Period for Certain Hennepin County Medical Center Employee.
DATE: March 10, 2015

Summary of H.F. 1121 (Sanders); S.F. xxxx

H.F. 1121 (Sanders); S.F. xxxx is a special law proposal that would permit Robin Hoppenrath, an employee of the Hennepin County Medical Center, who was not reported to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) during a nine-year period from May 1986 until April 1995, to purchase PERA-General service credit, with the employee responsible for unpaid member contributions plus interest at 8.5%, compounded annually, and with the Hennepin County Medical Center responsible for the balance of the full actuarial value of the retirement benefit obtained by the uncredited service credit.

Public Pension Problem Addressed by H.F. 1121 (Sanders); S.F. xxxx

Robin Hoppenrath is a 59-year-old employee for Hennepin County Medical Center (HCMC), a public hospital. Ms. Hoppenrath was first employed by HCMC in March 1986 and was covered by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General). After May 30, 1986, HCMC ceased reporting Ms. Hoppenrath as an employee and she withdrew all funds from her PERA-General account. From June 1986 to March 1995, Ms. Hoppenrath continued working at HCMC facilities but worked under contract for, was paid by, and received a 401(a) retirement account from the Hennepin Faculty Associates (HFA), a private, non-profit corporation, and the Minneapolis Medical Research Foundation (MMRF), a private subsidiary of HFA. In April 1995, Ms. Hoppenrath was employed by HCMC as a new employee. Ms. Hoppenrath contends that she did not have a choice in the various employment changes and would now like to be credited for the years of service from June 1986 to March 1995 in the PERA-General plan and to be included in the Rule of 90.

Background Information on the Hennepin County Medical Center

Hennepin County Medical Center (HCMC), a public hospital, is operated by Hennepin Healthcare System, Inc. (HHS), a public corporation. Under Minnesota Statutes, Section 353.01, Subdivision 6b, of the Public Employees Retirement Association (PERA) statutes, HHS is defined as a governmental subdivision, making all HHS employees eligible for PERA retirement coverage. PERA coverage is optional at the discretion of HHS under Minnesota Statutes, section 353.01, subdivision 2d, but if PERA coverage is not elected, HHS must establish alternative retirement plans for certain classes of employees. A majority of HHS employees would be covered by the General Employees Retirement Plan (PERA-General).

The Hennepin Faculty Associates (HFA) was a private, non-profit physician group based on the HCMC campus with its own employees, payroll, and retirement benefits. The Minneapolis Medical Research Foundation (MMRF) was a private, non-profit research subsidiary of HFA. Both were distinct, private entities that were not eligible for PERA retirement coverage. In 2012, the HFA merged into HHS, transferring all HFA employees to HCMC employment resulting in PERA coverage eligibility. MMRF remains a separate entity and its employees are not eligible for PERA retirement coverage.

Discussion and Analysis

H.F. 1121 (Sanders); S.F. xxxx allows Robin Hoppenrath, a current Hennepin County Medical Center (HCMC) employee, to purchase prior uncredited service credit for the nine years she was working at HCMC facilities under contract for two private, non-profit corporations by paying the equivalent of the unpaid member contributions, plus annual compound interest, and with HCMC responsible for the balance of the full actuarial value payment required to fund the benefit obtained by the purchase.

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

1. Conformity with Commission Policy and Principles. The policy issue is whether the proposed legislation conforms to the applicable portion of the Commission's Principles of Pension Policy. Principle II.C.10 provides:

II.C.10. Purchases of Prior Service Credit

Purchases of public pension plan credit for periods of prior service should be permitted only if it is determined by the Commission:

- that the period to be purchased is public employment or relates substantially to the public employee's career,
- that the purchase payment amount from the member or from a combination of the member and the current or former employer must equal the actuarial liability to be incurred by the pension plan for the benefit associated with the purchase, appropriately calculated, without the provision of a subsidy from the pension plan unless an error or an omission by the pension plan was responsible for the loss of service credit,
- that the purchase payment amount must include a minimum payment by the member of the equivalent member contributions, plus compound interest from the purchase period to the date of payment unless the employer committed a particularly egregious error,
- that the purchase payment is the responsibility of the member, with the current or former employer authorized to pay some or all of the portion of the payment amount in excess of the minimum member payment amount, unless the employer has some culpability in the circumstances giving rise to the purchase and then a mandatory employer contribution may be imposed, and
- that the purchase must not violate notions of equity.

The proposed legislation would result in full funding of the new liability to be incurred by the PERA General Employees Retirement Plan (PERA-General) and the equity considerations will be discussed in issue #2. A main issue is that the service credit Ms. Hoppenrath would like to purchase does not appear to be for public employment. Ms. Hoppenrath initially worked for Hennepin County Medical Center (HCMC) for a short period of time, but soon after was transferred to work for the Minneapolis Medical Research Association (MMRA) and then the Hennepin Faculty Associates (HFA), resulting in her receiving a refund of her PERA-General contributions and starting a 401(a) retirement program with a 9.5% annual employer retirement contribution through HFA and MMRA, a subsidiary of HFA. MMRA and HFA, not HCMC, paid Ms. Hoppenrath's salary and helped fund her private retirement account. Although Ms. Hoppenrath worked at HCMC facilities, she was employed by HFA and MMRA, which were private, non-profit corporations at the time of her employment with each. HFA did eventually merge with HCMC, but the merger happened almost 17 years after Ms. Hoppenrath left HFA. MMRA has remained a private entity. The refund of Ms. Hoppenrath's PERA-General account, establishment of a private retirement account, and HFA and MMRA paying her salary all strongly indicate that her employment from 1986-1995 was not public employment and therefore that period of employment is not eligible for a service credit purchase.

2. Equity Considerations in Allowing a Service Credit Purchase. The policy issue is whether the service credit purchase would violate notions of equity. It has already been discussed that Ms. Hoppenrath's employment with the Minneapolis Medical Relief Association (MMRA) and the Hennepin Faculty Associates (HFA) does not appear to be public employment. There also does not appear to be an employer or PERA membership reporting error because Ms. Hoppenrath was not an employee for Hennepin County Medical Center (HCMC) and was receiving a salary and retirement benefits from private entities. Further, the uncredited period of prior service ended in 1995, 17+ years ago, but Ms. Hoppenrath has waited until recently to seek corrective action. Ms. Hoppenrath received a refund of her PERA-General contributions for the few months in 1986, which should have indicated to her that she was no longer a public employee, and she then received retirement benefits from her HFA and MMRA employers for the nine years she was employed by them. At no point in her career has Ms. Hoppenrath ever not had retirement coverage in some form. Ms. Hoppenrath has indicated that she would like to purchase service credit for those nine years in order to be covered by the Rule of 90, which would allow her to retire early and still receive a full benefit, a strong motivation to currently seek a remedy. The lack of evidence of an employer or PERA error or that the prior employment was public may set an inappropriate precedent in allowing a current public employee to seek service credit for private employment in order to fall under the Rule of 90.
3. Division of Full Actuarial Value Purchase Payment. The policy issue is the manner in which the prior service credit full actuarial value purchase payment is proposed to be divided. The greatest portion of the total cost, estimated to be around \$164,000, lies with the Hennepin County Medical Center (HCMC). Ms. Hoppenrath would have to pay \$75,000 plus the \$1,300 that was refunded to her in 1986. Commission practice for the past 15 years has been to impose liability on an employing until only if some fault by the employer causing the loss of service credit is demonstrated. The proposed legislation describes the service credit loss as attributable to an employer failure to report Ms. Hoppenrath to PERA and an employer failure to deduct member contributions. However, as has been discussed, there is a lack of evidence to support that HCMC failed to report Ms. Hoppenrath to PERA because she was not employed by HCMC. Rather, she was employed by separate, private entities for

the nine years in question. It does not seem equitable to require HCMC to pay \$87,000+ for an error they did not commit. Based on the facts presented, Ms. Hoppenrath was not a public employee at HCMC from 1986-1995 and should not be able to purchase service credit for private employment. If it is determined that Ms. Hoppenrath should have the option to purchase service credit, she should have to pay the full amount due to a lack of error on HCMC's part.

4. Precedent. The policy issue is the extent to which identical or similar previously enacted special legislation exists to provide guidance for the Commission. Two more recent special laws could be viewed as relevant in determining the current situation:
- In 2008 (Laws 2008, Ch. 349, Art. 16, Sec. 5), an Apple Valley teacher was allowed to purchase service credit for four years of out-of-state teaching through an extension of the deadline of a law that expired in 2006 that allowed out-of-state teaching credit purchases.
 - In 2014 (Laws 2014, Ch. 296, Art. 14, Sec. 3), a Mille Lacs Tribal Police Department police officer was allowed to purchase two years prior service credit from the PERA Police and Fire Retirement Plan (PERA-P&F) for the five years the officer worked for the tribal police department before the police department was included as a governmental subdivision and eligible for PERA-P&F coverage.

The current situation stems from different circumstance than the past situations. There is no expired law that would have allowed Ms. Hoppenrath to purchase service credit for the nine years of private employment. The Mille Lacs scenario is the closest and lends the most support for the special legislation. The Hennepin Faculty Associates (HFA) did merge with Hennepin County Medical Center (HCMC) in 2012, making all HFA eligible for PERA-General Coverage, similar to the Mille Lacs scenario. However, HFA was a distinct, private corporation, unlike the Mille Lacs Tribal Police Department, and HFA employees were moved in 2012 from private to public employment, unlike the Mille Lacs Tribal Police Department officers. Further, the Minneapolis Medical Relief Association (MMRA) remains a private entity, which brings into question whether Ms. Hoppenrath should be credited for the years she spent working for MMRA. Finally, the precedent cases had the support of the respective pension plan. PERA does not support the proposed legislation and opposes the purchase of service credit that would not otherwise be eligible for coverage, specifically because the evidence does not support that Ms. Hoppenrath was a public employee during the nine years she worked for MMRA and HFA. Allowing Ms. Hoppenrath to purchase service credit for private employment would set an inappropriate future precedent as well. If the proposed legislation passes, it opens the door to allow any public employee with any private employment to seek prior service credit purchases in order to obtain better pensions. It would also allow some of the financial burden to be placed on public employers to help pay for service credit for private employment.

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1121

02/23/2015 Authored by Sanders

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

1.1 A bill for an act
1.2 relating to retirement; authorizing purchase of service credit from the public
1.3 employees retirement association for omitted service.

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

1.5 Section 1. PERA-GENERAL; SERVICE CREDIT PURCHASE FOR OMITTED
1.6 CONTRIBUTION PERIOD; HENNEPIN COUNTY MEDICAL CENTER
1.7 EMPLOYEE.

1.8 (a) Notwithstanding any provision of law to the contrary, an eligible person
1.9 described in paragraph (b) is entitled to purchase from the general employees retirement
1.10 plan of the Public Employees Retirement Association allowable service credit under
1.11 Minnesota Statutes, section 353.01, subdivision 16, for the period of omitted member
1.12 deductions described in paragraph (c).

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

1.14 (1) was born on July 10, 1955;

1.15 (2) is a current employee of the Hennepin County Medical Center, covered by the
1.16 general employees retirement plan of the Public Employees Retirement Association;

1.17 (3) has worked for the medical director of the hospital since March 1986; and

1.18 (4) was not reported for retirement coverage and membership in the general
1.19 employees retirement plan of the Public Employees Retirement Association between
1.20 May 30, 1986, and April 3, 1995.

1.21 (c) The period of uncredited service authorized for purchase is the period from
1.22 May 30, 1986 and April 3, 1995, during which no member contributions for the general
1.23 employees retirement plan of the Public Employees Retirement Association were deducted
1.24 from the eligible person's salary, and which could not be corrected through the Public

2.1 Employees Retirement Association omitted contribution provision due to a three-year
2.2 time limit in the provision.

2.3 (d) Minnesota Statutes, section 356.551, applies to this purchase, except that the
2.4 purchase payment amount payable by the eligible person is the employee contributions that
2.5 should have been made, plus 8.5 percent interest compounded annually from the date each
2.6 deduction should have occurred, until the date paid to the Public Employees Retirement
2.7 Association. The purchase payment amount payable by Hennepin County Medical Center
2.8 is the balance of the full actuarial value prior service credit purchase payment amount as
2.9 of the first day of the month next following the receipt of the eligible person's payment that
2.10 is remaining after deducting the purchase payment amount payable by the eligible person.

2.11 (e) The payment amount due from the Hennepin County Medical Center under
2.12 paragraph (d) must be made on or before the 15th of the month next following the receipt
2.13 of the eligible person's payment under paragraph (d). If the Hennepin County Medical
2.14 Center purchase payment amount is not paid in a timely fashion, the amount due accrues
2.15 compound monthly interest at the rate of 0.71 percent per month from the first day of
2.16 the month next following the receipt of the eligible person's payment until the purchase
2.17 payment amount is received by the Public Employees Retirement Association.

2.18 (f) The eligible person must provide the executive director of the Public Employees
2.19 Retirement Association with any relevant requested information pertaining to this service
2.20 credit purchase.

2.21 (g) Authority to make a service credit purchase under this section expires on June
2.22 30, 2016, or upon the termination from public employment under Minnesota Statutes,
2.23 section 353.01, subdivision 11a, whichever occurs earlier.

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