

**H.F. 1997**

(Gunther)

**S.F. 1877**

(Rosen)

**Executive Summary of Commission Staff Materials**

<i>Affected Pension Plan(s):</i>	PERA-General
<i>Relevant Provisions of Law:</i>	Special law provision
<i>General Nature of Proposal:</i>	Service credit purchase for period of unreported Nashville Township employment.
<i>Date of Summary:</i>	March 20, 2015

**Specific Proposed Changes**

- Permits a Nashville Township employee to purchase service credit in the General Employees Retirement Plan of the Public Employees Retirement Plan (PERA-General) for the period from July 1, 1998 to July 1, 2010.
- The employee would be responsible for paying the necessary employee contributions, plus 8.5% annual compound interest.
- If the employee payment is made, the employer, the Nashville Township, would be required to pay the remainder of the full actuarial value. PERA is permitted to collect the employer obligation by certifying a property tax levy on Nashville Township to the Martin County auditor if the township declines to make the payment voluntarily.

**Policy Issues Raised by the Proposed Legislation**

1. Conformity with applicable pension policy principle.
2. Cost of the full actuarial value payment.
3. Allocation of substantial purchase obligation to Nashville Township.

**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. 1997 (Gunther); S.F. 1877 (Rosen): PERA; Service credit purchase for period of Nashville Township omitted contributions.

DATE: March 20, 2015

Summary of H.F. 1997 (Gunther); S.F. 1877 (Rosen)

H.F. 1997 (Gunther); S.F. 1877 (Rosen) permits Harvey Wiederhoeft to purchase service credit from the General Employees Retirement Plan of the Public Employees Retirement Plan (PERA-General) for the period from July 1, 1998 to July 1, 2010. Mr. Wiederhoeft would be responsible for paying the necessary employee contributions, plus 8.5% annual compound interest. If that payment is made, the employer, the Nashville Township, would be required to pay the remainder of the full actuarial value. PERA is permitted to collect the employer obligation by certifying a property tax levy on Nashville Township to the Martin County auditor if the township declines to make the payment voluntarily.

Public Pension Problem of Harvey Wiederhoeft

Harvey Wiederhoeft is a 76-year-old employee for the Nashville Township. Mr. Wiederhoeft was first employed by the Nashville Township April 1, 1994 and was not eligible for Public Employees Retirement Association (PERA) retirement coverage, specifically the General Employees Retirement Plan (PERA-General), at the start of his employment. In February 2014, PERA billed the Town of Nashville for three years of omitted deductions for Mr. Wiederhoeft going back to July 1, 2010, as permitted by Minnesota Statutes, Section 353.27, Subdivision 12. However, Mr. Wiederhoeft actually became eligible to receive PERA-General coverage on July 1, 1998. Mr. Wiederhoeft would now like to remedy his situation by purchasing service credit for the twelve years he was eligible for PERA-General coverage from 1998 to 2010.

Discussion and Analysis

H.F. 1997 (Gunther); S.F. 1877 (Rosen) allows Harvey Wiederhoeft to obtain twelve years of General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) service credit for his employment career with Nashville Township, with the largest portion of the resulting full actuarial cost payable by Nashville Township.

The proposed legislation raises several pension and related public policy issues for consideration by and possible discussion between members of the Commission, including the following:

1. Conformity with Applicable Pension Policy Principle. The police issue is the extent to which the proposed legislation conforms to the Principles of Pension Policy of the Legislative Commission on Pensions and Retirement. Principle II.C.10. addresses the issue of purchasing service credit:

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 arguably conforms to the elements. The service period for purchase is public employment, the full actuarial value of the benefit to be obtained by the purchase is payable under the proposed legislation, the member is charged with the equivalent member contribution amount, the employer is assessed a substantial portion of the purchase payment due to an employer reporting error, and the situation does not appear to violate notions of equity.

2. Cost of the Full Actuarial Value Payment. The policy issue is the cost Mr. Wiederhoeft and Nashville Township must pay for the prior service credit purchase. Based on estimates provided by PERA the total actuarial value of the twelve years of service credit is \$7,179. The employee contributions, plus 8.5% annual compound interest, that Mr. Wiederhoeft would be required to pay under the proposed legislation are estimated to total \$3,413. Mr. Wiederhoeft would be required to pay his portion in a one-time payment. Under the proposed legislation, Nashville Township would be required to pay the difference of the total actuarial value, an estimated total of \$3,760. The Commission has no information on whether Nashville Township has indicated a willingness to cover its share of the cost. Under the proposed legislation, if Nashville Township fails to make the required payment, the amount will be deducted from any state aid paid to Martin County.
  
3. Allocation of Substantial Purchase Obligation to Nashville Township. The policy issue is the appropriateness of imposing a substantial portion of the prior service credit purchase payment obligation on Nashville Township. The Public Employees Retirement Association (PERA) has indicated they have sufficient documentation to identify that Mr. Wiederhoeft should have been reported to PERA by the Nashville Township for retirement coverage under the PERA General Employees Retirement Plan (PERA-General) starting July 1, 1998, but was not reported until PERA notified Nashville Township in February 2014. The Commission Principles of Pension Policy provide for the mandatory employer payment of a substantial portion of the full actuarial value service credit purchase amount if the employing unit has culpability in causing the uncredited service. Minnesota Statutes, Section 353.27, Subdivision 10, requires employing units covered by PERA to provide annual exclusion reports listing all employees potentially eligible for PERA-General coverage who were not reported as PERA members. Based on the information provided, it appears Nashville Township failed to comply with the statute in 1998 and subsequent years, and did not report Mr. Wiederhoeft to PERA, and therefore should bear some of the financial responsibility under Commission Policy Principles.

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1997

03/18/2015 Authored by Gunther

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; Public Employees Retirement Association; permitting a  
1.3 Nashville Township employee to purchase service credit for a period of omitted  
1.4 contributions.

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

1.6 Section 1. PERA-GENERAL; SERVICE CREDIT PURCHASE FOR OMITTED  
1.7 CONTRIBUTION PERIOD; NASHVILLE TOWNSHIP EMPLOYEE.

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

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

1.14 (1) was born on August 8, 1938;

1.15 (2) was first employed by Nashville Township on April 1, 1994;

1.16 (3) was eligible for retirement coverage by and membership in the general employees  
1.17 retirement plan of the Public Employees Retirement Association on July 1, 1998; and

1.18 (4) had omitted deductions paid for allowable service for Nashville Township back  
1.19 to July 1, 2010.

1.20 (c) The period of prior service credit available for purchase is the period from July 1,  
1.21 1998, to June 30, 2010, during which no member contributions for the general employees  
1.22 retirement plan of the Public Employees Retirement Association were deducted from the  
1.23 eligible person's salary by Nashville Township, and which could not be corrected through

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

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

2.11 (e) The payment amount due from Nashville Township under paragraph (d) must be  
2.12 made on or before the 15th of the month next following the receipt of the eligible person's  
2.13 payment under paragraph (d). If the Nashville Township purchase payment amount is not  
2.14 paid in a timely fashion, the amount due accrues compound monthly interest at the rate  
2.15 of 0.71 percent per month from the first day of the month next following the receipt of  
2.16 the eligible person's payment until the Nashville Township purchase payment amount is  
2.17 received by the Public Employees Retirement Association. If Nashville Township fails  
2.18 to pay its portion of the purchase payment amount to the Public Employees Retirement  
2.19 Association 90 days after the receipt of the eligible person's payment, the executive  
2.20 director shall collect the unpaid amount under Minnesota Statutes, section 353.28,  
2.21 subdivision 6, paragraph (a).

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

2.25 (g) Authority to make a service credit purchase under this section expires on June 30,  
2.26 2015, or upon the eligible person's termination of employment under Minnesota Statutes,  
2.27 section 353.01, subdivision 11a, whichever occurs earlier.

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