

SF 2591 (Osmeck); HF 2964 (Hertaus): MSRS General State Employees Retirement Plan; Permitting the survivor of a deceased state employee to purchase service credit to receive an annuity death benefit

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Introduction

Affected Plan: The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS General Plan).

Brief Description: The bill establishes a new section in the 2021 session laws, which would permit an individual, Susan Morimoto, who is the surviving spouse of a deceased state employee, Henry Morimoto, to purchase service credit to receive an annuity death benefit from the MSRS General Plan.

This summary has been updated from the version published for the LCPR meeting on February 8, 2022. This updated summary revises the amounts that MSRS estimates for Susan Morimoto's survivor benefits and adds an Analysis section at the end of the summary.

Background

In December of 2020, Henry Morimoto died due to complications from COVID-19. At the time of his death, he was employed by the Minnesota Housing Finance Agency, was covered by the MSRS General Plan, and was credited with 4 years, 11 months of service credit in the plan. Because Henry Morimoto was one month short of the 5 years required to be vested in the MSRS General Plan, his surviving spouse, Susan Morimoto, is not eligible to receive an annuity death benefit (paid monthly for life) from the MSRS General Plan.

MSRS death benefits.

Current law provides that when an active member of the MSRS General Plan dies, if the member is not vested, the member's surviving spouse or beneficiary is entitled a refund of the employee's contributions to the MSRS General Plan.¹ However, if the deceased employee is vested (has five or more years of service credit), then the member's surviving spouse is entitled to a lifetime annuity in lieu of the refund.² The annuity is equal to the pension benefit earned by the employee as if the employee had

¹ Minnesota Statutes, section 352.12, subdivision 1.

² Minnesota Statutes, section 352.12, subdivision 2.

selected a 100% joint and survivor optional annuity, reduced for early retirement (if applicable), and payable immediately regardless of age or payable at a later date as determined by the surviving spouse. In lieu of the lifetime annuity or refund of employee contributions, a surviving spouse may elect an annuity paid for a term of 10, 15, or 20 years.

In the case of Henry Morimoto, because he was not vested at the time of his death, Susan Morimoto is not eligible to receive a lifetime annuity benefit or a fixed term annuity benefit but is entitled to receive a refund of Henry's contributions to the MSRS General Plan.

According to MSRS, the current value of a refund of Henry's contributions is more than \$24,000. Compare that to the lifetime annuity amount that Susan Morimoto would be entitled to if Henry had been credited with one additional month of service: \$288 per month presently valued at \$44,618. The present value of the annuity benefit is almost two times the value of a refund of Henry's employee contributions.

SF 2591 / HF 2964 would permit Susan Morimoto to purchase one month of service credit on behalf of Henry. Upon the purchase of the month of service credit, Susan Morimoto would be entitled to an annuity benefit as described above.

Summary of the Bill

SF 2591 / HF 2964 is a single uncodified section that would appear in the 2021 session laws. The section is further divided into five subdivisions as follows:

Subdivision 1

Subdivision 1 contains the defined terms used in the bill.

Subdivision 2

Subdivision 2 authorizes the surviving spouse of an "eligible person" to purchase sufficient service credit for the eligible person to become vested in the MSRS General Plan.

Subdivision 3

Subdivision 3 defines an eligible person so that the term applies to Henry Morimoto. It is possible but unlikely that the term could apply to another similarly situated person.

Subdivision 4

Subdivision 4 sets forth the method that the MSRS executive director is to use to determine the amount to be paid for the purchase for the one month of service credit. The purchase amount is the employee and employer contribution for 1 month. The purchase amount places both MSRS and Susan Morimoto in the financial position relative to each other that they would have been in if Henry had started

employment one month earlier. Susan Morimoto must pay the amount within 1 year of the effective date of the bill.

Subdivision 5

Subdivision 5 provides that Susan Morimoto as the surviving spouse of Henry Morimoto is entitled to an annuity benefit under MSRS's death benefit statutes upon payment to MSRS of the amount described in subdivision 4. Susan Morimoto is also permitted to select an annuity start date as early as January 1, 2021.

Effective date

This section is effective the day following final enactment.

Analysis

Vesting Requirement Waivers

The LCPR Principles of Pension Policy state:

Waivers of vesting requirements should be permitted only if, on a case-by-case basis, it is determined that there is a strong equitable argument to grant the waiver for the requesting public employees.³

This bill grants a waiver of the typical vesting requirement. The Commission should consider whether there is a "strong equitable argument to grant the waiver" (i.e. a strong equitable argument to include this bill in the omnibus pension bill). Some factors that the Commission may consider include:

- The degree of hardship experienced by Susan Morimoto;
- The role that COVID-19 played in the death of Henry Morimoto;
- The fact that Henry Morimoto was one month from becoming vested; and
- Whether this case can be distinguished from other active members who die before becoming vested.

Preference for general legislation

The LCPR Principles of Pension Policy state:

³ Legislative Commission on Pensions and Retirement Principles of Pension Policy, section II, subsection C, item 12.

No pension legislation of local or special limited application should be recommended by the Legislative Commission on Pensions and Retirement if the purpose and the intent of the proposed legislation would be better served by legislation of general statutory application or if the proposed legislation constitutes a significant departure from previously established uniform pension policy.⁴

This bill permits the surviving spouse of a specific non-vested state employee to purchase service credit to receive vested-member death benefits. If the Commission wishes to extend these vested death benefits to all non-vested state employees, the Commission may instruct LCPR staff to prepare an amendment to do so.

This bill is a departure from previously established uniform pension policy in that current law does not permit the surviving spouse of a non-vested member to receive vested member death benefits. However, the Commission may decide that the ability to purchase one month of service credit to become vested is not a *significant* departure from current pension policy.

Constitutionality of special legislation

The Minnesota Constitution states:

The legislature shall pass no local or special law . . . granting to any private corporation, association, or individual any special or exclusive privilege, immunity or franchise whatever. . . 5

Whether a special law such as this is constitutional is an unsettled question of law because the issue, as it relates to public pensions, has never been litigated in a Minnesota court. It is possible that bills such as this one could be vulnerable to a legal challenge on constitutional grounds. The Commission has regularly approved similar bills in the past.

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⁴ Legislative Commission on Pensions and Retirement Principles of Pension Policy, section III, subsection B.

⁵ Minnesota Constitution, Article XII, Section 1.