

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. 431 (Betzold); H.F. 2088 (Smith); First Class City Teacher Retirement Fund Associations; Updated Sabbatical Leave Service Credit Provision

DATE: March 28, 2005

Summary of S.F. 431 (Betzold); H.F. 2088 (Smith)

S.F. 431 (Betzold); H.F. 2088 (Smith) amends Minnesota Statutes, Sections 354A.011, Subdivision 23, and 354A.092, the provisions of the first class city teacher retirement fund associations law governing the acquisition of service credit for a sabbatical leave, by updating the provisions to make them conform with the Teachers Retirement Association (TRA) sabbatical leave provision, Minnesota Statutes, Section 354.092.

Background Information on Sabbatical Leave 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, probably because of unique aspects to that type of public employment.

Generally in Minnesota public employee retirement plans, 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 a 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.

Sabbatical leaves exist within educational institutions to encourage professional development and professional renewal. The sabbatical leave concept derives from an early Jewish agricultural practice of allowing land to lay fallow, a year of remission, every seventh year, analogous to the Sabbath day occurring each week. Sabbatical leaves originated in institutions of higher education and became common among colleges and universities by the 1890s, where faculty members returning from a sabbatical were expected to have produced a new book, a new laboratory discovery, or new scholarly journal articles. Sometime during the Twentieth Century, sabbatical leaves became part of the set of employment benefits for elementary and secondary teachers.

In Minnesota, the initial recognition of sabbatical leaves for retirement purposes occurred for the Teachers Retirement Association (TRA) in 1955 (Laws 1955, Chapter 361, Section 7). The 1955 sabbatical leave service credit provision covered any authorized sabbatical leave, any leave of absence for educational purposes in foreign countries under a scholarship from the Board of Foreign Scholarships, or any leave to render interchange teaching services in a foreign country under federal law. The 1955 provision did not set any minimum compensation requirements on the leaves, any minimum pre-leave service requirement on the leaves, or any maximum on the number of leaves available for credit. The

1955 provision did require the payment by the member of the equivalent member contribution based on the salary of the year before the leave, without a payment deadline and without the payment of interest. The 1955 sabbatical leave provision also applied retroactively to pre-1955 sabbatical leaves.

The 1955 TRA sabbatical leave provision was significantly amended in 1961 (Extra Session Laws 1961, Chapter 17, Section 6), when participation in the work of the National Science Foundation was added as a sabbatical leave and when a three-year limit in any ten-year period on sabbatical leaves was imposed. In 1973 (Laws 1973, Chapter 270, Section 4, and Chapter 728, Section 5), the TRA sabbatical leave provision was again substantively amended, with the prior interchange and exchange leaves other than a sabbatical leave eliminated from the provision, with a minimum compensation requirement of one-third of the member’s prior fiscal year salary added, with a one-year deadline after the conclusion of the leave set, and with a proration of formula service credit required in the event that full member contributions were not paid. The TRA sabbatical leave provision was recodified in 1974 (Laws 1974, Chapter 289, Section 54) as Minnesota Statutes, Section 354.092.

The current TRA sabbatical leave provision, Minnesota Statutes, Section 354.092, requires that the teacher must be compensated with at least on-third salary during the leave, that member contributions from the compensation received must be withheld by the employer and transmitted to TRA, and that the member also has the option of making additional contributions based on the difference between compensation received during the leave and the salary during the year just prior to the leave. If the teacher makes contributions based only on the compensation during the leave period, formula service credit will be prorated. If member contributions are based on the full salary just prior to the leave, full formula service credit will be received. The employer must make employer contributions within 30 days of written notification from TRA of the amount due, although the provision is ambiguous on how that employer contribution is computed, and interest requirement, if any, on employer contributions.

The following is a comparison of the sabbatical leave provisions of the statewide and major general employee retirement plans:

Plan	Sabbatical Leave of Absence Provision
MSRS-General	No provision.
PERA-General	No provision.
TRA	A sabbatical leave for which the teacher was compensated at a minimum of one-third of the prior fiscal year’s compensation is creditable upon the employer’s transmittal of the full amount of member contribution deductions and the employer’s payment of the full amount of employer contributions, all calculated based on the base contract salary that the teacher would have been paid if not on leave. Service credit for sabbatical leaves cannot exceed three years in any ten consecutive years. [354.092]
DTRFA	A new law coordinated plan member is eligible to receive service credit for a sabbatical leave for which the teacher was compensated at a minimum of one-third of the prior year’s compensation if the teacher pays an amount equal to the member contribution rate in effect on the teacher’s prior year’s salary. Service credit for sabbatical leaves cannot exceed three years in any ten consecutive years. Upon the member payment, the employing unit is obligated to pay the applicable employer contribution amounts. Payment must be made before June 30 of the fiscal year next following the year in which the sabbatical leave terminated and is payable without interest. If less than the full contribution amounts are paid, the service credit is prorated. For any member who is granted leave of absence for travel or for study in some institution of learning, upon a return to teaching, may pay or, if the amount exceeds \$50, may agree to pay, the amount which would have been deducted from salary, plus five percent interest per annum to the date of payment or the date of the agreement to pay the amount in two installments, plus five percent interest, with the first installment payment due within one year of the agreement, with credit granted upon payment. [354A.092 and Bylaws XVI]
MTRFA	A coordinated plan member is eligible to receive service credit for a sabbatical leave for which the teacher was compensated at a minimum of one-third of the prior year’s compensation if the teacher pays an amount equal to the member contribution rate in effect on the teacher’s prior year’s salary. Service credit for sabbatical leaves cannot exceed three years in any ten consecutive years. Upon the member payment, the employing unit is obligated to pay the applicable employer contribution amounts. Payment must be made before June 30 of the fiscal year next following the year in which the sabbatical leave terminated and is payable without interest. If less than the full contribution amounts are paid, the service credit is prorated. A Basic Program member who is granted a sabbatical leave under Minnesota Statutes, Section 125.18, may receive credit for the leave, up to three years in any ten year period, if the member pays the member and employer equivalent contributions based on the member’s salary for the year immediately preceding the leave, with payment due on June 30 of the year next following the year in which the leave ended, with interest at an unspecified rate. [354A.092 and Articles, Art. 20, Section 20.1, Clause (i)]
SPTRFA	A coordinated plan member is eligible to receive service credit for a sabbatical leave for which the teacher was compensated at a minimum of one-third of the prior year’s compensation if the teacher pays an amount equal to the member contribution rate in effect on the teacher’s prior year’s salary. Service credit for sabbatical leaves cannot exceed three years in any ten consecutive years. Upon the member payment, the employing unit is obligated to pay the applicable employer contribution amounts. Payment must be made before June 30 of the fiscal year next following the year in which the sabbatical leave terminated and is payable without interest. If less than the full contribution amounts are paid, the service credit is prorated. [354A.092]
MERF	No provision.

Discussion and Analysis

S.F. 431 (Betzold); H.F. 2088 (Smith) updates the first class city teacher retirement fund associations coordinated program sabbatical leave provision, Minnesota Statutes, Sections 354A.011, Subdivision 23, and 354A.02, to more closely replicate the Teachers Retirement Association (TRA) sabbatical leave provision.

The proposed legislation raises several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Appropriateness of Pursuing Conformity with the TRA Sabbatical Leave Provision. The policy issue is the appropriateness of having the first class city teacher retirement fund association coordinated program sabbatical leave provision more closely conform to the Teachers Retirement Association (TRA) sabbatical leave provision. When the first class city teacher retirement fund association coordinated program was created by a set of crossreferences to TRA law in 1976 and then was codified in full language provisions as Minnesota Statutes, Chapter 354A, in 1979, the first class city teacher retirement fund association coordinated program was intended to replicate the TRA coordinated program as identically as possible. Changes have been proposed by TRA to the sabbatical leave provision, but those changes were enacted without the Commission or the Legislature consistently reviewing them for their applicability to the first class city teacher retirement fund associations. While the first class city teacher retirement fund associations have pursued some other recent administrative changes proposed by TRA, such as employer reporting requirements, the associations have not been consistent in maintaining consistency between the TRA coordinated program provision and the first class city teacher retirement fund association coordinated program provision.
2. Need to Review Basic Program/Old Law Program Sabbatical Leave Bylaw Provisions. The policy issue is whether or not there is a need for the Legislature to review and revise the sabbatical leave of absence service credit provisions of the MTRFA-Basic Program bylaws, the SPTRFA-Basic Program bylaws, and the DTRFA Old Law Coordinated Program bylaws. The bylaw provisions represent grandparented provisions of benefit programs that were closed to new members decades ago. For instance, the three bylaw provisions allow late (non-contemporaneous) member contributions and undercharge interest on the sabbatical leave equivalent member contributions (five percent for DTRFA, an unspecified rate for MTRFA, and no interest for SPTRFA). While a declining population, the three programs still have sizeable Basic Program/Old Law Program memberships as of June 30, 2003, as follows:

	Members Under 10 Yrs. Serv.	Members 10-14 Yrs. Serv.	Members 15-19 Yrs. Serv.	Members 20-24 Yrs. Serv.	Members 25-29 Yrs. Serv.	Members 30+ Yrs. Serv.	Total Old Law/Basic Program Membership
DTRFA-Old ¹	2 (0.8%)	4 (1.5%)	18 (3.1%)	78 (30.1%)	77 (29.7%)	80 (30.9%)	259
MTRFA-Basic ²	3 (0.7%)	14 (3.5%)	42 (10.4%)	69 (17.1%)	142 (35.2%)	133 (33.0%)	403
SPTRFA-Basic ³	0 (0.0%)	0 (0.0%)	9 (2.1%)	29 (6.7%)	155 (36.0%)	237 (55.1%)	430
Total	5 (0.5%)	18 (1.6%)	69 (6.3%)	176 (16.1%)	374 (34.2%)	450 (41.2%)	1,092

¹ The DTRFA Old Law Coordinated Program was closed to new entrants on July 1, 1981.

² The MTRFA Basic Program was closed to new entrants on July 1, 1978.

³ The SPTRFA Basic Program was closed to new entrants on July 1, 1978.

The membership numbers indicate a considerable exposure to additional unfunded liabilities created through the crediting of sabbatical leaves and also raises a question about how it occurs that so many closed program members (upwards of 25 percent) exist with such short service as of this date, so many years after the program closed (some 24 years for the DTRFA Old Law Program and 27 years for the MTRFA and SPTRFA Basic Programs). If the Commission would desire to regulate the DTRFA Old Law and MTRFA and SPTRFA Basic Programs in a manner identical to the coordinated programs, amendment LCPR04-290 would replace the current articles of incorporation or bylaw provisions with a statutory provision identical to the coordinated program sabbatical leave provision.

3. Future of Sabbatical Leave Provisions. The policy issue is the appropriateness of continuing to have special service credit provisions for sabbatical leaves if sabbatical leaves are becoming relatively infrequent or rare occurrences. With the growing financial pressures that school districts appear to be experiencing, it is likely that the elimination of paid sabbatical leaves would be an early budget reduction move and the need to provide special service credit rules for sabbatical leaves would also evaporate. The four teacher retirement plans undoubtedly have current information on the recent utilization of sabbatical leaves, which would be useful in determining the future viability of these provisions. If sabbatical leaves become an infrequent or rare phenomenon, the provisions perhaps should be scheduled for a future repeal.

4. Need for a Review of Other Leave Provisions. The policy issue is the need for a review by the Commission of the various leave provisions of the various retirement plans other than the sabbatical leaves provisions for their consistency. Minnesota public pension plans have numerous special service credit provisions that involve leaves from employment or involve situations akin to employment leaves. From examinations done by the Commission staff previously, these leave provisions contain inconsistencies and some of these inconsistencies may have significant adverse policy or financial implications.