

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director

RE: S.F. 432 (Betzold); H.F. 2087 (Smith) ; First Class City Teacher Retirement Fund Associations; Updated Extended Leave of Absence Service Credit Provision

DATE: March 28, 2005

Summary of S.F. 432 (Betzold); H.F. 2087 (Smith)

S.F. 432 (Betzold); H.F. 2087 (Smith) amends Minnesota Statutes, Section 354A.091, the first class city teacher retirement fund association provision governing the acquisition of allowable service credit for an extended leave of absence, by updating the provision to make it conform with the Teachers Retirement Association (TRA) extended leave of absence provision, Minnesota Statutes, Section 354.094.

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 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.

In 1977 (Laws 1977, Chapter 447, Article IX), several teacher mobility incentives were enacted by the Legislature. The 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 with full-time teacher retirement plan pension coverage. The teacher mobility incentives were enacted as part of the 1977 school aids bill, represented a policy initiative of the House of Representatives under Speaker Martin O. Sabo, and were developed to reduce a growing proportion of senior, highly compensated teachers. The program was intended to allow a teacher to take a five-year leave of absence to attempt to make 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 leaves 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 with between 10 and 20 years of total teaching service

and is under age 55, with the leave length of up to five years in duration. 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 leaves of absence program (Minnesota Statutes, Sections 122A.46, 136F.43, 354.094, and 354A.091) has been modified 17 times since 1977.

- In 1978 (Laws 1978, Chapter 764, Sections 79 through 82, 116, and 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.
- In 1979 (Laws 1979, Chapter 334, Article 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.
- In 1980 (Laws 1980, Chapter 454, Sections 1, 2, 3, 4, and 5), state university and state community college faculty members were permitted to utilize the extended leave of absence program.
- In 1981 (Laws 1981, chapter 358, Article 8, Sections 2, 9 through 12, and 14 through 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.
- In 1983 (Laws 1983, Chapter 314, Article 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.
- In 1985 (First Special Session 1985, Chapter 12, Article 11, Section 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.
- In 1986 (Laws 1986, Chapter 444), gender-specific provisions in the extended leaves of absence provisions were replaced with non-gender-specific references.
- In 1987 (Laws 1987, Chapter 284, Article 6, Section 5), the TRA extended leave of absence provision member contribution payment deadline was further extended, to September 30, with six percent interest after June 30.
- In 1989 (Laws 1989, Chapter 293, Sections 77 through 79), in an education bill, "area vocational technical school" references were revised as "technical institute" references, and also in 1989 (Laws 1989, Chapter 329, Sections 20, 21, 23, and 24), the school aids bill, the State payment of extended leave of absence employer contribution amounts ended.
- In 1991 (Laws 1991, Chapter 130, Section 34), references to the State payment of extended leave of absence employer contribution amounts were removed, and also in 1991 (Laws 1991, Chapter 340, Section 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, Chapter 598, Article 3, Section 1), interest on late extended leaves of absence employee contributions was increased from six percent to 8.5 percent.

- In 1995 (Laws 1995, Chapter 141, Article 3, Section 20), references to “teachers retirement fund” and teachers retirement association in the TRA extended leaves of absence provision were clarified.
- In 1996 (Laws 1996, Chapter 305, Article 1, Section 80), references to the Minnesota State Colleges and Universities System extended leave of absence provision were revised.
- In 1998 (Laws 1998, Chapter 397, Article 11, Section 3), cross-references affected by an educational law recodification were revised.
- In 2000 (Laws 2000, Chapter 461, Article 3, Section 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.
- In 2001 (First Special Session Laws 2001, Chapter 1, Article 2, Section 22), a reference to the Minnesota State Colleges and Universities System was corrected.
- In 2003 (First Special Session Laws 2003, Chapter 12, Article 3, Section 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.

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	An extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, if certified to TRA, 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 September 30 following the end of the fiscal year for which the teacher is to receive credit and is required to include annual compound interest at 8.5 percent from June 30 until the end of the month in which payment is made if the payment is not made before June 30. The teacher must have a right to reinstatement of employment after or during the leave to be creditable. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan. [Minn. Statutes, Sec. 354.094]
DTRFA	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. [Minn. Statutes, Sec. 354A.091]
MTRFA	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. [Minn. Statutes, Sec. 354A.091 and MTRFA Articles of Incorporation, Art. 20, Sec. 20.1, Clause (h)]
SPTRFA	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. [Minn. Statutes, Sec. 354A.091]
MERF	No provision.

Discussion and Analysis

S.F. 432 (Betzold); H.F. 2087 (Smith) updates the first class city teacher retirement fund associations coordinated program extended leave of absence provision, Minnesota Statutes, Section 354A.091, Subdivisions 1, 2, 3, 4, 5, and 6, to more closely replicate the Teachers Retirement Association (TRA) extended leave of absence provision and repeals Minnesota Statutes, Section 354A.091, Subdivisions 1a and 1b, as obsolete.

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 TRA Extended Leave of Absence Provision. The policy issue is the appropriateness of having the first class city teacher retirement fund association coordinated program extended leave of absence provision more closely conform to the Teachers Retirement Association (TRA) extended leave of absence provision. When the first class city teacher retirement fund association coordinated program was created by a set of cross-references to TRA law in 1976 and 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 and did replicate the TRA coordinated program. Changes have been proposed by TRA to the extended leave of absence provision over time, but those changes were enacted without anyone consistently reviewing them for their applicability to the first class city teacher retirement fund association extended leave of absence provision. While the first class city teacher retirement fund associations have pursued some of the administrative changes proposed by TRA over time, such as employer reporting requirements, the first class city teacher retirement fund associations have not been consistent in maintaining full consistency between the TRA coordinated program provision and the first class city teacher retirement fund association coordinated program provision.
2. Unclear Future of Extended Leave of Absence Programs. The policy issue is the appropriateness of retaining the special service credit rules for extended leaves of absence if recent or future changes in teacher employment make extended leaves of absence a less desirable benefit for school districts to offer. Extended leaves of absence were created almost 30 years ago to assist school districts with a glut of senior teachers to induce those teachers to try other career paths without harming their eventual pension coverage. The program was created when there was a surplus of prospective teachers. The situation apparently has changed, with a looming teacher shortage identified by education professionals, especially in the fields of mathematics, science, and special education. Without a ready supply of replacement teachers, it does not appear to be a wise course of action to induce existing teachers to leave the teaching field through an extended leave to try other employment opportunities. This is especially true if the leave requires the payment of employer contributions for the leave by the school district and may require an employer payment of future member contributions. In 2003, teacher representatives sought broadened opportunities for employer-paid member contributions as part of a reconfiguration of the leave program as an early retirement incentive. While not wholly inconsistent with the original intent, the reformulation of the program as an early retirement incentive program at the request of the member, rather than the employer, suggests that a thorough reevaluation of the whole program by the Commission would be in order. The Commission may wish to request testimony from Education Minnesota and from the Minnesota School Boards Association about the current extent of the utilization of extended leaves of absence in both TRA and in the first class city teacher retirement fund associations and their future hopes for the programs.
3. Inconsistencies in Various Leave Provisions. The policy issue is the broader need for the Commission to reevaluate the retirement service credit for leave provisions of the various retirement plans because the provisions vary between plans and those inconsistencies may not be based on sound policy differences. In surveying the leave provisions of the various plans, differences are obvious. There is a particularly troubling lack of consistency within plans or across similar plans regarding leave payment requirements. Contribution requirements often differ, and there are often differences in salary bases used to compute any required contribution amounts, the time limits for making contributions, and interest payment requirements when payments are not received until a considerable amount of time has elapsed since the leave occurred. This lack of consistency creates unequal treatment of similarly situated individuals, raising equity issues for the individuals and subsidy effects among employees and contributing employers.