

1st SS 2005

S.F. 46

(Saxhaug)

1st SS 2005

H.F. 64

(Solberg)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special Law Provision
General Nature of Proposal: Special Eligibility to Repay a Prior Refund
Date of Summary: January 26, 2006

Specific Proposed Changes

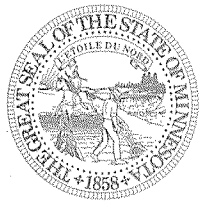
- Authorizes a former Itasca County probation officer who discontinued public employment in 1999 to repay a previously taken PERA-General refund

Policy Issues Raised by the Proposed Legislation

1. Equitable Considerations.
2. Available Self-Help Remedy.
3. Need to Moderate the Adverse Actuarial Impact of Refund Repayments.
4. Precedent.

Potential Amendments

LCPR-S0046-A1 Replaces special law provision with general law provision that authorizes PERA-Defined Contribution Plan members to repay prior PERA-General refunds. (Substantive)



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: First Special Session 2005 S.F. 46 (Saxhaug); H.F. 64 (Solberg)

DATE: January 26, 2006

Summary of First Special Session 2005 S.F. 46 (Saxhaug); H.F. 64 (Solberg)

First Special Session 2005 S.F. 46 (Saxhaug); H.F. 64 (Solberg) permits Lynda M. Ross, as the intended sole member of a designated class of former members of the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), to repay a refund to PERA-General despite her status as a former active member and the expiration of six months since she left public service. The repayment option would continue for six months following the date of enactment.

Public Pension Problem of Lynda M. Ross

Lynda M. Ross is the surviving spouse of a deceased Minnesota state trooper and is a former Itasca County probation officer who resigned from public employment in the fall of 1999 after 20 years of service, took a refund from the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), now wants to repay the refund, but is unable to do so because she is no longer a public employee in Minnesota and six months have expired since she terminated public employment.

Ms. Ross cites difficulties arising from the death of her husband, the illness of her son after her husband's death and the death of her aunt as well as job stress as the reasons for her termination from public employment. Ms. Ross indicates that the indication of the time limit on the repayment of a PERA-General refund was not clearly indicated in her refund application and was not part of any verbal advice she received from PERA.

Background Information on Refund Repayments to Minnesota Public Pension Plans

Background information on the authority for and manner of repaying previously taken refunds to Minnesota public pension plans is set forth in Appendix A.

Discussion and Analysis

First Special Session 2005 S.F. 46 (Saxhaug); H.F. 64 (Solberg) permits Lynda M. Ross, a former Itasca County probation officer who terminated public employment covered by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) and took a refund in 1999, to repay that refund without again resuming public employment.

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

1. Equitable Considerations. The policy issue is the extent of equitable considerations that bear on the requested special authority to repay a refund despite not being an active member of a Minnesota public employee pension plan and not having had that status for the minimum period. The Commission does not have a formal policy principle on the issue of waiving eligibility requirements for repaying a refund, so the grant of authority would likely be dependent in whole or in part on equitable considerations. The favorable equitable considerations are Ms. Ross' long pre-refund public employment career, the personal tragedy that befell her and her family shortly before she discontinued public service, and the nature of her pre-1999 public employment for Itasca County and the stress that it must have entailed. The adverse equitable considerations would be the length of time that has elapsed since Ms. Ross first began contemplating a refund repayment, essentially six years, and the availability of a self-help remedy, discussed below.
2. Available Self-Help Remedy. The policy issue is the appropriateness of the proposed legislation when a self-help remedy exists. The self-help remedy that exists in this instance is for Ms. Ross to return to some regular public employment for six months, at which time she would be eligible to repay the

refund. In a related factual circumstance, the Public Employees Retirement Association (PERA) informs the Commission staff that Ms. Ross is a member of the PERA Defined Contribution Retirement Plan as an elected school board member, but elected service or employment covered by the PERA-Defined Contribution Plan is not service by a “public employee” as defined in Minnesota Statutes, Section 353.01, Subdivisions 2, 2a, and 2b, and does not convey a status needed to repay a PERA-General refund. This is an outgrowth of 2001 legislation (First Special Session 2001, Chapter 10, Article 11, Sections 3 and 4) that shifted retirement coverage for all elected officials except county sheriffs and pre-2001 elected officials from PERA-General to the PERA-Defined Contribution Plan. If the Commission desires to recognize Ms. Ross’ current elected service as sufficient to qualify for eligible to repay a prior refund, Amendment LCPR-S0046-A1 would add that authority.

3. Need to Moderate the Adverse Actuarial Impact of Refund Repayments. The policy issue is the appropriateness of requiring subsequent public employment covered by a Minnesota defined benefit plan as an eligibility requirement to repay a refund as a way to moderate the adverse actuarial impact of refund repayments. It is the policy of the Commission to generally disfavor service credit purchases, especially when the purchase comes with a subsidy from the public retirement plan, and to favor repayments of refunds. The two actions both involve comparable actuarial liabilities, with a repayment of a refund usually or always imposing an actuarial loss on the retirement plan, because the only additional payment amount involved with a refund repayment is interest at the pre-retirement actuarial assumption interest rate. The sole eligibility requirement that moderates some of those actuarially adverse refund repayments is the requirement that the refund repayer be an active Minnesota defined benefit retirement plan member. The requested special authority for Ms. Ross runs contrary to this moderating element.
4. Precedent. The policy issue is whether or not there is a precedent for the requested proposed special legislation in past special legislation and whether or not the enactment of the requested proposed special legislation would likely become an arguably binding precedent for further similar demands. In reviewing the list of prior special legislation maintained by the Commission staff, the Commission staff cannot find any prior special legislation authorizing the repayment of a refund by a person who is otherwise ineligible to make the repayment. Similarly, since these requests previously have been rare, it may be that the requested special legislation would not become a problematic precedent for future special legislation requests. If there are potential refund repayers who are not current Minnesota public employees or who are unable to become Minnesota public employee again due to distance, age, or otherwise, the current request would become an on-point precedent.

Appendix A

Background Information on Refund Repayments to Minnesota Public Pension Plans

Member Contribution Refunds Generally

Although not frequently viewed by many policy makers and public employees as a benefit provided by the public pension plan, the refund of accumulated member contributions and interest to a public pension plan member who terminates before reaching retirement age is a benefit generally provided by the various statewide and major local retirement plans. All Minnesota public pension plans, with the exception of some local police and paid firefighter relief associations, provide a refund of member contributions, plus interest, upon application, to plan members who have terminated active employment giving rise to pension plan coverage.

If public pension plans were not contributory plans, meaning that the public employees make member contributions to the plan, there would be no need for a refund benefit and none likely would be provided.

The adequacy of the refund benefit depends on the commitment of the public pension plan to plan members who do not vest or who vest (have sufficient service to qualify for a deferred annuity, generally three years in Minnesota) but elect not to retain their deferred retirement annuity rights. Some public pension plans in Minnesota (some first class city public safety plans) do not provide any refund of member contributions. Other public pension plans in Minnesota (mostly second class city police relief associations) provide a refund equal to only three-quarters of the total member contributions previously paid. Some public pension plans in Minnesota (the Teachers Retirement Association in the past and some local public safety plans) provide or provided a refund of accumulated member contributions without any interest on that amount. The remaining Minnesota public pension plans (statewide and major local) pay a refund of accumulated member contributions plus interest at a compound rate of six percent per year (the Minneapolis Employees Retirement Fund (MERF) provides a rate of interest unspecified in statute). The refund results in a forfeiture of prior plan service credit.

Given Minnesota's generally short service credit vesting requirement (three years) and augmentation of deferred retirement annuities (three percent until age 55 and five percent thereafter,) which represent a commitment to short service terminating employees, it is unclear how great an additional commitment its public pension plans should make in paying interest on refunds of accumulated member contributions.

Refund Repayment Provisions – MSRS, PERA, TRA, First Class City Teachers

The following summarizes the provisions of statutes governing the repayment of previously taken refunds for the statewide and major local general employee retirement plans:

	MSRS-General	PERA-General	TRA	First Class City Teacher Plans	MERF
Applicable Statutory Provisions	Minn. Stat., Secs. 352.23; 356.30, Subd. 2; 356.44	Minn. Stat., Secs. 353.35; 356.30, Subd. 2; 356.44	Minn. Stat., Secs. 354.50; 356.30, Subd. 2; 356.44	Minn. Stat., Secs. 354A.38; 356.30, Subd. 2; 356.44	Minn. Stat., Secs. 422A.22, Subds. 5 and 6; 356.30, Subd. 2; 356.44
Repayment Eligibility	Resumption of active membership for minimum of six months	Resumption of active membership for minimum of six months	Resumption of active membership for minimum of two years	Resumption of active membership for minimum of two years	Resumption of active membership
Minimum Repayment Amount	All amounts under Minn. Stat., Sec. 352.23; partial under Minn. Stat., Sec. 356.44	All amounts under Minn. Stat., Sec. 353.35; partial under Minn. Stat., Sec. 356.44	All amounts under Minn. Stat., Sec. 354.50; partial under Minn. Stat., Sec. 356.44	All amounts under Minn. Stat., Sec. 354A.38; partial under Minn. Stat., Sec. 356.44	All amounts under Minn. Stat., Sec. 422A.23, Subd. 6; partial under Minn. Stat., Sec. 356.44
Repayment Limit	Repayment of refunds of salary deductions, payments in lieu of deductions, permitted service purchases, or temporary workers compensation service	N/A	N/A	N/A	N/A
Interest on Repayment	8.5 percent, compounded	8.5 percent, compounded	8.5 percent, compounded	8.5 percent, compounded	8.5 percent, compounded
Payment Options	Lump sum, deductions, or partial payments	Unspecified	Unspecified	Unspecified	Unspecified
Eligibility After Membership Termination	Six months after active service termination	Six months after active service termination	None	None	None
Effect of Repayment	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit	Reinstates service and salary credit

..... moves to amend First Special Session 2005 S.F. No. 46; H.F. No. 64, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 353.35, subdivision 1, is amended to read:

Subdivision 1. **Refund rights.** (a) When any former member accepts a refund, all existing service credits and all rights and benefits to which the person was entitled prior to the acceptance of the refund must terminate.

(b) The rights and benefits of a former member must not be restored until the person returns to active service as a public employee and acquires at least six months of allowable service credit after taking the last refund or the person becomes covered by the public employees defined contribution plan and continues in that coverage for at least six months and the person repays the refund or refunds taken and interest received under section 353.34, subdivisions 1 and 2, plus interest at an annual rate of 8.5 percent compounded annually.

(c) If the person elects to restore service credit in a particular ~~fund~~ plan from which the person has taken more than one refund, the person must repay all refunds to that fund.

(d) All refunds must be repaid within six months of the last date of termination of public service.

Sec. 2. **EFFECTIVE DATE.**

(a) Section 1 is effective on the day following final enactment.

(b) Section 1 also applies to a person who terminated employment as a probation officer with Itasca County before January 1, 2000, and who is a member of the governing board of a Minnesota independent school district on the date of enactment."

Delete the title and insert:

" A bill for an act

- 2.1 relating to retirement; general employees retirement plan of the Public Employees
- 2.2 Retirement Association; authorizing members of the public employees defined
- 2.3 contribution plan to repay refunds to PERA-General; amending Minnesota Statutes 2004,
- 2.4 section 353.35, subdivision 1."

05/27/05

[REVISOR] JLR/DN 05-4352

Senator Saxhaug introduced—

S. F. No. 46 Referred to the Committee on Rules and Administration

1 A bill for an act

2 relating to retirement; authorizing repayment of a
3 refund from the Public Employees Retirement
4 Association.

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

6 Section 1. [REPAYMENT OF REFUND.]

7 (a) Notwithstanding the deadlines in Minnesota Statutes,
8 section 353.35, or other law to the contrary, an eligible person
9 may repay a refund received from the Public Employees Retirement
10 Association within six months of the effective date of this
11 section. To repay the refund under this section, an eligible
12 person must pay the amount of the refund and interest received
13 under Minnesota Statutes, section 353.34, plus interest at an
14 annual rate of 8.5 percent compounded annually. Upon repayment
15 of the refund, an eligible person is entitled to all rights and
16 benefits to which the person was entitled prior to acceptance of
17 the refund.

18 (b) For purposes of this section, an eligible person is a
19 person who was employed as a probation officer by Itasca County,
20 who left that position in the fall of 1999.

21 [EFFECTIVE DATE.] Section 1 is effective the day following
22 final enactment.

14 annual rate of 8.5 percent compounded annually. Upon repayment
15 of the refund, an eligible person is entitled to all rights and
16 benefits to which the person was entitled prior to acceptance of
17 the refund.