**S.F. 375**

(Larson)

H.F. 446

(Moe)

Executive Summary of Commission Staff Materials

| | |
|------------------------------------|--|
| <i>Affected Pension Plan(s):</i> | MSRS-General |
| <i>Relevant Provisions of Law:</i> | Uncoded |
| <i>General Nature of Proposal:</i> | Permits an Employee at Bug-O-Na-Ge-Shig School to Have Service Credited Toward MSRS-General "Rule of 90" Eligibility |
| <i>Date of Summary:</i> | February 9, 2006 |

Specific Proposed Changes

- Authorizes Joseph Aitken, identified by date of birth and information specific to his situation, to be an active member of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for employment at the Bug-O-Na-Ge-Shig School, by making the applicable employee and employer contributions required given his salary.
- The eligible individual can receive past service credit for service already provided at the school by making contributions based on his salary and the applicable employee and employer contribution rates, plus 8.5 percent interest.
- MSRS-General coverage is not authorized if Mr. Aitken has any form of defined benefit plan coverage for his school employment.

Policy Issues Raised by the Proposed Legislation

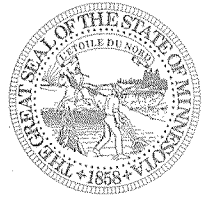
1. Request for reconsideration.
2. Equitable issues/sufficient justification.
3. Precedent.
4. Need for consideration.
5. Self-help remedy.
6. Nature of the current employment and pension coverage.
7. Adverse financial impact on MSRS.
8. Alternative treatment, consideration as a full actuarial value service credit purchase.

Potential Amendments

S0375-A1 is a technical amendment eliminating redundant wording and correcting a heading.

S0375-A2 is a delete-all amendment which transforms the bill into a full actuarial value service credit purchase.

S0375-A3 is an alternative to S0375-A1 or S0375-A2, which deletes from the bill the authority to purchase past service provided to the Bug-O-Na-Ge-Shig School.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 375 (Larson); H.F. 446 (Moe): MSRS-General; Permitting an Employee at Bug-O-Na-Ge-Shig School to Have Service Credited Toward MSRS-General "Rule of 90" Eligibility

DATE: February 8, 2006

Summary of S.F. 375 (Larson); H.F. 446 (Moe)

S.F. 375 (Larson); H.F. 446 (Moe) would authorize Joseph Aitken, identified by date of birth and information specific to his situation, to be an active member of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for employment at the Bug-O-Na-Ge-Shig School, by making the applicable employee and employer contributions required given his salary. The eligible individual can receive past service credit for service already provided at the school by making contributions based on his salary and the applicable employee and employer contribution rates, plus 8.5 percent interest. MSRS-General coverage is not authorized if Mr. Aitken has any form of defined benefit plan coverage for his school employment.

Background Information on Mr. Aitken's Situation

From 1974 to 2002, Mr. Joseph Aitken was the Director of the Minnesota Indian Scholarship Program and was covered for that service by the MSRS-General plan, earning 28 years and eleven months of service credit. Late in 2002, the office that housed that program was closed and his employment was terminated. The Minnesota Indian Scholarship Program apparently continues to exist, but the program is run from an office in the Twin Cities area rather than the in the Bemidji area.

In 2003, Mr. Aitken was hired by the Bug-O-Na-Ge-Shig School and he began employment at the school on August 10, 2003, as a counselor and as a driver's education teacher, teaching classroom sessions and behind-the-wheel. Mr. Aitken describes the school as an accredited-contract K-12 school, which to the best of his knowledge is established as a nonprofit corporation. It is funded by a combination of state funding (20 percent), Leach Lake Reservation funding (20 percent), and Bureau of Indian Affairs funding (60 percent). Mr. Aitken states that a 403(b) savings plan, which is a form of defined contribution plan, is provided by the school, but there is no other pension plan.

Given the nature of the school, the employees are not eligible for coverage by either the Public Employees Retirement Association (PERA) or by the Teachers Retirement Association (TRA). Attached is a letter to Mr. Aitken from Ms. Julie Bartz, a TRA Retirement Service Specialist, indicating that the Bug-O-Na-Ge-Shig School is a nonpublic school for TRA purposes and the teachers from that school are not eligible for TRA coverage.

MSRS-General, like various similar Minnesota plans covering state, local, or teacher employees, allows retirement as early as age 55. However, the monthly benefit will be substantially reduced to compensate the fund, in whole or part, for the early receipt of benefits. Since benefits are payable for life, individuals who begin receiving those benefits at an early age will have more years of benefit receipt than a comparable individual of the same age who delays retirement until age 65, the plan's normal retirement age for pre-July 1, 1989 hirees. These plans do, however, have some subsidized early retirement provisions applicable to pre-July 1, 1989 hirees. Under the MSRS-General "Rule of 90" benefit provision, pre-July 1, 1989, hirees are permitted to retire when age plus years of service credit total 90 or more, without a reduction for early retirement (although the accrual rate for the first ten years of service will be lower than would be the case if the individuals were to delay retirement until much closer to the applicable normal retirement age). When an individual reaches the "Rule of 90," the net benefit to which he or she is entitled increases considerably compared to the benefit to which they previously were entitled, because of the early retirement reduction waiver.

Mr. Aitken was born on June 27, 1946, and will be 60 years old on his next birthday. Given his 28 years and eleven months of MSRS-General covered service, his current age plus covered service totals 88 years and eight months as of this writing. Without any bill enacted on his behalf, he will qualify for the "Rule of 90" in one year and four months. If legislation were enacted which permits him to include his *prospective*

service at the school toward the “Rule of 90,” he would be eligible sooner, in a few months. If that legislation also allows him to make contributions for service *already provided* to the Bug-O-Na-Ge-Shig School, he would *immediately* qualify for the “Rule of 90” by making contributions on just a portion of that past employment.

In written comments Mr. Aitken made on an early Commission staff memo (the bottom of the first page of the attached March 5, 2004 memo), he states that he originally planned to retire on March 27, 2005. This would have been a “Rule of 90” retirement, assuming he had been able to continue accruing service credit until that date. The implication is that he is delaying retirement until he qualifies for the “Rule of 90” and that he may retire very soon, perhaps immediately, after qualifying.

Past Commission and Legislative Consideration of Mr. Aitken’s Issue

On March 9, 2004, the Commission considered Mr. Aitken’s issue in the form of two blind amendments, LCPR04-127 and LCPR04-128. LCPR04-128 was similar to the current S.F. 375 (Larson); H.F. 446 (Moe), by allowing Mr. Aitken to receive service and salary credit in MSRS-General for his current school employment. LCPR04-127 was an alternative treatment which would not did not permit Mr. Aitken to become an active MSRS-General member but permitted his service at Bug-O-Na-Ge-Shig School to be used for purposes of qualifying for the “Rule of 90.” Neither amendment was recommended to pass by the Commission. On March 10, 2004, two sets of bills substantively identical to the blind amendments the Commission had considered a day earlier were introduced. These bills were S.F. 2691 (Larson); H.F. 2907 (Fuller), and S.F. 2692 (Larson); H.F. 2908 (Fuller). Language from S.F. 2692 (Larson); H.F. 2908 (Fuller) was amended onto the Omnibus Pension Bill, S.F. 676 (Betzold), in the Senate Finance Committee on April 15, 2004, but the language was not included in the final engrossment of the bill and was not enacted.

In 2005, the bills currently under consideration, S.F. 375 (Larson); H.F. 446 (Moe) were introduced, but no further action occurred during the 2005 Legislative Session.

Background Information on the “Rule of 90” Early Normal Retirement Age

The “age 62 with 30 years of service” provisions and the “Rule of 90” provisions are found in several public Minnesota general employee plans. Under these provisions, a benefit unreduced for early retirement is provided at an age before the generally applicable normal retirement age. The “age 62 with 30 years of service” early retirement provision was added to the statewide general employee retirement plans in 1973 as the first generally applicable early retirement age provision. The “Rule of 90” early retirement age provision, where a person becomes eligible for an unreduced retirement benefit when the sum of the person’s age and years of credited service equals or exceeds 90, was enacted for the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in 1982 (Laws 1982, Chapter 519, Section 2). In 1989 (Laws 1989, Chapter 319, Article 13), the “Rule of 90” provision was extended to MSRS-General, the Teachers Retirement Association (TRA), and the coordinated programs of the first class city teachers retirement fund associations, applicable to only pre-July 1, 1989, hires. That pre-July 1, 1989, hiree restriction was also made applicable to PERA-General.

Background Information on Service Credit Purchases

Because the Commission may conclude that Mr. Aitken’s pension problem is best considered within the context of a purchase of service credit, background on service credit purchase policy is included here. The bill could be revised to be a service credit purchase through an amendment to the bill.

When considering special law bills to purchase service credit in Minnesota public pension plans, the Commission has been guided by its Principles of Pension Policy. Principle II.C.10. of the Commission’s Principles of Pension Policy covers purchases of service credit and reads as follows:

10. Purchases of Prior Service Credit

Purchases of public pension plan credit for periods of prior service should be permitted only if, on a case-by-case basis, it is determined that the period to be purchased is public employment or substantially akin to public employment, that the prior service period must have a significant connection to Minnesota, that the purchase payment from the member or from a combination of the member and the 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, and that the purchase must not violate notions of equity.

This principle has the following elements:

1. Individual Review. The Commission considers each service credit purchase request separately, whether the request is proposed legislation for a single person or is proposed legislation relating to a group of similarly situated individuals.
2. Public Employment. The period requested for purchase should be a period of public employment or service that is substantially akin to public employment.
3. Minnesota Connection. The employment period to be purchased should have a significant Minnesota connection.
4. Presumption of Active Member Status at the Time of Purchase. The principle states that contributions should be made by the member or in combination by the member and by the employer. It is presumed that the individual covered by the service purchase request is an active employee, because retirees generally are not considered to be "members" of a plan and these individuals no longer have a public employer.
5. Presumption of Purchase in a Defined Benefit Plan. The prior service credit purchase contributions in total should match the associated actuarial liability. The specific procedures in Minnesota Statutes and law for computing service credit purchase amounts, Minnesota Statutes, Sections 356.55 and 356.551, presume that the purchase is in a defined benefit plan with a benefit based on the individual's high-five average salary.
6. Full Actuarial Value Purchase. The pension fund should receive a payment from the employee, or from the employee and employer in combination, which equals the additional liability placed on the fund due to the purchase. This amount is referred to as the full actuarial value of the service credit purchase.
7. No Violation of Equity Considerations. Purchases of service credit should not violate equity considerations. Equity is a resort to general principles of fairness and justice whenever the existing law is inadequate.

Pension Policy Issues

S.F. 375 (Larson); H.F. 446 (Moe) would authorize a certain individual to be an active MSRS-General member for Bug-O-Na-Ge-Shig School employment, by making the applicable employee and employer contributions required given his salary. The eligible individual can receive past service credit for service already provided at the school by making contributions based on his salary and the applicable employee and employer contribution rates, plus 8.5 percent interest.

S.F. 375 (Larson); H.F. 446 (Moe) raises several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Request for Reconsideration. The issue is whether the Commission should take time to consider this matter, since the Commission has previously dealt with the issue. The Commission heard legislation for Mr. Aitken in 2004, in the form of blind amendments, and declined to take any action.
2. Equitable Issues/Sufficient Justification. The issue is whether there is a compelling justification which warrants having the Legislature create new policy to address Mr. Aitken's situation. Commission staff is not aware of any past special laws where a deferred annuitant from a Minnesota public plan found nonpublic employment and was permitted to have Minnesota public plan coverage for that new employment. Mr. Aitken has stated that he terminated from MSRS-covered employment late in his career (while in his late 50s), and that his late-career termination justifies a special law remedy. The Commission may wish to hear testimony on this issue and decide whether the case is sufficiently compelling and sufficiently different from that of other deferred annuitants.

Perhaps the closest situation that is covered under existing MSRS-General law is the treatment of labor union employees. Section 352.029 allows a state employee, on a leave of absence without pay to provide service to a labor organization that is an exclusive bargaining agent representing state employees, to continue accruing service credit in MSRS by paying the ongoing employee and employer contributions. The labor union employment is not public employment. A distinction between this situation and Mr. Aitken's, however, is that this labor union provision applies to certain state employees while on a leave, and not to terminated employees. State employees retain their state employee status while on a leave. In some sense the nature of the employment, if any, provided while on a leave is irrelevant. Public pension plans have provisions allowing individuals on leave to receive service credit while providing service to for-profit or non-profit organizations, while providing

community service, and while attending to personal and family matters. In addition to this labor union provision, MSRS has a general leave of absence provision allowing members to obtain service credit for a leave period. PERA has a leave provision allowing service credit for personal, parental, and medical leaves, and TRA has similar provisions, plus provisions for sabbatical leaves and other provisions specific to teachers.

Mr. Aitken is not a state employee and he is not on a leave from state employment. Although he was a state employee for many years, he terminated from state employment and does not now have state employee status. He is a deferred annuitant seeking special law authority to have his new employer, which is a nonpublic employer under Minnesota pension law, treated as though it were a state government employer for purposes of the plan coverage he desires.

3. Precedent. The issue is the precedent set by the bill. Passing the bill in its current form could create similar requests from other deferred annuitants, and eventually to having the treatment apply in all cases where an employee terminates from a public plan prior to drawing an annuity and becomes employed by a nonpublic employer. This could have a noticeable impact on plan costs with no clear public purpose, and if permitted on a wide scale, could lead to the public plan losing its tax-qualified status, because the public plans would be covering nonpublic employees in numbers that the federal government would not consider to be de minimus.
4. Need for Consideration. The issue is whether there is sufficient need to consider this proposal given the issues it raises, the precedent concerns, and the modest positive impact the proposal would have on the eligible individual. The individual can begin drawing an MSRS-General annuity now without any legislation because he is over age 55, although the benefit would not be as generous as a "Rule of 90" benefit. Without the proposal, the individual will qualify for the "Rule of 90" in one year because of his increasing age.
5. Self-Help Remedy. The best and simplest self-help remedy is simply to wait; the individual will shortly qualify for the "Rule of 90" without any legislation simply due to his increasing age.
6. Nature of the Current Employment and Pension Coverage. The Commission may wish to find out, through testimony or other means, more about the nature of the current employer and the nature of any existing pension coverage. Mr. Aitken indicates that he is covered by a 403(b) plan. The Commission may wish to consider whether that coverage is sufficient and removes the need to extend any MSRS-General rights for the current Bug-O-Na-Ge-Shig School employment.
7. Adverse Financial Impact on MSRS. The proposal is likely to impose added cost on MSRS because the "Rule of 90" would be accessed earlier. The Commission does not have an estimate of that cost. If the proposal is heard by the Commission, hopefully MSRS can provide an estimate. An issue is why MSRS should be required to bear an added cost when MSRS did not harm the individual.
8. Alternative Treatment, Consideration as a Full Actuarial Value Service Credit Purchase. As an alternative to the current bill, the Commission could use an amendment to transform the bill into a full actuarial value service credit purchase. This approach sidesteps or at least minimizes some of the thornier issues presented by S.F. 375 (Larson); H.F. 446 (Moe) in its current form. Amendment S0375-A1 would allow Mr. Aitken to purchase sufficient service credit in MSRS-General at full actuarial value to allow him to immediately qualify for a "Rule of 90" benefit. This avoids the issue of adding a terminated employee as an active member of MSRS-General for new employment that is not recognized as public employment under our public pension statutes.

The considerations that the Commission usually raises in full actuarial value service credit purchase requests are outlined previously. One issue is whether the Bug-O-Na-Ge-Shig School employment is sufficiently public in nature, or sufficiently similar to public employment. Full actuarial value purchases do assume the individual is an active employee rather than a terminated employee. Applying the full actuarial value procedure in law (Minnesota Statutes, Section 356.551) requires some modification to accommodate a terminated employee, rather than an active employee who is expected to continue in covered service until retirement. The salary increase assumptions normally used in the purchase price computation, for instance, are not relevant. A final consideration is the implications of full actuarial value pricing and issues of harm. A full actuarial value service credit purchase, if the price is correctly determined, leaves the individual with no net financial gain. The purchase price is equal to the discounted value of the expected future additional benefit stream that results from the purchase. Financially, a full actuarial value service credit purchase is only worthwhile for an individual if someone pays part of the cost on his or her behalf. The Commission has required a

public employer to cover part of the cost if the Commission determines that the employer harmed the individual. If the Commission were to determine that the Department of Education's termination of Mr. Aitken was in some manner improper, then there would be justification for requiring the department to cover part of the service credit purchase cost.

Potential Amendments

S0375-A1 is a technical amendment eliminating redundant wording and correcting a heading. This amendment could be used if the Commission wishes to make no substantive changes to the bill. This amendment is not needed if either S0375-A2 or S0375-A3 is used.

S0375-A2 is a delete-all amendment which transforms the bill into a full actuarial value service credit purchase.

S0375-A3 is an alternative to S0375-A1 or S0375-A2, which deletes from the bill the authority to purchase past service provided to the Bug-O-Na-Ge-Shig School. This would at least require Mr. Aitken to provide some additional service if he desires to accelerate the date on which he qualifies for the "Rule of 90."



TO: Senator Cal Larson

FROM: Ed Burek, Deputy Director *EB*

RE: Blind Amendment LCPR04-127: Permitting an Employee at Bug-O-Na-Ge-Shig School to Have Service Credited Toward Eligibility for "Rule of 90"

Blind Amendment LCPR04-128: Permitting an Employee at Bug-O-Na-Ge-Shig School to Have MSRS-General Coverage for that Employment

DATE: March 5, 2004

Mr. Joe Aitken stopped by our office this morning. He indicated that he had spoken with you about his issue and that you wanted the following two blind amendments drafted on his behalf. Copies of these amendments will be available at the March 9, 2004, Commission meeting if you choose to offer either amendment. Mr. Aitken also indicates that he has spoken to Representative Steve Smith regarding his issue.

Summary

Blind amendment LCPR04-127 would allow Joseph Aitken, identified by date of birth and information specific to his situation, to have employment at the Bug-O-Na-Ge-Shig School, which appears to be funded primarily by the federal government, used for purposes of qualifying for a General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) "Rule of 90" retirement benefit, although the service at the school would not be considered in computing the annuity amount. This treatment is voided if Mr. Aitken has any form of defined benefit plan coverage for his current school employment.

An alternative is blind amendment LCPR04-128, which would allow Joseph Aitken, identified by date of birth and information specific to his situation, to continue as an active MSRS member for employment at the Bug-O-Na-Ge-Shig School, which appears to be funded by the federal government. This treatment is voided if Mr. Aitken has any form of defined benefit plan coverage for his current school employment.

Background on Mr. Aitken's Situation

From 1974 to 2002, Mr. Joseph Aitken was the director of the Minnesota Indian Scholarship Program and was covered for that service by the MSRS-General plan, earning 28 years of service credit. Late in 2002, the office that housed that program was closed and he was terminated. The Minnesota Indian Scholarship Program apparently continues to exist, but the program is run from an office more than 35 miles away from the closed office.

In 2003, Mr. Aitken was hired by the Bug-O-Na-Ge-Shig School, and he began employment at the school on August 10, 2003, as a counselor. He indicates that he has a master's degree *teaches driver's ed* but is not a teacher. Mr. Aitken describes the school as an accredited-contract K-12 school, which to the best of his knowledge is established as a nonprofit corporation. It is funded by a combination of state funds (20 percent), Leach Lake Reservation funds (20 percent), and Bureau of Indian Affairs funding (60 percent). Mr. Aitken states that a 403(b) savings plan, which is a form of defined contribution plan, is provided by the school, but there is no other pension plan. Apparently, employees at the school are not eligible for coverage by either the Public Employees Retirement Association (PERA) or the Teachers Retirement Association (TRA). *34 years*

MSRS-General has a "Rule of 90" benefit, which permits pre-July 1, 1989, hires to retire when age plus years of service credit total 90 without a reduction for early retirement. Mr. Aitken will soon be 58 years old. Given his 28 years of covered MSRS-General service, his age plus covered service totals 86. Mr. Aitken has stated that he wants to retire under the "Rule of 90." Without special legislation, he will hit the "Rule of 90" in four years. If legislation were enacted which permitted him to count his service at the school toward the "Rule of 90," he would be eligible sooner, in about two years.

Original retirement date March 27, 2005

American Indian life expectancy not same as general public. About 8-10 yrs shorter than avg. American

Background on the "Rule of 90"

Since the 1960s, in both larger corporate pension plans and public employee pension plans, the trend has been to institute normal retirement ages earlier than age 65. In the counter direction, based on considerations of lengthening expected life span and of the related cost of providing benefits for ever-lengthening retirement periods, Social Security has instituted a later full benefit retirement age.

is agreed to all re: MS-O only retirement
The age 62 with 30 years of service and the "Rule of 90" provisions are early retirement age Minnesota public pension plan provisions, where a benefit unreduced for early retirement is provided at an age before the generally applicable normal retirement age. The age 62 with 30 years of service early normal retirement age provision was added to the statewide general employee retirement plans in 1973 as the first generally applicable early normal retirement age provision. The "Rule of 90" early retirement age provision, where a person becomes eligible for an unreduced retirement benefit when the person's age and years of credited service equal or exceed the sum of 90, was enacted for the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in 1982 (Laws 1982, Chapter 519, Section 2). In 1989 (Laws 1989, Chapter 319, Article 13), the "Rule of 90" provision was extended to MSRS-General, the Teachers Retirement Association (TRA), and the coordinated programs of the first class city teachers retirement fund associations, applicable to only pre-July 1, 1989, hirees. That pre-July 1, 1989, hiree restriction was also made applicable to PERA-General.

Background Situation on Permitting Use of Non-Public Employment to Count Towards Public Plan Benefit Eligibility

One of the two alternative amendments would allow employment at the Bug-O-Na-Ge-Shig School to be counted for purposes of qualifying for the "Rule of 90," but not for benefit computation purposes. The other amendment would permit the individual to remain as an active member of MSRS, continuing to contribute to the plan. This individual was terminated from MSRS-General covered employment. He later became employed at the Bug-O-Na-Ge-Shig School, which, due to its ties to the federal government, is not an eligible MSRS or PERA employer. The individual is asking to be permitted to continue in MSRS, or to have certain special rights for "Rule of 90" purposes, despite changing jobs and changing employers, moving to an employer that is not covered by any Minnesota public pension plan. This request is unique. Commission staff cannot recall any situation where the Legislature provided either of the proposed treatments in a situation such as this.

Pension Policy Issues

Blind amendment LCPR04-127 would allow Joseph Aitken, identified by date of birth and information specific to his situation, to have employment at the Bug-O-Na-Ge-Shig School, which appears to be funded primarily by the federal government, used for purposes of qualifying for an Minnesota State Retirement System (MSRS-General) "Rule of 90" retirement benefit, although the service at the school would not be considered in computing the annuity amount. This treatment is voided if Mr. Aitken has any form of defined benefit plan coverage for his current school employment.

An alternative is blind amendment LCPR04-128 would allow Joseph Aitken, identified by date of birth and information specific to his situation, to continue as an active MSRS member for employment at the Bug-O-Na-Ge-Shig School, which appears to be funded by the federal government. This treatment is voided if Mr. Aitken has any form of defined benefit plan coverage for his current school employment.

If the Legislative Commission on Pensions and Retirement were to consider these proposals, it may choose to consider the following pension policy issues:

1. Precedent. The issue is the precedent set by these proposals. Adopting either proposal could lead to having the treatment apply in all cases where an employee terminates from a public plan prior to drawing an annuity and becomes employed by any employer not covered by a Minnesota public pension plan. This could have a noticeable impact on plan costs with no clear public purpose, and if permitted on a wide scale, could lead to the public plan losing its tax-qualified status.
2. Need for Consideration. The issue is whether there is sufficient need to consider this proposal given the substantial issues it raises, the somewhat modest positive impact the proposal would have on the eligible individual, and the precedent concerns. Without the proposal, the individual will qualify for the "Rule of 90" in four years. If either proposal is enacted, he could qualify in two years.
3. Equitable Issues/Sufficient Justification. The issue is whether there is a compelling justification which warrants having the Legislature create new policy to address Mr. Aitken's situation. Mr. Aitken

re RA cap
1/2 vic
Dept of
Shaw
we retire
with 27,000

one-time consideration

60 next 6-day

has stated that he was terminated from MSRS-covered employment late in his career (while in his late 50s), and that his late-career termination justifies a special law remedy. The Commission may wish to hear testimony on this issue and decide whether the case is sufficiently compelling.

- 4. Self-Help Remedy. If the eligible individual has a sufficiently strong desire to qualify for the "Rule of 90" in two years rather than in four, the individual could seek employment covered by MSRS, PERA, or TRA. If the individual became employed in a PERA-General covered position, or under TRA, he could use the combined service annuity to qualify for the "Rule of 90," and he would be earning service credit. We also note that if the primary desire is to retire, he can do that now. He is nearly 58 30 years old, and MSRS-General permits drawing an annuity as early as age 55. However, there would be a sizable reduction due to early retirement. Mr. Aitken presumably seeks to avoid that reduction by waiting until he qualifies for the "Rule of 90."
- 5. Cost to MSRS. The proposal is likely to impose added cost on MSRS because a subsidized benefit (the "Rule of 90") would be accessed earlier. The Commission does not have an estimate of that cost. If the proposal is heard by the Commission, hopefully MSRS can provide an estimate of the cost.
- 6. Nature of the Current Employment and Pension Coverage. The Commission may wish to find out more, through testimony or other means, about the nature of the current employer and the nature of any existing pension coverage. Mr. Aitken indicates that he is covered by a 403(b) plan. The Commission may wish to consider whether that coverage is sufficient and removes the need to extend any MSRS-General rights for the current Bug-O-Na-Ge-Shig School employment.

cc: Representative Steve Smith

- 1. 28 1/2 yrs of service
- 2. Almost 60
- 3. Not an "early" out
- 4. Is a classroom teacher

- 1.1 moves to amend S.F. No. 375; H.F. No. 446 as follows:
- 1.2 Page 1, line 7, delete "; ALLOWING USE OF"
- 1.3 Page 1, line 8, delete "NONCOVERED EMPLOYMENT FOR RULE OF 90
- 1.4 ELIGIBILITY" and insert "CONTINUING COVERAGE"
- 1.5 Page 1, line 12, delete everything after "receive"
- 1.6 Page 1, delete line 13
- 1.7 Page 1, line 14, delete "Bug-O-Na-Ge-Shig school," and insert "the treatment"

1.1 moves to amend S.F. No. 375; H.F. 446 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **MSRS DEFERRED ANNUITANT; CONTINUING COVERAGE.**

1.4 **Subdivision 1. Authority.** An eligible individual under subdivision 2 is authorized
1.5 to receive the treatment specified in subdivision 3, providing the eligible individual
1.6 complies with all requirements under subdivision 4.

1.7 **Subd. 2. Eligibility.** An eligible individual is an individual who:

1.8 (1) is a Minnesota State Retirement System general plan deferred member;

1.9 (2) was born on June 27, 1946;

1.10 (3) was the director of the Minnesota Indian scholarship program from 1974 to 2002;

1.11 (4) due to an office closing, was terminated from Minnesota State Retirement

1.12 System general plan covered employment in late 2002; and

1.13 (5) was hired as a counselor at Bug-O-Na-Ge-Shig school in August 2003.

1.14 **Subd. 3. Service and salary credit.** An eligible individual under subdivision 2 is
1.15 authorized to purchase service credit in the Minnesota State Retirement System general
1.16 plan, not to exceed the amount of additional service credit needed to qualify for a rule
1.17 of 90 benefit on the effective date of this section under Minnesota Statutes, section
1.18 352.116, subdivision 1.

1.19 **Subd. 4. Requirements.** (a) Authority under this section is voided if an eligible
1.20 individual takes or has taken a refund under Minnesota Statutes, section 352.22; or if
1.21 the eligible individual has commenced receipt of a Minnesota State Retirement System
1.22 general plan annuity.

1.23 (b) Authority under this section is voided if the eligible individual has defined
1.24 benefit pension plan coverage for the school employment specified in subdivision 2, or if
1.25 the eligible individual has received service credit, or is eligible to receive service credit, in
1.26 a defined benefit pension plan for that school employment.

- 1.1 moves to amend S.F. No. 375; H.F. No. 446 as follows:
- 1.2 Page 1, line 7, delete "; ALLOWING USE OF"
- 1.3 Page 1, line 8, delete "NONCOVERED EMPLOYMENT FOR RULE OF 90
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- 1.6 Page 1, delete line 13
- 1.7 Page 1, line 14, delete "Bug-O-Na-Ge-Shig school," and insert "the treatment"
- 1.8 Page 3, line 9, after "employment" insert "provided after the effective date of this
- 1.9 section"
- 1.10 Page 3, delete lines 16 to 22

Senators Larson and Ruud introduced--

S.F. No. 375: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to retirement; Minnesota State Retirement
3 System general plan; authorizing an eligible
4 individual to be covered by the general plan for
5 employment at Bug-O-Na-Ge-Shig school.

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

7 Section 1. [MSRS DEFERRED ANNUITANT; ALLOWING USE OF
8 NONCOVERED EMPLOYMENT FOR RULE OF 90 ELIGIBILITY.]

9 Subdivision 1. [AUTHORITY.] Notwithstanding Minnesota
10 Statutes, sections 352.01, subdivision 2a, and 352.04, to the
11 contrary, an eligible individual under subdivision 2 is
12 authorized to receive service and salary credit in the Minnesota
13 State Retirement System general plan for employment at the
14 Bug-O-Na-Ge-Shig school, specified in subdivision 3, providing
15 the eligible individual complies with all requirements under
16 subdivision 4.

17 Subd. 2. [ELIGIBILITY.] An eligible individual is an
18 individual who:

19 (1) is a Minnesota State Retirement System general plan
20 deferred member;

21 (2) was born on June 27, 1946;

22 (3) was the director of the Minnesota Indian scholarship
23 program from 1974 to 2002;

24 (4) due to an office closing, was terminated from Minnesota
25 State Retirement System general plan covered employment in late

1 2002; and

2 (5) was hired as a counselor at Bug-O-Na-Ge-Shig school in
3 August 2003.

4 Subd. 3. [SERVICE AND SALARY CREDIT.] An eligible
5 individual under subdivision 2 is authorized to receive service
6 and salary credit in the Minnesota State Retirement System
7 general plan for employment at the Bug-O-Na-Ge-Shig school,
8 notwithstanding any provisions of chapter 352 to the contrary.

9 Subd. 4. [REQUIREMENTS.] (a) An eligible individual under
10 subdivision 2 and that individual's employer shall provide the
11 Minnesota State Retirement System executive director with any
12 information or reports that the executive director may request
13 to determine eligibility under this section and to effectively
14 implement this section.

15 (b) An eligible individual is not entitled to any benefit
16 provided by the Minnesota State Retirement System general plan
17 until the eligible individual terminates employment with the
18 employer who owns, leases, or operates the school specified in
19 subdivision 2.

20 (c) A terminated eligible individual meeting requirements
21 of this subdivision, or an individual authorized to act on
22 behalf of that individual, may apply for an annuity following
23 the termination under paragraph (b) using application procedures
24 under Minnesota Statutes, section 352.115, subdivision 7.

25 (d) Authority under this section is voided if an eligible
26 individual takes or has taken a refund under Minnesota Statutes,
27 section 352.22.

28 (e) The reemployed annuitant earnings limitations of
29 Minnesota Statutes, section 352.115, subdivision 10, apply to
30 any service by an eligible individual following reemployment
31 with the employer who owns, leases, or operates the school
32 specified in subdivision 2.

33 (f) Authority under this section is voided if the eligible
34 individual has defined benefit pension plan coverage for the
35 school employment specified in subdivision 2, or if the eligible
36 individual has received service credit, or is eligible to

1 receive service credit, in a defined benefit pension plan for
2 that school employment.

3 (g) To receive service and salary credit under subdivision
4 3, an eligible individual must make contributions to the
5 Minnesota State Retirement System general plan equal to the
6 employee contribution rate and employer contribution rate
7 specified in Minnesota Statutes, section 352.04, subdivisions 2
8 and 3, applied to salary, as defined in Minnesota Statutes,
9 section 352.01, subdivision 13, received from employment at the
10 Bug-O-Na-Ge-Shig school. The Minnesota State Retirement System
11 executive director is authorized to specify forms and procedures
12 to be used in making these contribution payments. Contributions
13 shall be submitted no less frequently than quarterly. Service
14 and salary credit are to be granted to the eligible individual
15 upon receipt by the executive director of required contributions.

16 (h) An initial payment, computed under the procedure
17 specified in paragraph (g), for employment at the
18 Bug-O-Na-Ge-Shig school prior to the effective date of this
19 section, is payable in a lump sum within 90 days following the
20 effective date. The payment under this paragraph shall include
21 8.5 percent annual compound interest computed from January 1,
22 2004, until paid.

23 Sec. 2. [EFFECTIVE DATE.]

24 Section 1 is effective on the day following final enactment.