**S.F. 1562**

(Ourada)

H.F. 1395

(Anderson, B.)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MERF
Relevant Provisions of Law: Uncoded
General Nature of Proposal: Service Credit Purchase for Disability Period
Date of Summary: January 23, 2006

Specific Proposed Changes

- Permits the purchase of up to 7.5 years of service and to have the City of Minneapolis finance a significant portion of the full actuarial value service credit purchase payment price.

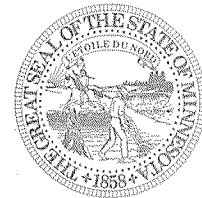
Policy Issues Raised by the Proposed Legislation

1. Equitable Considerations Regarding the Individual.
2. Cost of the Service Credit Purchase.
3. Potential Allocation of the Purchase Cost to the City of Minneapolis.
4. Appropriateness of Encouraging Early Retirement through a Service Credit Purchase.
5. Precedent.

Potential Amendments

LCPR-S1562-A1 clarifies that the salary rate to be used in the computation of the employee's portion of the cost is his salary during 1992 (technical).

LCPR-S1562-A2 is a delete-all amendment that requires the individual to pay the full actuarial value of the purchase and allows (but does not mandate) the city to pay a portion of the full actuarial value, providing the individual pays at least the value of the employee contributions plus interest, based on his 1992 salary (substantive).



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Edward Burek, Deputy Director *EB*

RE: S.F. 1562 (Ourada); H.F. 1395 (Anderson, B.): MERF; Retroactive Request for Service Credit During a Disability Period (Terry C. Mooney)

DATE: January 23, 2006

Summary of S.F. 1562 (Ourada); H.F. 1395 (Anderson, B.)

S.F. 1562 (Ourada); H.F. 1395 (Anderson, B.) permits Terry C. Mooney, identified by birth date and other identifier information, to purchase up to 7.5 years of service credit from the Minneapolis Employees Retirement Fund (MERF) and to have the City of Minneapolis finance a significant portion of the full actuarial value service credit purchase payment price. The 7.5-year period is for a time period from 1979 through 1985, during which the individual was receiving Workers' Compensation benefits but failed to file a MERF disability benefit application. The deadline for exercising the service credit purchase is July 1, 2006.

Public Pension Complaint of Terry C. Mooney

Terry C. Mooney of Maple Lake, Minnesota, is currently a 54-year-old employee of the City of Minneapolis who apparently works for the city engineer's department. Mr. Mooney began his Minneapolis employment in 1974, working as a seasonal employee, and injured his knee sometime during that year. He continued to work with the injury until 1978, when he went on Workers' Compensation benefits. Mr. Mooney substantially recovered from his injury in 1986, settled his Workers' Compensation claim, but was still unable to return to Minneapolis city employment due to an inability to meet the physical requirements of the work. He applied for disability status from MERF in 1986, but never collected a MERF disability benefit because he took other non-Minneapolis employment. In 1991, he returned to Minneapolis city employment, returned to active MERF member status, and received MERF allowable service credit for the disability period 1986-1991. Ms. Judith Johnson, MERF's Executive Director, states in correspondence dated March 8, 2005, that MERF is unique among public Minnesota general employee plans in granting service credit for a disability period, but MERF has no authority to grant service credit for a period of disability that occurred before the application was filed.

There are several aspects of this situation that are puzzling. One question is why Mr. Mooney did not apply for MERF disability benefits when he became disabled and began receiving Workers' Compensation benefits in 1978. Ms. Johnson suggests one reason he may not have responded is that disability benefits are offset with Workers' Compensation payments, and it may not have been worth applying for the MERF benefits. Another possible reason is that Mr. Mooney's MERF membership status at that time may have been unclear, at least to him. Ms. Johnson indicates on page 2 of her March 8, 2005, correspondence that every Minneapolis employee who qualifies for MERF membership is given a membership application and a notice of any back charges for any work period that occurred after the individual qualified for membership, but for which deductions from pay did not occur. Mr. Mooney qualified for MERF membership in 1974 and had some back charges for that year. According to the correspondence, Mr. Mooney did not return his membership application until 1985, approximately 11 years after that application should have been filed and several years after the disability occurred, and he did not pay the back charges relating to 1974 until October 1986. It is possible that while these events were occurring Mr. Mooney believed that he was not a MERF member because the application was not filed, and thus he was not entitled to MERF disability benefits. However, he should have recognized that contributions were being deducted from pay. Attachments to this memo indicate that Mr. Mooney has service credit in MERF beginning in 1974.

MERF records indicate that MERF sent notices to Mr. Mooney in 1980 and in 1983 suggesting that he may wish to apply for the plan's disability benefits. Mr. Mooney does not recall receiving the notices. He also contends that MERF officials told him to wait until he reaches retirement age to pursue MERF allowable service credit for the initial period of disability 1978-1985, and that he took that advice. Ms. Johnson disagrees, contending in her March 8, 2005, correspondence that MERF would not have recommended a delay.

Mr. Mooney indicates that he is finding it more difficult to continue in his Minneapolis city employment because he is outside during all types of weather and he wants to retire from MERF. MERF permits retirement at any age with 30 years of allowable service credit, which Mr. Mooney would qualify for if he

could obtain allowable service credit for the disability period 1978-1985. Mr. Mooney desires authority to purchase service credit for the 1978-1985 period of his disability and seeks to have the City of Minneapolis pay for a significant portion of any purchase payment.

Background Information on Service Credit Purchase Special Legislation

Background information on the topic of special legislation authorizing public pension service credit purchases is contained in Attachment A.

Discussion and Analysis

Terry C. Mooney is a 54-year-old Minneapolis city employee with a 13.5-year period of work-related disability for which he has received MERF allowable service credit for six years. S.F. 1562 (Ourada); H.F. 1395 (Anderson, B.) permits Mr. Mooney to purchase MERF allowable service credit for the balance of the disability period and thus qualify to retire for an immediate retirement annuity with 30 years of allowable service credit, with the City of Minneapolis responsible for paying a majority of the purchase payment amount.

S.F. 1562 (Ourada); H.F. 1395 (Anderson, B.) raises several pension and related public policy issues, as follows:

1. Equitable Considerations Regarding Mr. Mooney. The policy issue is the extent of any adverse equitable considerations with respect to the prospective purchaser, Terry C. Mooney. Testimony from Mr. Mooney and from MERF may be needed to assist the Commission in determining the equitable considerations. The Commission may wish to focus on Mr. Mooney's failure to file a MERF membership application until more than a decade after membership apparently commenced, the apparent failure to act in response to the 1980 and 1983 disability benefit notices from MERF, the 20- or 25-year delay in addressing the matter covered by this bill, and the appropriateness of granting service credit for time spent eligible for a MERF disability benefit when Mr. Mooney was employed elsewhere and had other potential pension coverage as a result. The Commission may also wish to consider that Mr. Mooney has already benefited from some generous features found in the MERF plan. He is receiving full year service credit although he often has worked only several months in a year, and he has received several years of MERF service credit for a period of disability, the only Minnesota general employee public plan to provide such treatment.

MERF records indicate that Mr. Mooney was sent notices in 1980 and 1983 regarding his disability benefit rights. The Commission may wish to inquire whether MERF used certified mail for those notices. Mr. Mooney claims he did not receive them and Mr. Mooney's attorney suggests they would have been ineffective notice because Mr. Mooney already was receiving a Workers' Compensation benefit at the time of the notice, was relatively young, and was not very sophisticated. Mr. Mooney and his attorney indicate that the 20- or 25-year delay occurred because MERF told him not to pursue obtaining service credit for the 1978-1985 period until he reached retirement age, while MERF contends it would never have provided that advice.

If Mr. Mooney was relying on a MERF disability benefit for his livelihood instead of being employed by an employer other than by the City of Minneapolis and actually or potentially was covered by another retirement arrangement, equity would more favor Mr. Mooney. An opportunity to purchase service credit for an additional 7.5 years of his disability period would involve potential double pension coverage for this period.

2. Cost of Service Credit. The policy issue is the cost of this service credit, both to Mr. Mooney and to the City of Minneapolis. MERF is a basic program, meaning that it does not supplement Social Security coverage, and it provides a retirement annuity that is significantly greater than a coordinated program. Mr. Mooney's purchasable service credit period is very long compared to most service credit purchase requests, involves a larger potential benefit increase than most other purchases, and would qualify Mr. Mooney for an immediate early-age full retirement benefit. Mr. Mooney's total salary has not been high, which helps control the cost. MERF estimates the total cost as \$80,000. If the Commission decides through an amendment to have Mr. Mooney pay the entire cost, it could be prohibitive and would leave him with no net financial advantage if the payment were made. Having the city pay a sizable share will place a considerable burden on the city.
3. Potential Allocation of the Purchase Cost to the City of Minneapolis. The policy issue is the appropriateness of the proposed allocation of a significant portion of the service credit purchase

payment amount to the City of Minneapolis. Mr. Mooney and his attorney argue that Mr. Mooney was informed in 1986 by MERF to wait until his retirement to address the question of service credit for the 1978-1985 portion of his disability period. In this instance, MERF was acting as the agent for the City of Minneapolis and, as a result, the City of Minneapolis is obligated to pay most of the purchase payment price. If MERF was made to bear the cost of the service credit purchase rather than Mr. Mooney's employer, the City of Minneapolis, under Minnesota Statutes, Section 422A.101, Subdivision 3, the actuarial cost of the service credit purchase would be transferred to the State of Minnesota, an entity with no connection to Mr. Mooney's employment. Since the size of the purchase payment is likely to be large, and the connection between the City of Minneapolis and the alleged bad advice from MERF was inferred through agency theory and is tenuous, the Commission may feel that imposing liability on the City of Minneapolis for the alleged erroneous advice seems inappropriate, unless convincing evidence can be provided to the Commission.

4. Appropriateness of Encouraging Early Retirement Through a Service Credit Purchase. The policy issue is the appropriateness of granting this service credit purchase when the purchase will encourage a full normal retirement benefit payable at a very early age (age 54). MERF encourages early retirement by a benefit plan provision that allows retirement at any age with 30 years of service. The cost of that provision was a significant reason why the Legislature closed MERF to new entrants in 1979. The service credit purchase is being pursued, it appears, solely for Mr. Mooney to obtain access to that early retirement benefit. If Mr. Mooney is currently incapable of continued gainful employment, he could again apply for a MERF disability benefit. If Mr. Mooney can continue in some other type of employment, Mr. Mooney could terminate his Minneapolis employment, defer receipt of his MERF annuity until age 60, the alternative MERF normal retirement age, and have that deferred retirement annuity augmented under Minnesota Statutes, Section 422A.16, Subdivision 10.
5. Precedent. The policy issue is whether or not prior comparable legislation exists that would be a precedent for this proposed special legislation and whether or not the draft proposed special legislation would constitute a potentially unfavorable precedent for future special legislation. Although there has been a significant quantity of special service credit purchases and similar service credit acquisitions over the past two decades, the Commission staff cannot identify any comparable past special legislation substantially identical to this circumstance. If the proposed special legislation was recommended by the Commission, it would have a limited adverse precedent value, since no other statewide general employee retirement plan grants allowable service credit for disability periods and because MERF, the local general employee retirement plan specifically involved, has been closed to new entrants for 25 years.

Potential Amendments for Commission Consideration

Amendment LCPR-S1562-A1 is needed to make the bill operational in the manner presumably intended. The bill drafting suggests an intention to have the City of Minneapolis pay most of the cost, but to have Mr. Mooney share some of the burden. However, as drafted, there is no salary upon which to base the employee contributions, thus the employee would pay nothing and the employer would pay the entire service credit purchase amount. Under LCPR-S1562-A1, the salary rate that would be used in the computation of Mr. Mooney's portion of the cost is his salary during 1992, the first full year after returning to Minneapolis employment.

Amendment LCPR-S1562-A2 is a delete-all amendment which would require Mr. Mooney to pay the full actuarial value if he wishes to receive the service credit. The purchase is under the terms of Section 356.551, which would allow (but not mandate) the city to pay a portion of the full actuarial value, providing the individual pays at least the value of the employee contributions plus interest, based on his 1992 salary.

Attachment A

Background Information on Service Credit Purchase Special Legislation

Prior service credit purchases are a phenomenon of defined benefit pension plans. Defined benefit plans specify the pension benefit amount, typically through the use of a formula based on the amount of compensation and on the length of service.

Prior service credit purchases are opportunities for pension plan members to obtain allowable service credit and, if applicable, covered salary credit in a defined benefit pension plan for a period that was not otherwise credited through normal pension plan membership. A process is followed in obtaining credit for a prior service credit purchase period, usually involving the payment of some amount to defray all or a portion of the actuarial cost attributable to the purchase and the provision of documentation relating to the service period.

Pension plan members seek prior service credit purchases for a variety of reasons, including a desire to gain defined benefit pension plan portability, a desire to obtain a larger pension benefit, or a desire to qualify for a special early retirement provision.

Principle II.C.10 of the Commission's Principles of Pension Policy, last revised in 1996, covers purchases of service credit and 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. This is consistent with the notion that public pension plans should be providing coverage for public employees for periods of time when they were serving the public through public employment or through quasi-public employment. Coverage for a period when an individual provided private sector employment is not consistent with this statement.
3. Minnesota Connection. The employment period to be purchased should have a significant Minnesota connection. This is consistent with the notion that Minnesota taxpayers support these public pension plans and bear the investment risk in amassing plan assets. Given the support that taxpayers provide, it is appropriate that the service have a Minnesota connection, reflecting services provided to the people in the state.
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. If there are unresolved issues of whether an individual should have service credit for a given period, those issues should be resolved before the individual terminates from public service, and certainly before the individual retires. The act of retiring undermines a claim that there is sufficient need for the Legislature to consider the coverage issue. If there were considerable hardship caused by the lack of service credit, presumably the individual would not have retired. Entering retirement suggests that the associated pension benefit is adequate without any further increase in the benefit level due to a purchase. Only on rare occasions has the Commission and the Legislature authorized service credit purchases by retirees.
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. There is no process in law specifying a procedure for computing a "full actuarial value" purchase in a defined contribution plan, or even defining what that concept means in the context of a service purchase or service credit purchase in a defined contribution plan.
6. Full Actuarial Value Purchase. Within the context of a defined benefit plan, 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. The procedure used to compute this full actuarial value should be a methodology that accurately estimates the proper amounts. When clear evidence indicates that the employing unit committed an error that caused the individual to not receive pension plan coverage, the Commission has permitted the employee to make the employee contribution for the

relevant time period, plus 8.5 percent interest, and the employer has been mandated to cover the remainder of the computed full actuarial value payment. If the employer does not directly make the payment following notification that the employee has made his or her portion of the full payment, the Commission has required that a sufficient amount to cover the remainder of the full actuarial value be deducted from any state aids that would otherwise be transmitted to the employer. The Commission has purposely departed from the full actuarial value requirement when there is evidence that the pension plan administration created the lack of service credit coverage due to pension plan administration error. In situations of pension plan error, the employee may be required to pay the contributions that would have been required for the relevant time period, plus 8.5 percent interest to adjust for the time value of money, leaving any difference between that payment and the full actuarial value to be absorbed by the pension fund.

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. In general, any issue or factor associated with a service credit purchase request which can be viewed as lacking fairness or being less than impartial can be a basis for rejecting a request. Requests by existing retirees to purchase additional service credit and have their annuities recomputed could be viewed as being a situation that violated equity considerations. New requests on behalf of individuals who were covered by purchase of service credit authorizations passed by earlier Legislatures but who are dissatisfied with the purchase of service credit terms that were provided can be considered as violating equity considerations. Individuals requesting service credit purchases for periods specifically excluded from plan coverage under the applicable law could be considered as violating equity considerations, among other policy concerns relating to those considerations. Requests to purchase service credit for periods covered by another pension plan may raise equity concerns. Generally, a service credit purchase is intended to fill a gap in coverage, not to create double coverage. Long delays in seeking remedial action can also be considered a violation of equity considerations. Individuals tend to wait until late in their career before seeking any remedial action for lost service credit. Prompt action, closer to the time period when the service credit problem occurred, would often result in a solution at a lower cost and would avoid efforts by the Commission to try to determine the factual situation many years, or even decades, after the event occurred.

The general purchase of service credit legislation enacted in 1999, 2000, and 2001 conflicted with the Commission policy as stated in the 1995-1996 Commission Statement of Pension Principles. Perhaps the 1999-2001 service credit purchase legislation should be viewed as reflecting evolution and permanent change in Commission policy. The 1999-2001 legislation also may be viewed as temporary provisions to address a short-term labor shortage situation, warranting a temporary waiver of the standard Commission purchase of service credit policy.

During the period 1957-2003, the Legislature has enacted 241 special laws authorizing one person or a small group of individuals to purchase prior service credit, distributed as follows:

<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>	<u>Year</u>	<u>Number</u>
1957	1	1971	2	1979	7	1986	6	1993	7	2000	8
1959	4	1973	4	1980	4	1987	3	1994	8	2001	10
1961	5	1974	5	1981	14	1988	7	1995	7	2002	2
1963	6	1975	10	1982	16	1989	12	1996	6	2003	6
1965	5	1976	4	1983	2	1990	10	1997	3	2004	1
1967	1	1977	9	1984	3	1991	6	1998	9	2005	1
1969	2	1978	9	1985	2	1992	6	1999	8		

A majority of special prior service credit purchase laws relate to the three major general employees retirement plans, with 33 special laws relating to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), with 75 special laws relating to the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), and with 43 special laws relating to the Teachers Retirement Association (TRA).



March 8, 2005

800 Baker Building
706 - 2nd Avenue South
Minneapolis, MN 55402-3004
(612) 335-5950
FAX (612) 335-5940

Edward Burek
Legislative Commission on Pensions and Retirements
Room 55
State Office Building
St. Paul, Mn

Judith M. Johnson
Executive Director/
Chief Investment Officer

RE: House file 1395

Dear Mr. Burek;

This letter is to provide you additional information related to the above referenced individual bill filed on behalf of Mr. Mooney. MERF is not opposed to support of this individual bill provided that the full actuarial cost is paid into the fund.

Board Members
Agnes M. Gay
President
Dennis W. Schulstad
Vice President
Craig P. Cooper
Secretary/Treasurer
Arthur (Dan) Cherryhomes
James H. Lind
Barbara Johnson
John Moir

During the seven years in question Mr. Mooney was on worker's compensation with the City of Minneapolis. Since there are no wages the provision of clause (e) has no practical impact since the result would be \$ 0 contribution from Mr. Mooney. The City would therefore need to pay approximately \$80,000 if the legislation is passed. This dollar amount is a good faith estimate and not capable of precise calculation until such time as Mr. Mooney retires and the cost of his pension is calculated.

With the legislation Mr. Mooney would be immediately eligible to retire and we have calculated his pension benefit and its related cost as of August 1, 2005. Without the legislation Mr. Mooney would need to continue to work until he reaches 29 years and one month of service or age 60. Mr. Mooney currently has 24 years and 4 months of service credit. He is 54 years old. Our cost estimate assumes that his most recent five years are the high five and we use his current service credit, even though this does not qualify him for a pension at this time.

We have enclosed Mr. Mooney's compensation record here at MERF. Mr. Mooney was a seasonal employee with the City public works department. This is why he often worked substantially less than 2080 hours per year. The hours worked are listed under type of work. As you may recall part time work qualifies for a full year of pension credit with the MERF fund. An analysis of the most recent payroll records appears to show that Mr. Mooney works chiefly in the summer and fall and takes off the winter months.

At some time in 1979 Mr. Mooney was hurt at work and was provided workers compensation insurance. The City does not advise MERF of the award of workers compensation. MERF evaluates all active member accounts in the following year and if

wages are materially different MERF contacts the City to inquire about the reason. Mr. Mooney had \$5,863.55 in wages in 1978 and \$63.44 in wages in 1979. The City advised Mr. that Mr. Mooney was injured and on workers compensation. MERF wrote to Mr. Mooney on August 21, 1980 to advise him that he could apply for disability and provided him with the amount of disability he would receive after he applied.

Mr. Mooney did not respond to this letter and did not submit an application for disability. In general there is an offset of disability benefits with workers compensation benefits and this may be why Mr. Mooney did not respond. We have no specific information from Mr. Mooney as to why he did not file.

We wrote to Mr. Mooney again on March 15, 1983 to advise him that he qualified for disability. While some members go on workers compensation for short periods of time and determine that they do not want to file for disability, Mr. Mooney was then off work for over three years so he received this additional notice.

MERF law only allows MERF to provide service credit for periods after a disability application is filed. Mr. Mooney contacted MERF on July 2, 1986 and MERF again calculated his disability and advised him that he was qualified to receive disability benefits. He applied for disability on September 25 1986.

You will notice in the data file that Mr. Mooney also never returned his application for MERF membership until May 1985. When an employee is hired he is not an immediate member of MERF. When he is certified, and in Mr. Mooney's case this occurred on July 22 1974, he is provided a membership application and a notice of back charges from date of employment. MERF cannot provide service credit for a member until the contributions for the non certified period are paid. Mr. Mooney paid the back charges for 1974 on October 20, 1986.

Had Mr. Mooney returned his disability application in the fall of 1980 he would have qualified for disability from that date forward. While the amount of the payment would have been offset against workers compensation he would have received service credit for retirement purposes at no cost to him for years 1980 through 1985.

Statements in the bill that MERF advised Mr. Mooney that he could wait until he retires to address this issue are false. We provided him the forms and advised him in writing that we could not provide credit for the period before he applied. We have included copies of correspondence to and from Mr. Mooney's legal counsel William A Cumming at Moss & Barnett.

As I am in regular attendance at LCPR meetings I understand that the pension commission sometimes operates similar to a court of equity and evaluates whether the failure of a member to correctly handle paper work should bar the member from receiving the benefit. In this regard the LCPR may want to take testimony from Mr. Mooney on why he failed to return disability applications in 1980 and later in 1983.

I am forwarding a copy of the relevant portions of Mr. Mooney's file to Pat Born, City Finance Director. I would expect that the City would either provide you correspondence or testimony on the position of the City of Minneapolis.

If you require any further information, please do not hesitate to contact me at MERF at 612-335-5939.

Sincerely,



Judith M. Johnson
Executive Director

Enclosures
Terry Mooney
Patrick Born



April 17, 2003

800 Baker Building
706 - 2nd Avenue South
Minneapolis, MN 55402-3008
(612) 335-5950
FAX (612) 335-5940

William A Cumming
Moss & Barnett
(sent via facsimile and mail)

Judith M. Johnson
Executive Director/
Chief Investment Officer

Dear Mr. Cumming;

We are in receipt of your letter dated April 17, 2003 regarding Terry Mooney's pension credits. We must advise you that Mr. Mooney does not qualify for the retirement incentive or for service credit for the uncredited years before application for disability was made.

Board Members
James H. Lind
President
David L. Fisher
Vice President
Agnes M. Gay
Secretary/Treasurer
Dennis W. Schulstad
Craig P. Cooper
Barbara Johnson
R. T. Rybak

MERF is a statutory government pension plan and like the other state government pension plans our staff and board is without authority to waive the state law requirements concerning eligibility for benefits or pension credits. The requirements for qualification for disabled pension credit are found at Minnesota statute 422A18 and this includes a written application with no ability provided to MERF to grant credits for years prior to the application, even if Mr. Mooney was on workers compensation. We therefore have no authority to grant pension credits for the years that Mr. Mooney did not have an application on file and cannot validly consider a request to grant him any credits.

Under our state laws the only relief from statutory requirements is to seek special legislation from the Minnesota legislature for a waiver of the statutory provision. The state legislature hears approximately 60 to 80 such bills each year related to the operation of the public pension plans in Minnesota. The bills are heard by the Legislative Commission on Pensions and Retirements and the staff of that office could advise you on whether a waiver of the statutory requirement to file a disability application to gain service credit has ever been granted for a member of any of the public plans in Minnesota. We know that one has never been granted for a MERF member but some deference is granted to past precedent if such a waiver has been granted to a member of another fund.

This special legislation is the sole remedy available for Mr. Mooney's situation. In general I would say that 50% of the special bills are granted and about 50% are rejected. The likelihood of success is best measured through a discussion with Mr. Martin at the commission as he keeps careful records on issues where credit has been granted. He has been the director there for several decades and has always proven honest in his assessment of special legislative requests.

It is too late in the session to have a bill introduced and heard this year. The soonest such a bill could be heard would be in the 2004 legislative session. If you are successful in obtaining legislative relief with a special law covering Mr. Mooney, MERF could then provide pension credits to Mr. Mooney. He would then be eligible going forward for retirement.

The budget issues facing the city are very severe and we would not be surprised if additional offers of incentive are made in the coming years as the city downsizes its operations to make expenditures match the revenue available. Only about 25 or so of the city eligible work force of MERF members are expected to take the incentive-less than 20% of those eligible, which means that future offers are more, not less likely.

Compared to the practices in the private sector this procedure must sound very cumbersome to you. Because the public plans are supported almost totally with tax dollars, only the state legislature has the authority to waive any of the requirements. It is hard to say whether this is the best use of legislative resources but the legislature has never waived in their collective insistence that public plan boards and administrators are without authority to grant anything outside of the statutory requirements without a special law.

Your letter mentions that Mr. Mooney was not instructed to file an application. We keep a log in each members file indicating contacts with the member. I have attached a copy of that log and it is clear that he received correspondence from us and simply decided not to file for disability during the time he was on workers compensation. To suggest that he was not provided information about disability given the plain reading of his record mischaracterizes the realities of this matter.

The legislature will obtain a complete copy of Mr. Mooney's file as part of its review and their staff frowns on posturing that is wholly unsupported by the records. Attorneys who bring special legislation are often unsuccessful for this reason as posturing is often a skill we bring to the courtroom, but is a disaster when used to seek equitable relief from a legislative body. It has been my observation that this is even more true today as the number of attorney legislators have risen. The applicant who says he is seeking a remedy without attempting to blame others for his error is often more successful.

I am sorry the news is not better for Mr. Mooney. Mr. Martin can be reached at 651-296-2750.

Sincerely,



Judith M. Johnson, JD, CPA
Executive Director

CC. Mr. Lawrence Martin, Legislative Commission on Pensions and Retirements
Enclosures

MEMO FOR FILE

DATE AND INITIAL EACH ENTRY

Sec. Sec. No. [REDACTED]

Name Terry MOONEY

Application No. 29357

Claim No. _____

S.B.

see 1st sheet also
8/31/77 SENT Letter ^{INCREASE IN} ~~SHOOTING~~ BACK charge OF 153.72, FOR deductions
Missed 6/3/77 - 7/29/77, NO INT. Now OWES 1,453.20 T.C.

Aug 21, 1980 In checking file we find that he is presently on Work Comp.

Wrote letter advising him of disability ----- approx \$286.21 S.L. based on hi 5 of \$34,345. ib

3/15/83 SENT him MEMO regarding disability & ALSO SENT him MEMBERSHIP APPLICATION. T.C.

8-10-83 Called Engineers payroll and he is still on workman's comp. tc

10-21-83 Sent letter requesting application. lb

9-24-84 Called Don and he said Terry was recently taken off W.C. There going to wait to see if he comes back to work. tc

4-24-85 Called Eng payroll and they said he was back on W.C. Wrote him memo regarding disability and also sent him membership application. tc

5/15/85 Applic. not notarized, sent letter *Don*

7/3/85 When Terry came back to work set up back charge led. *to*

7-2-86 Terry Mooney called regarding his retirement account. Explained disability to him Sent him data sheets along with a letter. See copy in file. Owes back charge of \$2,356.20. We also need his birth record. tc

9-25-86 In office to apply for disability. Will send in check for back charge along with His and his wife's birth records and their marriage record. Is not sure if he want hosp Ins. Currently has GHP, but may want Share. Will let us know. tc

10-20-86 Recd check for \$2,378.64 to pay back charge. Also sent in his and wife's birth record along with marriage record. tc

MEMO FOR FILE

DATE AND INITIAL EACH ENTRY

Soc. Sec. No. [REDACTED]

Name Terry MOONEY

Application No. 29357

Claim No. _____

8/24/76 SENT LETTER SHOWING BACK CHARGE OF 1,253.83 ^{# S.B.} 1,141.18
FOR SERVICE IN 1974 + 1975, INTEREST TO 1-1-76. ^{# S.B.} 112.65 FOR
DEDUCTIONS MISSED 6/4/76 - 7/2/76, NO INTEREST T.C.

7-28-77 Called Engineer's payroll to check status - he
hasn't ~~had~~ any deductions this year - they said he
was working - sent over another form to tap, figure
back charge for deductions missed - has been working
since 5-19-77 su

5-20-91 Terry Mooney returned to work on May 20, 1991. to

[illegible]

Stacy C. Moorey

ADDRESS

Appl. No. 29357

[illegible]

MOSS & BARNETT

A Professional Association

WILLIAM A. CUMMING
612.347.0296
CummingW@moss-barnett.com

4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129
Telephone 612.347.0300
Facsimile 612.339.6686
www.moss-barnett.com

April 17, 2003

VIA MESSENGER

Mr. Timothy Caza
Minneapolis Employees Retirement Fund
706 Second Avenue South
Suite 300
Minneapolis, MN 55402

Re: Terry Mooney

Dear Mr. Caza:

As you know, I have written to you before with regard to Terry Mooney's pension benefits under the Minneapolis Employees Retirement Fund. As you also know, Minneapolis employees are being given incentives to elect retirement to facilitate the City's management of its current budget issues. Terry Mooney would qualify for those incentives, but the lingering issue of whether he is going to be granted pension credit for the additional years for which he was on disability is a critical consideration for Terry to be able to make his decision.

By way of background, as you probably recall, Terry Mooney had been disabled from his position with the City due to a work-related knee injury. While he had recovered from that knee injury, he was not allowed to return to his prior employment with the City because of physical restrictions. At the conclusion of his workers compensation case, Terry was advised to submit an application for disability benefits.

Once he filed his disability application, although Terry was able to maintain other employment so that he was not drawing benefits, he did receive credit toward his pension for those years of disability. That term of disability was merely a continuation of the entire time that he had been unable to work because of his knee injury. However, because he had not been advised to submit that application any earlier, he has not, as of this date, been credited with the pension service for his initial years of disability. Terry understood, after speaking with you, that this was an issue that he should revisit as he became ready to apply for his pension.

At this time, Terry would like to be able to submit his retirement application. This is advantageous timing from the City's perspective, and is consistent with Terry's goals. However, being able to retire at this time is significantly impacted by whether he is able to have the additional credit granted to him for his first years of disability. There appears to be no distinction between his status as a disabled person before and after he submitted his disability

8/14/03

MOSS & BARNETT

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Mr. Timothy Caza
April 17, 2003
Page 2

application. The only difference is that his application was submitted when he was alerted to do so by the City in connection with the resolution of his workers compensation claim.

Because of the limited timeframes available in the City's proposal for its additional incentive for employees to elect early retirement, Terry needs to obtain direction as to whether he will be awarded the credits which had been omitted previously, or if it will be a contested matter. Because Terry needs to submit some indication to the City of his intention to elect early retirement, I would greatly appreciate it if you could contact me today or tomorrow regarding the status of Terry's pension credits.

Very truly yours,



William A. Cumming

WAC/les
583650/1



October 4, 2002

William A. Cumming
4800 Wells Fargo Center
90 South 7th Street
Mpls, Mn. 55402

RE: Terry Mooney Retirement Credits

Dear Mr. Cumming:

In reviewing the retirement account for Terry Mooney, I find that Mr. Mooney started with the City of Mpls on July 22, 1974 and received retirement credit for 5 years of service, 1974 through 1978.

It appears that sometime in 1979 Mr. Mooney was no longer working and received no credit for 1979 through 1985. If he was on Worker Comp during this period he would receive no credit. Members do not receive retirement service credit for time on Worker Compensation unless they were on disability for the same period of time.

Mr. Mooney applied for disability in 1986, and the application was approved for a duty disability retirement allowance. Mr. Mooney returned to work on May 20, 1991, and was subsequently given credit for his time on disability, 1986 through 1991.

Mr. Mooney has worked and been given credit for each year thereafter. On December 1, 2002, Mr. Mooney will have 22 years of creditable service.

The time in questions seems to be 1979 through 1985, and as I mentioned previously, member do not receive pension credit for time on Workers Compensation.

I am enclosing a copy of Mr. Mooney's service record for your convenience.

If you have any questions, please feel free to call me at 612-335-5945.

Sincerely,

Tim Caza
Manager, Benefits

enclosures

800 Baker Building
706 - 2nd Avenue South
Minneapolis, MN 55402-3008
(612) 335-5950
FAX (612) 335-5940

Judith M. Johnson
Executive Director/
Chief Investment Officer

Board Members
James H. Lind
President
David L. Fisher
Vice President
Agnes M. Gay
Secretary/Treasurer
Dennis W. Schulstad
Craig P. Cooper
Barbara Johnson
R. T. Rybak

MOSS & BARNETT

A Professional Association

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CummingW@moss-barnett.com

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90 South Seventh Street
Minneapolis, MN 55402-4129
Telephone 612.347.0300
Facsimile 612.339.6686
www.moss-barnett.com

October 3, 2002

Mr. Timothy Caza
Minneapolis Employees Retirement Fund
706 Second Avenue South
Suite 300
Minneapolis, MN 55402

Re: Terry Mooney Retirement Credits

Dear Mr. Caza:

I am writing on behalf of Terry Mooney, a participant in the Minneapolis Employees Retirement Fund (MERF). I have attached to this letter a copy of the Authorization from Mr. Mooney allowing us to communicate with you directly regarding his pension credit.

Mr. Mooney believes that his benefits may be understated based upon information that has been provided to him from MERF. Mr. Mooney understands that he has not yet been given credit for a period of time during which he was disabled from his regular employment with the City of Minneapolis due to a work-related injury. Mr. Mooney was apparently awarded credit for a portion of the time that he was disabled from his regular employment, but appears to still have a gap in his period of credited service.

By way of background, as you may know, Mr. Mooney sustained a work-related injury to his knee in 1975. He was off work substantially from 1978 until 1991 when he finally received clearance from the City of Minneapolis to return to his original employment. Mr. Mooney had a disputed workers compensation claim that was also taking place during this timeframe. Mr. Mooney understands that he was awarded service credit for the period from 1985 until his return to active employment in 1991. He understands from records which have been provided to him that he has not received credit for the first half of his period of disability from 1978 until 1985.

Mr. Mooney was advised that he should wait until he was going to retire to raise this issue. Mr. Mooney is anticipating a retirement in early 2003. Whether he has credit for all of his years of eligible participation in the Plan is critical to his decision to retire. His situation will be further complicated if he has additional disabling problems with his knees.

Accordingly, I am requesting that MERF confirm for me whether Mr. Mooney has received credit for the first several years of his disability from 1978 until 1985. If Mr. Mooney has not received credit for those years, please accept this submission as his formal claim to receive service credit for those years attributable to his disability. Mr. Mooney's disability was for the

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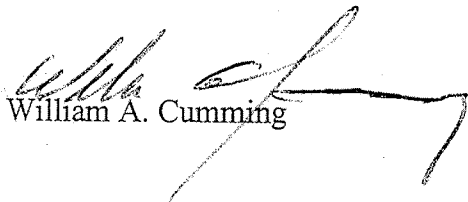
Mr. Timothy Caza
October 3, 2002
Page 2

same injury and was continuous from the time he went off work in 1978 until his return to work in 1991. Mr. Mooney believes that because there was no material difference in his status and circumstances for the period prior to 1985 and the period from 1985 until 1991, that he should be provided service credit for all of those years.

If something additional is required to complete this request for the additional service credit, please let us know and we will provide that information or documentation promptly. If a specific form is required by MERF for this process, please let me know.

On Mr. Mooney's behalf, we look forward to the Fund's response to Mr. Mooney's request for clarification or adjustment in his service credit.

Very truly yours,



William A. Cumming

WAC/les
Enclosure
538450/1

AUTHORIZATION FOR RELEASE OF PRIVATE DATA

To: Minneapolis Employees Retirement Fund
706 2nd Avenue South, Suite 800
Minneapolis, MN 55402-3008

The undersigned, as the subject of private data as defined by the Minnesota Government Data Practices Act, authorizes the release of the following private data about me:

1. All Data maintained about me, including but not limited to employment data, pension or retirement benefit data, and data of any other type that is classified as Private Data on Individuals pursuant to Chapter 13 of Minnesota Statutes.
2. All Public Data about me.

This authorization allows the following government unit, agency or official to release the designated private data about me:

NAME: Terry C. Mooney
ADDRESS: 12514 Gowan Ave. NW
Maple Lake, MN 55358
DOB: 1/4/51

This authorization allows the following individual and/or organization to receive the private data about me pursuant to this authorization:

William A. Cumming, Esq.
and
Moss & Barnett, P.A.
4800 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-4129

The private data that I am authorizing to be released is to be used for the following purpose(s):

Retirement planning and benefits determination.

This authorization may be revoked by me at anytime before it is presented and responded to, and I understand that any revocation must be in writing and delivered to the entity authorized to release the private data about me. This authorization shall automatically expire six (6) months after the date listed below.

DATED: 6-8-02

Terry C Mooney
Data Subject

Personal Identifier

MEMO FOR FILE

DATE AND INITIAL EACH ENTRY

Soc. Sec. No. [REDACTED]

Name Terry MOONEY

Application No. 29357

Claim No. _____

see ~~memo~~ also
sheet

8/31/77 SENT Letter ^{INCREASE IN} ~~SHOOTING~~ BACK charge OF 153.72, FOR ^{S.B.} ~~deductions~~
Missed 6/3/77 - 7/29/77, NO INT. Now OWES 1,453.20 T.C.

Aug 21, 1980 In checking file we find that he is presently on Work Comp.

Wrote letter advising him of disability ----- approx \$286.21 S.L. based on
hi 5 of \$34,345. ib

3/15/83 SENT him MEMO regarding disability & ALSO SENT
him MEMBERSHIP APPLICATION. T.C.

8-10-83 Called Engineers payroll and he is still on workman's comp. tc

10-21-83 Sent letter requesting application. lb

9-24-84 Called Don and he said Terry was recently taken off W.C. There going to wait to
see if he comes back to work. tc

4-24-85 Called Eng payroll and they said he was back on W.C. Wrote him memo regarding
disability and also sent him membership application. tc

5/15/85 Applic. not notarized, sent letter Madi

7/3/85 When Terry came back to work set up back charge ded. B

7-2-86 Terry Mooney called regarding his retirement account. Explained disability to him
Sent him data sheets along with a letter. See copy in file. Owes back charge of \$2,356.20.
We also need his birth record. tc

9-25-86 In office to apply for disability. Will send in check for back charge along with
His and his wife's birth records and their marriage record. Is not sure if he want hosp
Ins. Currently has GHP, but may want Share. Will let us know. tc

10-20-86 Recd check for \$2,378.64 to pay back charge. Also sent in his and wife's birth
record along with marriage record. tc

MEMO FOR FILE

DATE AND INITIAL EACH ENTRY

Soc. Sec. No. [REDACTED]

Name Terry MOONEY

Application No. 29357

Claim No. _____

8/24/76 SENT LETTER SHOWING BACK CHARGE OF 1,253.83. ^{# S.B.} 1,141.18

FOR SERVICE IN 1974 + 1975, INTEREST TO 1-1-76. ^{# S.B.} 112.65 FOR

DEDUCTIONS MISSED 6/4/76 - 7/2/76, NO INTEREST T.C.

7-28-77 CALLED ENGINEER'S PAYROLL TO CHECK STATUS - HE
HASN'T ~~BEEN~~ HAD ANY DEDUCTIONS THIS YEAR - THEY SAID HE
WAS WORKING - SENT OVER ANOTHER FORM TO TAB, FIGURE
BACK CHARGE FOR DEDUCTIONS MISSED - HAS BEEN WORKING
SINCE 5-19-77 SE

5-20-91 Terry Mooney returned to work on May 20, 1991.

to

Application No. 29357

MEMBERSHIP INFORMATION

(APPLICATION)

(Write with ink or type—answer all questions.)

TO THE MINNEAPOLIS MUNICIPAL EMPLOYEES RETIREMENT BOARD
MINNEAPOLIS, MINNESOTA

I, Terry G. Mooney, residing at Rt. 2, Box 258, Maple Lake, Mn. 55358
herewith submit the following membership information required by the Minneapolis Municipal Employees Retirement Fund, and accept the provisions of Minnesota Statutes 422A.

Department now employed in Engineers Date entered service 7-22-74

Social Security Number [REDACTED]

Date of birth 1-4-51 Sex: M ☒ F ☐ Place of Birth Mpls., Mn.

Birth record Terrance Craig Mooney born January 4, 1951 to Robert Mooney and Mary Provost

(Do not fill in this space.)

(Birth certificate or other proof of date of birth must be submitted with this blank)

Mooney at Mpls., Mn.Appvd. 10-20-86 T.C.

Single-Married
Widowed or
Divorced

{ Married Name of {

Wife-Husband

Dependent

Nearest Relative

Sandy K. Mooney

Relationship wife Address Same as above

Marriage record _____

(Do not fill in this space.)

(Submit marriage record)

Appvd. _____

I hereby nominate and declare the following person, or persons, to be my beneficiary, or beneficiaries, in any benefits accruing to my estate at my death.

Name of beneficiary Sandy K. Mooney Relationship wife

Address Same as above

Place of birth Mpls., Mn. Date of birth 5-25-50

(Beneficiary may be changed by member without consent of beneficiary by written application at Retirement Office.)

Do you have prior service with the City, Board or Commission? No. If answer is "yes," give the approximate dates _____

to _____

Do you have prior service with any of the funds listed on the back of this application? If answer is "yes," check the fund and list the dates.

Witness

[Signature]

Terry C. Mooney
Employee Signature

STATE OF MINNESOTA, } ss.
County of Hennepin,

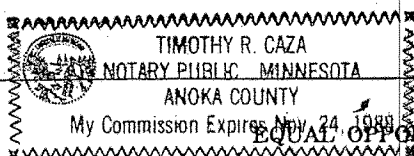
Terry C. Mooney

being duly sworn, says

that the several answers and statements contained herein are true and correct.

Subscribed and sworn to on this 25th day of September, 1986.

My commission expires



Notary Public,

Hennepin County, Minnesota
Anoka

2003 - 2004 Active Member Statement

Mooney, Terry C

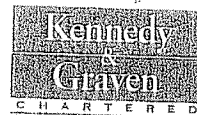
Clock Number: A29357

Pay Period	Date	Gross	Total Ded	Current Dues	Survivor Ins	Back Chg	Paid Debt
Beginning Balance				\$49,175.86		\$0.00	
1	07/11/2003	\$2,287.38	\$223.02	\$211.58	\$11.44	\$0.00	\$0.00
2	07/25/2003	\$1,931.21	\$188.29	\$178.63	\$9.66	\$0.00	\$0.00
5	08/08/2003	\$2,210.55	\$215.53	\$204.48	\$11.05	\$0.00	\$0.00
6	08/22/2003	\$2,151.14	\$209.74	\$198.98	\$10.76	\$0.00	\$0.00
8	09/05/2003	\$2,123.69	\$207.06	\$196.44	\$10.62	\$0.00	\$0.00
9	09/19/2003	\$2,243.31	\$218.72	\$207.50	\$11.22	\$0.00	\$0.00
11	10/03/2003	\$2,136.11	\$208.27	\$197.59	\$10.68	\$0.00	\$0.00
12	10/17/2003	\$1,808.71	\$176.35	\$167.31	\$9.04	\$0.00	\$0.00
13	10/31/2003	\$1,795.55	\$175.07	\$166.09	\$8.98	\$0.00	\$0.00
16	11/14/2003	\$1,982.23	\$193.27	\$183.36	\$9.91	\$0.00	\$0.00
17	11/26/2003	\$1,743.55	\$170.00	\$161.28	\$8.72	\$0.00	\$0.00
20	12/12/2003	\$1,665.08	\$162.35	\$154.02	\$8.33	\$0.00	\$0.00
21	12/26/2003	\$40.12	\$3.91	\$3.71	\$0.20	\$0.00	\$0.00
35	05/14/2004	\$1,717.77	\$167.48	\$158.89	\$8.59	\$0.00	\$0.00
36	05/28/2004	\$1,748.95	\$170.52	\$161.78	\$8.74	\$0.00	\$0.00
38	06/11/2004	\$1,687.04	\$164.49	\$156.05	\$8.44	\$0.00	\$0.00
39	06/25/2004	\$1,763.93	\$171.98	\$163.16	\$8.82	\$0.00	\$0.00
Interest				\$2,565.42		\$0.00	
Ending Balance		\$31,036.32	\$3,026.05	\$54,612.13	\$155.20	\$0.00	\$0.00

Terry C. Mooney
12514 Gowan Avenue NW
Maple Lake, MN 55358

February 13, 2004

Senator Steve Dille
Minnesota State Senate
103 State Office Building
100 Rev. Dr. Martin Luther King Blvd.
St. Paul, MN 55155



Kennedy & Graven, Chartered
470 Pillsbury Center
200 South Sixth Street
Minneapolis MN 55402

John J. Choi
Attorney

direct: 612.337.9208 mobile: 651.398.4233 fax: 612.337.9310
email: jchoi@kennedy-graven.com

Re: Request for Assistance

Dear Senator Urdahl:

I am writing to request your support and assistance on a matter that impacts me personally this legislative session. I have been an employee of the City of Minneapolis since 1974 in the engineering department, working primarily on street construction and maintenance. I am currently 53 years old. I have attempted to explain my situation in this letter as clearly as possible, but you may find it necessary to have some additional information. If you need further information, I would be happy to provide it to you.

My Situation

1. As an employee of the City of Minneapolis, I participate in the Minneapolis Employees Retirement Fund (MERF).
2. I injured my knee at work in 1974, and continued to have problems with it until I could not work further after the summer of 1978. I continued on workers compensation for several years.
3. I recovered substantially from my work injury and ultimately settled my workers' compensation claim by 1986. I was not able to return to work with the City of Minneapolis due to the physical requirements related to my work. I was finally able to get approval to return to my job with the City in the spring of 1991.
4. At the time I settled my workers' compensation claim in 1986, I was told by MERF that I could apply for disability status under the MERF Plan, and I ultimately did so. Although I could not yet work again for the City, I was working in other employment. As a result, I never qualified for any disability payments. However, one advantage of being on disability status under MERF is that I received credit for those years after I applied that I was disabled from working for the City. As a result, I received service credit for the period between 1986 and my return to work with the City of Minneapolis in 1991.

5. I understand that I was eligible to file for disability status during the time that I was also off on workers' compensation from 1979 through 1985. The records from MERF reflect that I was told I could submit a disability request in 1980 and again in 1983. I did not follow up on those notices at that time. I did not understand the significance of obtaining a disability status under MERF, particularly because I was also receiving workers' compensation benefits at the same time.
6. My 1986 application for disability status under MERF was not retroactive to 1979. It was only effective as of the time I submitted the application. As a result, I was not able to receive service credit under MERF for the 7 years between my injury and the time I completed the disability application.
7. I have continued to be employed by the City of Minneapolis the last 13 years, but have now reached the point where I would like to be able to retire. Without the credit for being on disability for the 7 years between 1979 and 1985, I will need to continue working before I can realistically retire.

My Request

As I get older, I am finding it more difficult to work in my position with the City. I am outside during all types of weather during the year, other than for those periods I am on seasonal layoff. I do not believe that there is any question that I was disabled and met the criteria to have disability status under MERF from 1979 through 1985. During the time that I was dealing with my workers' compensation it did not register with me the significance and potential impact that not submitting an application would have. After my workers' compensation claim was settled and the benefit of disability status under MERF was explained to me, I completed the application and secured that status for the period after 1986.

I understand through MERF that the only way that I can be given credit for disability status for the period from 1979 through 1985 is through specific legislation that grants to me those credits through MERF. I understand that this is a process that other individuals in public employee retirement plans like MERF have utilized, as well.

Accordingly, I am asking for your support and assistance in my request to have a provision passed this legislative session that would afford me the missing credits for my disability status. I am working with an attorney in Minneapolis who is assisting me with this process, and his name is William Cumming. If we can provide additional information to you, please let us know. Mr. Cumming can be contacted at (612) 347-0296.

Thank you very much for your assistance and support in this process.

Sincerely,

Terry C. Mooney

From: Cumming, William A. [CummingW@moss-barnett.com]
Sent: Thursday, February 19, 2004 2:05 PM
To: Larry Martin
Subject: Terry C. Mooney

Larry, thank you for taking the time to speak with me, and with John Choi, regarding Terry Mooney's pension credits through MERF. As you requested, I am providing some additional information to you regarding Mr. Mooney's circumstances.

1. Terry C. Mooney was born January 4, 1951.
2. He was hired by Minneapolis in 1974. He worked in the engineering department, on utility and street projects.
3. He was off work from approximately August 1978 until approximately May 1991 due to a workers compensation injury.
4. He was disabled to work by the mid 1980s, but could not qualify for a return to work at the City of MPLS until 1991.
5. When he settled his workers compensation claim in approximately 1986, he had a meeting with MERF, and at that time had it clearly explained to him that if he applied for disability status, even though he had other income so he would not draw benefits, he would still accrue credit for the time he could not work at MPLS.
6. Terry asked, at that time, about the credit for the years from 1979 through 1985, because he was off and disabled those years, but his application in 1986 was not retroactive. Terry maintains, steadfastly, that he was told by MERF to not make a claim or pursue the issue at that time, but to wait until he was about to retire to make the claim. Terry followed this advice.
7. The record from MERF reflects that MERF reportedly sent two notices to Terry on applying for Disability through MERF. One was in August 1980, refers to a "letter advising him of disability". The second was in March 1983 stating "sent memo regarding disability and membership application".
8. We do not have either notice, and Terry does not recall receiving them.
9. The notices, assuming they were sent, did not get Terry's attention because he was already on workers compensation, he was still quite young, and not very sophisticated. Moreover, while off on work comp, filing for disability could signal a withdrawal from the labor market that would have the effect of curtailing his rights under workers compensation.
10. Not surprisingly, the 1980 and 1983 notices would not likely spark some one in Terry's position to action. Having waited until retirement to apply for the correction, as instructed, makes this process extraordinarily difficult.

Please let me know if I can provide more information to you. I am out town substantially the next 9 days, but am picking up e-mail, voice mail and have my cell with me.

My contact information is:

William Cumming
Moss & Barnett, PA
4800 Wells Fargo Center
90 South Seventh Street

Minneapolis, MN 55402
(612) 347-0296 - office
(612) 339-6686 - fax
(651) 336-9665 - mobile

Thank you very much for your assistance.

Bill Cumming

The information contained in this e-mail message and any attachments is proprietary and intended only for the confidential use of the designated recipient named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error please notify us immediately at the e-mail address listed above.
Thank you.

The information contained in this e-mail message and any attachments is proprietary and intended only for the confidential use of the designated recipient named above. If the reader of this message is not the intended recipient or an agent responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error and that any review, dissemination, distribution or copying of this message is strictly prohibited. If you have received this communication in error please notify us immediately at the e-mail address listed above.
Thank you.

- 1.1 moves to amend S.F. No. 1562; H.F. No. 1395, as follows:
- 1.2 Page 2, line 18, delete "in effect"
- 1.3 Page 2, line 20, after "1985" insert "applied to the salary during calendar year 1992"
- 1.4 Page 2, line 23, delete "2006" and insert "2007, or prior to termination of
- 1.5 Minneapolis Employees Retirement Fund covered employment, whichever is earlier"

..... moves to amend S.F. No. 1562; H.F. No. 1395, as follows:

Delete everything after the enacting clause and insert:

"Section 1. **MINNEAPOLIS EMPLOYEES RETIREMENT FUND; SERVICE CREDIT PURCHASE FOR CERTAIN WORKERS' COMPENSATION INJURY PERIODS.**

(a) An eligible person described in paragraph (b) is entitled to purchase allowable service credit under Minnesota Statutes, section 356.551, from the Minneapolis Employees Retirement Fund for up to 7.5 years for the period of the injury that qualified for a workers' compensation benefit but that was not previously credited by the Minneapolis Employees Retirement Fund.

(b) An eligible person is a person who:

(1) was born on January 4, 1951;

(2) was first employed in the engineering department of the city of Minneapolis in 1974;

(3) suffered an injury that, in 1978, qualified the person for workers' compensation benefits;

(4) applied for disabled status in the Minneapolis Employees Retirement Fund in 1986 and accrued allowable service credit for the period from 1986 to 1991; and

(5) was advised by the Minneapolis Employees Retirement Fund to wait until retirement age to pursue a claim for allowable service credit for the period from 1978 to 1985.

(c) The eligible person described in paragraph (b) must apply with the executive director of the Minneapolis Employees Retirement Fund to make a service credit purchase under this section. The application must be in writing and must include all necessary documentation of the applicability of this section and any other relevant information that the executive director may require.

2.1 (d) Payment must be made before July 1, 2007, or prior to termination of
2.2 Minneapolis Employees Retirement Fund-covered employment, whichever is earlier. If
2.3 the city agrees to make a substantial payment under Minnesota Statutes, section 356.551,
2.4 and the employee contribution is to be based on employee contributions plus interest, the
2.5 salary used in the computation shall be the eligible individual's calendar year 1992 salary.

2.6 Sec. 2. **EFFECTIVE DATE.**

2.7 Section 1 is effective the day following final enactment."

Senators Ourada and Dille introduced--

S.F. No. 1562: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to retirement; Minneapolis Employees
3 Retirement Fund; authorizing a purchase of service
4 credit for a workers' compensation injury period.

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

6 Section 1. [MINNEAPOLIS EMPLOYEES RETIREMENT FUND; SERVICE
7 CREDIT PURCHASE FOR CERTAIN WORKERS' COMPENSATION INJURY
8 PERIODS.]

9 (a) An eligible person described in paragraph (b) is
10 entitled to purchase allowable service credit from the
11 Minneapolis Employees Retirement Fund for up to 7.5 years for
12 the period of the injury that qualified for a workers'
13 compensation benefit but that was not previously credited by the
14 Minneapolis Employees Retirement Fund.

15 (b) An eligible person is a person who:

16 (1) was born on January 4, 1951;

17 (2) was first employed in the engineering department of the
18 city of Minneapolis in 1974;

19 (3) suffered an injury that, in 1978, qualified the person
20 for workers' compensation benefits;

21 (4) applied for disabled status in the Minneapolis
22 Employees Retirement Fund in 1986 and accrued allowable service
23 credit for the period from 1986 to 1991; and

24 (5) was advised by the Minneapolis Employees Retirement
25 Fund to wait until retirement age to pursue a claim for

1 allowable service credit for the period from 1978 to 1985.

2 (c) The eligible person described in paragraph (b) must
3 apply with the executive director of the Minneapolis Employees
4 Retirement Fund to make a service credit purchase under this
5 section. The application must be in writing and must include
6 all necessary documentation of the applicability of this section
7 and any other relevant information that the executive director
8 may require.

9 (d) Allowable service credit under Minnesota Statutes,
10 sections 422A.15, subdivisions 1 and 4, and 422A.19, must be
11 granted by the Minneapolis Employees Retirement Fund to the
12 eligible person upon receipt from the applicable eligible person
13 of the portion of the prior service credit purchase payment
14 amount payable under paragraph (e) in a lump sum.

15 (e) Notwithstanding any provision of Minnesota Statutes,
16 section 356.551, to the contrary, to obtain the service credit
17 an eligible person must pay an amount equal to the employee
18 contribution rate or rates in effect under Minnesota Statutes,
19 section 422A.10, subdivision 1, in effect during the period from
20 1978 to 1985 plus annual compound interest at the rate of 8.5
21 percent from the date the contribution would have been payable
22 until the date the contribution is paid. Payment must be made
23 before July 1, 2006.

24 (f) If the eligible person makes the payment under
25 paragraph (e), the city of Minneapolis must pay the remaining
26 balance of the prior service credit purchase payment amount
27 determined under Minnesota Statutes, section 356.551, within 30
28 days of the payment by the eligible person. The executive
29 director of the Minneapolis Employees Retirement Fund must
30 notify the chief financial officer of the city of Minneapolis of
31 its payment amount and its payment due date if the eligible
32 person makes the required payment. If the city of Minneapolis
33 fails to pay its portion of the required prior service credit
34 purchase payment amount, the executive director of the
35 Minneapolis Employees Retirement Fund must notify the
36 commissioner of finance of that fact within 30 days of the city

1 payment due date and the commissioner of finance must order that
2 the required city payment be deducted from any state aid
3 otherwise payable to the city and be transmitted to the
4 Minneapolis Employees Retirement Fund.

5 Sec. 2. [EFFECTIVE DATE.]

6 Section 1 is effective the day following final enactment.