



TO: Lawrence J. Pogemiller

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

RE: Amendment to S.F. 2394 (Pogemiller); H.F. xxx: Including Machinists' National Union Pension Fund In Supplemental Plan Coverage

DATE: February 10, 2006

### Introduction

This memorandum and attached Amendment S2394-A1 are in response to your recent request for the preparation of proposed legislation to include the Machinists' National Union Pension Fund as a supplemental retirement plan under Minnesota Statutes, Section 356.24.

Because of the short period of time before the Commission hearings on February 14, 2006, and February 15, 2006, I have prepared the necessary language as an amendment to S.F. 2394 (Pogemiller); H.F. xxx, which makes the same change for the Laborers' Union local pension fund.

### Summary of Amendment S2394-A1

Amendment S2394-A1 amends Minnesota Statutes, Section 356.24, Subdivision 1, the general ban on the establishment or operation of employer-funded supplemental retirement plans and an enumeration of exceptions to the ban, by adding employer-funded contributions up to \$5,000 to the national union pension fund administered by the international association of machinists.

### Background Information on Public Retirement Plan Coverage in Minnesota for Governmental Trades Personnel

Background information on the provision of public pension plan coverage in Minnesota for trades' personnel employed by governmental entities is set forth in Attachment A.

### Background Information on Restrictions in Minnesota on Supplemental and Local Pension Plans

Background information on the 1971 general restriction on supplemental retirement plans and on new local pension plans other than a volunteer firefighter relief association is set forth in Attachment B.

### Discussion and Analysis

Amendment S2394-A1 adds the Machinists' national union pension fund to the Laborers', Plumbers' and Operating Engineers' union pension funds as an exception to a general ban on government-funded supplemental pension funds.

Amendment S2394-A1 raises several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Inconsistent Policy on Providing Pension Coverage for Trade Union Personnel Employed by Local Government Units. The policy issue is the appropriateness of this additional complication in the current inconsistent policy of providing pension coverage for trade union and related personnel who are employed by local governmental units in Minnesota. Trades personnel in Minnesota public employment have three alternative ways in which they have pension coverage, either coverage solely by a general public employee retirement plan (either by the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) or by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General)), coverage solely by their trade union pension plan (most or all trade union personnel employed by the City of St. Paul, ISD No. 625, the Metropolitan Council Environmental Services Division, and the Metropolitan Airports Commission), or coverage by both a general public employee retirement plan and a trade union pension plan (laborers, plumbers, pipefitters, and operating engineers). Trade union personnel with general public employee retirement plan coverage only risk portability problems and benefit losses if the employee is employed in the public sector only for a short period of time in the middle of the person's career, because of the break-in-service rules typically used by labor union pension plans.

Trade union personnel with union pension plan coverage only have benefit coverage identical to their trade union counterparts in the private sector, but a tradesperson with long public service might or might not have pension coverage identical or comparable to other public employees. Trades personnel with full general public employee retirement plan coverage as primary retirement plan coverage and with trade union pension fund coverage as supplemental retirement plan coverage will have greater coverage than either the typical public employee or the typical tradesperson. If some or all of the changes in the proposed legislation are enacted, this disparity in benefit coverage will be further complicated. The Commission should consider taking additional testimony about and engaging in additional consideration of the appropriate manner for providing retirement coverage for trades personnel in the public sector, either in a future hearing during this Session or as a future Commission interim project.

2. Unclear Policy on the Role of Supplemental Retirement Plans for Public Sector Employees. The policy issue is the appropriateness of making more complex the role and function of supplemental retirement plan coverage for public sector employees. In order to prevent the growth of very disparate and highly variable public sector retirement benefits in 1971, the Legislature enacted a blanket restriction on the creation of new supplemental retirement plans. In 1988, the Legislature shifted from a general ban on supplemental retirement plans to actual encouragement of the creation of thrift or savings plans as supplemental retirement plans, with a \$2,000 annual maximum on the employer contribution to these types of defined contribution plans. The \$2,000 annual employer contribution maximum has been retained, with the sole exception of a bargained maximum for the Minnesota State Colleges and Universities System (MnSCU) Higher Education Supplemental Retirement Plan. Since 2001, with the authorization of trade union pension plans as supplemental pension plans, defined benefit retirement plans were added as supplemental retirement plans, and now the proposal is to increase the number of trade union pension plans as much and to increase the maximum employer contribution permitted for these plans. While the Commission staff has limited information on the extent of the utilization of these thrift/savings plan supplemental retirement plans, it is clear that the development of these supplemental retirement plans has been varied and inconsistent and that their benefit output is far from uniform or consistent. The wisdom of making this situation more complex and diverse as proposed is unclear and would merit additional consideration either during the legislative session or during the interim.
3. Appropriateness of Increasing the \$2,000 Trade Union Employer Supplemental Retirement Plan Contribution Maximum. The policy issue is the appropriateness of increasing the \$2,000 annual employer supplemental retirement plan contribution maximum to \$5,000 for the three trade union supplemental retirement plans. The \$2,000 maximum applies to all supplemental retirement plans except for the Minnesota State Colleges and Universities System (MnSCU) Higher Education Supplemental Retirement Plan, where the maximum is \$2,700. The proposed change is more than a doubling of the limit without any clear presentation of the rationale for the change and without any clear indication that the utilization of this type of supplemental retirement plan coverage is general and widespread. The proposed contribution maximum would be a 16.54 percent contribution on the average PERA-General member's covered salary (\$30,223 in 2004). Combined with the current 5.53 percent PERA-General employer contribution rate, for the tradesperson earning the average PERA-General covered salary, the total employer pension contribution load would be 22.07 percent. If the trade union contribution is a de facto member contribution, the total member pension plan contribution load at the average PERA-General covered salary would be 21.64 percent, which is a very substantial pension coverage contribution load. Any increase in this maximum can be expected to generate similar demands to increase the other Minnesota Statutes, Section 356.24, supplemental retirement plan contribution maximums.

cc: Julie Anderson, [janderson@iam77.org](mailto:janderson@iam77.org)

## Attachment A

### Background Information on Public Retirement Plan Coverage for Government Trades Personnel

For most trades personnel, pension coverage for their employment is typically provided through a Taft-Hartley Act jointly (union and employer(s)) trusteesd union pension plan. These union pension plans typically have break-in-service rules whereby prior service credit in the plan can be forfeited by virtue of an extended interval without plan contributions and coverage. As a result, trades personnel employed in the public sector who have had prior private sector trade employment or who are contemplating future private sector trade employment after their public sector trade employment ends frequently retain union pension plan coverage in addition to the public pension plan coverage while in public sector trade employment. Since public employers generally are unwilling to pay more than private sector trade wage scale and benefit costs, the cost of the public pension plan employer contribution is deducted when setting the trade person's hourly rate. In this way, many trades personnel end up with double pension coverage for their public employment, for which they typically bear the full member and employer contribution cost for the public pension plan coverage. The double pension coverage, at the full member and employer contribution cost to the tradesperson, may be undesired coverage from the perspective of the tradesperson and may be excessive coverage from a pension policy perspective. Some trades personnel have attempted to reduce their ongoing pension contribution load by seeking exclusions from the public pension plan coverage. These exclusions have been approved by the Legislature on three prior occasions, for the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) with respect to various trades personnel at the Metropolitan Council Environmental Services waste treatment plant (the former Metropolitan Waste Control Commission facility) (see Laws 1977, Chapter 98), for PERA-General with respect to pipefitters and associated trades employed by the St. Paul School District (see Laws 1997, Chapter 241, Article 2, Sections 1, 8, and 12), and for PERA-General with respect to electrical workers, plumbers, carpenters, and related trades personnel employed by either the City of St. Paul or the St. Paul School District (see Laws 2000, Chapter 461, Article 7, Sections 1, 4, and 5), and for PERA-General with respect to bricklayers, allied craftworkers, cement masons, glaziers, glassworkers, painters, allied tradesworkers, and plasterers employed by the City of St. Paul or Independent School District No. 625, and with respect to plumbers employed by the Metropolitan Airports Commission (see First Special Session Laws 2001, Chapter 10, Article 10, Section 2).

While some trades personnel have sought an exclusion from public pension plan coverage, chiefly the City of St. Paul, the St. Paul Public Schools, and the Metropolitan Airports Commission, some other trades personnel in the public sector have sought authority for the union pension plan to function providing additional coverage as supplemental retirement plans under Minnesota Statutes, Section 356.24.

The trade union pension funds involved are the Laborer's National Industrial Pension Fund (2001), the Plumbers and Pipefitters National Pension Fund (2002), and the International Union of Operating Engineers Pension Fund (2002).

## Attachment B

### Background Information on Supplemental and Local Pension Plan Restrictions

Minnesota Statutes, Section 356.24, when initially enacted in 1971 (Laws 1971, Chapter 222, Section 1), was intended to end a growing 1960s practice in local government (primarily by school districts) of creating supplemental employer-funded pension plans beyond the regularly applicable statewide pension plan for that type of public employee. At that time, public pension benefits were considerably more modest than they are currently and some of the more affluent jurisdictions were attempting to readjust their employees' pension coverage by local action, without the approval of or notice to the Legislature. The Legislature decided that this practice was inappropriate and that the creation of additional pension plans was an unwise policy. The Legislature also apparently felt that pension benefits should be as uniform as possible geographically throughout public employment. In 1973, the Legislature considerably improved pension benefits payable under the public employees' primary pension coverage by moving from career average salary plans to pensions that were based on the average salary of the individual close to retirement. The intent at the time was to provide an adequate retirement benefit through the primary pension plan and eliminate the need, or the ability, to create supplemental plans. Those supplemental plans that were in effect prior to 1971 were grandfathered. Substantial statewide general employee retirement plan benefit increases occurred in 1980, 1989, 1992, and 1997.

A number of exceptions to the restriction on supplemental employer-funded pension plans have been enacted. Beyond the pre-1971 grandfathered supplemental pension plans, the 1971 legislation also excluded from its application group health, hospital, disability, or death benefits. In 1980 (Laws 1980, Chapter 600, Section 7), an exception was added for severance pay plans authorized under Minnesota Statutes, Section 465.72. In 1988 (Laws 1988, Chapter 605, Section 9), the State Deferred Compensation Program was modified to include a matching employer contribution in addition to the member's deferred compensation amount. The State Deferred Compensation Program is governed by Minnesota Statutes, Section 352.96. The State Deferred Compensation Program is the sole government sponsored retirement thrift or savings program for most public employees. Although the plan is administered by the Minnesota State Retirement System (MSRS), public employees throughout the state are authorized to participate. For purposes of the State Deferred Compensation Program, public employment includes volunteer firefighters. The State Deferred Compensation Program, akin to the somewhat similar Internal Revenue Code, Section 403(b), plans, function to encourage additional saving for retirement, supplementing income during retirement from the primary public pension plan, Social Security, or other income sources. State Deferred Compensation Program was established in 1971, by Extra Session Laws 1971, Chapter 32, Section 19. The matching employer contribution to the State Deferred Compensation Plan, authorized under Minnesota Statutes, Section 356.24, under the 1988 legislation was required to be made solely to the State Deferred Compensation Program, was required to be provided for in either a personnel plan or a collective bargaining agreement, was required to be a dollar for dollar match, and was limited to \$2,000 per year per employee. While not restricted in use to fund retiree health insurance premiums, the employer matching contribution authorization was part of a broader legislative enactment pertaining to retiree health benefits, and the conferees on Laws 1988, Chapter 605, discussed the potential for the savings promoted by the employer matching contribution authorization to be used in part to defray post-retirement health insurance premium costs.

In 1992 (Laws 1992, Chapter 487, Section 4), similar authority for an employer matching contribution feature for teacher tax-sheltered annuity insurance contracts under federal Internal Revenue Code, Section 403(b), was established by adding an additional exception to Minnesota Statutes, Section 356.24. The applicable tax-sheltered annuity insurance contracts are those issued by one of up to ten qualified insurance companies licensed to do business in this state, engaged in the life insurance or annuity business, determined by the Commerce Commissioner to be among the top two rating categories of a national insurance rating entity, and selected by the Minnesota State Board of Investment as providing competitive options and investment returns. Internal Revenue Code, Section 403(b), tax-sheltered annuity plans are vehicles for teachers, church workers, and certain other personnel of charitable institutions, to save on a tax deferred basis. These plans are not any public employee's primary retirement coverage; rather they act to supplement the primary plan. This permits eligible employees to have some individual control over their eventual retirement income. Internal Revenue Code, Section 403(b), investments are generally referred to as tax-sheltered annuities.

Also, in 1988 (Laws 1988, Chapter 709, Article 11), with the creation of the State University System/Community College System Individual Retirement Account Plan (IRAP), an exception for the IRAP Plan was added to Minnesota Statutes, Section 356.24. In 1989 (Laws 1989, Chapter 319, Article

12, Section 3), employer contributions to the Higher Education Supplemental Retirement Plan, established in 1965, were exempted from the application of the supplemental pension plan restriction of Minnesota Statutes, Section 356.24.

In 2001, two additional exceptions were added to the supplemental retirement plan restriction of Minnesota Statutes, Section 356.24. The exceptions are for employer contributions to a supplemental plan or governmental trust established for post-retirement health care expenses under the federal Internal Revenue Code as set in the employer's personnel policy or set by a collective bargaining agreement and for employer contributions up to \$2,000 annually to the Laborer's National Industrial Pension Fund as set in a collective bargaining agreement. In 2002 (Laws 2002, Chapter 392, Article 10, Section 1), additional exceptions for the Plumbers and Pipefitters National Pension Fund and for the International Union of Operating Engineers Pension Fund were added to the supplemental retirement plan restriction of Minnesota Statutes, Section 356.24, with a \$2,000 annual maximum on the employer contributions to each of the two new supplemental retirement plans. In 2003 (First Special Session Laws 2003, Chapter 7, Section 1), the exceptions for the Plumbers and Pipefitters National Pension Fund was broadened to include alternatively a plumbers and pipefitters local pension fund.

Need  
bill  
drafted  
from Sen. Pogemiller

national

**MACHINISTS  
UNION**  
AFL-CIO

**Julie Anderson**  
Business Representative

DIRECT DIAL: (651) 207-1713  
RES. (763) 422-0661  
FAX: (651) 645-7765  
District Lodge 77 IAMAW  
1010 E. Hwy. 96  
Vadnais Heights, MN 55127  
E-Mail: janderson@iam77.org

PRIORITY #1 - ORGANIZE



INTERNATIONAL ASSOCIATION OF MACHINISTS  
and AEROSPACE WORKERS

**ROBERT W. SMITHBURG**  
Legislative Director

Air Transport District #143  
2510 Lexington Avenue South  
St. Paul, Minnesota 55120-1260

(651) 365-3365  
Fax: (651) 688-7229

## ARTICLE 25 – PENSION / DEFERRED COMPENSATION

~~Need  
St. Paul  
language~~  
~~720  
days  
now~~  
25.1 Effective January 1, 2007, the EMPLOYER shall contribute \$0.10<sup>20</sup> per hour for all hours worked to a pension fund administered by the International Association of Machinists on behalf of each employee represented by the bargaining unit. The EMPLOYER shall make the pension contributions only if the following conditions are met:

25.1(A) Such pension contributions are allowed under all applicable Minnesota Statutes effective January 1, 2007, including but not limited to Minnesota Statutes, Section 356.24, and such contributions shall not subject the EMPLOYER to any further liabilities beyond the amount stated in Article 25.1.

25.2 If the conditions of Article 25.1(A) above are not met by January 1, 2007, employees with at least one year of service will be eligible for a \$200.00 deferred compensation match by the Employer subject to the criteria listed below. This match shall continue during each year of this agreement

25.2(A) Eligibility and implementation:

- i For initial match, employees must have been employed for a minimum of one calendar year.
- ii Employees must be a member of the bargaining unit for a minimum of one calendar year.
- iii Employees must have made their complete contributions by December 31<sup>st</sup> of the previous calendar year.
- iv City matches will be made by April 1 of the following year.
- v Employees must be on the payroll as of the date of deferred compensation match.
- vi If an employee takes a leave of absence to serve as a full-time union official, time served in such capacity, up to six years, will be counted toward the years of service requirement.
- vii Employees separated for cause from the bargaining unit are specifically excluded from the Employer match.

## 15. PROBATION

CITY maintains proposal for one (1) year probation for all new employees. All other probation periods would continue for 6 months.

LCP & R JAN 23 2006

City of St. Paul  
Steve Barrett - HR Specialist  
651-266-6518  
Jim Vollmer - HR Specialist

1.1 ..... moves to amend S.F. No. 2394; H.F. xxx as follows:

1.2 Page 2, line 34, strike "or"

1.3 Page 3, line 3, after "pay" insert "; or

1.4 (12) to the national union pension fund administered by the international association  
1.5 of machinists for the employees of a governmental subdivision who are covered by a  
1.6 collective bargaining agreement that provides for coverage by that fund and that sets  
1.7 forth a fund contribution rate, but not to exceed an employer contribution of \$5,000 per  
1.8 year per employee"

1.9 Amend the title accordingly

**Senator Pogemiller introduced--**

**S.F. No. 2394:** Referred to the Committee on State and Local Government Operations.

1.1 A bill for an act  
1.2 relating to retirement; Public Employees Retirement Association; increasing  
1.3 employer contribution rate limits; adding laborer's local pension fund to  
1.4 exception; amending Minnesota Statutes 2004, section 356.24, subdivision 1.  
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 356.24, subdivision 1, is amended to read:

1.7 Subdivision 1. **Restriction; exceptions.** It is unlawful for a school district or other  
1.8 governmental subdivision or state agency to levy taxes for, or to contribute public funds to  
1.9 a supplemental pension or deferred compensation plan that is established, maintained,  
1.10 and operated in addition to a primary pension program for the benefit of the governmental  
1.11 subdivision employees other than:

1.12 (1) to a supplemental pension plan that was established, maintained, and operated  
1.13 before May 6, 1971;

1.14 (2) to a plan that provides solely for group health, hospital, disability, or death  
1.15 benefits;

1.16 (3) to the individual retirement account plan established by chapter 354B;

1.17 (4) to a plan that provides solely for severance pay under section 465.72 to a retiring  
1.18 or terminating employee;

1.19 (5) for employees other than personnel employed by the Board of Trustees of the  
1.20 Minnesota State Colleges and Universities and covered under the Higher Education  
1.21 Supplemental Retirement Plan under chapter 354C, if the supplemental plan coverage is  
1.22 provided for in a personnel policy of the public employer or in the collective bargaining  
1.23 agreement between the public employer and the exclusive representative of public  
1.24 employees in an appropriate unit, in an amount matching employee contributions on a



3.1 (11) to a supplemental plan organized and operated under the federal Internal  
3.2 Revenue Code, as amended, that is wholly and solely funded by the employee's  
3.3 accumulated sick leave, accumulated vacation leave, and accumulated severance pay.

3.4 Sec. 2. **EFFECTIVE DATE.**

3.5 Section 1 is effective the day following final enactment.