

S.F. 2462
(Pogemiller)

H.F. xxx

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): Judges Retirement Plan
Relevant Provisions of Law: Minnesota Statutes, Section 490.124
General Nature of Proposal: Adds "Death While Eligible" Optional Survivor Benefit
Date of Summary: February 9, 2006

Specific Proposed Changes

- Provides that a judge who dies in office when eligible to retire will be deemed to have elected a 100 percent joint and survivor optional annuity on the date of death if that provides a larger survivor benefit.

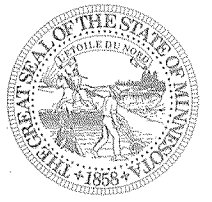
Policy Issues Raised by the Proposed Legislation

1. Need for the Change.
2. Appropriate Level of Survivor Benefit Coverage for the Judges Retirement Plan.
3. Precedent.
4. Actuarial Cost.
5. Appropriateness of Requested Retroactivity.

Potential Amendments

Amendment S2462-A1 Clarifies that the change is intended to be retroactive to provide a survivor Benefit to the survivor of a recently deceased judge. (Technical)

Amendment S2462-A2 Increases member contributions to the Judges Retirement Plan to one-half of normal cost and expenses. (Substantive)



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: S.F. 2462 (Pogemiller); H.F. xxx: Judges Retirement Plan; Addition of Death While Eligible Survivor Benefit

DATE: February 8, 2006

Summary of S.F. 2462 (Pogemiller); H.F. xxx

S.F. 2462 (Pogemiller); H.F. xxx amends Minnesota Statutes, Section 490.124, the benefit provision of the 1973 Uniform Judicial Retirement Plan, by adding a provision that an active judge who dies in office and would have been eligible to retire on the date of death will be deemed by law to have selected a 100 percent joint and survivor optional annuity covering the judge's surviving spouse on the date of death. The provision is effective on January 1, 2006.

Under the provision, if enacted, the retirement-eligible judge's single life retirement annuity amount would be calculated as of the date of death and the reduced benefit amount for a 100 percent joint and survivor optional annuity would also be calculated as of that date. The survivor portion of that 100 percent joint and survivor optional annuity would then be payable to the late judge's surviving spouse.

Discussion and Analysis

If enacted, the addition of a "death while eligible" 100 percent joint and survivor optional annuity to the Judges retirement Plan (1973 Uniform Judicial Retirement Plan) would raise the following issues for consideration and discussion by the Legislative Commission on Pensions and Retirement:

1. Need for the Change. The policy issue is the apparent need for the proposed addition of a "death while eligible" 100 percent joint and survivor optional annuity provision to the Judges Retirement Plan. The change is apparently prompted by the January 19, 2006, death of Otter Tail County Judge Thomas M. Stringer of a heart attack while on vacation in Cancun, Mexico. The late Judge Stringer was age 62 at his death and had 16.6 years of service credit as a judge. Judge Stringer was married and is survived by his wife and two adult children. The difference in the benefit payable to Judge Stringer's widow if the proposed change is enacted is estimated at \$600 per month. The current Judges Retirement Plan survivor benefit is the greater of 60 percent of the judge's retirement annuity accrued to the date of death or 25 percent of the judge's highest five years' average salary. The Judges Retirement Plan survivor benefit is in addition to Social Security benefits. Although it does not lead to the best policy discussion because of personal and family considerations following a death, changes in survivor benefit coverage frequently occur after the unexpected death of a plan participant, especially for plans covering elected officials.
2. Appropriate Level of Survivor Benefit Coverage for the Judges Retirement Plan. The policy issue is the appropriate level of the survivor benefit coverage to be provided under the Judges Retirement Plan. The Judges Retirement Plan (i.e., the Uniform Judicial Retirement Plan) was enacted in 1973 and replaced five separate prior retirement plans (a Supreme Court Plan, a District Court Plan, a County and Probate Court Plan, a Supreme Court and District Court Survivors Plan, and a County and Probate Court Survivors Plan) for new judges after 1973 and for those judges who elected coverage by the new plan. The plan was designed and drafted on behalf of the District Court Judges Association, was modeled to some degree on early 1970s private sector plans by virtue of the draftsman, who practiced in that area, and consequently bears little similarity to the organization or structure of other Minnesota public pension plans. The current active member survivor benefits of the Judges Retirement Plan have been unchanged since the enactment of the 1973 plan (see Laws 1973, Chapter 744, Section 4, Subdivision 9), despite other benefit increases, except for the inclusion of survivors of a deferred judge ineligibility. The lack of attention by judges to their survivor coverage under the Judges Retirement Plan appears either to reflect a general lack of concern about the topic or to reflect a general sense of adequacy in the 1973 benefit coverage level. If either is the case, it argues against the proposed change. If the current Judges Retirement Plan survivor coverage is deemed inadequate by judges at large, the issue of needed changes could best be considered as part of a broader general review and revision of the plan.
3. Precedent. The policy issue is the existence of a precedent for the proposed Judges Retirement Plan survivor benefit change that argues for its enactment. Proponents argue that the addition of the provision is appropriate because every other Minnesota public retirement plan has the provision. The factual

assertion is largely correct in that most Minnesota public retirement plans have the provision, but the Elected State Officers Retirement Plan, the Minneapolis Teachers Retirement Fund Association (MTRFA) Basic Program, the St. Paul Teachers Retirement Fund Association (SPTRFA) Basic Program, the Minneapolis Employees Retirement Fund (MERF), the Minneapolis Police Relief Association (MPRA), and the Minneapolis Firefighters Relief Association (MFRA) also do not have the “death while eligible” survivor optional annuity provision. The “death while eligible” 100 percent joint and survivor optional annuity provision was added to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) in 1971 (Laws 1971, Chapter 194, Section 4), to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General) in 1974 (Laws 1974, Chapter 229, Section 17), and to the Teachers Retirement Association (TRA) in 1967 (Laws 1967, Chapter 604, Sections 1 and 2). Thus, there is precedent for the benefit provision, but the benefit practice was in the potential benefit mix in 1973, when the Judges Retirement Plan law was designed, drafted, and enacted, but was omitted for the Judges Retirement Plan at that time.

4. Actuarial Cost. The policy issue is the actuarial cost of the benefit increase to the Judges Retirement Plan. No actuarial cost estimate by the Segal Company, consulting actuaries to the plan, has been made available to the Commission staff as of this date. The following summarizes the results of the July 1, 2005, actuarial valuation of the Judges Retirement Plan:

Judges Retirement Plan 2005		
<u>Membership</u>		
Active Members		284
Service Retirees		163
Disabilitants		7
Survivors		85
Deferred Retirees		30
Nonvested Former Members		0
Total Membership		569
<u>Funded Status</u>		
Accrued Liability		\$191,413,999
Current Assets		<u>\$144,465,380</u>
Unfunded Accrued Liability		\$46,948,619
Funding Ratio	75.47%	
<u>Financing Requirements</u>		
Covered Payroll		\$35,940,583
Benefits Payable		\$13,750,170
Normal Cost	17.71%	\$6,365,882
Administrative Expenses	0.10%	<u>\$35,940</u>
Normal Cost & Expense	17.81%	\$6,401,822
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Amortization	11.33%	<u>\$4,072,052</u>
Total Requirements	29.14%	\$10,473,874
Employee Contributions	8.00%	\$2,756,292
Employer Contributions	20.50%	\$7,367,790
Employer Add'l Cont.	0.00%	\$0
Direct State Funding	0.00%	\$0
Other Govt. Funding	0.00%	\$0
Administrative Assessment	0.00%	<u>\$0</u>
Total Contributions	28.17%	\$10,124,082
Total Requirements	29.14%	\$10,473,874
Total Contributions	<u>28.17%</u>	<u>\$10,124,082</u>
Deficiency (Surplus)	0.97%	\$349,792

The plan has a current contribution deficiency of 0.97 percent of covered pay, or about \$350,000 annually. The benefit change will increase that contribution deficiency to some degree. The member contributions by judges pay only 44.92 percent of the normal cost and expenses of the plan, compared to the Commission policy of a member contribution equal to one-half of the normal cost and expenses. A member contribution increase from 8.0 percent to 8.9 percent of pay, which is one-half of the current normal cost and administrative expense of the plan, would bring the Judges Retirement Plan up to the Commission cost allocation policy and would virtually eliminate the current contribution deficiency in the plan. Under the holding in Sylvestre v. State, 214 NW2d 658 (1973), relating to the Minnesota Judges Retirement Plan, pensions are considered to be a unilateral contract obligation of the State and can only be modified adverse to the judge with some sort of a quid-pro-quo bargain, which argues for

readdressing any contribution deficiency whenever a benefit increase in the Judges Retirement Plan is sought by or on behalf of judges. Amendment S2462-A2 would increase the member contribution to the Judges Retirement Plan from 8.00 percent to 8.90 percent.

5. Appropriateness of Requested Retroactivity. The policy issue is the appropriateness of making any survivor benefit change retroactive to cover the widow of the late Judge Thomas M. Stringer. Making a benefit increase retroactive is always problematic from a policy perspective. Retroactivity is generally viewed as appropriate if the result in practice differs from the legislative intent of a provision and the correction is extended to the occurrence that brought the problem to light. Retroactivity is also generally considered to be appropriate if there is an oversight in a given benefit practice which is brought to light and the “finder” of the oversight is provided retroactivity as a reward for diligence in pursuing the oversight. Retroactivity also can be appropriate when equitable considerations demand it. It is not clear that the absence of the “death while eligible” 100 percent joint and survivor optional annuity coverage from the Judges Retirement Plan was an unintended mistake or an oversight. The Commission staff has no sense about the late Judge Stringer’s widow’s financial circumstances or other factors that would argue for retroactivity based on equitable considerations.

Technical Amendment

Amendment S2462-A1 adds language to the January 1, 2006, effective date to clarify the intended retroactive effect of the proposed legislation to cover the surviving spouse of the late Judge Thomas M. Stringer.

Judge Stringer dies of heart attack

By Brandon Stahl

A longtime Otter Tail County judge well-known for his compassion and fairness while on the bench and for his geniality and humor away from it died of a heart attack while on vacation in Cancun, Mexico, with his family.

Judge Thomas M. Stringer, 62, died Thursday at 4:30 p.m., according to Judge Waldemar Senyk, who said he confirmed the information with the American consulate in Cancun.

Stringer grew up on a farm in Forest Lake in the 1950s and graduated from the University of Minnesota Law School in 1972. He had lived and worked in Fergus Falls since 1978, when he joined a local law firm.

Stringer had been a judge in Minnesota's 7th Judicial District since his appointment in July 1989.

Stringer's colleagues said he developed a reputation on the bench as someone who was always in command of his courtroom and of the law while being exceedingly fair to both sides of the aisle.

"He was incredibly compassionate," said Susan Stanley, who clerked for Stringer 14 years ago and then began appearing in front of him as a defense attorney.

"He had an amazing amount of compassion for people who came from underprivileged backgrounds," she said. "He was willing to take chances on people, and I know of several times where that paid off."

Stringer was well-respected by his judicial peers throughout the state, being chosen by them to serve as president of the Minnesota District Judges Association from 2002 to 2003.

"He was a hard worker, fair and dedicated to justice and concerned about helping people improve their lives to the extent that a judge can," said Judge Michael Kirk, who worked with Stringer dating back to 1978. "He was a good man, a good friend and a good judge."

Judge Galen Vaa, who had chambered with Stringer in Otter Tail County for the past several years, said he saw Stringer as his mentor and someone who had "an unusual compassion and knowledge of the law."

"I would seek him out on many occasions," Vaa said. "He was extremely knowledgeable and was always willing to share his knowledge."

As a teacher, Stanley said Stringer could be tough and demanding.

"He was a perfectionist," she said. "He expected it from himself, and he expected it from people around him."

Ryan Cheshire, who also clerked for Stringer and is now an Otter Tail County Assistant Attorney, said working for Stringer "wasn't easy all the time, but it was well worth it. He made me a better person and a better attorney."

"He was a very, very good person," he said. "I admired the man not only for his vast knowledge of the law, but for how he administered justice."

In an interview with The Daily Journal in 1996, Stringer said he hoped to help turn offenders' lives around by administering justice in a way that would help them the most.

"We cannot seek to solve problems," he said. "But I do try to show people what is available to them."

Away from the bench, Stringer could often be found joking with his friends

"He was known for cracking really bad jokes," said Stanley. "But he enjoyed them so much that people started collecting them for him."

Stringer could often be found having lunch with colleagues and friends at the Viking Cafe. Cheshire said he would take the law clerks there every year and offer to buy them lunch - but only if they ordered the lutefisk.

"He knew in order to survive, you couldn't be 100 percent serious 100 percent of the time," Cheshire said. "Of course he was serious on the bench, but he knew life was more than just the law."

Stringer was also active in the community, serving with the Noon Kiwanis, the American Legion and the VFW, having been drafted to the military in the 1960s.

"He did things for the community because he was a good person above all," Cheshire said.

That was a sentiment echoed by Dick Pemberton, a Fergus Falls attorney, who said he has known Stringer ever since he moved to town.

Pemberton said Stringer was always a down-to-earth person who cared about showing that judges were always approachable.

"He was a very, very common person (at Kiwanis meetings). There was no haughty or judicial or reserved," Pemberton said. "He made people feel that the judiciary was not something put on an alabaster pillar, looking down on a situation. He was of the people. ... He was always in control of his courtroom, but not in an intimidating way."

While funeral arrangements have not yet been made, Senyk said Stringer's remains will be flown back to Minnesota Monday.

Senyk said losing Stringer will have a strong impact on the courthouse.

"We have the loss of the most experience judge who served as a mentor to those of us judges who were younger, who was the senior judge of this court," Senyk said. "He had a deep concern for the image of the court in the community. His guidance, his strength, his friendship will be missed by us deeply. He was very special to us all."

1.1 moves to amend S.F. No. 2462; H.F. No. as follows:

1.2 Page 2, line 1, after "2006" insert "and applies to the surviving spouse of any judge
1.3 who died on or after that date"

1.1 moves to amend S.F. No. 2462; H.F. No. as follows:

1.2 Page 1, after line 4, insert:

1.3 "Section 1. Minnesota Statutes 2004, section 490.123, subdivision 1a, is amended to
1.4 read:

1.5 Subd. 1a. **Member contribution rates.** (a) A judge who is covered by the federal
1.6 old age, survivors, disability, and health insurance program whose service does not exceed
1.7 the service credit limit in section 490.121, subdivision 22, shall contribute to the fund from
1.8 each salary payment a sum equal to ~~8.00~~8.90 percent of salary.

1.9 (b) A judge not so covered whose service does not exceed the service credit limit in
1.10 section 490.121, subdivision 22, shall contribute to the fund from each salary payment a
1.11 sum equal to 8.15 percent of salary.

1.12 (c) The contribution under this subdivision is payable by salary deduction."

1.13 Page 2, line 1, before "Section" insert "(a)" and after "effective" insert "July 1, 2006.

1.14 (b) Section 2 is effective"

A bill for an act
relating to retirement; providing an option to a surviving spouse of a deceased
judge; amending Minnesota Statutes 2004, section 490.124, subdivision 9.

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

Section 1. Minnesota Statutes 2004, section 490.124, subdivision 9, is amended to read:

Subd. 9. **Survivors' annuity.** (a) Upon the death of a judge prior to retirement, or
upon the death of a person who has qualified for an annuity but who ceases to be a judge
prior to retirement and has not received a refund of contributions pursuant to subdivision
12, a surviving spouse or, if there be no surviving spouse, dependent children, shall
receive an annuity, payable monthly, equal to 60 percent of the normal retirement annuity
which would have been payable to the judge or former judge had the date of death been
the normal retirement date, provided that the surviving spouse or dependent children
shall receive an annuity of not less than 25 percent of the judge's or former judge's final
average compensation.

(b) The surviving spouse of a deceased judge may elect to receive, in lieu of the
annuity under paragraph (a), an annuity equal to the 100 percent joint and survivor annuity
which the judge or former judge could have qualified for on the date of death.

(c) If a judge, whose surviving spouse was not entitled to survivors benefits provided
solely for judges under statutes in effect prior to January 1, 1974, shall have died prior to
retirement on or after May 23, 1973, and before January 1, 1974, a surviving spouse and
dependent children, if any, shall be entitled to survivors benefits as provided hereunder as
if such judge had died on January 1, 1974.

Sec. 2. **EFFECTIVE DATE.**

2.1 Section 1 is effective January 1, 2006.