



**H.F. 228**  
(Paymar)

**S.F. 266**  
(Cohen)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* PERA Defined Contribution Plan  
*Relevant Provisions of Law:* Uncoded special law provision  
*General Nature of Proposal:* Prior service credit purchase authorization  
*Date of Summary:* March 27, 2007

**Specific Proposed Changes**

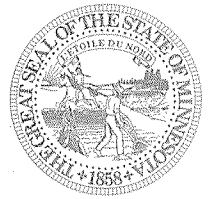
- Authorizes a St. Paul School Board member with uncovered service (1992-1998) to make back contributions to the defined contribution plan and have school district match the contributions.

**Policy Issues Raised by the Proposed Legislation**

1. Equitable considerations.
2. Economic impact on St. Paul School District.
3. Precedent.

**Potential Amendments**

H0288-1A Breaks the back contributions into two years to conform with federal tax law requirements (substantive).



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: H.F. 228 (Paymar); S.F. 266 (Cohen): PERA; Service Credit Purchase, ISD No. 625  
(St. Paul) School Board Member

DATE: March 26, 2007

H.F. 228 (Paymar); S.F. 266 (Cohen)

H.F. 228 (Paymar); S.F. 266 (Cohen) permits Tom Conlon, defined as a member of a narrow class based on various factors, to purchase coverage in the Defined Contribution Plan of the Public Employees Retirement Association (PERA Defined Contribution Plan) for his uncredited service as a member of the St. Paul School Board from January 1992 to February 1998, with the payment of a member contribution equivalent amount and interest from the midpoint date of the uncredited service period to the date of payment. Upon payment of the member contribution equivalent amount, Independent School District No. 625 (St. Paul) would make an equal payment within ten days of notification by PERA of the receipt of the member payment.

Amendment H0228-1A

Amendment H0228-1A addresses the federal tax problem of H.F. 228 (Paymar); S.F. 266 (Cohen) by splitting the back payment of member and employer contributions into two equal halves, one half to be made before December 15, 2007, and the other half to be made during January 2008.

The federal Internal Revenue Code limits the annual amount of retirement plan contributions in a purchase situation such as Tom Conlon's to the amount of annual compensation. The total back contribution under H.F. 228 (Paymar); S.F. 266 (Cohen) is \$16,844 (\$8,422 member contributions and interest; \$8,422 employer contributions and interest), and his 2006 annual public sector salary was \$10,758.80. H.F. 228 (Paymar); S.F. 266 (Cohen) provides for a single member back contribution and, if the member makes the contribution, an immediate employer contribution by the school district, will exceed the federal limit unless the total is broken up over two years.

Public Pension Problem of Tom Conlon

Tom Conlon is a member of the Board of Education for Independent School District No. 625, St. Paul. Mr. Conlon was first elected to the school board in 1991 and took office in January 1992. Upon becoming a school board member, Mr. Conlon indicates that he was told by an unspecified person with the school district administration that he was not eligible for public pension plan coverage.

Mr. Conlon became a member of the Public Employees Defined Contribution Plan, administered by the Public Employees Retirement Association (PERA), on February 17, 1998. Mr. Conlon desires to have public pension plan coverage for his entire period of public service.

Background Information on the PERA Defined Contribution Plan

Background information on the retirement plans administered by the Public Employees Retirement Association (PERA) and the retirement coverage provided to local elected officials is set forth in Attachment A.

Discussion

H.F. 228 (Paymar); S.F. 266 (Cohen) permits Tom Conlon, a St. Paul School Board member, to purchase his prior period of uncredited school board service by paying a member contribution equivalent amount equal to five percent of salary from the uncovered period plus compound interest at the rate of six percent from July 1, 1994, to the date of payment.

The proposed special pension legislation will raise several pension and related public policy issues for consideration and discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Equitable Considerations. The policy issue is the extent of equitable considerations that favor the special legislation sought by Tom Conlon. While local elected officials who meet the salary threshold (currently at least \$450 in any one month) have been eligible for membership in the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) since the establishment of PERA in 1931 and while local elected officials who are not qualified for or who do not elect PERA-General coverage have been eligible for PERA Defined Contribution Plan coverage since 1990, Mr. Conlon contends that he was told by the St. Paul School District that he was not eligible for public pension coverage on his initial election to public office in January 1992 and did not actually elect PERA Defined Contribution Plan coverage until February 1998. Mr. Conlon does not indicate the specific source of his bad information in 1992 or the source of his correct information in 1998. If the basis for this special consideration is an error or negligence on the part of the St. Paul School District, the Commission may wish to hear from the school district and to evaluate the magnitude of that alleged error or negligence.
2. Economic Impact on the St. Paul School District. The policy issue is the nature of the economic impact of the prior service purchase employer contribution of the prior service purchase employer contribution on Independent School District No. 625 (St. Paul). Under the draft legislation, the St. Paul School District is obligated to pay an amount equal to the member contribution equivalent prior service purchase payment, plus interest. While the amount involved is unknown by the Commission staff, it appears that any mandatory employer payment would be disadvantageous for the school district. The media reports that the St. Paul School District is facing significant budget shortfalls currently and there is no reason to believe at this time that the school district's financial condition will dramatically improve in the short term.
3. Precedent. The policy issue is the existence of any precedent in past retirement law for this prior service purchase and the potential for this proposal, if recommended by the Commission and enacted by the Legislature, to become a precedent for further extensions and expansions. Minnesota Statutes, Section 353D.12, stands as a precedent for this type of prior service purchase, but it is limited to periods before 1991 (in effect before the extension of the PERA Defined Contribution Plan to local elected officials) and has not been revised or reset. If the draft legislation becomes law, it would be the first prior service purchase authorization for local elected officials relating to the PERA Defined Contribution Plan since its extension to local elected officials and can be expected to be cited as a precedent in the future by any similarly-situated local elected officials.

## Attachment A

### Background Information on the PERA Defined Contribution Plan

- a. Retirement Plans Administered by PERA. The PERA administers several defined benefit retirement plans and one defined contribution retirement plan. The defined benefit retirement plans administered by PERA are the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Retirement Plan (PERA-P&F), and the Local Government Correctional Service Retirement Plan (PERA-Correctional). The defined contribution retirement plan administered by PERA is the Public Employees Defined Contribution Plan.

Defined benefit retirement plans focus on the benefit levels to be provided by the plan, typically specifying or defining the benefit amount by the use of a formula related to a person's final salary or final average salary, with the plan funding becoming the variable element to be determined by periodic actuarial valuations. Defined contribution retirement plans focus on the funding levels to be provided to the plan, typically specifying or defining the contribution levels as a percentage of covered pay, with the plan benefits becoming the variable element to be determined primarily by the passage of time and investment performance.

- b. Pension Coverage for Local Government Elected Officials. Before July 1, 2002, elected local government officials and individuals appointed to fill a vacancy in an elected position had an option to join PERA-General, if the PERA-General minimum salary thresholds and other membership requirements were met, and if the individual filed a membership election form with the executive director. Minnesota Statutes, Section 353.01, Subdivision 2b, contains PERA-General's minimum salary thresholds. Individuals who do not receive at least \$425 per month or \$5,100 per year from their public employer or employers are not included in PERA's membership. If these thresholds are met once, the individual remains a member even if salary later goes below the threshold.

For pre-2002 local elected officials who did not meet the PERA-General minimum salary thresholds, for pre-2002 local elected officials who elected not to become PERA-General members, and for post-July 1, 2002, local elected officials, irrespective of salary level, the PERA Defined Contribution Plan exists. The PERA Defined Contribution Plan was first enacted in 1987 (Laws 1987, Chapter 372, Article 5) as the ambulance service personnel retirement plan. The plan was initially open to basic and advanced life support emergency medical service personnel associated with a public ambulance service or with a publicly-subsidized private ambulance service. In 1990 (Laws 1990, Chapter 570, Article 8), the PERA Defined Contribution Plan was expanded to include local elected officials other than elected county sheriffs. In 1996 (Laws 1996, Chapter 438, Article 6), the plan was further expanded to include physicians who decline to join PERA-General. The most recent expansion was to include local government rescue squad members from the city of Litchfield or from Kandiyohi County.

For pre-2002 local elected officials who elected coverage by the PERA Defined Contribution Plan and for all post-July 1, 2002, local elected officials, the official contributes five percent of pay and the governmental entity matches that contribution. Upon retirement, termination, or disability, a PERA Defined Contribution Plan member is entitled to receive the value of the person's individual account, including any investment income earned on the account balance from their individually-directed investments. Local elected governmental officials who are members of the PERA Defined Contribution Plan are permitted, under Minnesota Statutes, Section 353D.12, to make contributions for prior uncredited elected service credit, with the applicable employing unit making the equivalent employer contribution.

1.1 ..... moves to amend H.F. No. 228; S.F. No.266; as follows:

1.2 Page 1, line 17, delete "pay" and insert "make two payments, one before December  
1.3 15, 2007, and the other after January 1, 2008, and before January 31, 2008, each in" and  
1.4 after the second "to" insert "one-half of"

1.5 Page 1, line 21, delete the second "the" and insert "a"

1.6 Page 1, line 22, delete the second "amount" and insert "payment made by the  
1.7 eligible person"

This Document can be made available  
in alternative formats upon request

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH  
SESSION

HOUSE FILE NO. 228

January 22, 2007

Authored by Paymar

The bill was read for the first time and referred to the Committee on Governmental Operations, Reform, Technology and Elections

A bill for an act

relating to retirement; public employees defined contribution retirement plan;  
permitting certain St. Paul school board members to purchase prior uncovered  
service.

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

Section 1. **ST. PAUL SCHOOL BOARD; PRIOR SERVICE PURCHASE.**

(a) An eligible person described in paragraph (b) is entitled to purchase prior  
uncredited service rendered as a member of the board of education of Independent School  
District No. 625, St. Paul, from the defined contribution retirement plan of the Public  
Employees Retirement Association.

(b) An eligible person is a person who:

(1) was born on May 7, 1960;

(2) first became a member of the board of education of Independent School District  
No. 625, St. Paul, in January 1992; and

(3) first enrolled in the public employees defined contribution plan on February  
17, 1998.

(c) To make the purchase, the eligible person shall pay an amount equal to the  
salary of the person between January 1, 1992, and February 17, 1998, multiplied by five  
percent, plus compound interest on that amount at the rate of six percent from July  
1, 1994, to the date of payment.

(d) If the eligible person makes the payment under paragraph (c), Independent  
School District No. 625, St. Paul, shall pay an amount equal to the amount under  
paragraph (c). The employer payment must be made within ten days of the date of

2.1 notification of the eligible person's payment by the executive director of the Public  
2.2 Employees Retirement Association.

2.3 (e) This authority expires on May 31, 2009, or on the first day of the month next  
2.4 following the conclusion of the eligible member's elected public service, whichever  
2.5 occurs earlier.

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

2.7 Section 1 is effective the day following final enactment.