



H.F. 2079
(Murphy, M.)

S.F. 1841
(Pogemiller)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): MSRS-General, PERA-General, TRA
Relevant Provisions of Law: Laws 2006, Chapter 271, Article 3, Section 43
General Nature of Proposal: Makes 2006 temporary early retirement incentive permanent
Date of Summary: April 23, 2007

Specific Proposed Changes

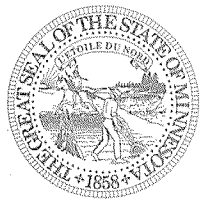
- The 2006 temporary early retirement incentive is made permanent by the removal of the 2006 sunset dates, with the date elimination made retroactive

Policy Issues Raised by the Proposed Legislation


1. Appropriateness of making temporary early retirement incentive permanent.
2. Appropriateness of the entities permitted to offer the early retirement incentive.
3. No monitoring of or final approval over the designation of which employees are to be offered an incentive or option as a check on its fiscal impact.
4. Using pension plan service credit does not necessarily target long-term, higher-paid state employees.
5. Appropriateness of different eligibility service requirements for some MnSCU faculty members and other employees.
6. Retirement incentive could include reemployed annuitants rather than career employees.
7. Retirement incentive eligibility has no upper age limit.
8. Incentive needs clear election process.
9. The incentive is unclear on the nature of the annuity available to be purchased.
10. \$17,000 incentive may have limited appeal.
11. Incentive may provide a windfall to some retirees.
12. Incentive will be futile if substantial rehiring occur.
13. Lack of coding for a permanent early retirement incentive provision.
14. Appropriateness of retroactivity; need to validate past payments.

Potential Amendments

- H2079-1A (substantive) adds 2008 sunset date for early retirement incentive.
- H2079-2A (substantive) requires data collection on early retirement incentive utilization.
- H2079-3A (substantive) allows Commission to specify particular employing units excluded from early retirement incentive
- H2079-4A (substantive) requires review of decisions to offer early retirement incentives.
- H2079-5A (substantive) keys incentive eligibility to employment records rather than pension plan service credit records.
- H2079-6A (substantive) sets uniform 15-year service eligibility requirement for MnSCU faculty members.
- H2079-7A (substantive) sets uniform five-year service eligibility requirement for MnSCU faculty members.
- H2079-8A (substantive) excludes reemployed annuitants from incentive eligibility.
- H2079-9A (substantive) sets a de facto age 65-70 upper age limit on eligibility.
- H2079-10A (substantive) adds a formal written incentive acceptance requirement.
- H2079-11A (substantive) clarifies annuity purchase factors to be used in connection with conversion of incentive payment.
- H2079-12A (substantive) adds limitations on reemployment as consultant.
- H2079-13A (technical) adds suggested coding in Minnesota Statutes.
- H2079-14A (substantive) deletes retroactive effective date.
- H2079-15A (substantive) retains retroactive effective date and adds benefit/payment validation language.
- H2079-16A (technical) eliminates a grammatically unnecessary clause.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director 

RE: H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller): Various Retirement Plans; Permanent Status for 2006 Early Retirement Incentive

DATE: April 23, 2007

Summary of H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller)

H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller) amends Laws 2006, Chapter 271, Article 3, Section 43, by eliminating the 2006 expiration dates, thereby making the 2006 temporary early retirement incentive permanent.

Background Information

- A. Previous Early Retirement Incentive Programs. Background information on early retirement incentive programs previously enacted by the Legislature is set forth in Attachment A.
- B. 2006 Early Retirement Incentive Program. Background information on the 2006 early retirement incentive program, Laws 2006, Chapter 271, Article 3, Section 43, is set forth in Attachment B.

Discussion and Analysis

H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller) makes permanent the 2006 early retirement incentives, Laws 2006, Chapter 271, Article 3, Section 43, which expired on September 1, 2006.

The proposed legislation raises several pension and related public policy issues for potential Commission consideration and discussion, as follows:

1. Appropriateness of Making Temporary Early Retirement Incentive Permanent. The policy issue is the appropriateness of eliminating the expiration date on a temporary early retirement incentive, thereby making the incentive program a permanent part of most state or local school district employment. The 2006 early retirement incentive program, first proposed in 2005, was designed by the Middle Management Association, the state's third largest labor union and was extremely short, in force from June 2, 2006, to September 1, 2006. given its very short duration, no indication by proponents before the Legislative Commission on Pensions and Retirement or the House Governmental Operations Committee that the program was intended to be a demonstration program, the lack of any reporting mechanism about the utilization of the program by any covered agency, and the unavailability of any comprehensive information on the potential success of the program little foundation has been built for a conversion of the program to a permanent part of public employment. Early retirement incentives have been a recurring request of some segment of the public employee workforce over the past two decades or more and have been suggested as a potential solution for virtually any state budgetary circumstance or broader economic or labor supply condition. Prudence would appear better served, if the Commission is convinced that there is a public concern that is best addressed by promoting early retirements, by extending the 2006 incentive on a limited duration basis and by adding some reporting requirement that would allow for a programmatic evaluation of the results of the program prior to making it permanent.

If the Commission desires to retain the program as a renewed temporary program, **Amendment H2079-1A** would extend the early retirement incentive until June 30, 2008, thereby allowing the 2009 Commission and Legislature to revisit the issue with more experience of the incentive as a demonstration program.

If the Commission desires to ensure that sufficient information on the utilization of the incentive is gathered to allow for a judgment about its appropriateness and fiscal viability, **Amendment H2079-2A** requires the Department of Employees Relations, with respect to the executive branch of state government, the Department of Education, with respect to school districts, and Minnesota State Colleges and Universities System (MnSCU), with respect to the MnSCU system, collect information on the utilization of the incentive and the fiscal impact of the incentive.

2. Appropriateness of the Entities Permitted to Offer the Early Retirement Incentive. The policy issue is the appropriateness of the entities that were permitted to offer the 2006 early retirement incentive and would be permitted to offer early retirement incentives under the permanent provision. The 2006 early retirement incentive applied to the executive branch of state government, the legislative branch of state government, the Board of Public Defense, the Minnesota Historical Society, the Minnesota State Colleges and Universities System, or any school district. There are ambiguities in the 2006 incentive authorization provision that would continue if the provision were made permanent. The term “executive branch” is used in general parlance, but appears to lack a constitutional or a statutory definition. The Minnesota Constitution, in Article V, refers to an “executive department” and indicates that it consists of the five constitutional officers, and, in Article V, Section 3, includes a reference to “the principal officer in each of the executive departments.” Minnesota Statutes, 16A.011, defines the terms “executive agency” and “executive branch state agency” without defining the term “executive branch.” It is unclear whether the provision covers the constitutional officers or the statewide retirement plan administrations. It also does not include the University of Minnesota, which employs a large number of employees covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). It does not include “quasi” or “semi” state agencies. The inclusion of the State Board of Public Defense, but no other judicial branch employing unit, may not be well considered in a permanent incentive authority. The inclusion of school districts and not other local governmental entities also may not be founded in sound policy appropriate for a permanent program. If the Commission does not desire to extend any authority comprehensively, it may be clearer to identify what public employers it wishes to exclude from the authority rather than the current piecemeal inclusions.

If the Commission wishes to take a different approach to granting the authority to offer incentives, **Amendment H2079-3A** makes the incentive applicable to all public employers employing one or more persons covered by a Minnesota defined benefit retirement plan other than a to-be-specified list of excluded agencies or entities.

3. No Monitoring of or Final Approval Over the Designation of Which Employees are to be Offered an Incentive or Option as a Check on its Fiscal Impact. The policy issue is the lack of any mention of a mechanism for the monitoring of or granting final approval over agency designation of employees to be offered an early retirement incentive or post-retirement option in order to insure that there is an actual fiscal savings and in order to minimize any potential discrimination or other impropriety in making the designations and offers. While the up-front cost to the employing unit of up to \$17,000 in offering an early retirement incentive should insure that the early retirement incentive program in each agency is actually targeted and well considered, inadvertent mistakes are still possible that could be avoided if some review or approval process is utilized, and some mischief could occur where employees with political, social, or family connections are inappropriately included in the early retirement incentive offer, but could be avoided with the existence of a “second look” review or approval process. **Amendment H2079-4A** would implement a “second look” review/approval process for employers authorized to offer the incentive.
4. Using Pension Plan Service Credit Does Not Necessarily Target Long-Term, Higher-Paid State Employees. The policy issue is the appropriateness of using a minimum of five years of service credit as a suitable measure for selecting eligible employees. The usual rationale for an early retirement incentive program is that inducing early retirements by long-service employees who are higher on the salary ladder and who are closer to retirement produces a more positive budget balancing impact than layoffs, which target the least senior and least well-paid employees. However, the proposed legislation conditions the incentive on a minimum of five years of service credit, presumably in any of Minnesota’s statewide or major local pension plans. Thus, someone with four years of teaching service in the former Minneapolis Teachers Retirement Fund Association (MTRFA) who may have changed careers (or may even have retired from MTRFA) and now has an additional year of public employment could qualify for the \$17,000 incentive, which could cost more than a layoff. A better measure to limit the program to long-term employees would be to focus the qualifications to the length of state employment. The Department of Employee Relations (DOER) maintains records of state employment for seniority, vacation leave accrual, and sick leave accrual purposes and could be used as an appropriate mechanism for verifying the employment duration requirement. The personnel departments of other public employers maintain similar records. These employment records, related to the actual employing unit offering the incentive, may be a better mechanism for targeting the incentive to improve the fiscal impact of the program. **Amendment H2079-5A** shifts the eligibility service requirement to employment records.
5. Appropriateness of Different Eligibility Service Requirements for Some MnSCU Faculty Members and Other Employees. The policy issue is the lack of a clear policy rationale for requiring only five years of service for retirement incentive eligibility for those faculty members of the Minnesota State

