



**H.F. 3358**  
(Howes)

**S.F. 3640**  
(Olson, M.)

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan:* MSRS-General  
*Relevant Provisions of Law:* Special law request  
*General Nature of Proposal:* Service credit purchase for period of temporary, intermittent employment  
*Date of Summary:* March 10, 2008

**Specific Proposed Changes**

- Individual seeks to purchase service credit for a period of temporary, intermittent employment, which appears to be properly excluded from plan coverage

**Policy Issues Raised by the Proposed Legislation**

1. Concern about undermining statute if service was properly excluded from coverage.
2. Size of the full actuarial value purchase amount, and likelihood of it being paid if the employer does not subsidize.
3. Equity concern, long delay in seeking remedy.

**Potential Amendments**

H3358-1A can be used if the Commission concludes there is some basis for concluding that the employer caused harm, requires employer to subsidize the purchase on behalf of the employee.

H3358-2A enables the individual to make the purchase within one month of the section's effective date if employment ends because the Ah-Gwah-Ching Center is closed.



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Edward Burek, Deputy Executive Director *EB*  
RE: H.F. 3358 (Howes); S.F. 3640 (Olson, M.): MSRS; Service Credit Purchase of Temporary Laborer 1 – Intermittent, Department of Natural Resources Employment  
DATE: March 11, 2008

Summary of H.F. 3358 (Howes); S.F. 3640 (Olson, M.)

H.F. 3358 (Howes); S.F. 3640 (Olson, M.) permits Patrick Pitzen to purchase allowable service credit at full actuarial value from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for employment from May 1974 through June 30, 1977, when he was employed as a Temporary Laborer 1 – Intermittent by the Department of Natural Resources.

Public Pension Problem of Patrick Pitzen

Patrick Pitzen of Walker, Minnesota, is a long-term state employee who currently works as a registered nurse for the Department of Human Services at the Ah-Gwah-Ching Center. Mr. Pitzen desires to be able to retire under the "Rule of 90" early normal retirement age provision, Minnesota Statutes, Section 352.116, Subdivision 1, Paragraph (b), at the earliest possible age because of the impending closure of the Ah-Gwah-Ching Center and the prospect of a long commute to continue in state employment. Mr. Pitzen has periods of employment with the Department of Natural Resources from May 1974 to June 30, 1977 which was not credited as allowable service by MSRS-General. MSRS-General coverage commenced on July 1, 1977, when Mr. Pitzen became an Unlimited Intermittent, Laborer 1 Tenured. Mr. Pitzen desires to be able to purchase service credit for some or all of his Department of Natural Resources employment during the May 1974 to June 30, 1977 period when, according to information supplied by MSRS, he was classified as a Temporary Laborer 1 – Intermittent.

Background Information

Background information on the following relevant topics is set forth in the designated attachments:

- A. Public Pension Plan Service Credit. Attachment A discusses how service credit functions within a public pension plan as a mechanism for determining vesting, calculating benefits, and allocating the cost of retirement coverage.
- B. Prior Service Credit Purchase Special Legislation. Attachment B discusses the role of special legislation in resolving demands for allowable service credit for past uncredited periods of time, past service credit purchase special legislation, and the Commission Principles of Pension Policy statement on the topic.
- C. "Rule of 90" Benefit Tier Eligibility and Other Pre-July 1, 1989, Benefits. Attachment C discusses the 1989 benefit increases and the nature of the "Rule of 90" benefit tier.

Discussion and Analysis

H.F. 3358 (Howes); S.F. 3640 (Olson, M.) permits Patrick Pitzen to purchase allowable MSRS-General service credit for periods of employment from May 1974 through June 30, 1977, when he was employed as a Department of Natural Resources Temporary Laborer 1 – Intermittent employee, if he makes a full actuarial value payment.

The proposed legislation raises or presents an opportunity to raise several pension and related public policy issues that may merit Commission consideration and discussion, as follows:

1. Undermining Statutes. The issue is whether applicable law excluded Mr. Pitzen from plan coverage. If Mr. Pitzen was properly excluded from the plan, a policy concern is that permitting him to purchase service credit contradicts and undermines the applicable law. If individuals are permitted to purchase periods excluded by law from coverage, the prohibition is undermined and in effect is changed to an optional coverage provision. The employment is excluded from coverage unless the employee later decides to purchase it.

The applicable law does appear to have prohibited Temporary Laborer 1 – Intermittent employees from plan coverage, suggesting that Mr. Pitzen, for the period in question, was properly excluded from the pension plan. According to MSRS, Mr. Pitzen’s employment classification during the period in question (May 1974 through June 30, 1977) was Temporary Laborer 1 – Intermittent. Throughout this entire period the MSRS excluded employee provision prohibited temporary employees in the classified service from being covered by the pension plan. That treatment continues in current statute (Minnesota Statutes 2007, Section 352.01, Subdivision 2b, Clause (16)). During the mid-1970s, the period relevant for Mr. Pitzen’s pension problem, the coverage prohibition was found in Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (20). In MSRS statutes, individuals who are defined as “state employees” are covered by the plan, while those who are excluded from coverage are defined to be not state employees. In those mid-1970s editions of Minnesota Statutes, “state employee” did not include:

Minnesota Statutes, Section 352.01, Subdivision 2b, Clause (20)

1973 Supplement	All temporary employees in the classified service, and all seasonal help in the unclassified service employed by either the motor vehicle division or the department of taxation to perform clerical duties.
1974	All temporary employees in the classified service, and all seasonal help in the unclassified service employed by either the motor vehicle division or the department of revenue to perform clerical duties.
1976	All temporary employees in the classified service, all temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one year period and all seasonal help in the unclassified service employed by the department of revenue.
1978	All temporary employees in the classified service, all temporary employees in the unclassified service appointed for a definite period of not more than six months and employed less than six months in any one year period and all seasonal help in the unclassified service employed by the department of revenue.

With rare exceptions, the Commission has not authorized purchases of ineligible employment periods outside of teaching service, and those provisions applicable to teachers have now been repealed. Recent instances of limiting service credit purchases to periods that were eligible for coverage when rendered are:

- Laws 2007, Chapter 134, Article 12, Section 1, Paragraph (a): St. Paul City 1988-1989 unreported employment purchase from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General).
- 2007 H.F. 1328 (Peterson, S.); S.F. 1325 (Rest): Purchase not approved for St. Paul Community Center service that was not clearly eligible for St. Paul Teachers Retirement Fund Association (SPTRFA).
- Laws 2006, Chapter 271, Article 14, Section 6, Paragraph (a): Anoka Greenhaven Golf Course purchase from PERA-General.
- Laws 2006, Chapter 271, Article 14, Section 11, Paragraph (g): Bloomington School District custodian unreported service purchase from PERA-General.
- Laws 2004, Chapter 267, Article 16, Section 1, Paragraph (c): Mounds View School District unreported employment purchase from PERA-General.

2. Conformity with Commission Policy Principles Regarding Full Actuarial Value Payment Requirement. The Legislative Commission on Pensions and Retirement’s Principals of Pension Policy require a full actuarial value service credit purchase payment so that the service credit purchase is not subsidized by the pension plan and to avoid violating equitable considerations. As drafted, the special purchase provision would result in the payment to the retirement plan of the full actuarial value of the benefit purchased.
3. Size of the Purchase Payment Amount. The policy issue is the large payment obligation due from Mr. Pitzen and the lack of any net financial gain to him. Because of these factors, it is unlikely the purchase will occur if authorized and the legislative effort in processing the proposed special legislation would be wasted. The cost will be substantial because Mr. Pitzen will be asked to pay an

amount equal to the full increase that will occur in his lifetime annuity due to the purchase. It would only be worthwhile financially to purchase the service credit if the Commission and Legislature were to revise the bill language to have the employer cover a portion of the cost. The Commission has used that treatment if the Commission concludes that the employing department failed to treat the individual properly under law.

4. Issue of Whether Employer Caused Harm. The policy issue is the extent of any responsibility by the State of Minnesota for causing the uncredited service credit, which might justify revising the draft to require the employing department to cover part of the cost of the purchase of service credit. If the Commission concludes that the service was properly excluded under law, then there is no basis for any claim that the department or state harmed the individual by not providing plan coverage.
5. Equitable Considerations: Delay in Pursuing Service Credit Purchase. The policy issue is the potential adverse equitable consideration arising from a 33-year delay in pursuing the service credit. The Commission might choose to dismiss Mr. Pitzen's service credit purchase request.
6. Appropriateness of Service Credit Purchase Requests Solely to Gain Earlier "Rule of 90" Eligibility. The policy issue is the appropriateness of the Commission authorizing a service credit purchase solely motivated by a desire to gain earlier access to a "Rule of 90" early normal retirement benefit. Mr. Pitzen's letter appears to indicate that his primary or sole motivation in seeking the purchase is to gain earlier access to a "Rule of 90" benefit. Recent examples of the Commission declining to authorize a service credit purchase to gain the "Rule of 90" are:
  - 2006 H.F. 4020 (Emmer); S.F. 3658 (Koch): Pre-1989 military service credit purchase from PERA-General.
  - 2003 H.F. 63 (Boudreau); S.F. 47 (Day): Pre-1989 part-time Department of Transportation employment purchase from MSRS-General.
  - 2001 H.F. 142 (Boudreau); S.F. 732 (Neuville): Pre-1989 part-time Department of Transportation employment purchase from MSRS-General.
  - 1999 H.F. 1314 (Lenczewski); S.F. 1019 (Johnson, D.H.): Pre-1989 Minnesota Veterans Home temporary employment purchase from MSRS-General.
7. Scope; Similar Individuals. If the Commission determines that law was properly applied, the Commission may choose to be concerned that many similarly situated individuals may request service credit purchases if H.F. 3358 (Howes); S.F. 3640 (Olson, M.) is enacted into law.

#### Potential Amendments for Commission Consideration

1. Amendment H3358-1A may be used if the Commission concludes that an employing unit caused harm. The amendment shifts much of the cost of the service credit purchase to the employing units. The eligible individual would pay employee contributions plus interest and the Department of Natural Resources and the Department of Human Services would equally share in payment of the remainder. If the Commission wishes to remove one of those employers, that can be done through a verbal amendment to the amendment.
2. Amendment H3358-2A, which can be used with Amendment H3358-1A or separately, could be used if the Commission wishes to revise the expiration date language to accommodate a possible closure of the Ah-Gwah-Ching Center up to one month after the section's effective date (day following final enactment) causing the eligible employee to terminate service. If that occurs, the individual could make a service credit purchase up to one month after the section's effective date, notwithstanding an earlier statement in the bill requiring payment prior to termination of service. This would address a concern of the eligible individual, which is that the Center might close before the bill can be enacted.

## Attachment A

### Background Information on Public Pension Plan Service Credit

#### Retirement Plan Service Credit

- a. Defined Benefit Plans. Most Minnesota public pension plans are defined benefit plans. In defined benefit plans, the pension benefit amount that is ultimately payable is pre-determinable or fixed using a formula or comparable arrangement. The fixed element of the benefit amount leaves a variable element, which is the funding required to provide that benefit. The formula utilizes allowable service credit and salary credit in the calculation, averaging the salary amounts for the five successive years' average salary period that produces the highest amount for use as the base to which is applied a total percentage amount determined by assigning a percentage amount to each year of allowable service credit.
- b. Historical Shift in Plan Types and to Salary-Based Plans. Minnesota's statewide retirement plans were not originally salary-related pension plans, with the predecessor to TRA established in 1915 as a money purchase (defined contribution) plan, with the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) established in 1929 as a set dollar amount (\$200 per month) plan, and with the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) established in 1931 also as a set dollar amount (\$200 per month) plan. Conversion to salary-related pension plans occurred for MSRS-General and PERA-General in 1957, which was a recommendation of the initial interim predecessor to the Legislative Commission on Pensions and Retirement, and for TRA in 1969, which was a recommendation of the initial permanent predecessor to the Pension Commission. The first class city teacher retirement fund associations and Minneapolis Employees Retirement Fund (MERF) generally shifted to salary-related pension plans in the 1950s (the Duluth Teachers Retirement Fund Association (DTRFA) shifted in 1971).
- c. Definition of Minnesota Defined Benefit Public Pension Plan Service Credit. Allowable service credit in Minnesota's statewide and major local defined benefit retirement plans generally includes many different service periods, which are:
  1. Covered Current Service. Employment is a covered position with a covered employer for which member contributions have been deducted and transmitted to the retirement plan;
  2. Historic Credit in Plan Records. Service credit as reflected in the records of the retirement plan that predates the plan's establishment or reformulation;
  3. Military Service Leave. Periods of service in the U.S. Armed Forces during a leave of absence;
  4. Temporary Disability Periods. Periods of leaves caused by a temporary disability;
  5. Credit Reinstated by a Refund Repayment. Periods of service covered by a prior refund of member contributions which have been repaid subsequently;
  6. Part-Time Employment. Periods where full service credit is granted for part-time employment;
  7. Sabbatical Leaves and Other Leaves of Absence with Pay. Periods of an authorized leave of absence during which the member is paid a whole or a partial salary;
  8. Extended Leaves of Absence Without Pay. Periods of an authorized leave of absence without pay;
  9. Labor Union Employment or Elective Service. Periods of employment as an exclusive collective bargaining representative or as an elected official;
  10. Parental or Family Leaves of Absence. Periods of leaves or breaks in service for parental or family reasons;
  11. Strike Periods. Periods of a labor union strike; and
  12. Out-of-State Teaching or Other Outside Service. Periods of teaching service, Peace Corps service, or VISTA service.
- d. Purpose of Service Credit. Service credit in a Minnesota defined benefit retirement plan exists for three reasons, determining vesting rights, determining eligibility for an early normal retirement annuity, and determining the amount of a retirement annuity.

Vesting is the circumstance of possessing a non-forfeitable right to an eventual retirement annuity, even if covered employment is terminated before reaching retirement age. In virtually all Minnesota defined benefit retirement plans, the vesting period is three years of service credit, which need not be

consecutive periods of service and which may include service covered by more than one Minnesota defined benefit retirement plan.

Early normal retirement annuity eligibility in Minnesota defined benefit retirement plans generally means qualification for the "Rule of 90," where a member can retire with an unreduced retirement annuity when the sum of the person's age and service credit total at least 90, or for the Minneapolis Employees Retirement Fund (MERF) or the Basic Program of the Minneapolis Teachers Retirement Fund Association (MTRFA-Basic), means qualification for the "30 and out" unreduced retirement annuity payable when a person has credit for at least 30 years of service credit.

Retirement annuity determination is the calculation of a member's defined benefit retirement annuity, using the plan's benefit accrual rate percentage (frequently 1.7 percent per year of service credit), multiplied by the member's service credit, and the total applied to the member's final average salary figure (highest five years average salary).

Defined benefit retirement plans exist to provide a retirement annuity at the conclusion of an employee's normal working lifetime. Service credit allows for the retirement plan to bear its proportional share of the burden of the ultimate total retirement annuity amount based on the amount of the total employment period spent with the applicable employer.

## Attachment B

### Background Information on Prior Service Credit Purchase Special Legislation

- a. Service Credit Purchases. Although most Minnesota public retirement plan service credit is acquired by rendering covered employment services and having member contributions deducted from periodic compensation for those services, some employment services or comparable endeavors are omitted from Minnesota public retirement plan coverage for some reason or member contributions fail to be deducted for some reason.

When allowable service is not credited by a Minnesota public retirement plan in the normal course of events and the applicable person believes that the period of service should be credited as allowable service credit, the situation can be corrected administratively if an omitted member contribution is involved (and the three-year correction period has not elapsed for the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Retirement Plan (PERA-P&F), or the PERA Local Government Correctional Employees Retirement Plan (PERA-Correctional) or the situation can be corrected by special legislation for the person involved or for the group of individuals involved.

- b. Special Legislation Service Credit Purchase Authorization. In Minnesota, until 1999, there were few general law service credit purchase authorizations, and service credit purchase authorizations were generally special law provisions.

The primary general law service credit purchase authorization was Minnesota Statutes 2004, section 354.51, enacted in 1931, when the Teachers Retirement Association (TRA) was a defined contribution retirement plan, which allows TRA members with 15 years of service who have pre-1953 out-of-state teaching service to purchase that service by making equivalent member contributions, plus interest at the rate of 8.5 percent per annum.

During the period 1957-2007, the Legislature has enacted 257 special laws authorizing one person or a small group of individuals to purchase prior service credit, distributed over the years 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>
1957	1	1974	5	1983	2	1992	6	2001	10
1959	4	1975	10	1984	3	1993	7	2002	2
1961	5	1976	4	1985	2	1994	8	2003	6
1963	6	1977	9	1986	6	1995	7	2004	1
1965	5	1978	9	1987	3	1996	6	2005	1
1967	1	1979	7	1988	7	1997	3	2006	14
1969	2	1980	4	1989	12	1998	9	2007	3
1971	2	1981	14	1990	10	1999	8		
1973	4	1982	16	1991	6	2000	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 81 special laws relating to the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), and with 49 special laws relating to the Teachers Retirement Association (TRA).

In considering special law service credit purchase requests, through at least 1999, the Legislative Commission on Pensions and Retirement has generally followed its Principles of Pension Policy, which require:

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 have 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 Equitable Considerations. Purchases of service credit should not violate equitable 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.

- c. 1999-2004 General Service Credit Purchase Provisions. The recently expired full actuarial value service credit purchase provisions and the years in which they were enacted are as follows:

1999

- Military service (TRA and first class city teacher plans)
- Out-of-state teaching service (TRA and first class city teacher plans)
- Maternity leave or absence or maternity break-in-service (TRA and first class city teacher plans)
- Parochial or private school teaching service (TRA and first class city teacher plans)
- Peace Corps and VISTA service (TRA and first class city teacher plans)
- Charter school teaching (TRA and first class city teacher plans)
- Previously uncredited part-time teaching service (first class city teacher plans)

2000

- Military service (various MSRS plans, PERA plans)
- Teaching service credit for various nonprofit Community Based Corporation service (TRA and first class city teacher plans)

2001

- Out-of-country and tribal teaching service credit (TRA and first class city teacher plans)
- Developmental Achievement Center teaching service (TRA and first class city teacher plans)
- Uncovered teaching service at University of Minnesota (TRA and first class city teacher plans)
- Parental leave/break-in-service (teacher plans, various MSRS and PERA plans, various other plans)

In 1999, the Commission was persuaded to support several proposed generalized service credit purchase provisions applicable to the Teachers Retirement Association and the first class city teacher retirement fund associations (the Duluth Teachers Retirement Fund Association, the Minneapolis Teachers Retirement Fund Association, and the St. Paul Teachers Retirement Fund Association). Under these provisions, classes of individuals (those with prior military service, out-of-state teaching service in a K-12 situation, individuals who taught in parochial schools, provided Peace Corp service and various other groups), were permitted to purchase service credit in the applicable Minnesota plan for the specified service. These provisions, which were strongly supported by teacher groups, conflicted with the Commission's policy statement in several ways. All lacked any requirement of an individual review of the circumstance. Others were not related to public service or had no Minnesota connection.

In 2000, more service credit purchase provisions were added to law, this time for non-teacher plans, providing a full actuarial value service credit provision for individuals who had military service prior to becoming a public employee, or who failed to pay contribution requirements in a timely manner under other military leave service credit purchase provisions. These provisions enacted in 2000 were comparable to the military service credit provisions added to teacher plan law a year earlier. In 2000, teacher plan law was also revised to permit full actuarial value service credit purchases for non-profit community-based teaching service.

In 2001, several other service credit purchase provisions were enacted. An out-of-country teaching service credit purchase provision was created in teacher plan law, and also one for Development Achievement Center teaching. These new provisions included sections of law permitting purchase of service credit, not to exceed ten years, in the teacher plans for service while teaching at the University of Minnesota which was not covered by a pension plan at the university. These provisions stemmed from a legislative request for the executive director of the Minneapolis Employees Retirement Fund, who many years earlier taught some accounting courses at the University while employed in a position that was excluded from pension plan coverage. The final generalized service credit provision enacted was a family leave provision permitting individuals who may be covered by a teacher plan, or any of several other general employee and public safety plans, to purchase service credit for the past family leaves or family-related breaks-in-service.

There are several reasons why the Commission and Legislature may have supported the above provisions. First, the provisions were intended to be temporary. Each was set to expire a few years after enactment. The departure from policy may have been viewed as a short-term departure from

established policy to address short-term market conditions for teachers. Second, the Legislature had been given assurances that the provisions created no financial harm to the pension funds because the purchases would be at full actuarial value. The methodology to compute full actuarial value purchase prices had been revised in 1998, and the teacher unions and the administrators of the teacher pension funds were confident that the procedures would produce accurate price estimates, thereby shielding other fund contributors from subsidizing these purchases. When the revised methodology was enacted in 1998 as Minnesota Statutes, Section 356.55, the section included a provision requiring data to be retained and analyzed on every service credit purchase made using the procedure, and the section included an expiration date. If legislative review of these purchases suggested that the procedure was not accurate and was causing subsidies to occur, the section would be permitted to expire. If it expired, a previous procedure used to estimate full actuarial value, coded as Minnesota Statutes, Section 356.551, would again become effective. That prior procedure in Minnesota Statutes, Section 356.551 tended to produce higher cost estimates than the revised procedure. Teacher unions and other constituent groups favor continuing the revised procedure in Minnesota Statutes, Section 356.55, because it tends to produce lower prices. From a policy standpoint, the Minnesota Statutes, Section 356.55 procedure is better if it is more accurate than the prior procedure. If the lower prices are resulting in subsidies, its use harms the pension funds.

As the repeal date for the revised full actuarial methodology and each of these temporary generalized service credit provisions approached, the repeal dates were extended by the Legislature due to strong support for these provisions from the teacher unions and other constituent groups. Most of the provisions have now been extended more than once, but generally expired in July 2004.

## Attachment C

### Background Information on "Rule of 90" Benefit Tier Eligibility and Other Pre-July 1, 1989, Benefits

In 1989, a major benefit increase was enacted (Laws 1989, Chapter 319, Article 13) for the major general employee pension plans. A significant aspect of that benefit increase, which was added as a House floor amendment to proposed legislation relating to teachers' salaries in Independent School District No. 709 (Duluth), without a favorable recommendation by the Legislative Commission on Pensions and Retirement, was the extension of the PERA-General "Rule of 90" benefit eligibility provision to the other major general employee retirement plans (the Minnesota State Retirement System General Plan (MSRS General), the Teachers Retirement Association (TRA), and the first class city teacher plans). This extension created two benefit tiers (the "Rule of 90" benefit tier and the "Level Benefit" benefit tier) in all these plans. The 1989 legislation, however, restricted the use of the "Rule of 90" benefit tier to employees who became members of the applicable plans before July 1, 1989. This applies not only to the plans in which "Rule of 90" provisions were first created in 1989, but also to PERA-General which had a "Rule of 90" benefit provision added to its law several years earlier. Individuals in any of these plans who commenced covered employment on or after July 1, 1989, have access to only the level benefit provision.

Following the 1989 benefit increase bill, the "Rule of 90" and "Level Benefit" benefit tiers were as follows:

1. "Level Benefit" Tier. All plan members were eligible to receive a retirement annuity using a level benefit accrual formula rate of 1.5 percent credit for all years of service, rather than the current one percent of each of the first ten years of service, followed by 1.5 percent thereafter. If the individual retires before the normal retirement age, the benefit is actuarially reduced. The normal retirement age for new employees will be automatically changed to correspond to the Social Security retirement age, as that age changes over time. The normal retirement age is age 65, or slightly later, depending on the date of birth.
2. "Rule of 90" Benefit Tier. Plan members first hired before July 1, 1989, if their age plus years of service total the sum of 90, were eligible to receive a benefit accrual formula rate of one percent for each of the first ten years of service, followed by 1.5 percent per year thereafter, with no early retirement reduction. If the pre-July 1, 1989, hire does not meet the "Rule of 90" eligibility requirement, the individual could select a benefit with an accrual rate of one percent for each of the first ten years and 1.5 percent thereafter, with an earlier retirement reduction rate of three percent per year.

Under the 1989 pension legislation, the Legislature reserved the right to eliminate the "Rule of 90" from any plan if more than 45 percent of eligible retirees use that provision, and the applicable plans were required to report utilization rates to the Legislature. The "Rule of 90" report requirement and elimination provision was repealed in 1993, at the request of the various major general employee retirement plan administrators when the Teachers Retirement Association (TRA) utilization approached the triggering level.

The 1989 "Rule of 90" extension, with its restriction to pre-July 1, 1989, hires, reflects a compromise based on policy and cost considerations. Although the accrual rate for the first ten years of service is less than under a level benefit computation, the waiver of any early retirement benefit reductions that would otherwise be required tends to more than outweigh the lesser accrual rate used of the first ten years of service, creating a subsidized benefit. This subsidy of those who have sufficient age and years of service to qualify for and use the "Rule of 90" adds to the plan cost, to be paid by many who will never have sufficient service to qualify for this benefit. Restricting the "Rule of 90" to only those who started in covered employment before July 1, 1989, made the cost manageable under the 1989 bill. However, it has created a difference between the benefit provisions available to the pre-July 1, 1989, hires and those who came afterwards, leading to frequent requests by the more recent hires to have the "Rule of 90" extended to them. So far, the Legislature has resisted those requests, for a number of reasons. One reason is that it is not viewed as an issue needing prompt attention. Individuals who started employment after 1989 either are sufficiently young that retirement is not a serious concern, or their service is rather short, leaving them far from qualifying for a "Rule of 90" benefit if one were to be offered. The second consideration is cost. It would be necessary to increase the contributions to all these plans to cover the added liabilities that would be created by extending the "Rule of 90." The third consideration is policy conflicts created by these early retirement provisions. An effort to extend early retirement provisions to post-1989 hires is in conflict with changes in federal retirement policy. The Social Security system has been increasing the age at which individuals can qualify for full Social Security benefits, and without those Social Security benefit checks and related Medicare coverage, most individuals who might wish to retire early from a Minnesota

public plan cannot afford to do so, because of the high cost of health care. Also, given the increases in expected lifespan that has occurred and that will continue to occur, one can argue that average retirement age may need to be increased rather than decreased, to control plan cost. Fourth, given current and future labor markets, there is a need to encourage the post-World War II baby boom generation to stay in the labor force, rather than encouraging their withdrawal. The next generation is too small to fill all the positions that will become vacant. To some extent "Rule of 90" provisions encourage withdrawal from the labor force. Finally, "Rule of 90" provisions are inconsistent with the concepts upon which our defined benefit plans were based. These plans were intended to attract sufficient capable workers, to act as a retention tool to keep them in government employment, and to out-transition them at the end of their productive years, providing sufficient income in retirement, along with Social Security benefits and private savings, to allow the retiree to retain a reasonable standard of living. Many who retire under the "Rule of 90" are not ready to leave the labor force, and thus the benefits are not used to provide retirement income. Retirement benefits paid to those who simply transition to other employment add to plan cost and may not be serving a useful public purpose.

The benefit accrual rates enacted in 1989 were increased again in 1997 (Laws 1997, Chapter 233, Article 1). Following the enactment of the 1997 revisions, a benefit computed under the level benefit tier would use an accrual rate of 1.7 percent per year of service, rather than 1.5 percent. Benefits computed under the "Rule of 90" benefit tier now use an accrual rate of 1.2 percent per year for each of the first ten years, and 1.7 percent for each year thereafter. As part of the 2006 merger of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the Teachers Retirement Association (TRA), the Legislature again increased accrual rates, but only for TRA and only for prospective service.

In addition to the "Rule of 90," there are other benefits generally found in these general employee plans which apply only to the pre-July 1, 1989, hires. These include an age 65 normal retirement age, rather than age 66. The lower age 65 normal retirement age will lessen the amount of a reduction due to early retirement compared to use of age 66, and will allow individuals to retire with full benefits a year earlier. Another is a 30-year provision, which allows individuals with 30 years of service credit to retire prior to normal retirement age with a reduction applied only to age 62 rather than age 65, creating a larger benefit. A third provision applicable only to the pre-July 1, 1989, hire group is an early retirement benefit computed using the "Rule of 90" tiers described above with a three percent per year reduction due to early retirement.



**MSRS**

Minnesota State Retirement System

**OFFICE MEMORANDUM**

**Date:** January 22, 2008

**From:** Mary Flister, MSRS Eligibility Administrator  
651-284-7828

**To:** Erin Leonard, MSRS Management Analyst

**Subject:** Pitzen,Patrick DOB 2/2/1951

The following service information is compiled from Employee Appointment forms, MSRS payroll detail records and SEMA4 Personnel data. The employee's personnel file is currently boxed at a DHS processing center awaiting scanning and is therefore not available to view per Joyce Thayer, Human Resources, Ah Gwah Ching (DHS).

**MSRS Records:**

5/17/74 through 11/22/74	Temporary Laborer 1 – Intermittent	DNR	No MSRS
3/31/75 through 10/31/75	Temporary Laborer 1 – Intermittent	DNR	No MSRS
4/26/76 through 10/26/76	Temporary Laborer 1 – Intermittent	DNR	No MSRS
5/1/77 through 6/30/77	Temporary Laborer 1 – Intermittent	DNR	No MSRS
7/1/77 through 9/11/79	Unlimited Intermittent, Laborer 1 tenured	DNR	MSRS
9/12/79 through 5/1/84	Unlimited FT Laborer 1	DNR	MSRS
4/3/85 through 11/12/85	Unlimited PT Human Serv Tech	DHS	MSRS
11/13/85 through 3/29/88	Unlimited FT Human Serv Tech	DHS	MSRS
3/30/88 through 12/12/95	Unlimited FT Human Serv Tech Sr	DHS	MSRS
12/13/95 through present	Unlimited, RN & RN Sr.	DHS	MSRS

**SEMA4 Personnel Records:**

Service date on SEMA4 1/1/79

Company Seniority Date 4/3/85

Agency Seniority Date 4/3/85

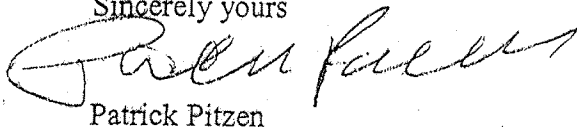
/mf

Dear Representative Howes:

My name is Patrick Pitzen and I have in the past supported you in your campaign for office. I began work for the Minnesota State Park Service in May of 1974 and worked for the Park Service seasonally through the fall of 1983. For the first nine months of my service the contract did not allow for retirement being paid into the state retirement service for seasonal employees. With the new contract in July of 1975 they allowed for seasonal employees to pay into the retirement system and this was done. I married and did not return to the Park Service after the fall of 1983. In February of 1985 I went to work for Ah-Gwah-Ching Center where I have worked since that time. I began work as an HST and have continued my education to become and have worked as RN for over 10 years. As we get closer to the time of closure of our facility I am anticipating my future and am wondering if there is any way to pay in for the time I worked for the Park Service prior to the retirement funds being withdrawn from my earning for me. This would amount to about nine months of contributions and with age would allow me to reach the rule of 90 a year and a half earlier. The State allows this time as time toward my rule of 90 but the State Retirement System does not. This could make a big difference to me and my family as I may have to commute some distance (from Walker to St Peter) to continue my career with the State until I reach the rule of 90. I have discussed this with the State Retirement System and MNA and they have referred me to my legislators for assistance. I am hoping you can obtain some aid for me in this area.

My home phone number is 218-547-1126.

Sincerely yours



Patrick Pitzen

PS: Evenings is easier to contact me

DOER

for Marilyn

Could you check on this

thanks - Larry Howes

1.1 ..... moves to amend H.F. No. 3358; S.F. No. 3640, as follows:

1.2 Page 2, line 6, delete everything after the first "section"

1.3 Page 2, delete lines 7 and 8 and insert "except that an eligible person under  
1.4 paragraph (b) must pay an amount equal to the employee contribution rate or rates for the  
1.5 General State Employees Retirement Plan of the Minnesota State Retirement System in  
1.6 effect for the period being purchased applied to the salary amounts received during that  
1.7 same period, plus 8.5 percent compound interest from the date these contributions would  
1.8 have been made if deducted from pay, until received by the Minnesota State Retirement  
1.9 System. The Department of Natural Resources and Department of Human Services must  
1.10 equally share payment of the remainder of the full actuarial value."

1.1 ..... moves to amend H.F. No. 3358; S.F. No. 3640, as follows:

1.2 Page 2, after line 13, insert:

1.3 "(g) If the termination of covered employment is caused by a closure of the

1.4 Ah-Gwah-Ching Center within one month after the effective date of this section,

1.5 notwithstanding paragraph (f), the service credit purchase may be made within one month

1.6 after this section's effective date."



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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

HOUSE FILE No. **3358**

February 25, 2008

Authored by Howes

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

1.1 A bill for an act  
1.2 relating to retirement; general state employees retirement plan of the Minnesota  
1.3 State Retirement System; authorizing the purchase of allowable service credit for  
1.4 pre-July 1, 1977, Department of Natural Resources intermittent employment in  
1.5 certain instances.

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

1.7 Section 1. MSRS - GENERAL; PRE-JULY 1, 1977, DEPARTMENT OF  
1.8 NATURAL RESOURCES INTERMITTENT EMPLOYMENT SERVICE CREDIT  
1.9 PURCHASE.

1.10 (a) An eligible person described in paragraph (b) is entitled to purchase allowable  
1.11 service credit under Minnesota Statutes, section 352.01, subdivision 11, in the general  
1.12 state employees retirement plan of the Minnesota State Retirement System for the period  
1.13 of employment specified in paragraph (c) by making the prior service credit purchase  
1.14 payment required in paragraph (d).

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

1.16 (1) was born on February 2, 1951;

1.17 (2) became employed as a temporary laborer 1 - intermittent in the state parks  
1.18 section of the Department of Natural Resources on May 17, 1974;

1.19 (3) was not covered by the general state employees retirement plan of the Minnesota  
1.20 State Retirement System for the period May 17, 1974, through June 30, 1977, for  
1.21 employment as a temporary laborer 1 - intermittent;

1.22 (4) subsequently became covered by the general state employees retirement plan of  
1.23 the Minnesota State Retirement System for Department of Natural Resources employment  
1.24 on July 1, 1977, for employment as an unlimited intermittent, laborer 1; and

2.1 (5) became a regular state employee at the Ah-Gwah-Ching Center in February 1985  
2.2 and has continued in state employment thereafter.

2.3 (c) The eligible service credit purchase period is periods of uncovered employment  
2.4 as a temporary laborer 1 - intermittent from May 17, 1974, to June 30, 1977.

2.5 (d) Minnesota Statutes, section 356.551, applies to the service credit purchase  
2.6 authorized under this section. For purposes of Minnesota Statutes, section 356.551, the  
2.7 Department of Natural Resources and the Department of Human Services are considered  
2.8 as the employing unit, and may contribute toward the purchase as specified in that section.

2.9 (e) The executive director of the Minnesota State Retirement System may request  
2.10 documentation related to eligibility under paragraph (b) and employment during the period  
2.11 specified in paragraph (c) before crediting allowable service under this section.

2.12 (f) The service credit purchase authority provided by this section terminates upon  
2.13 termination of covered employment or December 31, 2009, whichever is earlier.

2.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.