



H.F. 3696
(Kahn)

S.F. 2424
(Betzold)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA-General
Relevant Provisions of Law: Special law provision
General Nature of Proposal: Prior service credit purchase
Date of Summary: March 3, 2008

Specific Proposed Changes

- Allows a long-service Hennepin County Commissioner who never elected to be covered by PERA-General to purchase an entire elected official career in PERA-General upon the payment of the full actuarial value of the benefit to be obtained.

Policy Issues Raised by the Proposed Legislation

1. Conformity with the Commission's Pension Policy Principles.
2. Existence of self-help remedy.
3. Appropriateness of Minnesota public pension plans selling annuities.
4. Precedent.
5. Continued appropriateness of PERA Defined Contribution Plan coverage for long-service local elected officials.

Potential Amendments

H3696-1A, requested, by the Public Employees Retirement Association (PERA), requires election of PERA-General retirement coverage for any post-purchase elected official service and shortens the purchase deadline until December 31, 2008.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JAM*
RE: H.F. 3696 (Kahn); S.F. 2424 (Betzold): PERA-General; Service Credit Purchase for Incumbent Hennepin County Commissioner
DATE: March 3, 2008

Summary of H.F. 3696 (Kahn); S.F. 2424 (Betzold)

H.F. 3696 (Kahn); S.F. 2424 (Betzold) permits Randy Johnson, a Hennepin County Commissioner, to purchase service credit from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) for his years of service as a Hennepin County Commissioner with the payment of the full actuarial value amount for the benefit to be obtained by the purchase. The purchase would be made by a transfer of his account balance in the PERA Defined Contribution Plan and, if that account is insufficient, from his accounts in the Hennepin County Supplemental Retirement Plan or in the State Deferred Compensation Program. The service credit purchase authority expires on December 31, 2009, or upon the conclusion of his service as a Hennepin County Commissioner, whichever occurs first.

Public Pension Problem of Randy Johnson

Randy Johnson of Bloomington, Minnesota, is 61 years of age and has been a Hennepin County Commissioner since 1978. Until 2003, elected local government officials who were compensated in excess of \$250 per month from 1978 to 1980, \$325 per month from 1981 to 1998, and \$425 per month after 1988 were permitted to be members of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), but the membership was optional rather than mandatory and the PERA-General membership option was available only at the start of each new term in office. Mr. Johnson did not elect PERA-General coverage in 1979 when he initially became a County Commissioner or thereafter, but did become a member of the PERA Defined Contribution Retirement Plan and made additional contributions for prior service to that plan under Minnesota Statutes, Section 353D.12. Mr. Johnson's wife apparently has now retired from the Teachers Retirement Association (TRA) and this prompted him to pursue the opportunity to purchase PERA-General service credit for his past elected official service at full actuarial value.

Requested PERA Amendment

The Public Employees Retirement Association (PERA), in a February 19, 2008, e-mail, raised a concern about the proposed legislation and the implications if Mr. Johnson seeks election for another term as a Hennepin County Commissioner after making the purchase.

Amendment H3696-1A implements the PERA-requested additional language and changes, requiring Mr. Johnson to elect coverage by the PERA General Employee Retirement Plan Coordinated Program for any future service at the same time as he applies to purchase the past service credit and shortening the election period from the date of enactment to December 31, 2008, rather than December 31, 2009.

Discussion and Analysis

H.F. 3696 (Kahn); S.F. 2424 (Betzold) permits a full actuarial value service credit purchase by Randy Johnson of a long local elected official service career from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), who is now covered by the PERA Defined Contribution Retirement Plan.

The proposed legislation raises several pension and related public policy issues for potential Commission consideration and discussion, including the following:

1. Conformity with Commission Pension Policy Principles. The policy issue is the extent of compliance of the draft proposed legislation with the Principles of Pension Policy of the Commission. Before 1999, the Commission policy had several components, but since 1999, the Commission has approved a variety of service credit purchases so long as the purchase was accompanied by a full actuarial value

purchase payment and, if the service was Minnesota public employment, the employment was not excluded from public pension coverage when rendered. The proposed legislation requires the payment of the full actuarial value of the benefit to be obtained by the purchase through a transfer from the Public Employees Retirement Association (PERA) Defined Contribution Plan, and if that is insufficient, from other tax deferred savings programs. Mr. Johnson's service credit purchase period was eligible for coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) when it was rendered as service covered by an optional membership provision that Mr. Johnson did not exercise at that time. Thus, the proposed legislation conforms with the post-1999 Commission practice and also appears to conform with the pre-1999 Commission practice. The sole gray area for the pre-1999 Commission policy compliance is the question of being a current plan member. Mr. Johnson is a current member of the PERA Defined Contribution Plan rather than PERA-General, from which the purchase payment would be made. The PERA-General optional membership provision for elected officials was eliminated in 2003 and was not exercised by Mr. Johnson before that date.

2. Existence of Self-Help Remedy; Logic of Full Actuarial Value Purchase. The policy issue is the existence of a self-help remedy for Mr. Johnson and the unclear logic of purchasing service credit at the full actuarial value price. Most service credit purchases occur when current public employees seek to round out their public career by acquiring credit for prior uncredited periods or periods of quasi-public employment. In this case, Mr. Johnson is purchasing the entirety of his public career without having any period of current defined benefit plan retirement coverage. The PERA Defined Contribution Plan, which is the sole retirement plan coverage for elected officials since 2003, provides only a lump sum benefit upon retirement. Like all PERA Defined Contribution Plan retirees, absent the proposed legislation, Mr. Johnson would likely use his lump sum benefit to purchase an annuity from an insurance company to provide periodic income during retirement. With a full actuarial value purchase of a retirement annuity from the PERA General Employee Retirement Plan if market forces operate correctly, Mr. Johnson should not be gaining any advantage over an insurance company annuity by the purchase unless he concludes his public career in the future with a significantly better compensated employment position than his current position, or if PERA-General uses interest or mortality assumptions that translate a lump sum amount into a larger annuity compared to available insurance annuities, or if PERA-General provides an annuity that is better structured to meet his needs than an insurance annuity because of its automatic post-retirement adjustments or its available optional annuity forms.
3. Appropriateness of PERA-General Selling Annuities. The policy issue is the appropriateness of an arrangement where the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) begins to function as if it were a general insurance company in selling annuities. Boiled down to the essentials, retirement plans are really just highly specialized insurance programs that operate under a different regulatory structure than do insurance companies. Indeed, Minnesota Statutes, Section 353.16, enacted in 1931, provides that the state's insurance laws do not apply to PERA. PERA is not currently well positioned to market single premium retirement annuities, which is the equivalent to what this proposed service credit purchase would authorize, and the field of available insurance products is unlikely to benefit from the addition of an alternative vendor in the form of PERA. The Commission should use care in authorizing service credit purchases on this scale when they equate to a Minnesota public retirement plan selling an annuity on the open market.
4. Precedent. The policy issue is whether there are precedents for the draft proposed legislation and whether the situation underlying the draft proposed legislation could establish an undesirable precedent for future requests or demands. Numerous precedents exist for approving prior service credit purchases at full actuarial value and some of those precedents include purchases by local elected officials. There are relatively few, if any, local elected officials in counties with substantial compensation for their services who have lengths of service that approach or exceed Mr. Johnson's length of service, so there is little chance of an identical or substantially similar fact situation arising. However, any pre-2003 local elected officials who failed to elect coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) when initially taking office and who subsequently desire defined benefit plan coverage could point to this proposed legislation, if enacted, as a precedent for similar requests, although the precedent is not likely to be adverse. Also, any person who is a member of the PERA Defined Contribution Plan who wants an annuity rather than a lump sum benefit may also argue that the proposed legislation is a precedent for converting the lump sum amount into a PERA-General annuity. If it is a precedent, converting PERA Defined Contribution Plan account amounts into PERA-General annuities places pressure on the PERA-General annuity conversion factors and on the funding of PERA-General if mortality tables are not kept up-to-date.

5. Appropriateness of Continuing to Limit Elected Officials to Defined Contribution Retirement Plan Coverage. The policy issue is the appropriateness of providing defined contribution retirement plan coverage as the sole retirement coverage option for elected officials. Since 1997, legislators and elected state officers who newly take office are covered by the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan rather than the Legislators Retirement Plan or the Elective State Officers Retirement Plan and, since 2003, newly elected local government elected officials are covered by the Public Employees Retirement Association (PERA) Defined Contribution Plan rather than the PERA General Employee Retirement Plan (PERA-General). For elected officials who serve short duration elective careers, the defined contribution plan coverage is likely to be very suitable and appropriate. For elected officials who serve essentially an entire career in elective service, defined contribution plan coverage may be less suitable and appropriate. If a change in coverage options for elected officials is to occur, however, the problem of being able to predict their future service length will again arise, making shifts from one plan type to another difficult to handle.

From: Mary.Vanek@state.mn.us
Sent: Tuesday, February 19, 2008 3:23 PM
To: Larry Martin
Cc: Sen.Don.Betzold@senate.mn
Subject: SF 2424

Larry,

I have one concern related to this special legislation for Commissioner Johnson. If he chooses to run for another term, he will have additional years for which he served as commissioner, but for which he didn't participate in the PERA defined benefit plan. Under the bill, he is required to make the actuarial purchase by December 31, 2009, or termination of service, whichever is earlier. It does nothing to address what would happen if he decides to run for another term as Commissioner. I do not know his plans -- I haven't talked to him about them. I do think we need to anticipate what we would do if he decides to run for and assumes another term in office.

I'd like to suggest that he be required to participate in PERA Coordinated Plan from some point forward -- perhaps from the first of the month after he notifies us of his intent to purchase the service allowed under this special bill. I'd also like to suggest that the option to purchase the service in the defined benefit plan expire on December 31, 2008 or one year from date of enactment of the bill. I'm open to any suggestions, but do think we need to anticipate something with respect to this issue.

Thank you.
Mary Vanek

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1.1 moves to amend H.F. No. 3696; S.F. No. 2424, as follows:

1.2 Page 1, line 20, after "section" insert "if the eligible person also elects to participate
1.3 in the general employees retirement plan of the Public Employees Retirement Association
1.4 governed by Minnesota Statutes, chapter 353, effective on the first day of the next
1.5 following month"

1.6 Page 2, line 9, delete "2009" and insert "2008"

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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 3696

March 3, 2008

Authored by Kahn

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 employees retirement plan of the Public
1.3 Employees Retirement Association; permitting the purchase of service credit
1.4 for Hennepin County elected service.

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

1.6 Section 1. **PERA-GENERAL; HENNEPIN COUNTY ELECTED SERVICE**
1.7 **CREDIT PURCHASE.**

1.8 (a) Notwithstanding any provision of law to the contrary, an eligible person
1.9 described in paragraph (b) is entitled to purchase allowable service credit from the general
1.10 employees retirement plan of the Public Employees Retirement Association for the period
1.11 of service as elected county commissioner for Hennepin County that is not otherwise
1.12 covered under Minnesota Statutes, chapter 353, if the eligible person makes the payment
1.13 required under paragraph (d).

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

1.15 (1) was born on November 18, 1946;

1.16 (2) was elected as a Hennepin County commissioner in November 1978 and was
1.17 sworn in as a commissioner on January 2, 1979.

1.18 (c) The eligible person described in paragraph (b) may apply to the executive
1.19 director of the Public Employees Retirement Association to make the service credit
1.20 purchase under this section. The application must be in writing and must be accompanied
1.21 with necessary documentation of the applicability of this section and of any other relevant
1.22 information that the executive director may require.

1.23 (d) Allowable service credit under Minnesota Statutes, section 353.01, subdivision
1.24 16, must be granted by the general employees retirement plan of the Public Employees

2.1 Retirement Association to the person upon the receipt of the prior service credit purchase
2.2 payment amount required under Minnesota Statutes, section 356.551. The payment
2.3 obligation must be offset first by a transfer of the account balance to the credit of the
2.4 eligible person from the defined contribution plan of the Public Employees Retirement
2.5 Association. If that transfer is insufficient, the balance of the service credit purchase
2.6 payment may be made from amounts to the credit of the eligible person under Minnesota
2.7 Statutes, section 352.96 or 383B.46.

2.8 (e) Authority for an eligible person to make the prior service credit purchase
2.9 under this section expires on December 31, 2009, or upon the termination of service as
2.10 a Hennepin County commissioner, whichever is earlier.

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