



Document LCPR09-070 (Atkins)

Executive Summary of Commission Staff Materials

<i>Affected Pension Plan(s):</i>	PERA-General
<i>Relevant Provisions of Law:</i>	Special legislation
<i>General Nature of Proposal:</i>	Authorizes a service credit purchase for period of omitted member contributions
<i>Date of Summary:</i>	February 11, 2010

Specific Proposed Changes

- Authorizes a PERA-General member to purchase service credit for a period of omitted member contributions from 1985-1986, with a mandatory payment of a significant portion of the full actuarial value purchase payment by Independent School District No. 199.

Policy Issues Raised by the Proposed Legislation

1. Conformity with Commission's Principles of Pension Policy in general.
2. Member equities – tardiness in addressing error.
3. "Rule of 90" impact of service credit purchase.
4. Allocation of full actuarial value purchase obligation and extent of Independent School District No. 199, Inver Grove Heights, fault for omitted deductions.

Potential Amendments

No potential amendments.



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Lawrence A. Martin, Executive Director *JAM*
RE: Document LCPR09-070: PERA-General; Prior Service Credit Purchase for Period of Omitted Member Contributions
DATE: February 11, 2010

Public Pension Problem of Judy Dockendorf

Judy Dockendorf of Inver Grove Heights, Minnesota, is a District Office Administrative Assistant employed by Independent School District No. 199, Inver Grove Heights. Ms. Dockendorf was hired by Independent School District No. 199, Inver Grove Heights, on August 26, 1985, but was not reported for membership in the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) and did not have PERA-General member contributions deducted from her salary by Independent School District No. 199, Inver Grove Heights, until September 1, 1986. The omitted salary deductions were not discovered and rectified under Minnesota Statutes, Section 353.27, Subdivision 12, within the three-year period when an administrative recovery of omitted contributions is permitted, so Ms. Dockendorf does not have PERA-General service credit for the 1985-1986 school year. Ms. Dockendorf is considering early normal retirement from PERA-General under the "Rule of 90," but her retirement under that provision would be delayed for one year without obtaining PERA-General service credit for the omitted contribution period.

Ms. Dockendorf indicates a desire to obtain special authority to obtain service credit for this period of school district employment. She also indicates that the school district has acknowledged to her its error in this omitted contribution problem and that the school district business manager has agreed to pay the matching retirement contributions and fines to correct the uncredited service period.

Summary of Document LCPR09-070

Document LCPR09-070 would permit Judy Dockendorf to purchase one year of service credit from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) with the payment by her of the contributions she would have paid during the 1985-1986 school year, plus 8.5 percent annual compound interest on the amount since the midpoint of the 1985-1986 school year. Her prior service credit purchase payment would trigger a mandatory purchase payment by Independent School District No. 199, Inver Grove Heights, of the balance of the full actuarial value prior service credit purchase payment amount required under Minnesota Statutes, Section 356.551. Authority to make the purchase would expire at the end of the 2010-2011 school year or upon Ms. Dockendorf's retirement, if earlier than July 30, 2011.

Discussion and Analysis

Document LCPR09-070 permits Judy Dockendorf, an Inver Grove Heights, Minnesota, resident and Inver Grove Heights Public Schools administrative employee with one year of uncovered school district employment by virtue of a school district reporting error to purchase from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) one year of previously uncredited service credit, with her obligation being the amount of unpaid member contributions plus interest and with the school district obligation being the balance of the full actuarial value of the retirement benefit purchased. The authority expires at the end of the 2010-2011 school year.

The proposed legislation raises several pension and related public policy issues for identification and possible discussion by the Legislative Commission on Pensions and Retirement, as follows:

1. Conformity with Commission's Principles of Pension Policy In General. The policy issue is the conformity of the draft proposed legislation with the Commission's Principles of Pension Policy. With respect to service credit purchases, Policy Principle II.C.10. provides that:

[p]urchases of public pension plan credit for periods of prior service should be permitted only if it is determined by the Commission:

- that the period to be purchased is public employment or relates substantially to the public employee's career,
- that the purchase payment amount from the member or from a combination of the member and the current or former employer must equal the actuarial liability to be incurred by the pension plan for the benefit associated with

the purchase, appropriately calculated, without the provision of a subsidy from the pension plan unless an error or an omission by the pension plan was responsible for the loss of service credit,

- that the purchase payment amount must include a minimum payment by the member of the equivalent member contributions, plus compound interest from the purchase period to the date of payment unless the employer committed a particularly egregious error,
- that the purchase payment is the responsibility of the member, with the current or former employer authorized to pay some or all of the portion of the payment amount in excess of the minimum member payment amount, unless the employer has some culpability in the circumstances giving rise to the purchase and then a mandatory employer contribution may be imposed, and
- that the purchase must not violate notions of equity.

The service period for purchase under the special legislation is public employment, the full actuarial value of the benefit to be obtained by the purchase is payable under the special legislation, the member is charged with the equivalent member contribution amount, the employer is assessed a likely substantial portion of the purchase payment amount as discussed specifically in issue #4, and the purchase arguably does not violate notions of equity as discussed specifically in issue #2. As a consequence, unless the Commission comes to a different conclusion for issue #2 and #4, the purchase appears to conform with the Commission's Policy Principles.

2. Member Equities – Tardiness in Addressing Error. The policy issue is whether or not the purchase of prior uncredited service credit purchase violates notions of equity. On the part of the member, Judy Dockendorf, the sole potential adverse equitable consideration appears to be the 24-year delay in addressing the apparent error or omission in failing to report Ms. Dockendorf as a member of PERA-General. PERA-General law provides for an administrative opportunity to address failures to obtain service credit during the three-year period after the service credit failure. All statewide and major local Minnesota public employee retirement plans are required to provide their members with an annual statement of their accrued service credit and their earned potential retirement benefit. The combination of annual statements providing notice of service credit and an administrative remedy for service credit errors during the three years after service was rendered should provide ample opportunities for a vigilant plan member to correct service credit. The process appears not to have worked for Ms. Dockendorf. Now that Ms. Dockendorf is on the cusp of retirement under the "Rule of 90," when total service credit plus age totaling 90 permits a member to retire with a benefit unreduced for early retirement, the question of her uncredited service has arisen. If Ms. Dockendorf knew that she had uncredited service and failed to pursue that question at an earlier time, that delay increased the cost of its resolution and could constitute a basis for finding a violation of equity. Ms. Dockendorf should be provided an opportunity to describe the process she followed in determining that she had uncredited service.
3. "Rule of 90" Impact of Service Credit Purchase. The policy issue is the appropriateness of permitting a service credit purchase that qualifies the purchaser access to a "Rule of 90" early normal retirement annuity. While consideration of early retirement under the "Rule of 90" is understandable for an employee who fears a future job loss, as Ms. Dockendorf indicates that she does, the access to subsidized early retirement will increase the benefit to be obtained by the service credit purchase and will increase the full actuarial cost service credit purchase payment obligation, which the draft proposed legislation likely allocates in substantial amount to the school district. The Commission historically has been concerned about service credit purchases that give rise to "Rule of 90" eligibility, rejecting in the past requests by public employees who are not "Rule of 90" eligible (i.e., post-July 1, 1989 hire) from purchasing pre-1989 periods that could convey "Rule of 90" eligibility, but has permitted pre-1989 employees, akin to Ms. Dockendorf, to purchase service credit that accelerated the date of access to their "Rule of 90" retirement annuity. PERA should be requested to estimate the full actuarial value prior service credit purchase payment obligation and to indicate how much of that purchase payment obligation is due to "Rule of 90" eligibility.
4. Allocation of Full Actuarial Value Purchase Obligation and Extent of Independent School District No. 199, Inver Grove Heights, Fault for Omitted Deductions. The policy issue is the appropriateness of imposing a substantial portion of the prior service credit purchase payment obligation on Independent School District No. 199, Inver Grove Heights, based on Ms. Dockendorf's assertion that the school district business manager agreed to pay the school district's portion of the purchase. The Commission Principles of Pension Policy provide for the mandatory employer payment of a substantial portion of the full actuarial value service credit purchase amount if the employing unit has culpability in causing the uncredited service. Independent School District No. 199, Inver Grove Heights, has not had an opportunity to contest before the Commission the question of its culpability and should be provided with an opportunity to provide any information that it may have about the circumstances of Ms. Dockendorf's employment during the 1985-1986 school year so that the Commission has some factual clarity on the record before imposing a significant liability on the district.

March 04, 2005

PERA ID No. J

COPY

MAUREEN KLEIN PAYROLL CLERK
INVER GROVE HEIGHTS ISD - 199
2990 80TH ST E
INVER GROVE HEIGHTS MN 55076-3232

Dear Maureen Klein:

Thank you for the letter dated 2/28/05, regarding Judy (Clifton) Dockendorf's hire date with the District (please see enclosed copy).

In this letter, you requested that PERA change Ms. Dockendorf's current PERA eligibility date from 10/1/1986 to the suggested date of August 26, 1985.

MN Statute 353.27 Subd. 12.(e), does not allow for omitted deductions after three calendar years from the year in which the deductions were omitted. PERA cannot give service credits nor change hire dates without corresponding earnings and PERA deductions. Since the timeframe for omitted deductions has expired, we are unable to comply with your request.

If you have any questions regarding omitted deductions, please call 1-888-892-7372(3).

Sincerely,

Chris Arcand
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

Cc: Judy Dockendorf

① DOCKENDORF

Your Honorable Representative Joe Atkins
503 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd
St. Paul MN 55155

Re: Obtaining One Year of Earned Service Toward My PERA Retirement

Dear Representative Atkins:

Because you have been so generous and have assisted many of your constituents, I am asking you to consider assisting me to obtain an important one additional year of service toward my PERA retirement.

I have worked at the school district for 23 years. Independent School District 199 did not enroll me in the PERA retirement fund for the 1985-1986 school year with an eligibility hire date of 8/26/1985 for which I was eligible. When an attempt was made to have my hire date changed from September 1, 1986 to August 26, 1985 (copy of letter attached), PERA responded MN Statute 353.27 Subd. 12.(e) "does not allow for omitted deductions after three calendar years from the year in which the deductions were omitted".

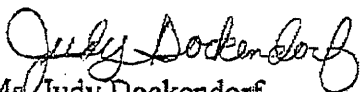
Would you please consider introducing a legislative bill for an open window which would temporarily exclude the three calendar years in MN Statute 353.27 Subd. 12(e). This would allow me (and possibly other state employees) the opportunity to obtain the service credits from PERA that should have rightfully been credited to us.

Mr. Bruce Rimstad, ISD Business Manager, has agreed to pay the necessary matching retirement funds and any fines that could be possibly be charged by Public Employees Retirement Association to make this correction.

With upcoming future budget restraints and technology changes, there is a serious possibility my job could be eliminated or my hours decreased. Your assistance to help me make this correction would allow me to obtain the Rule of 90 in the year that I already earn that right, rather than one year later.

I sincerely thank you for your consideration of this request. I can be reached at 651 306 7822. Mr. Rimstad can be reached at 651 306 7807.

In deep gratitude for any consideration of my request,


Ms. Judy Dockendorf
2930 Bruce Court East
Inver Grove Heights MN 55077
651 306 7822 (work)

Copy: Honorable Senator James Metzen

A bill for an act

relating to retirement; PERA-General; authorizing the purchase of prior service credit for a period of omitted member deductions for certain Inver Grove Heights public school employees.

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

Section 1. PERA-GENERAL; PURCHASE OF OMITTED INVER GROVE HEIGHTS SCHOOL DISTRICT OMITTED MEMBER CONTRIBUTIONS.

(a) Notwithstanding any provision of law to the contrary, an eligible person described in paragraph (b) is entitled to purchase from the general employees retirement plan of the Public Employees Retirement Association allowable service credit under Minnesota Statutes, section 353.01, subdivision 16, for the period of omitted member deductions described in paragraph (c).

(b) An eligible person is a person who:

(1) was born on (insert applicable date of birth);

(2) is a current employee of Independent School District No. 199, Inver Grove Heights;

(3) is a current member of the general employees retirement plan of the Public Employees Retirement Association;

(4) was employed by Independent School District No. 199, Inver Grove Heights, on August 26, 1985; and

(5) was not reported by Independent School District No. 199, Inver Grove Heights, for retirement coverage by and membership in the general employees retirement plan of the Public Employees Retirement Association until September 1, 1986.

2.1 (c) The period of uncredited service authorized for purchase is the period of August
2.2 26, 1985, until August 31, 1986, during which no member contributions for the general
2.3 employees retirement plan of the Public Employees Retirement Association were
2.4 deducted from the eligible person's salary by Independent School District No. 199, Inver
2.5 Grove Heights.

2.6 (d) The purchase payment amount payable by the eligible person is four percent of
2.7 the eligible person's salary under Minnesota Statutes 1984, section 353.01, subdivision
2.8 10, from Independent School District No. 199, Inver Grove Heights, during the period of
2.9 August 26, 1985, until August 31, 1986, plus annual compound interest on that amount at
2.10 the rate of 8.5 percent from March 1, 1986, until the date on which payment is made to
2.11 the Public Employees Retirement Association. The purchase payment amount payable
2.12 by Independent School District No. 199, Inver Grove Heights, is the balance of the full
2.13 actuarial value prior service credit purchase payment amount determined under Minnesota
2.14 Statutes, section 356.551, as of the first day of the month next following the receipt of the
2.15 eligible person's payment that is remaining after deducting the purchase payment amount
2.16 payable by the eligible person.

2.17 (e) The school district purchase payment amount payable under paragraph (d) must
2.18 be made on or before the 15th of the month next following the receipt of the eligible
2.19 person's payment under paragraph (d). If the school district purchase payment amount is
2.20 not paid in a timely fashion, the amount due accrues compound monthly interest at the
2.21 rate of 0.71 percent per month from the first day of the month next following the receipt
2.22 of the eligible person's payment until the school district purchase payment amount is
2.23 received by the Public Employees Retirement Association. If the school district purchase
2.24 payment amount is not paid to the Public Employees Retirement Association 90 days
2.25 after the receipt of the eligible person's payment, the executive director shall notify the
2.26 commissioner of Minnesota Management and Budget, the commissioner of education, and
2.27 the commissioner of revenue of that unpaid obligation and the unpaid obligation must be
2.28 deducted from any state aid otherwise payable to the school district, plus interest.

2.29 (f) The eligible person must provide the executive director of the Public Employees
2.30 Retirement Association with any relevant requested information pertaining to this service
2.31 credit purchase.

2.32 (g) Authority to make a service credit purchase under this section expires on June
2.33 30, 2011, or upon the termination from public employment under Minnesota Statutes,
2.34 section 353.01, subdivision 11a, whichever occurs earlier.

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