



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Rachel Barth, Deputy Director
RE: H.F. 3422 (Knoblach); SF xxxx: MnSCU-IRAP, TRA; Retroactive and Prospective TRA Coverage Election
DATE: March 21, 2016

Summary of H.F. 3422 (Knoblach); SF xxxx

H.F. 3422 (Knoblach); SF xxxx, permits Janelle LeBlanc to elect retroactive (to July 2001) and prospective Teachers Retirement Association (TRA) retirement coverage for her Minnesota State Colleges and Universities System (MnSCU) academic advisor employment and to pay back a previous Public Employees Retirement Association (PERA) refund. The main components of the bill are:

1. Requires Ms. LeBlanc to repay the refund, plus interest, she took for her PERA service before she can elect TRA coverage;
2. Allows Ms. LeBlanc to elect TRA coverage and requires that this election be made before January 1, 2017;
3. Transfers past MnSCU Individual Retirement Account Plan (IRAP) member contributions, plus investment returns, to TRA, plus Ms. LeBlanc's payment of any shortage compared to the TRA required member contributions on her MnSCU compensation;
4. Requires MnSCU to pay TRA any remainder of the service credit purchase payment amount calculated under Minn. Stat. § 356.551 within 60 days of TRA receiving Ms. LeBlanc's portion; and
5. Requires Ms. LeBlanc to make the service credit purchase before January 1, 2017.

Public Pension Problem of Janelle LeBlanc

Janelle LeBlanc is a 59-year-old academic advisor at St. Cloud State University (SCSU), which is part of the Minnesota State Colleges and Universities System (MnSCU). Ms. LeBlanc began her public employment in 1987 when she worked in a position with TRA retirement coverage. After a break in public employment, Ms. LeBlanc worked for a governmental subdivision with PERA General Employee Retirement Plan (PERA-General) retirement coverage from 1995 to 1996. Ms. LeBlanc took a refund of the member contributions, plus interest, for her PERA service. In the late 1990's, Ms. LeBlanc was employed by SCSU in a position with Minnesota State Retirement System General State Employees Retirement Plan (MSRS-General) retirement coverage. On July 1, 2001, Ms. LeBlanc was hired in her current position as an academic advisor and her retirement coverage changed to MnSCU's Individual Retirement Account Plan (IRAP), a defined contribution plan. Pursuant to Minn. Stat. 2001 § 354B.21, subd. 2, para. (c), Ms. LeBlanc was eligible to make a one-time, irrevocable retirement coverage election to switch from the default IRAP coverage to TRA.

In order for the employee to revise retirement coverage, statute required the employer to provide the employee with information about the TRA and IRAP retirement plans and an election form. To elect TRA

coverage, the employee had to fill out the election form and return it to Human Resources personnel within 90 days of the date the employer provided the employee with information and an election form (Minn. Stat. 2001 § 354B.21, subd. 2, para. (c)). Ms. LeBlanc states that her employer never provided the required information or election and was never made aware that she was eligible to elect TRA coverage. MnSCU is currently unable to confirm or deny that Ms. LeBlanc signed a consent form that she was provided the necessary information, which employees were required to sign once they received the retirement option information. Ms. LeBlanc would now like to convert her IRAP account into TRA coverage. In order to convert her IRAP account to TRA coverage, Ms. LeBlanc must repay the refund, plus interest, she took for her PERA service pursuant to Minn. Stat. § 356.551, subd. 1, para. (c).

Policy Considerations

H.F. 3422 (Knoblach); SF xxxx, raises the following policy considerations:

1. Evidence of Error. Ms. LeBlanc states that she was unaware of her eligibility to elect TRA coverage and that her employer failed to provide her with any information. MnSCU has been unable to confirm or deny that Ms. LeBlanc signed any statement stating that the employer notified her of the retirement election option and provided her with the required information to make an informed decision, which employees were required to sign once they received the retirement option information. Therefore, the equities appear to run with Ms. LeBlanc and the proposed legislation will fix an employer error.
2. Precedent for Similarly Situated Individuals. The Legislative Commission on Pensions and Retirement has approved past bills allowing an individual to retroactively elect to switch from IRAP to TRA coverage. Those cases presented evidence of an employer error, specifically that the employer never informed the individual about the election option or failed to provide the individual with the required information. Such cases also required MnSCU to pay the remaining amount of the full actuarial value purchase amount. In Ms. LeBlanc's case, there is an indication that the employer made an error and failed to inform her of her eligibility to elect TRA coverage. MnSCU can neither confirm nor deny that Ms. LeBlanc was provided the opportunity to elect TRA coverage and there is no evidence that she signed a consent form stating her employer provided her with the required information to make an informed election decision and the election form. Ms. LeBlanc's case is similar to past cases and the proposed legislation is therefore supported by precedent.
3. Cost. Ms. LeBlanc will be required to both repay the PERA refund and pay a portion of the actuarial value of her calculated benefit to cover the liability TRA will be assuming if she elects TRA coverage. PERA estimated that the refund amount, member contributions plus interest, that Ms. LeBlanc must repay is \$29,069.86. TRA estimated, pursuant to Minn. Stat. § 356.551, that the total amount that must be paid to cover the liability of Ms. LeBlanc receiving retroactive and prospective TRA coverage is \$176,060.66. Ms. LeBlanc must pay the portion that is based on the member contributions, plus investment earnings and interest, which she would have paid had she been a contributing TRA member beginning July 1, 2001. The proposed legislation requires Ms. LeBlanc to use her IRAP account funds to pay her portion of the cost. After Ms. LeBlanc pays her required portion, MnSCU will be required to pay any remaining amount of the actuarial value of the TRA benefit.

TRA is not the only retirement plan that will be affected if the proposed legislation is enacted. After Ms. LeBlanc repays her PERA refund, she will be eligible for a combined service annuity (CSA) for her

past service with PERA and MSRS. The CSA benefits from MSRS and PERA will be further enhanced if she also receives TRA coverage for her current academic advisor position. CSA allows Ms. LeBlanc to receive a pension from TRA, PERA, and MSRS, but the MSRS and PERA annuities will be higher under a CSA than they would be if she maintained her IRAP account. Under the CSA provision, PERA and MSRS will calculate Ms. LeBlanc's respective annuity using the same high-five average salary used by TRA, rather than the high-five salary from her PERA or MSRS service, because it is higher due to her longer service time and higher annual salary. Additional TRA coverage will also allow Ms. LeBlanc to utilize the Rule of 90. Providing Ms. LeBlanc with retroactive and prospective TRA coverage will have some degree of a financial impact on both PERA and MSRS.

Technical Amendment

Amendment H3422-1A. Currently, the bill does not have an effective date, which was unintentional. The amendment adds an effective date that the legislation is effective the day following final enactment.

Attachments

- H.F. 3422 (Knoblach)
- Amendment H3422-1A