



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: Proposed Public Employees Retirement Association (PERA) Amendments to Minnesota State Retirement System (MSRS) Administrative Bill, H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold): MSRS Administrative Provisions

DATE: March 1, 2007

The Public Employees Retirement Association (PERA) Executive Director, Mary Most Vanek, has requested that the Commission consider an amendment to provide PERA plans with a leave of absence treatment provision comparable to that proposed for Minnesota State Retirement System (MSRS) plans in the MSRS administrative bill, H.F. 1139 (Murphy, M., by request); S.F. 629 (Betzold), Section 5, on page 9, lines 11 to 32.

Amendment H1139-16A revises H.F. 1139; S.F. 629 by creating a provision in PERA statutes comparable to the proposed MSRS leave of absence treatment found in Section 5 on page 9, lines 11 to 32. The treatment would apply to the General Employees Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Plan (PERA-P&F), and the Local Government Correctional Service Retirement Plan (PERA-Correctional) for employees who go on unpaid personal, parental, or medical leaves. Under the proposed treatment, individuals would pay contributions plus interest if payment is received within one year of the leave, or full actuarial value if payment is received after one year.

If the Commission chooses to add a five-year time limit on payments under the proposed MSRS provision, the Commission may wish to consider a comparable five-year limit on the similar proposed PERA leave treatment. Amendment H1139-17A places a five-year time limit on the PERA leaves.

1.1 moves to amend H.F. No. 1139; S.F. No. 629 as follows:

1.2 Page 14, after line 28, insert:

1.3 "Sec. 13. Minnesota Statutes 2006, section 353.01, subdivision 16, is amended to read:

1.4 Subd. 16. **Allowable service; limits and computation.** (a) "Allowable service"
1.5 means:

1.6 (1) service during years of actual membership in the course of which employee
1.7 contributions were made, periods covered by payments in lieu of salary deductions under
1.8 section 353.35;

1.9 (2) service in years during which the public employee was not a member but for
1.10 which the member later elected, while a member, to obtain credit by making payments to
1.11 the fund as permitted by any law then in effect;

1.12 (3) a period of authorized leave of absence with pay from which deductions for
1.13 employee contributions are made, deposited, and credited to the fund;

1.14 (4) a period of authorized personal, parental, or medical leave of absence without
1.15 pay, including a leave of absence covered under the federal Family Medical Leave Act,
1.16 that does not exceed one year, and ~~during or~~ for which a member obtained service credit
1.17 for each month in the leave period by ~~payments~~ payment under section 353.0161 to the
1.18 fund made in place of salary deductions. ~~The payments must be made in an amount~~
1.19 ~~or amounts based on the member's average salary on which deductions were paid for~~
1.20 ~~the last six months of public service, or for that portion of the last six months while the~~
1.21 ~~member was in public service, to apply to the period in either case that immediately~~
1.22 ~~precedes the commencement of the leave of absence. If the employee elects to pay the~~
1.23 ~~employee contributions for the period of any authorized personal, parental, or medical~~
1.24 ~~leave of absence without pay, or for any portion of the leave, the employee shall also, as~~
1.25 ~~a condition to the exercise of the election, pay to the fund an amount equivalent to the~~
1.26 ~~required employer and the additional employer contributions, if any, for the employee.~~
1.27 ~~The payment must be made within one year from the expiration of the leave of absence~~

2.1 ~~or within 20 days after termination of public service under subdivision 11a, whichever~~
2.2 ~~is earlier. The employer, by appropriate action of its governing body which is made a~~
2.3 ~~part of its official records and which is adopted before the date of the first payment of~~
2.4 ~~the employee contribution, may certify to the association in writing its commitment to~~
2.5 ~~pay the employer and additional employer contributions from the proceeds of a tax levy~~
2.6 ~~made under section 353.28. Payments under this paragraph must include interest at an~~
2.7 ~~annual rate of 8.5 percent compounded annually from the date of the termination of the~~
2.8 ~~leave of absence to the date payment is made. An employee must return to public service~~
2.9 ~~and render a minimum of three months of allowable service in order to be eligible to~~
2.10 ~~pay employee and employer contributions~~ make payment under section 353.0161 for a
2.11 subsequent authorized leave of absence without pay. Upon payment, the employee must
2.12 be granted allowable service credit for the purchased period;

2.13 (5) a periodic, repetitive leave that is offered to all employees of a governmental
2.14 subdivision. The leave program may not exceed 208 hours per annual normal work
2.15 cycle as certified to the association by the employer. A participating member obtains
2.16 service credit by making employee contributions in an amount or amounts based on the
2.17 member's average salary that would have been paid if the leave had not been taken. The
2.18 employer shall pay the employer and additional employer contributions on behalf of the
2.19 participating member. The employee and the employer are responsible to pay interest on
2.20 their respective shares at the rate of 8.5 percent a year, compounded annually, from the
2.21 end of the normal cycle until full payment is made. An employer shall also make the
2.22 employer and additional employer contributions, plus 8.5 percent interest, compounded
2.23 annually, on behalf of an employee who makes employee contributions but terminates
2.24 public service. The employee contributions must be made within one year after the end of
2.25 the annual normal working cycle or within 20 days after termination of public service,
2.26 whichever is sooner. The executive director shall prescribe the manner and forms to be
2.27 used by a governmental subdivision in administering a periodic, repetitive leave. Upon
2.28 payment, the member must be granted allowable service credit for the purchased period;

2.29 (6) an authorized temporary or seasonal layoff under subdivision 12, limited to three
2.30 months allowable service per authorized temporary or seasonal layoff in one calendar year.
2.31 An employee who has received the maximum service credit allowed for an authorized
2.32 temporary or seasonal layoff must return to public service and must obtain a minimum of
2.33 three months of allowable service subsequent to the layoff in order to receive allowable
2.34 service for a subsequent authorized temporary or seasonal layoff; or

2.35 (7) a period during which a member is absent from employment by a governmental
2.36 subdivision by reason of service in the uniformed services, as defined in United States

3.1 Code, title 38, section 4303(13), if the member returns to public service upon discharge
3.2 from service in the uniformed service within the time frames required under United
3.3 States Code, title 38, section 4312(e), provided that the member did not separate from
3.4 uniformed service with a dishonorable or bad conduct discharge or under other than
3.5 honorable conditions. The service is credited if the member pays into the fund equivalent
3.6 employee contributions based upon the contribution rate or rates in effect at the time
3.7 that the uniformed service was performed multiplied by the full and fractional years
3.8 being purchased and applied to the annual salary rate. The annual salary rate is the
3.9 average annual salary during the purchase period that the member would have received
3.10 if the member had continued to be employed in covered employment rather than to
3.11 provide uniformed service, or, if the determination of that rate is not reasonably certain,
3.12 the annual salary rate is the member's average salary rate during the 12-month period of
3.13 covered employment rendered immediately preceding the period of the uniformed service.
3.14 Payment of the member equivalent contributions must be made during a period that begins
3.15 with the date on which the individual returns to public employment and that is three times
3.16 the length of the military leave period, or within five years of the date of discharge from
3.17 the military service, whichever is less. If the determined payment period is less than
3.18 one year, the contributions required under this clause to receive service credit may be
3.19 made within one year of the discharge date. Payment may not be accepted following 20
3.20 days after termination of public service under subdivision 11a. If the member equivalent
3.21 contributions provided for in this clause are not paid in full, the member's allowable
3.22 service credit must be prorated by multiplying the full and fractional number of years of
3.23 uniformed service eligible for purchase by the ratio obtained by dividing the total member
3.24 contributions received by the total member contributions otherwise required under this
3.25 clause. The equivalent employer contribution, and, if applicable, the equivalent additional
3.26 employer contribution must be paid by the governmental subdivision employing the
3.27 member if the member makes the equivalent employee contributions. The employer
3.28 payments must be made from funds available to the employing unit, using the employer
3.29 and additional employer contribution rate or rates in effect at the time that the uniformed
3.30 service was performed, applied to the same annual salary rate or rates used to compute the
3.31 equivalent member contribution. The governmental subdivision involved may appropriate
3.32 money for those payments. The amount of service credit obtainable under this section may
3.33 not exceed five years unless a longer purchase period is required under United States Code,
3.34 title 38, section 4312. The employing unit shall pay interest on all equivalent member and
3.35 employer contribution amounts payable under this clause. Interest must be computed at
3.36 a rate of 8.5 percent compounded annually from the end of each fiscal year of the leave

4.1 or the break in service to the end of the month in which the payment is received. Upon
 4.2 payment, the employee must be granted allowable service credit for the purchased period.

4.3 (b) For calculating benefits under sections 353.30, 353.31, 353.32, and 353.33 for
 4.4 state officers and employees displaced by the Community Corrections Act, chapter 401,
 4.5 and transferred into county service under section 401.04, "allowable service" means the
 4.6 combined years of allowable service as defined in paragraph (a), clauses (1) to (6), and
 4.7 section 352.01, subdivision 11.

4.8 (c) For a public employee who has prior service covered by a local police or
 4.9 firefighters relief association that has consolidated with the Public Employees Retirement
 4.10 Association or to which section 353.665 applies, and who has elected the type of benefit
 4.11 coverage provided by the public employees police and fire fund either under section
 4.12 353A.08 following the consolidation or under section 353.665, subdivision 4, "applicable
 4.13 service" is a period of service credited by the local police or firefighters relief association
 4.14 as of the effective date of the consolidation based on law and on bylaw provisions
 4.15 governing the relief association on the date of the initiation of the consolidation procedure.

4.16 (d) No member may receive more than 12 months of allowable service credit in a
 4.17 year either for vesting purposes or for benefit calculation purposes.

4.18 (e) MS 2002 [Expired]

4.19 Sec. 14. **[353.0161] AUTHORIZED LEAVE OF ABSENCE SERVICE CREDIT**
 4.20 **PURCHASE PROCEDURE.**

4.21 Subdivision 1. Application. This section applies to employees covered by any
 4.22 plan specified in this chapter or chapter 353E for any period of authorized leave of
 4.23 absence specified in section 353.01, subdivision 16, paragraph (a), clause (4), for which
 4.24 the employee obtains credit for allowable service by making payment as specified in
 4.25 this section to the applicable fund.

4.26 Subd. 2. Purchase procedure. (a) An employee covered by a plan specified in
 4.27 subdivision 1 may purchase credit for allowable service in that plan for a period specified
 4.28 in subdivision 1 if the employee makes a payment as specified in paragraph (b) or (c),
 4.29 whichever applies. The employing unit, at its option, may pay the employer portion of the
 4.30 amount specified in paragraph (b) on behalf of its employees.

4.31 (b) If payment is received by the executive director within one year from the end
 4.32 of the authorized leave, the payment amount is equal to the employee and employer
 4.33 contribution rates specified in law for the applicable plan at the end of the leave period
 4.34 multiplied by the employee's hourly rate of salary on the date of return from the leave of
 4.35 absence and by the days and months of the leave of absence for which the employee wants
 4.36 allowable service credit. Payments made under this paragraph must include compound

5.1 interest at a monthly rate of 0.71 percent from the last day of the leave period until the last
5.2 day of the month in which payment is received.

5.3 (c) If payment is received by the executive director after one year, the payment
5.4 amount is the amount determined under section 356.551."

5.5 Page 15, line 28, delete "17" and insert "19"

5.6 Page 15, line 29, delete "and 5" and insert ", 5, 13, and 14"

5.7 Renumber the sections in sequence and correct the internal references

5.8 Amend the title accordingly

1.1 moves to amend the amendment to H.F. No. 1139; S.F. No. 629,
1.2 H1139-1A, as follows:

1.3 Page 5, line 4, after the period insert "Payment cannot be made after five years from
1.4 the end of the authorized leave of absence."