



H.F. 1878
(Welti)

S.F. 1853/1854
(Senjem)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s): PERA Defined Contribution Plan
Relevant Provisions of Law: Uncoded special law provision
General Nature of Proposal: Service credit purchase payment authorization
Date of Summary: March 27, 2007

Specific Proposed Changes

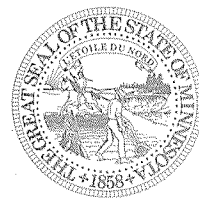
- Authorizes retired Rochester teacher to purchase 5.5 years of service credit for community education teaching that was unreported to PERA.

Policy Issues Raised by the Proposed Legislation

1. Appropriate retirement plan for service credit purchase.
2. Appropriate service credit purchase payment amount.
3. Appropriate allocation of service credit purchase payment between employee and school district.
4. Inadequate public employee employment and salary monitoring by TRA and PERA.

Potential Amendments

- H1878-1A Changes retirement plan for service credit purchase from PERA Defined Contribution Plan to PERA-General (substantive).
- H1878-2A Sets payment amount at full actuarial value amount without any minimum payment amount (substantive).
- H1878-3A Sets payment amount with minimum of equivalent member and employer contribution amounts, plus interest (substantive).
- H1878-4A Allows Commission to designate purchase payment allocation proportions (substantive).



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: H.F. 1878 (Welti); S.F. 1853/S.F. 1854 (Senjem): PERA; Service Credit Purchase for Community Education Employment

DATE: March 26, 2007

Summary of H.F. 1878 (Welti); S.F. 1853/S.F. 1854 (Senjem)

H.F. 1878 (Welti); S.F. 1853 and H.F. xxxx; S.F. 1854 (Senjem) permit James Miner, described by a set of particular facts, to purchase 5.5 years of service credit from the Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution) for a period of employment from July 1997 to January 2003 as a community education teacher by Independent School District No. 535, Rochester, with the payment of five percent of salary during the period, plus six percent annual compound interest, each by the teacher and by the school district.

Public Pension Problem of James Miner

James Miner, a 68-year-old retired Rochester teacher who was reemployed in the community education program of Independent School District No. 535, Rochester, began community education teaching service in July 1997, but was not reported to the Public Employees Retirement Association (PERA) as an employee until March 2006, when he became a member of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General). PERA-General law permits the recovery of unpaid member deductions and employer contributions for a maximum of three prior years, so Mr. Miner has PERA-General service credit from January 2003, but has no retirement credit for the 5.5 years of community teaching service he rendered before January 2003. Independent School District No. 535, Rochester, acknowledged its error in not reporting Mr. Miner to PERA and in not making member contribution deductions before 2006 in a January 29, 2007, letter from Superintendent Jerry Williams to Senator David Senjem.

Background Information on the Retirement Plans Administered by PERA

The Public Employees Retirement Association (PERA) administers several defined benefit retirement plans and one defined contribution plan. The defined benefit retirement plans administered by PERA are the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), the Public Employees Police and Fire Retirement Plan (PERA-P&F), and the Local Government Correctional Employees Retirement Plan of the Public Employees Retirement Association (PERA-Correctional). The defined contribution retirement plan administered by PERA is the Public Employees Defined Contribution Plan.

Defined benefit retirement plans focus on the benefit levels to be provided by the plan, typically specifying or defining the benefit amount by the use of a formula related to a person's final salary or final average salary, with the plan funding becoming the variable element to be determined by periodic actuarial valuations. Defined contribution retirement plans focus on the funding levels to be provided to the plan, typically specifying or defining the contribution levels as a percentage of covered pay, with the plan benefits becoming the variable element to be determined primarily by the passage of time and investment performance.

Discussion and Analysis

H.F. 1878 (Welti); S.F. 1853 and H.F. xxxx; S.F. 1854 (Senjem) both permit James Miner, a Teachers Retirement Association (TRA) annuitant who is a community education teacher for Independent School District No. 535, Rochester, to obtain credit for a period of community education service from July 1997 to January 2003 in the Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution) by requiring Mr. Miner to make a five percent of salary contribution for the period, plus six percent compound interest, and by requiring Independent School District No. 535, Rochester, to make an identical employer contribution with interest.

The proposed legislation raises several retirement and related public policy issues for potential Commission consideration and discussion, as follows:

1. Appropriate Retirement Plan for Service Credit Purchase. The policy issue is whether the Defined Contribution Retirement Plan of the Public Employees Retirement Association (PERA-Defined Contribution) is the appropriate retirement plan in which Mr. Miner should purchase pension credit for his 5.5 years of community education service prior to becoming a member of the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General). The proposed legislation requires that the purchase be made from PERA-Defined Contribution, although Mr. Miner has not previously been a member of PERA-Defined Contribution. Mr. Miner is currently a member of the PERA General Employee Retirement Plan for his continuation of service as a community educator and Mr. Miner would have been a member of PERA-General if he had been properly reported by the school district in 1997. Independent School District No. 535, Rochester, may have chosen PERA-Defined Contribution for the purchase either because of Mr. Miner's age, where defined contribution plan coverage will be more flexible and potentially more valuable than defined benefit plan coverage, or because PERA-Defined Contribution would require a potentially smaller purchase payment.

If the Commission concludes that PERA-General is the appropriate plan from which the 5.5 years of service credit should be purchased, **Amendment H1878-1A** would recast the proposed legislation as a PERA-General service credit purchase following the Commission's established policy on service credit purchases.

2. Appropriate Service Credit Purchase Payment Amount. The policy issue is the appropriate payment amount to be required in connection with the service credit purchase. The longstanding Commission policy provides for a payment amount equal to the actuarial present value of the additional benefit obtained by virtue of the purchase. For most service credit purchases, when the purchase authority is usually sought by public employees nearing retirement or qualifying for early retirement, the full actuarial value calculation is several multiples of the amount of equivalent member and employer contributions plus 8.5 percent annual interest. For purchasers who are past their normal retirement age, like Mr. Miner, and for purchasers who are very early in public careers, the full actuarial value can be less than the equivalent contributions plus interest. For this reason, Minnesota Statutes, Section 356.551, Subdivision 2, Paragraph (c), sets a minimum payment amount equal to the current year's member and employer contribution amounts, multiplied by the total service credit amount to be purchased. Thus, for Mr. Miner, according to the Public Employees Retirement Association (PERA), the PERA-General Employee Retirement Plan full actuarial value service credit purchase amount for 5.5 years of service credit as of June 30, 2007, would be \$5,968, the minimum service credit purchase payment under Minnesota Statutes, Section 356.551, would be \$6,656, and the equivalent PERA-General member and employer contributions, plus 8.5 interest, as of June 30, 2007, would be \$8,391 (\$4,022 member plus \$4,369 employer). Amendment H1878-1A, by cross-referencing Minnesota Statutes, Section 356.551, would require a \$6,656 payment in total, thus providing a built-in actuarial gain to PERA-General of \$688, but not providing PERA-General with the full equivalent contributions and investment earnings at the interest rate actuarial assumption (8.5 percent) of an additional \$1,735.

If the Commission concludes that a different payment amount than the minimum purchase payment under Minnesota Statutes, Section 356.551, **Amendment H1878-2A** would set the amount at the full actuarial value amount without a minimum and **Amendment H1878-3A** would set the amount at the full equivalent contributions plus interest amount. If the Commission wishes to select yet a different amount, the Commission staff could draft the appropriate amendment.

3. Appropriate Allocation of the Prior Service Credit Purchase Payment Amount between Employee and the School District. The policy issue is the appropriate manner of allocating the prior service credit purchase payment between the affected employee, James Miner, and Independent School District No. 535, Rochester. The bill, as drafted, makes the member responsible for one-half of the purchase payment amount. Amendment H1878-1A, by virtue of a statutory cross-reference, makes the member responsible for the total payment, but would permit the employing school district to pay the amount in excess of the equivalent member contribution, plus 8.5 percent annual compound interest, or 39.6 percent of the total payment. Since at least 1999, which the Commission determines that employer error caused or significantly contributed to the service credit loss and admits that error or the error is reasonably inferred from the available facts, the Commission has been requiring the employer to pay the Minnesota Statutes, Section 356.551, payment amount portion in excess of the equivalent member contribution amount, plus interest. Since the total prior service credit purchase payment amount in

most service credit purchases greatly exceeds the equivalent member contribution, plus interest, the employer in an "error" situation pays a majority of the purchase payment amount. In one case (First Special Session Laws 2001, Chapter 10, Article 17, Section 3), where a school district failed to report to the Public Employees Retirement Association (PERA) eligible service by a casual clerical employee who subsequently became a full-time clerical employee and then who became a teacher, the Commission required the school district to pay the entire prior service credit payment amount. If the Commission desires to require an allocation other than a 60 percent employee/40 percent employer allocation that would occur under Amendment H1878-1A, **Amendment H1878-4A** provides for an allocation in the proportions to be determined by the Commission.

4. Inadequate Public Employee Employment and Salary Monitoring. The policy issue underlying the proposed legislation is the adequacy of the practices of the various public pension plans in determining who is eligible for mandatory retirement plan membership and what compensation is covered by a retirement plan. If the Teachers Retirement Association (TRA) had more carefully reviewed the reemployed annuitant reporting from Independent School District No. 535, Rochester, relating to Mr. Miner's post-retirement employment in the community education program operated by the school district, it could have determined that the post-1996-1997 school year employment by Mr. Miner did not constitute teaching service under TRA law because the service did not require a licensed teacher and TRA could have notified the Public Employees Retirement Association (PERA) that Mr. Miner was potentially eligible for PERA General Employee Retirement Plan coverage in 1997 or 1998, which would have avoided this problem. If PERA had more vigilantly monitored the employer salary and contribution reporting under Minnesota Statutes, Section 353.27, Subdivision 4, and employer exclusion reports under Minnesota Statutes, Section 353.27, Subdivision 10, it also would have discovered the improper exclusion of Mr. Miner from PERA coverage in late 1997 or early 1998. This employment and salary monitoring problem has been noted for several sessions now.



Rochester Public Schools

Independent School District #535
615 7th St. SW • Rochester, Minnesota 55902-2052

Office of the Superintendent • Telephone (507) 328-3000 • FAX (507) 328-4212

January 29, 2007

Senator David Senjem
147 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Representative Kim Norton
387 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55155

Dear Senator Senjem and Representative Norton:

You may recall that in December 2006, I wrote both of you an e-mail referencing a former teacher that we wish to help. Through a clerical error, he was not credited with Public Employees Retirement Association (PERA) credit for work he has done in community education. The only way this can be corrected is with legislative action, and I am asking each of you to take the lead on this in your respective legislative body.

James Miner, a former teacher at John Marshall High School and a resident on 13th Ave. NW, began teaching in the District in 1962 and retired in June 1997, after 35 years of service to the students of the Rochester Public Schools. Up to his retirement and as a teacher, he had been contributing to the Teachers Retirement Association (TRA). Subsequent to his retirement, he began teaching for community education, but because of an error, his earnings were not reported to PERA and thus no deductions from his pay check and no contributions from the school district were made.

When the mistake was discovered in 2006, we attempted to correct it back to 1997 but statute permits a correction for only three years, thus back to 2003. Therefore, the only way to restore the balance of time he worked for community education prior to those three years is through legislation.

In reviewing recent bills that have been introduced, I note HF 228 seeks authorization for payment into PERA from both the employee and school district. This is exactly what I am seeking for Jim for the years July 1997 – January 2003. I'm sure there are similar bills on the Senate side, but I could not locate one at this time.

I will leave it up to the two of you to determine next steps, but I would hope that both Senate and House bills could be introduced to correct this. Both the school district and Jim realize that back payments, with interest, will need to be made for the time period in question and both agree to do so. Initial indications are that the total payments will be less than \$1000 for each.

Using HF 228 as a guide, the following information may be necessary:

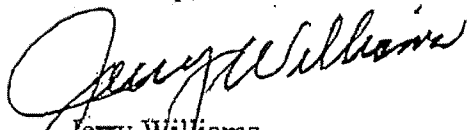
Date of birth: March 4, 1939

Dates for repayment by both the employee and employer: July 1997 -- January 2003

I have also notified John Kaul of this effort, and he has agreed to assist in any way that he can. As usual, if you need further information, please call on me.

Thank you very much.

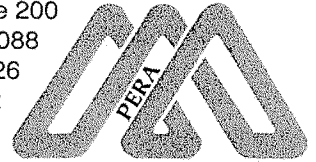
Sincerely,



Jerry Williams
Superintendent

Cc: John Kaul

Public Employees Retirement Association of Minnesota
60 Empire Drive, Suite 200
Saint Paul, Minnesota 55103-2088
Member Information Services: 651-296-7460 or 1-800-652-9026
Employer Response Lines: 651-296-3636 or 1-888-892-7372
PERA Fax Number: 651-297-2547
PERA Website: www.mnpera.org



March 20, 2007

Mr. Jerry Williams, Superintendent
Independent School District 535
615 7TH ST SW
ROCHESTER MN 55902-2052

Dear Mr. Williams:

The bill introduced recently by Representative Andy Welti and Senator David Senjem on behalf of James Miner is not written correctly for the purpose intended. We are working with the staff of the Legislative Commission on Pensions and Retirement (LCPR) to correct the language.

The bill as written assumes that the past service contributions for Mr. Miner are to be paid at the contribution rates set in statute for participants of PERA's Defined Contribution Plan. It also assumes that the cost to provide full service to Mr. Miner includes the contributions that would have been paid (at 5 percent employee and 5 percent employer), plus a stated interest rate of 6 percent compounded from July 1, 2000 to the date payment is made.

The current retirement plan in which Mr. Miner is participating is the Coordinated Plan. To purchase credit for the period July 1997 through December 31, 2002, the months for which he was employed by the school district as a community education instructor, but for which he was not reported for coverage in PERA, the special laws are usually written to require that we receive one of two payment amounts. The amount to be paid is the higher of either the actuarial value of the additional retirement annuity to which he is entitled by including those additional months of service, or current contributions times current salary, multiplied by the number of months for which service was not credited. The cost to purchase the service is much greater than the \$1,000 each to which you refer in the letter you originally sent to Representative Norton and Senator Senjem.

We have done some preliminary estimates of the cost to fully restore the lost service credit to the calculation of Mr. Miner's Coordinated Plan retirement benefit with PERA. Assuming retirement on June 30, 2007, the minimum cost would be \$6,656. Under current law directing how actuarial costs are to be paid, Mr. Miner would be responsible for the entire amount, unless the school district agrees to pay a portion. At a minimum, Mr. Miner would be expected to pay the employee contributions that would have been paid, plus interest. The minimum cost to him is estimated to be \$4,022. The school district could pay the balance, or \$2,634.

Mr. Jerry Williams, Superintendent
Page 2
March 20, 2007

The bill currently sets May 31, 2009 as the sunset date, or the date by which the purchase of service must be made under the bill. Assuming retirement on May 31, 2009, the cost to purchase the service would be \$7651. Again, Mr. Miner would be required to pay the full cost, or at a minimum, the contributions, plus interest that would have been paid if reported for coverage when first eligible in 1997. If the contributions, plus interest, are not paid until May 31, 2009, his minimum contribution-based costs increase to \$4,704. Again, the school district could then pay the difference between the full actuarial cost and the employee contributions, plus interest, or \$2,947. If paid by June 30, the minimum cost to Mr. Miner would be \$4,022 with the balance to be paid by the school district being the difference, or \$3,629.

The bill sets the expiration of the authority to purchase the additional service as May 31, 2009, or the first of the month following the termination of his service in "elected service." This too does not apply since his position with the school district is not elected service, so the LCPR staff will be correcting that reference when they rewrite the language for consideration before the Legislative Commission on Pensions and Retirement.

I am forwarding a copy of this letter to Mr. Miner, Representative Welti, and Senator Senjem. I will stop in and discuss this with both legislators to make sure they understand why the bill as written does not work. If you would like to discuss this, please feel free to contact me at (651) 296-8358, or mary.vanek@state.mn.us.

Sincerely,

Mary Most Vanek
Executive Director

C: Mr. James Miner
Representative Andy Welti
Senator David Senjem

H.F. 1878(Welti)/SF 1853 and 1854(Senjem) are for James Miner. As a community education instructor for the Rochester School District, he was eligible for enrollment in PERA in July 1997, but was not initially reported to PERA until March 16, 2006. The bill as written will not work. He is currently participating in the Coordinated Plan. His position as a community education instructor does not require a teaching license; therefore, rather than being a TRA re-employed annuitant for this service, he is in a position eligible for PERA coverage. The school district did not initially report, because they considered him to be in a teacher position and as such, subject to the TRA reemployment rules. Why it took so long for this to surface, I do not know.

He and the school district were billed for omitted deductions back to January 2003, so this legislation is intended to provide him with coverage for the rest of his uncredited service. We have calculated the actuarial cost to credit him with his past service assuming he retires on June 30, 2007, December 31, 2007 or May 31, 2009. Because he is already over the age for unreduced retirement (age 65), we simply chose these dates as a guide for calculating the additional cost of the credited service. The bill as introduced provides a sunset date of May 31, 2009, so that's why we included that cost calculation.

Assuming retirement on June 30, 2007, the actuarial cost is \$5,968, but the minimum purchase cost is \$6,656. Actuarial present value at December 31, 2007 gives a cost of \$6,427, so minimum purchase is still more at \$6,656. Retirement on May 31, 2009 puts the actuarial cost at \$7,651, with the minimum purchase remaining at \$6,656 unless we recalculate with the contribution rate increases scheduled for January 1, 2008 and January 1, 2009. I don't have that number right now, but I'll get it.

Also, we calculated the employee and employer contributions that would have been paid, and added 8.5 percent interest through the same dates and the cost would be higher if the required purchase price is contributions that would have been paid, plus our assumed investment return of 8.5 percent. The cost would be as follows:

06/30/2007 - employee = \$4,022 and the employer = \$4,369; total \$8,391
12/31/2007 - employee = \$4,191 and the employer = \$4,552; total \$8,743
05/31/2009 - employee = \$4,704 and the employer = \$5,109; total \$9,813

I'll be writing to Mr. Miner, the school district and to Representative Welti and Senator Senjem to explain why the bill as written does not work and the purchase of this service is greater than the school district has assumed.

Any questions, let me know.
Thanks.
Mary

*Mary Most Vanek, Executive Director
Public Employees Retirement Association
60 Empire Drive, Suite 200
St. Paul, MN 55103
(651) 296-8358*

- 1.1 moves to amend H.F. No. 1878; S.F. No. 1853, as follows:
- 1.2 Page 1, line 9, delete "defined contribution" and insert "general employees"
- 1.3 Page 1, delete lines 21 to 24 and insert:
- 1.4 "(c) The purchase payment amount for the uncredited community education service
- 1.5 must be determined under Minnesota Statutes, section 356.551."
- 1.6 Page 2, delete lines 1 to 5
- 1.7 Page 2, line 6, delete "(e)" and insert "(d)"

1.1 moves to amend the H1878-1A amendment to H.F. No. 1878; S.F.

1.2 No. 1853, as follows:

1.3 Page 1, line 5 after "356.551" insert ", paragraph (b), without reference to paragraph

1.4 (c)"

1.1 moves to amend the H1878-1A amendment to H.F. No. 1878; S.F.
1.2 No. 1853, as follows:

1.3 Page 1, line 5, delete everything after "be" and insert "an amount equal to (1) the
1.4 employee contribution rate or rates in effect for the general employees retirement plan
1.5 of the Public Employees Retirement Association for the service credit purchase period,
1.6 applied to the applicable salary amounts, plus annual compound interest at the rate of 8.5
1.7 percent, and (2) the employer contribution rate or rates in effect for the general employees
1.8 retirement plan of the Public Employees Retirement Association for the service credit
1.9 purchase period, applied to the applicable salary amounts, plus annual compound interest
1.10 at the rate of 8.5 percent."

1.1 moves to amend the H1878-1A amendment to H.F. No. 1878; S.F.
1.2 No. 1853, as follows:

1.3 Page 1, line 5, after "356.551." insert "Notwithstanding Minnesota Statutes, section
1.4 356.551, subdivision 2, paragraphs (d) and (e), the purchase payment amount must be
1.5 allocated on the basis of ... percent of the total by the eligible person and of the balance of
1.6 the total by Independent School District No. 535, Rochester. If the eligible person pays
1.7 the person's required portion, Independent School District No. 535, Rochester, shall
1.8 make its payment within 30 days of notification by the Public Employees Retirement
1.9 Association of its payment obligation. If Independent School District No. 535, Rochester,
1.10 does not pay the balance within 30 days of notification by the executive director of the
1.11 Public Employees Retirement Association of the payment of the member contribution
1.12 payment by the eligible person under paragraph (a), the executive director shall notify the
1.13 commissioner of finance of that fact and the commissioner shall deduct from any state
1.14 aid payable to Independent School District No. 535, Rochester, that amount, plus interest
1.15 on that amount of 1.5 percent per month for each month or portion of a month that has
1.16 elapsed from the effective date of this section."

This Document can be made available in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1878

March 8, 2007

Authored by Welti

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

A bill for an act

relating to retirement; permitting Public Employees Retirement Association service credit purchase for community education employment.

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

Section 1. COMMUNITY EDUCATION TEACHER; PRIOR SERVICE PURCHASE.

(a) An eligible person described in paragraph (b) is entitled to purchase prior uncredited service rendered as a community education teacher for Independent School District No. 535, Rochester, from the defined contribution retirement plan of the Public Employees Retirement Association.

(b) An eligible person is a person who:

(1) was born on March 4, 1939;

(2) began teaching Independent School District No. 535, Rochester, in 1962 and retired June 1997;

(3) was a contributing member of the Teachers Retirement Association until retirement;

(4) subsequent to retirement began teaching for community education; and

(5) because of an error, no deductions were taken from the person's pay and no contributions were made on the person's behalf by the school district to the Public Employees Retirement Association for the community education service.

(c) To make the purchase, the eligible person shall pay an amount equal to the salary earned by the eligible person for periods from July 1997 through January 2003, during which service was not credited, multiplied by five percent, plus compound interest on that amount at the rate of six percent from July 1, 2000, to the date of payment.

2.1 (d) If the eligible person makes the payment under paragraph (c), Independent
2.2 School District No. 535, Rochester, shall pay an amount equal to the amount under
2.3 paragraph (c). The employer payment must be made within ten days of the date of
2.4 notification of the eligible person's payment by the executive director of the Public
2.5 Employees Retirement Association.

2.6 (e) This authority expires on May 31, 2009, or on the first day of the month next
2.7 following the conclusion of the eligible member's elected public service, whichever
2.8 occurs earlier.

2.9 **Sec. 2. EFFECTIVE DATE.**

2.10 Section 1 is effective the day following final enactment.