



**H.F. 2079**  
(Murphy, M.)

**S.F. 1841**  
(Pogemiller)

### **Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* MSRS-General, PERA-General, TRA  
*Relevant Provisions of Law:* Laws 2006, Chapter 271, Article 3, Section 43  
*General Nature of Proposal:* Makes 2006 temporary early retirement incentive permanent  
*Date of Summary:* April 23, 2007

### **Specific Proposed Changes**

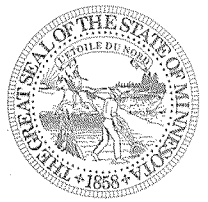
- The 2006 temporary early retirement incentive is made permanent by the removal of the 2006 sunset dates, with the date elimination made retroactive

### **Policy Issues Raised by the Proposed Legislation**


1. Appropriateness of making temporary early retirement incentive permanent.
2. Appropriateness of the entities permitted to offer the early retirement incentive.
3. No monitoring of or final approval over the designation of which employees are to be offered an incentive or option as a check on its fiscal impact.
4. Using pension plan service credit does not necessarily target long-term, higher-paid state employees.
5. Appropriateness of different eligibility service requirements for some MnSCU faculty members and other employees.
6. Retirement incentive could include reemployed annuitants rather than career employees.
7. Retirement incentive eligibility has no upper age limit.
8. Incentive needs clear election process.
9. The incentive is unclear on the nature of the annuity available to be purchased.
10. \$17,000 incentive may have limited appeal.
11. Incentive may provide a windfall to some retirees.
12. Incentive will be futile if substantial rehiring occur.
13. Lack of coding for a permanent early retirement incentive provision.
14. Appropriateness of retroactivity; need to validate past payments.

### **Potential Amendments**

- H2079-1A (substantive) adds 2008 sunset date for early retirement incentive.
- H2079-2A (substantive) requires data collection on early retirement incentive utilization.
- H2079-3A (substantive) allows Commission to specify particular employing units excluded from early retirement incentive
- H2079-4A (substantive) requires review of decisions to offer early retirement incentives.
- H2079-5A (substantive) keys incentive eligibility to employment records rather than pension plan service credit records.
- H2079-6A (substantive) sets uniform 15-year service eligibility requirement for MnSCU faculty members.
- H2079-7A (substantive) sets uniform five-year service eligibility requirement for MnSCU faculty members.
- H2079-8A (substantive) excludes reemployed annuitants from incentive eligibility.
- H2079-9A (substantive) sets a de facto age 65-70 upper age limit on eligibility.
- H2079-10A (substantive) adds a formal written incentive acceptance requirement.
- H2079-11A (substantive) clarifies annuity purchase factors to be used in connection with conversion of incentive payment.
- H2079-12A (substantive) adds limitations on reemployment as consultant.
- H2079-13A (technical) adds suggested coding in Minnesota Statutes.
- H2079-14A (substantive) deletes retroactive effective date.
- H2079-15A (substantive) retains retroactive effective date and adds benefit/payment validation language.
- H2079-16A (technical) eliminates a grammatically unnecessary clause.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director 

RE: H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller): Various Retirement Plans; Permanent Status for 2006 Early Retirement Incentive

DATE: April 23, 2007

Summary of H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller)

H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller) amends Laws 2006, Chapter 271, Article 3, Section 43, by eliminating the 2006 expiration dates, thereby making the 2006 temporary early retirement incentive permanent.

Background Information

- A. Previous Early Retirement Incentive Programs. Background information on early retirement incentive programs previously enacted by the Legislature is set forth in Attachment A.
- B. 2006 Early Retirement Incentive Program. Background information on the 2006 early retirement incentive program, Laws 2006, Chapter 271, Article 3, Section 43, is set forth in Attachment B.

Discussion and Analysis

H.F. 2079 (Murphy, M.); S.F. 1841 (Pogemiller) makes permanent the 2006 early retirement incentives, Laws 2006, Chapter 271, Article 3, Section 43, which expired on September 1, 2006.

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

1. Appropriateness of Making Temporary Early Retirement Incentive Permanent. The policy issue is the appropriateness of eliminating the expiration date on a temporary early retirement incentive, thereby making the incentive program a permanent part of most state or local school district employment. The 2006 early retirement incentive program, first proposed in 2005, was designed by the Middle Management Association, the state's third largest labor union and was extremely short, in force from June 2, 2006, to September 1, 2006. given its very short duration, no indication by proponents before the Legislative Commission on Pensions and Retirement or the House Governmental Operations Committee that the program was intended to be a demonstration program, the lack of any reporting mechanism about the utilization of the program by any covered agency, and the unavailability of any comprehensive information on the potential success of the program little foundation has been built for a conversion of the program to a permanent part of public employment. Early retirement incentives have been a recurring request of some segment of the public employee workforce over the past two decades or more and have been suggested as a potential solution for virtually any state budgetary circumstance or broader economic or labor supply condition. Prudence would appear better served, if the Commission is convinced that there is a public concern that is best addressed by promoting early retirements, by extending the 2006 incentive on a limited duration basis and by adding some reporting requirement that would allow for a programmatic evaluation of the results of the program prior to making it permanent.

If the Commission desires to retain the program as a renewed temporary program, **Amendment H2079-1A** would extend the early retirement incentive until June 30, 2008, thereby allowing the 2009 Commission and Legislature to revisit the issue with more experience of the incentive as a demonstration program.

If the Commission desires to ensure that sufficient information on the utilization of the incentive is gathered to allow for a judgment about its appropriateness and fiscal viability, **Amendment H2079-2A** requires the Department of Employees Relations, with respect to the executive branch of state government, the Department of Education, with respect to school districts, and Minnesota State Colleges and Universities System (MnSCU), with respect to the MnSCU system, collect information on the utilization of the incentive and the fiscal impact of the incentive.

2. Appropriateness of the Entities Permitted to Offer the Early Retirement Incentive. The policy issue is the appropriateness of the entities that were permitted to offer the 2006 early retirement incentive and would be permitted to offer early retirement incentives under the permanent provision. The 2006 early retirement incentive applied to the executive branch of state government, the legislative branch of state government, the Board of Public Defense, the Minnesota Historical Society, the Minnesota State Colleges and Universities System, or any school district. There are ambiguities in the 2006 incentive authorization provision that would continue if the provision were made permanent. The term “executive branch” is used in general parlance, but appears to lack a constitutional or a statutory definition. The Minnesota Constitution, in Article V, refers to an “executive department” and indicates that it consists of the five constitutional officers, and, in Article V, Section 3, includes a reference to “the principal officer in each of the executive departments.” Minnesota Statutes, 16A.011, defines the terms “executive agency” and “executive branch state agency” without defining the term “executive branch.” It is unclear whether the provision covers the constitutional officers or the statewide retirement plan administrations. It also does not include the University of Minnesota, which employs a large number of employees covered by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). It does not include “quasi” or “semi” state agencies. The inclusion of the State Board of Public Defense, but no other judicial branch employing unit, may not be well considered in a permanent incentive authority. The inclusion of school districts and not other local governmental entities also may not be founded in sound policy appropriate for a permanent program. If the Commission does not desire to extend any authority comprehensively, it may be clearer to identify what public employers it wishes to exclude from the authority rather than the current piecemeal inclusions.

If the Commission wishes to take a different approach to granting the authority to offer incentives, **Amendment H2079-3A** makes the incentive applicable to all public employers employing one or more persons covered by a Minnesota defined benefit retirement plan other than a to-be-specified list of excluded agencies or entities.

3. No Monitoring of or Final Approval Over the Designation of Which Employees are to be Offered an Incentive or Option as a Check on its Fiscal Impact. The policy issue is the lack of any mention of a mechanism for the monitoring of or granting final approval over agency designation of employees to be offered an early retirement incentive or post-retirement option in order to insure that there is an actual fiscal savings and in order to minimize any potential discrimination or other impropriety in making the designations and offers. While the up-front cost to the employing unit of up to \$17,000 in offering an early retirement incentive should insure that the early retirement incentive program in each agency is actually targeted and well considered, inadvertent mistakes are still possible that could be avoided if some review or approval process is utilized, and some mischief could occur where employees with political, social, or family connections are inappropriately included in the early retirement incentive offer, but could be avoided with the existence of a “second look” review or approval process. **Amendment H2079-4A** would implement a “second look” review/approval process for employers authorized to offer the incentive.
4. Using Pension Plan Service Credit Does Not Necessarily Target Long-Term, Higher-Paid State Employees. The policy issue is the appropriateness of using a minimum of five years of service credit as a suitable measure for selecting eligible employees. The usual rationale for an early retirement incentive program is that inducing early retirements by long-service employees who are higher on the salary ladder and who are closer to retirement produces a more positive budget balancing impact than layoffs, which target the least senior and least well-paid employees. However, the proposed legislation conditions the incentive on a minimum of five years of service credit, presumably in any of Minnesota’s statewide or major local pension plans. Thus, someone with four years of teaching service in the former Minneapolis Teachers Retirement Fund Association (MTRFA) who may have changed careers (or may even have retired from MTRFA) and now has an additional year of public employment could qualify for the \$17,000 incentive, which could cost more than a layoff. A better measure to limit the program to long-term employees would be to focus the qualifications to the length of state employment. The Department of Employee Relations (DOER) maintains records of state employment for seniority, vacation leave accrual, and sick leave accrual purposes and could be used as an appropriate mechanism for verifying the employment duration requirement. The personnel departments of other public employers maintain similar records. These employment records, related to the actual employing unit offering the incentive, may be a better mechanism for targeting the incentive to improve the fiscal impact of the program. **Amendment H2079-5A** shifts the eligibility service requirement to employment records.
5. Appropriateness of Different Eligibility Service Requirements for Some MnSCU Faculty Members and Other Employees. The policy issue is the lack of a clear policy rationale for requiring only five years of service for retirement incentive eligibility for those faculty members of the Minnesota State

Colleges and Universities System (MnSCU) covered by the higher education Individual Retirement Account Plan and for requiring 15 years of service for MnSCU faculty covered by the Teachers Retirement Association (TRA) or other defined benefit plans and for all other eligible employees. The initial 2005 version of the proposed legislation that became Laws 2006, Chapter 271, Article 3, Section 43, did not include this differential in the service length eligibility requirements within MnSCU based on which retirement plan coverage the faculty member selected and between MnSCU and all other covered employers. The differential was likely inserted into the amendment that became the 2006 law in order to advantage MnSCU faculty members, but the differential never was subjected to any particularized scrutiny. In addition to hearing from MnSCU officials about the appropriateness of treating similar faculty members differently because of their prior retirement coverage choice, the Commission should consider taking testimony from other interested parties about the policy appropriateness of imposing heavier eligibility requirements on employees outside of MnSCU.

If the Commission determines that the MnSCU eligibility requirements differential is inappropriate in a permanent early retirement incentive, **Amendment H2079-6A** imposes a uniform 15-year service requirement while **Amendment H2079-7A** imposes a uniform five year service requirement.

6. Retirement Incentive Could Include Reemployed Annuitants Rather than Career Employees. The policy issue is the appropriateness of potentially including public pension plan annuitants who have become reemployed in covered employment and are unlikely to produce the type of salary savings that are needed to offset a \$17,000 expenditure. Many local police and paid firefighter relief associations permitted retirements at age 50 and those retirees may have sought second careers in covered employment and would qualify for the incentive. State Patrol Retirement Plan retirees, who typically retire at age 55, are not covered by any reemployed annuitant earnings limitations, and routinely are reemployed in state employment, potentially could qualify for the incentive. These employees are unlikely to be a good target group for the salary savings presumably hoped to be gained by the incentive or post-retirement option. Disallowing employees who have already retired from another Minnesota public pension plan will avoid second career reemployed annuitants from eligibility, thereby maintaining the targeting on long-term career employees. If the Commission decides to exclude annuitants who are pursuing a second career from this incentive, **Amendment H2079-8A** would exclude this group.
7. Retirement Incentive Eligibility Has No Upper Age Limit. The policy issue is the appropriateness of attempting to provide an early retirement incentive or post-retirement option for employees who are older than the generally applicable normal retirement age. The proposed legislation, in effect, sets a minimum age of 55 by requiring immediate retirement eligibility, but has no upper-end age limitation or surrogate condition. If an employee already is eligible to receive an unreduced normal retirement annuity, their continuation in employment likely has some other rationale and they consequently would be less likely or unlikely to utilize the incentive. Any incentive offered to these employees could simply become a windfall for them, especially if future changes in working conditions and workload overtime could easily lead them to retire without an incentive.

If the Commission desires to exclude employees from eligibility who are continuing employment into a more advanced age, where continued employment motivations are less clear and where windfalls from the incentive are more likely, **Amendment H2079-9A** would add that exclusion.

8. Incentive Needs Clear Election Process. The policy issue is the need for a clear manner in which an eligible employee in a designated employment position elects to take the incentive. Acceptance of the early retirement incentive offer simply by terminating employment should be avoided. While that action is a perfectly acceptable manner to indicate agreement to some offers, retirement is a very serious life-changing event and utilizing a written acceptance process rather than acceptance through employment termination would provide more clarity in the process. **Amendment H2079-10A** would implement a formal written incentive acceptance.
9. The Incentive is Unclear on the Nature of the Annuity Available to be Purchased. The policy issue is the need to more clearly specify what kind of annuity is available to be purchased. Most annuities in public retirement plans are single life annuities. Optional annuity forms include term certain and for life annuities. Term certain annuities not for life may be more appropriate than term certain and for life annuities. Using a term certain annuity that is also not payable for life as part of the incentive, with a consequent shorter average payout period, will permit the incentive annuity to be used as a bridging device between employment and a regular retirement annuity at a later age. If the term certain annuity is the usual term certain annuity currently provided by Minnesota public pension plans (i.e., for a period of years and for life) the \$17,000 incentive amount likely will produce too small a monthly amount (about \$100 per month at age 65, about \$95 per month at age 60, and about \$90 per

month at age 58) to permit this bridging. The Minnesota State Retirement System (MSRS) currently provides some term-certain and for-life optional annuities, but does not provide relative short-term term-certain and not-for-life optional annuities currently. Annuities from the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) currently are limited to the small number of MSRS-Unclassified participants who do not elect a transfer to the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) or who do not elect to take the MSRS-Unclassified account balance in a lump sum and purchase an annuity from an insurance company. Conversion of a dollar amount into an annuity under the MSRS-Unclassified Program is done at the MSRS-General factors for transfers to the Minnesota Post Retirement Investment Fund. If MSRS-Unclassified Program retirees do not differ significantly from MSRS-General in their retired life mortality and if the MSRS-Unclassified Program retirement annuity purchasers under this legislation also do not differ considerably, the provision does not expose MSRS-General to too great a risk exposure from this practice.

If the provision is intended to be permanent as a result of this proposed legislation, some greater attention to this MSRS-Unclassified annuity conversion process is in order. **Amendment 11A** is an attempt by the Commission staff to better structure the annuity conversion process.

10. \$17,000 Incentive May Have Limited Appeal. The policy issue is the potential disparity between the expectations for the success of this proposed incentive in encouraging large salary savings accruing to the employing unit through the accelerated or premature retirement of numerous senior high-paid employees and its actual performance. In a retirement setting, \$17,000 is less significant than it might initially appear. For all retirees from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the present value of their retirement benefits is in excess of \$150,000. The present value of the retirement benefit of a new retiree at age 60, with 30 years of service credit, and a \$50,000 highest five successive years average salary approaches \$300,000. Thus, an additional \$17,000 in value is not a large percentage increase in retirement value. For employees contemplating retirement at a relatively early age (at age 55 or thereabouts) and with an average life expectancy of at least 78 years, the \$17,000 incentive value may be spread very thin, meaning that fewer employees will be induced to prematurely terminate public employment than may have been expected by the designers of the incentive. With the incentive becoming permanent, over time, the \$17,000 incentive amount will become decreasingly influential.
11. Incentive May Provide a Windfall to Some Retirees. The policy issue is the potential that the proposed early retirement incentive may be offered to some employees who would have terminated public employment in the near term anyway, without the incentive, thereby providing them with a windfall and reducing the actual net savings that the employing unit would receive. The windfall potential can only be countered by careful targeting by the affected employing unit, where the employer has a good sense of the future plans of its employees who will retire in the near term anyway, induced by increasing workloads or other changing employment conditions, and its employees for whom up to \$17,000 would provide the necessary nudge into a premature retirement and adjusts accordingly.
12. Incentive Will be Futile if Substantial Rehiring Occur. The policy issue is the futility potentially involved with the proposed early retirement incentive if employees who take the incentive are reemployed by the same employer or retained as a consultant by the same employer in the near term following retirement. The incentive will produce the most salary savings if the position of the retiring employee is not filled and if total public employment is reduced on balance by the incentive. One way to insure that maximum savings is to prohibit the retiree receiving the incentive from being reemployed by the public sector or from being retained as a consultant by the public sector for a period of years after retirement. **Amendment H2079-12A** would impose a limitation of an unspecified period of years on post-incentive reemployment or retention as a consultant.
13. Lack of Coding for a Permanent Early Retirement Incentive Provision. The policy issue is the appropriateness of the lack of any coding proposed for the provision now that the early retirement incentive program is proposed to be converted from a temporary program to a permanent program. As a temporary program, Laws 2006, Chapter 271, Article 3, Section 43, was properly excluded from coding in Minnesota Statutes and subsequent publication and republication. If proposed to be permanent, the incentive should be coded so that it can be readily found by employers and employees alike. **Amendment H2079-13A** adds suggested coding.
14. Appropriateness of Retroactivity; Need to Validate Past Payments. The policy issue is the appropriateness of a retroactive effective date for the proposed shift to a permanent early retirement incentive, the appropriateness of retroactivity back to the initial effective date of the 2006 law, and, if the

retroactivity is needed to add omitted recipients or to legitimize prior payments, the appropriateness of that validation without explicit language. The changes in the bill, as drafted, are limited to the striking of the time limitations that make the program temporary. If the intent is to make the early retirement incentive permanent, an immediate effective date on a provision that lacked future eligibility limitations would appear to accomplish that change. The extension of the effect of these changes back to June 1, 2006, has no clear effect unless the retroactive effective date is a murky attempt to legitimate incentive payments to some individuals who did not fully comply with the eligibility limitations. The proponents of the proposed legislation should be provided an opportunity to better explain the intent of the retroactive effective date and why that retroactive effective date is the best remedy to the need that led to its inclusion in the bill. If the need for retroactivity is not clear, **Amendment H2079-14A** changes the effective date to an immediate effective date. If the retroactivity is needed to cover appropriate, but noncompliant past early retirement payments, **Amendment H2079-15A** validates those payments.

#### Technical Amendment

**Amendment H2079-16A** eliminates a clause that was necessary when there was an additional time limitation on one of the potential uses of the early retirement incentive payment amount, but with the proposed elimination of the time termination date on that health care savings plan deposit authority, is not grammatically necessary or helpful anymore.

## Attachment A

### Background Information on Previously Enacted Early Retirement Incentive Programs

Minnesota has utilized several early retirement incentives in connection with its public employee workforce over the past several years. Prior to 1982, there was little systematic legislative experience with early retirement incentives for Minnesota public employees other than the teacher mobility provisions of the mid-1970s. Since 1982, the following early retirement incentives have been enacted to apply to Minnesota public employees:

| Year      | Citation                                   | Coverage Group(s)  | Retirement Plan Based Early Retirement Incentive  | Other Employment Benefit Early Retirement Incentive  |
|-----------|--|--|---|--|
| 1982      | Laws 1982, Ch. 522, Sec. 1 and 2           | State employees and University of Minnesota employees                  | None  | Pre-age 65 state paid health insurance coverage  |
| 1984-1987 | Minnesota Statutes, Sec. 356.70            | Members of MSRS-General, PERA-General, TRA, First Class Teachers       | Full accrued benefit without reduction when "Rule of 85" reached  | N/A  |
| 1990      | Laws 1990, Ch. 591, Art. 2, Sec. 6         | MSRS-General, MSRS-Correctional, State Patrol                          | N/A   | Pre-age 65 state paid health insurance coverage  |
| 1991      | Laws 1991, Ch. 345, Art. 1, Sec. 112       | Various state and retirement plan employees                            | N/A   | Pre-age 65 state paid health insurance coverage  |
| 1992      | Laws 1992, Ch. 499, Art. 7, Sec. 12 and 13 | Teachers   | N/A   | Pre-age 65 employer paid health insurance coverage   |
| 1992      | Laws 1992, Ch. 513, Art. 4, Sec. 58 and 59 | Various state, retirement plan, and public employees, teachers         | N/A   | Pre-age 65 employer paid health insurance coverage   |
| 1993      | Laws 1993, Ch. 192, Sec. 108               | Members of MSRS-General, PERA-General, or MERF                         | Additional benefit of 0.25 percent of final average salary for each year of service up to 30 years  | Alternative benefit of pre-age 65 employer-paid health insurance coverage  |
| 1993      | Laws 1993, Ch. 224, Art. 8, Sec. 17 and 18 | Members of TRA or First Class City Teachers                            | Additional benefit of 0.10 percent of final average salary for each year of service up to 30 years  | Additional benefit of pre-age 65 employer-paid health insurance coverage   |
| 1994      | Minnesota Statutes, Sec. 122.23, Subd. 20  | Teachers in consolidating school districts                             | Purchase of up to five additional years of service credit   | Pre-age 65 employer-paid health insurance coverage, extended leaves of absence, or severance payment   |
| 1994      | Laws 1994, Ch. 518                         | Various local government employees                                     | Same as Laws 1993, Ch. 192, Sec. 108  | Same as Laws 1993, Ch. 192, Sec. 108   |
| 1994      | Laws 1994, Ch. 572, Sec. 3                 | Displaced higher education employees                                   | Purchase of up to two additional years of service credit  | Pre-age 65 employer-paid health insurance coverage   |
| 1995      | Laws 1995, Ch. 262, Art. 1, Sec. 17-25     | Metropolitan Council employees; Minnesota Historical Society employees | Additional benefit of 0.25 percent of final average salary for each year of service up to 30 years for MSRS-General, PERA-General, or MERF members and additional benefit of 0.10 percent of final average salary for each year of service up to 30 years for TRA or first class city teacher retirement fund association members | Alternative benefit of pre-age 65 employer-paid health insurance coverage  |
| 1999      | Laws 1999, Ch. 222, Art. 7                 | Employees of the Metropolitan Council                                  | Additional benefit of 0.25 percent of final average salary for each year of service up to 30 years  | None   |
| 2002      | Laws 2002, Ch. 392, Art. 14, Sec. 1        | State employees  | N/A   | Permits voluntary leaves up to 320 hours of leave without losing seniority rights, insurance, and pension and other benefits for the period ending June 30, 2003 |

| Year | Citation  | Coverage Group(s)  | Retirement Plan Based Early Retirement Incentive   | Other Employment Benefit Early Retirement Incentive  |
|------|---|--|--|--|
| 2003 | Laws 2003, First Special Session, Ch. 1, Art. 2, Sec. 130 | State employees  | N/A  | State government appointing authorities may allow employees to take leaves without pay for up to 1040 hours prior to June 30, 2005. Vacation, sick leave, seniority, and health care benefits continue to accrue during the leave period in the applicable pension plan; employee and employer contributions must be made to the applicable plan. An appointing authority may, at its discretion, pay the employee contributions on behalf of the employee   |
| 2003 | Laws 2003, First Special Session, Ch. 12, Art. 1          | PERA-General, PERA-P&F, PERA-Correctional                  | N/A  | Public employees who previously worked at least half time may enter into an agreement with the employer to reduce work hour to less than half time. Contributions may be made to the applicable PERA plan as though the individual had not reduced hours. Thus, the employment reduction does not harm the individual's eventual retirement annuity. The second program involves voluntary leaves. If the individual makes the employee contribution to the applicable retirement plan during the leave, the employer must make the applicable employer contribution. Under both programs, all other benefits including health care coverage as provided under the collective bargaining agreement are retained. The programs apply to the period ending June 30, 2005. Inclusion in either program requires an agreement between the employee and employer, and the employer is authorized to designate job classifications or positions that qualify for each option |
| 2003 | Laws 2003, First Special Session, Ch. 12, Art. 3          | TRA; First Class City Teacher Retirement Fund Associations | For TRA-covered districts only, the employer may enter into agreements with the exclusive bargaining representative of the teachers in the district to cover, for specific individual teachers, all or a portion of the employee contribution to the retirement plan while the teacher is on an extended leave of absence. | School districts may enter into agreements with the exclusive bargaining representative of the teachers in the district to cover, for specific individual teachers, all or a portion of health care coverage premiums while the teacher is on an extended leave of absence   |
| 2005 | Laws 2005, Ch. 156, Art. 3, Sec. 3                        | State employees  | N/A  | State employees who previously worked at least half time may enter into an agreement with the employer to reduce work hours to less than half time. Contributions may be made to the applicable MSRS plan as though the individual had not reduced hours. Thus, the employment reduction does not harm the individual's eventual retirement annuity. Expires June 30, 2007.  |
| 2005 | Laws 2005, Ch. 156, Art. 3, Sec. 4                        | State government appointing authorities                    | N/A  | State government appointing authorities may allow employees to take leaves without pay for up to 1040 hours prior to June 30, 2005. Vacation, sick leave, seniority, and health care benefits continue to accrue during the leave period in the applicable pension plan; employee and employer contributions must be made to the applicable plan. An appointing authority may, at its discretion, pay the employee contributions on behalf of the employee. Expires June 30, 2007.   |



| Year | Citation   | Coverage Group(s)  | Retirement Plan Based Early Retirement Incentive   | Other Employment Benefit Early Retirement Incentive   |
|------|--|--|--|---|
| 2005 | Laws 2005, Chapter 156, Article 3, Section 2             | Employees of the Executive branch of state government; MSRS staff, Legislative Auditor staff, Metropolitan Council   | N/A  | An eligible employee who retires with at least five years of covered employment from a half-time or greater position, and who is eligible for an unreduced retirement annuity can accept a post-retirement employment, not to exceed half-time and representing at least a 25 percent reduction from previous work hours. The arrangement can be renewed annually up to five years. Post-retirement annuity reduction provisions are waived while in the position. Payments are made toward healthcare coverage, not to exceed 75 percent of employee-only full time employment coverage. |
| 2005 | Laws 2005, First Special Session, Ch. 1, Art. 4, Sec. 98 | IRRRB  | N/A  | IRRB employees age 60 or more or any age with 30 years of service can be eligible for paid health care to age 65 or cash incentives. Expires June 30, 2006.   |
| 2006 | Laws 2006, Ch. 271, Art. 3, Sec. 43                      | Executive branch or legislative branch of state government; Board of Public Defense; Minnesota Historical Society; Minnesota State Colleges and Universities System; school districts. | \$17,000 payment, which could be used to purchase additional service credit to qualify for a "Rule of 90" retirement or to purchase an additional annuity from the MSRS Unclassified State Employees Retirement Program. | \$17,000 payment alternatively could be deposited in the Minnesota Healthcare Savings Plan.   |
| --   | Collective Bargaining Agreement                          | Patrol, BCA, Conservation Officers   | N/A  | Employer-paid health and dental insurance premiums  |
| --   | Collective Bargaining Agreement                          | State University Faculty   | N/A  | Severance payment; employer-paid health insurance premium for one year  |
| --   | Collective Bargaining Agreement                          | State University Administrative Personnel  | N/A  | Severance payment; employer-paid health insurance premium for one year  |
| --   | Collective Bargaining Agreement                          | Community College Faculty  | N/A  | Severance payment; employer-paid health insurance premium for one year  |
| --   | Personnel Policy   | Displaced Higher Ed Board Excluded Administrators  | N/A  | Severance payment   |
| --   | Personnel Policy   | Community College Unrepresented Administrators   | N/A  | Severance payment; employer-paid health insurance premium for one year  |

The various early retirement incentives have been enacted or implemented for a variety of reasons. Most of the early retirement incentives were apparently implemented to assist in resolving state budget difficulties by encouraging retirements instead of layoffs or other involuntary terminations. Those early retirement incentives were enacted not primarily to benefit public employees, but to use a potentially advantageous benefit to induce higher-paid, longer-service employees to terminate active public employment at an earlier age than they otherwise would retire. The savings that potentially will accrue to the public employer in this circumstance are dependent on the employer not filling the employment position with another employee or on the employer filling the employment position with another employee at a much smaller salary.

When a public pension plan provides an early retirement incentive, the public pension plan is fulfilling its prescribed function within the overall personnel compensation and benefit system. Public employee pension plans exist primarily to assist the public employer's personnel system by aiding in the recruitment of new public employees, the retention of existing trained and productive public employees, and the predictable systematic out-transitioning of public employees who have reached the end of their regularly expected productive working career. This is done by adopting a retirement plan that provides a sufficient post-retirement income (adequate based on pre-retirement earnings) and that is competitive with other potential employers. In providing an early retirement incentive, the public employee pension plan is emphasizing the out-transitioning function and is attempting to speed up its timing. Other employment benefit coverage, such as severance pay or employer-paid early retirement health insurance premiums, can also assist in this out-transitioning function.

## Attachment B

### Background Information on Laws 2006, Chapter 271, Article 3, Section 43

The early retirement incentive ultimately enacted by the Legislature as Laws 2006, Chapter 271, Article 3, Section 43, was first introduced as proposed legislation in 2005 as S.F. 1057 (Pogemiller); H.F. 1120 (Powell). S.F. 1057 (Pogemiller), as introduced on February 17, 2005, reflected a proposal assembled by the Middle Management Association, the state's third largest labor union, and provided for four programs packaged and self-identified as early retirement incentives, as follows:

- a. Temporary Targeted Early Retirement Incentive. A temporary targeted early retirement incentive program would be established, applicable to the period following final enactment to September 1, 2005, for a state employee who has at least five years of service, who is immediately eligible to a retirement annuity upon retirement, who terminates state service between final enactment and September 1, 2005, and who is offered the incentive by the state employee's employing unit. The incentive is a dollar amount up to \$17,000, which may be used only as follows:
  - (1) If the employee retires before July 15, 2005, the amount is for deposit in the employee's healthcare savings plan under Minnesota Statutes, Section 352.98;
  - (2) If the employee retires between July 15, 2005, and September 1, 2005, the amount is for the purchase of allowable service credit for future unperformed employment sufficient in combination with proceeds from the person's deferred compensation program account to qualify for the "Rule of 90" early normal retirement age provision if employment terminates after July 15, 2005, or the amount is for the purchase of an additional annuity under the Minnesota State Retirement System Unclassified State Employees Retirement Program (MSRS-Unclassified).
- b. Phased Retirement/Reduced Employment and Retirement Annuity Receipt. Additionally, a state employee covered under the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the State Correctional Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional), or the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified) who is employed for at least half time, who agrees to a reduction of 25 percent in their regularly scheduled work hours, and who is eligible for an immediate unreduced retirement annuity from the applicable plan is permitted to continue active employment as agreed, without earning additional service credit, and to receive a retirement annuity without any reemployed retirement annuity limitation. The employee would be eligible for health insurance coverage as collectively bargained for state employees. Severance pay is not payable until the person actually terminates state employment. The assignment of work hours would be an employer determination. Once the phased retirement position is vacated by the termination of the employee, the employer cannot continue the position as part-time employment. The phased retirement option is exclusive of all other options.
- c. Reduction in Employment to Half-Time. Also, a state employee is permitted to reduce their work hours to half-time and continue to make full member contributions to a state retirement plan, have full employer contributions made on their behalf to a state retirement plan, and receive full allowable service from a state retirement plan.
- d. 1,040 Hour Voluntary Leave. In addition, a state government employer may allow state employees to take a voluntary leave of 1,040 hours during the fiscal years 2006-2007 biennium and continue to make the balance of full member and employer contributions during the leave.

The initial version of S.F. 1057 (Pogemiller) applied only to state executive branch or legislative branch employees, not to the state judicial branch, to quasi-state agencies, or to local government.

S.F. 1057 (Pogemiller) was initially heard by the Senate State and Local Governmental Operations Committee in mid-March 2005, prior to its review by the Legislative Commission on Pensions and Retirement. It was amended by the Senate State and Local Governmental Operations Committee to expand the coverage of the early retirement incentive window portion of the bill to include employees of the State Board of Public Defense, at the request of that agency's legislative representative, and to increase the amount of the lump sum amount to \$17,000, at the request of the Middle Management Association representative. The bill was re-referred to the Senate Finance Committee.

S.F. 1057 (Pogemiller) was reviewed by the Legislative Commission on Pensions and Retirement on May 12, 2005, was designated to be the vehicle bill for the Senate version of the second (substantive) 2005 Omnibus Retirement Bill, and had a number of significant retirement provisions added in addition to the Middle Management Association early retirement incentive, including the consolidation of the Minneapolis Teachers Retirement Fund Association (MTRFA) into the statewide Teachers Retirement Association (TRA). At the request of legislative representatives of Education Minnesota, the lump sum amount temporary window early retirement incentive was amended to expand its coverage to include school districts. The incentive eligibility group was also expanded to include the Minnesota Historical Society, presumably at the request of Society representatives. The bill was amended with the May 12, 2005, Senate Commission member amendment by the Senate Finance Committee on May 16, 2005. The bill was further amended on the Special Orders Calendar on May 19, 2005, but those amendments did not relate to the early retirement incentive window, and S.F. 1057 (Pogemiller) was passed by the Senate on May 19, 2005, on a 54-9 vote.

Subsequently, the half-time employment reduction and 1044 hour voluntary leave portions of S.F. 1057 (Pogemiller), as introduced, were included in the State Departments Appropriations bill, enacted as Laws 2005, Chapter 156, Article 3, Sections 3 and 4.

In 2006, the legislative representative of the Middle Management Association appeared before the House Governmental Operations and Veterans Affairs Committee in mid-March 2006 on H.F. 2362 (Smith), and successfully requested that committee to add the temporary window early retirement incentive provision to the first 2006 Omnibus Retirement Bill amendment previously assembled by the Legislative Commission on Pensions and Retirement, with some modification relating to targeting safeguards and with an expansion of the coverage group to include employees of the Minnesota State Colleges and Universities System (MnSCU), and the bill was re-referred to the House State Government Finance Committee on March 23, 2006. The provision was included, unchanged, when the contents of H.F. 2362 (Smith) was amended to S.F. 2239 (Pogemiller) by the House State Government Finance Committee and in subsequent considerations by the House State Government Finance Committee, the House Rules and Legislative Administration Committee, and the House Ways and Means Committee. An immediate effective date was added to the provision when the bill was considered by the full House on May 20, 2006, and was approved 104-27. The Senate concurred in the House amendments to S.F. 2239 (Pogemiller) on May 20, 2006, with a 63-3 vote.

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 16, strike "the effective date of this section" and insert "June 1, 2007,  
1.3 and before July 1, 2008"

1.4 Page 1, line 20, strike everything after "(1)"

1.5 Page 1, line 21, strike "section"

1.6 Page 2, line 29, delete "retroactively from"

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 2, after line 27, insert:

1.3 "Subd. 4. **Utilization report.** On August 1, 2008, the commissioner of employee  
1.4 relations, with respect to the executive branch of state government, the commissioner of  
1.5 education, with respect to school districts, and the chancellor of the Minnesota State  
1.6 Colleges and Universities System, with respect to the system, shall report to the chair of  
1.7 the House Finance Committee, the chair of the House Governmental Operations, Reform,  
1.8 Technology and Elections Committee, the chair of the Senate Finance Committee, the  
1.9 chair of the State and Local Government Operations and Oversight Committee, and the  
1.10 executive director of the Legislative Commission on Pensions and Retirement on the  
1.11 utilization of the early retirement incentive. The report must include the total number of  
1.12 employees who utilized the incentive, the age of each retiring employee, the length of  
1.13 service of each retiring employee, the incentive amount pad to each retiring employee, the  
1.14 amount of salary savings through June 30, 2008, obtained for each retiring employee, and  
1.15 the amount of any other financial or budgetary impact related to each retiring employee."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 7, before "An" insert "(a) " and before "appointing" insert "eligible"  
1.3 and strike "in the executive or legislative"

1.4 Page 1, strike line 8

1.5 Page 1, after line 17, insert:

1.6 "(b) An eligible appointing authority is any Minnesota governmental employing unit  
1.7 which employs one or more employees with retirement coverage by a retirement plan  
1.8 listed in Minnesota Statutes, section 356.30, by virtue of that employment, except

1.9 (1) .....;

1.10 (2) .....; and

1.11 (3) ..... ."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 18, after "1," insert "if approved under paragraph (b),"

1.3 Page 2, line 9, after "(b) " insert "Approval to provide the incentive must be obtained  
1.4 from the commissioner of finance if the eligible employee is a state employee and must  
1.5 be obtained form the presiding officer of the applicable governing board with respect  
1.6 to any other employing entity."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 11, strike everything after the second "of"

1.3 Page 1, line 12, strike everything before "or" and insert "employment as indicated  
1.4 in the personnel records of the applicable employing unit for employees other than  
1.5 employees of the Minnesota State Colleges and Universities" and strike "coverage by"

1.6 Page 1, line 13, strike everything before "and" and insert "employment as indicated  
1.7 in the personnel records of the Minnesota State Colleges and Universities,"

1.8 Page 1, line 15, strike "of these funds" and insert "retirement plan governed by  
1.9 Minnesota Statutes, chapter 354B, or Minnesota Statutes, section 356.30"



1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 12, strike "five" and insert "15"

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 11, strike "15" and insert "five"

- 1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:
- 1.2 Page 1, line 15, strike "and"
- 1.3 Page 1, line 17, after "~~2006~~" insert:
- 1.4 "; and
- 1.5 (3) is not in receipt of a public retirement plan retirement annuity, retirement
- 1.6 allowance, or service pension during the month preceding the termination of qualified
- 1.7 employment"

- 1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:
- 1.2 Page 1, line 15, strike "and"
- 1.3 Page 1, line 17, after "~~2006~~" insert:
- 1.4 "; and
- 1.5 (3) has not been eligible to receive a retirement annuity for a period longer than
- 1.6 15 years"

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 2, line 17, before "Before" insert "(a) "

1.3 Page 2, after line 27, insert:

1.4 "(b) An employee who is eligible for an incentive under this section, who is offered  
1.5 an incentive by the appointing authority, and who accepts the incentive offer must do so in  
1.6 writing. A copy of the acceptance document must be provided by the appointing authority  
1.7 to the applicable retirement plan within 15 days of its execution."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 2, line 6, after "or" insert "an"

1.3 Page 2, line 7, strike "state" and after "unclassified" insert "state employees"

1.4 Page 2, line 8, after "1" insert ", as provided in paragraph (d)"

1.5 Page 2, line 15, strike "this section" and insert "paragraph (a), clause (3),"

1.6 Page 2, after line 16, insert:

1.7 "(d) The annuity purchase under paragraph (a), clause (3), must be made using  
1.8 annuity factors derived from the applicable factors used by the general state employees  
1.9 retirement plan to transfer amounts to the Minnesota post retirement investment fund  
1.10 and to calculate optional annuity forms. The purchased annuity must be the actuarial  
1.11 equivalent of the incentive amount."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 2, after line 27, insert:

1.3 "Subd. 4. **Reemployment prohibition.** No appointing authority referenced in  
1.4 subdivision 1 is permitted to employ or retain as a consultant an individual who received  
1.5 an early retirement incentive under this section for a period of .. years after the receipt of  
1.6 the incentive."

1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:

1.2 Page 1, line 6, after "43." insert "[356.351]"

1.3 Amend the title as follows:

1.4 Page 1, line 3, after "43" insert "; proposing coding for law in Minnesota Statutes,  
1.5 chapter 356"



- 1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:
- 1.2 Page 2, delete line 29 and insert "Section 1 is effective the day following final
- 1.3 enactment."

- 1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:
- 1.2 Page 2, line 28, after "**DATE**" insert "**PAYMENT VALIDATION**"
- 1.3 Page 2, after line 29, insert:
- 1.4 "**(b) Early retirement incentive payments made in compliance with Section 1 but not**
- 1.5 **in compliance with Laws 2006, chapter 271, article 3, section 43, are hereby validated.**"

- 1.1 ..... moves to amend H.F. No. 2079; S.F. No. 1841, as follows:
- 1.2 Page 1, line 20, strike everything after "(1)"
- 1.3 Page 1, line 21, strike "section"

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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE NO. 2079**

March 13, 2007

Authored by Murphy, M.; Thissen; Murphy, E., and Smith

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; extending eligibility for an early retirement incentive;  
1.3 amending Laws 2006, chapter 271, article 3, section 43.

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

1.5 Section 1. Laws 2006, chapter 271, article 3, section 43, is amended to read:

1.6 Sec. 43. **EARLY RETIREMENT INCENTIVE.**

1.7 Subdivision 1. **Eligibility.** An appointing authority in the executive or legislative  
1.8 branch of state government or the Board of Public Defense or the Minnesota Historical  
1.9 Society or the Minnesota State Colleges and Universities or any school district may offer  
1.10 the early retirement incentive in this section to an employee who:

1.11 (1) has at least 15 years of allowable service in one or more of the funds listed in  
1.12 Minnesota Statutes, section 356.30, subdivision 3, or has at least five years of coverage by  
1.13 the individual retirement account plan governed by Minnesota Statutes, chapter 354B, and  
1.14 upon retirement is immediately eligible for a retirement annuity or benefit from one or  
1.15 more of these funds; and

1.16 (2) terminates state or teaching service after the effective date of this section ~~and~~  
1.17 ~~before September 1, 2006.~~

1.18 Subd. 2. **Incentive.** (a) For an employee eligible under subdivision 1, the employer  
1.19 may provide an amount up to \$17,000, to be used:

1.20 (1) for an employee who terminates state service after the effective date of this  
1.21 section ~~and on or before July 15, 2006~~, for deposit in the employee's account in the health  
1.22 care savings plan established by Minnesota Statutes, section 352.98; ~~or~~

1.23 (2) ~~for an employee who terminates state service after July 15, 2006, and before~~  
1.24 ~~September 1, 2006.~~

H.F. 2079

2.1           (†) notwithstanding Minnesota Statutes, section 352.01, subdivision 11, or 354.05,  
2.2 subdivision 13, whichever applies, for purchase of service credit for unperformed service  
2.3 sufficient to enable the employee to retire under Minnesota Statutes, section 352.116,  
2.4 subdivision 1, paragraph (b); 353.30; or 354.44, subdivision 6, paragraph (b), whichever  
2.5 applies; or

2.6           (†)(3) for purchase of a lifetime annuity or annuity for a specific number of years  
2.7 from the state unclassified retirement program to provide additional benefits under  
2.8 Minnesota Statutes, section 352D.06, subdivision 1.

2.9           (b) An employee is eligible for the payment under paragraph (a), clause (2), ~~item~~  
2.10 ~~(†)~~; if the employee uses money from a deferred compensation account that, combined  
2.11 with the payment under paragraph (a), clause (2), ~~item (†)~~, would be sufficient to purchase  
2.12 enough service credit to qualify for retirement under Minnesota Statutes, section 352.116,  
2.13 subdivision 1, paragraph (b); 353.30, subdivision 1a; or 354.44, subdivision 6, paragraph  
2.14 (b), whichever applies.

2.15           (c) The cost to purchase service credit under this section must be made in accordance  
2.16 with Minnesota Statutes, section 356.551.

2.17           Subd. 3. **Designation of positions; employer discretion.** Before offering an  
2.18 incentive under this section, an appointing authority must be experiencing employee  
2.19 layoffs due to budget shortfalls or a reorganization that would be offset by offering the  
2.20 incentive. The appointing authority must document that the incentive payment is equal  
2.21 to or less than the cost of the employee layoff. The appointing authority must designate  
2.22 the job classifications or positions within the job classifications that qualify for the  
2.23 incentive. The appointing authority may modify this designation at any time. Designation  
2.24 of positions eligible for the incentive under this section, participation of individual  
2.25 employees, and the amount of the payment under this section are at the sole discretion of  
2.26 the appointing authority. Unilateral implementation of this section by the employer is not  
2.27 an unfair labor practice under Minnesota Statutes, chapter 179A.

2.28           Sec. 2. **EFFECTIVE DATE.**

2.29           Section 1 is effective retroactively from June 1, 2006.