



**H.F. 4131**  
(Smith)

**S.F. xxxx**

**Executive Summary of Commission Staff Materials**

*Affected Pension Plan(s):* PERA-P&F  
*Relevant Provisions of Law:* Special law provision  
*General Nature of Proposal:* Reemployed annuitant earnings limit temporary exemption for Metropolitan Airports Commission police officers  
*Date of Summary:* March 27, 2008

**Specific Proposed Changes**

- Exempts retired Public Employees Police and Fire Plan (PERA-P&F) officers who are reemployed as Metropolitan Airports Commission police officers from PERA's reemployed annuitant exempt earnings limits for calendar year 2008 due to the need to provide additional service because of the Republican National Convention.

**Policy Issues Raised by the Proposed Legislation**

1. Sufficient need for the change in order to accommodate activities at the Minneapolis-St. Paul Metropolitan Airport that are prompted by the 2008 National Republican Convention.
2. Potential for undermining reemployed annuitant provision.
3. Whether or not PERA and the Metropolitan Airports Commission support the proposal.
4. Proper scope of the proposal.
5. Bill may stem from misunderstanding about exempt earnings provision.
6. Need for policy consistency in setting reemployed annuitant earnings limitations for all public pension plans.

**Potential Amendments**

H4131-1A adds an immediate effective date (technical amendment).

H4131-2A could be used to insert additional employers, to be specified. One possibility is to insert into the blank ", the city of Minneapolis, or the city of St. Paul" (substantive).



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Ed Burek, Deputy Director **EB**  
RE: H.F. 4131 (Smith); S.F. xxxx: PERA-P&F: Providing a One-Year Exemption from Reemployed Annuitant Exempt Earnings Limits for Metropolitan Airports Commission Police Officers  
DATE: March 27, 2008

Summary of H.F. 4131 (Smith)

H.F. 4131 (Smith); S.F. xxxx, exempts retired Public Employees Police and Fire Plan (PERA-P&F) officers, who are reemployed as Metropolitan Airports Commission police officers, from PERA's reemployed annuitant exempt earnings limits for calendar year 2008 due to the need to provide additional service because of the Republican National Convention.

Background Information on Reemployed Earnings Limitations

**Attachment A** contains information on reemployed annuitant exempt earnings provisions, including information on Social Security exempt income limits.

Discussion and Analysis

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

1. Sufficient Need for Change. The policy issue is whether the proposed legislation is needed to accommodate activities at the Minneapolis-St. Paul Metropolitan Airport that are prompted by the National Republican Convention, to be held in St. Paul from September 1-4, 2008, and which seems to be a very limited time period. The Commission may wish to hear testimony on the impact that this convention is expected to have on the need for additional hours of service performed by Metropolitan Airports Commission police officers (some of whom are retired PERA-P&F police officers), the number of officers to whom this bill would apply, and whether this proposal is requested or supported by the Metropolitan Airports Commission.
2. Potential for Undermining Reemployed Annuitant Provision. If the provision is approved, the Commission may receive many more requests for exemptions, potentially undermining the reemployed annuitant provisions unless this situation is sufficiently serious and unique to differentiate it from other requests.
3. PERA Position. The issue is whether PERA supports this proposal. The Commission may wish to determine that through testimony.
4. Precedent. This is not the first proposal of this type the Commission has considered. A provision was enacted in 2004 (Laws 2004, Chapter 267, Article 7, Section 8) which exempted PERA-P&F retirees who were Metropolitan Airports Commission police officers from PERA's reemployed annuitant exempt income provision for the period January 1, 2004, to June 30, 2007. The argument made at the time was that due to the incidents of September 11, 2001, and the resulting increased airport security requirements, an exemption was needed to limit the need for additional hiring of Metropolitan Airports Commission police officers. One observation about the 2004 legislation is that it was not requested until a few years after the September 11 incident, when the need for that provision may not have been as compelling as it would have been shortly after the incident. In any event, the provision did pass, but with an expiration date. If there was sufficient need to continue that exclusion, the Legislature could have revisited the legislation and extended it. No review occurred and the 2004 provision was allowed to expire. The current request is for a similar exclusion, but with a different justification and for a situation which is far more short term in nature.

In 2007 (Laws 2007, Chapter 134, Article 12, Section 2), a special law provision was passed for certain retired or disabled PERA-P&F annuitants who were working for Midwest Forensic Pathology, P.A. as field investigators, when that organization's functions were taken over by Anoka County. These individuals were exempted from PERA's reemployed annuitant exempt earnings provision based on an argument that they had chosen to be employed by a private organization. Since Midwest Forensic Pathology, P.A. was not a PERA-covered employer, the PERA-P&F reemployed annuitant provision did not apply. However, when Midwest Forensic Pathology, P.A. was dissolved and its functions and

employees were shifted to the county, these employees would be subject to the reemployed annuitant provisions if they continued in employment unless they were given a special exemption.

5. Scope. The policy issue is proper scope of the proposal. If there is sufficient justification to exempt airport police officers for 2008, there may be a need to exempt other reemployed PERA-P&F annuitants who are working as police officers elsewhere in the Twin Cities or surrounding area.
6. Reemployed Annuitant Earnings Limitations Not Punitive. The policy issue is whether the reemployed annuitant exempt earnings limits are a problem or a restriction. If they are not a meaningful problem or restriction, then it is unclear why an exemption is justified. The PERA-P&F reemployed annuitant exempt earnings limitation is not punitive. Concern about these provisions is largely due to a misunderstanding regarding the nature of the current provision. Prior to 2000, reemployed annuitant earnings provisions were punitive, causing reemployed annuitants with considerable income from reemployment to forfeit a portion of the annuity, but revisions in 2000 changed the nature of the proposal. Under these 2000 changes, annuity forfeitures were eliminated. Instead, amounts which under prior law would have been forfeited are instead transferred to a savings account for the individual, payable at a later date with six percent interest. No one loses any money due to these provisions.

As an example of how the reemployed annuitant earnings limitation provision operates, a hypothetical PERA-P&F retiree may be helpful. If the retiree is reemployed in a position normally covered by PERA-P&F or another PERA plan, and the individual's salary exceeds the Social Security exempt earnings limitation (which for 2008 is \$13,560 for an individual under the Social Security normal retirement age), then Minnesota Statutes, Section 353.37, requires PERA to deduct from the annuity (presumably in the subsequent year), half of any earned amounts in excess of the Social Security exempt earnings limit. The amount PERA deducts is then transmitted to a savings account payable at a later age with six percent interest. Once an individual reaches the Social Security normal retirement age (age 65 to 67, depending upon the year of birth) the reemployed annuitant provision no longer applies.

The first situation below shows the individual's income from the PERA-P&F annuity if the individual retired with 30 years of service with the pre-retirement salaries assumed in the example, and is not reemployed. The second situation assumes the annuitant has \$30,000 in reemployment income from PERA-P&F-covered reemployment under existing law.

**PERA-P&F Annuitant Age 55**  
(2008 Annuitant Limits)

<u>Final Five Years Salary</u>	
Year 1	65,000
Year 2	68,250
Year 3	71,662
Year 4	75,245
Year 5	79,008

Highest Five Successive Years Average Salary	\$71,833
30 Years Service with a 3.0% accrual rate per year;	<u>        x 0.9</u>
PERA Annuity	\$64,650 (\$5,388/month)

		<b>Situation 1:</b>			<b>Situation 2:</b>	
		PERA-P&F Annuitant			PERA-P&F Annuitant	
		With No Reemployment			With \$30,000 Reemployment Income	
Year 1	PERA-P&F Annuity	\$64,650	PERA-P&F Annuity	\$64,650	PERA-P&F Annuity	\$64,650
	<b>Total</b>	<b>\$64,650</b>	Reemployed Earnings	\$30,000	<b>Total</b>	<b>\$94,650</b>
Year 2	PERA-P&F Annuity	\$64,650	PERA-P&F Annuity	\$64,650	Year 1 Earnings	\$30,000
					Earnings Limit	\$13,560
					Excess Amount	\$16,440
					\$1 for \$2 Reduction	\$8,220
					PERA-P&F Base Annuity	\$64,650
					Reduction	\$8,220
				Remaining Annuity	\$56,430	
				Reemployed Earnings	\$30,000	
	<b>Total</b>	<b>\$64,650</b>	<b>Total</b>	<b>\$86,430</b>	<b>Total</b>	<b>\$86,430</b>

<sup>1</sup> Year 2 annuity amount assumes no Minnesota Post Retirement Investment Fund post-retirement adjustments.

The \$8,220 reduction amount under Situation 2 is not forfeited, but is deferred with six percent annual compound interest, and is payable at age 65 or one year after the termination of reemployment, whichever is later.

7. Need for Policy Consistency. The policy issue is the need for policy consistency in setting reemployed annuitant earnings limitations for all public pension plans. The State Patrol Retirement Plan, for instance, has no current reemployment limit and policy consistency would demand that a limitation be added to its law.

Potential Amendments for Commission Consideration

1. Amendment H4131-1A is a technical amendment to add an effective date, making the proposed legislation effective the day following final enactment.
2. Amendment H4131-2A is a substantive amendment, permitting the Commission to insert additional employers into the bill by filling in the blank in the amendment. One possibility is to insert “, the city of Minneapolis, or the city of St. Paul”.

## Attachment A

### Background Information on Reemployed Annuitant Earnings Limitations

- A. Reemployed Annuitant Earnings Limitations under Social Security. Since the creation of the Old Age and Survivors Insurance Program (Social Security) in the 1930s, Social Security benefits have been subject to an employment earnings limitation, known as the earnings test. The Social Security Administration maximum salary earnings limitations for continued receipt of full benefit amounts under the federal Old Age, Survivors and Disability Insurance Program are used by the Social Security Administration to determine whether Social Security benefits must be reduced because the individual has salary or self-employment income in excess of the maximums permitted under federal law for continued full receipt of those benefits.

The following table summarizes the annual maximum earnings permissible by Social Security benefit recipients for each year from 1985 onward, which a benefit recipient may receive without incurring a reduction in Social Security benefits. In the table these maximums are referred to as exempt amounts, since they indicate the highest salary earnings, which are exempt from a penalty—a reduction in the Social Security benefits that otherwise would be received. Under Social Security law, the exempt amount differs with the age of the individual. If an individual is under the Social Security full retirement age, once 65 and now between age 65 and age 67, depending on the person's year of birth, but drawing Social Security Old Age Insurance benefits, the maximums are fairly low. The exempt amount for the year in which the Social Security full retirement age is reached is notably higher. The following table has three columns, which are the applicable year, the maximum (exempt) amount under age 65 (before 2000) or under the full normal retirement age (after 1999), and the maximum amount for age 65-69 (before 2000) or for the full normal retirement age year (after 1999):

Year	Under		Year	Prior to	
	Age 65	Age 65-69		Year of Full Retirement Age	Year of Full Retirement Age
1985	\$5,400	\$7,320	2000	\$10,080	\$17,000
1986	\$5,760	\$7,800	2001	\$10,680	\$25,000
1987	\$6,000	\$8,160	2002	\$11,280	\$30,000
1988	\$6,120	\$8,400	2003	\$11,520	\$30,720
1989	\$6,480	\$8,880	2004	\$11,640	\$31,080
1990	\$6,840	\$9,360	2005	\$12,000	\$31,800
1991	\$7,080	\$9,720	2006	\$12,480	\$33,240
1992	\$7,440	\$10,200	2007	\$12,960	\$34,440
1993	\$7,680	\$10,560	2008	\$13,560	\$36,120
1994	\$8,040	\$11,160			
1995	\$8,160	\$11,280			
1996	\$8,280	\$12,500			
1997	\$8,640	\$13,500			
1998	\$9,120	\$14,500			
1999	\$9,600	\$15,500			

If the Social Security benefit recipient is under the full retirement age, the reduction is one dollar of Social Security benefits for each two dollars of earnings in excess of the maximum amount earned. For the year in which the full retirement age is attained, the reduction is one dollar for each three dollars of earnings in excess of the maximum amount earned.

- B. Reemployed Annuitant Earnings Limitations under the Minnesota Public Pension Plans. Among Minnesota public pension plans, but unlike Social Security, the public employee must terminate from active public employment with the employing unit to initially qualify to receive the public employee retirement annuity. If the individual's public pension plan has a reemployed annuitant earnings limit provision, the individual often (but not always) will be subject to that reemployed earnings limit if the individual returns to public employment with pension coverage in the same public pension system.

These reemployed annuitant provisions in Minnesota public pension plans bear a great similarity to the Social Security System but are far less global in scope. Under Social Security, the benefit reductions would be applied to any Social Security benefit recipient under the full retirement age who exceeded the maximum permissible exempt salary earnings, regardless of the employer, applicable for the individual's age. In contrast, if a Minnesota public pension plan has a reemployed annuitant earnings provision, reductions or suspension of the annuity by the plan will occur for those with salary income in excess of exempt amounts only from employment covered by the same pension plan or system. An

annuitant from the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) who becomes reemployed in a position covered by the Minnesota State Retirement System (MSRS), the Teachers Retirement Association (TRA), or any other public pension system, would not be subject to the reemployed annuitant provisions in PERA law. Also, no Minnesota public pension plan benefit reductions would occur if the annuitant becomes employed by a governmental employer in another state, by the federal government, or in the private sector.

Even within the same public pension system, reemployed annuitant reductions may not apply if the individual becomes employed in a position covered by another plan within the system. Typically, the laws have been constructed or interpreted in a way that applies reemployed annuitant earnings provisions if an annuitant from one plan in a system becomes employed by another plan in that same system providing that both plans were originally created within that system. A Public Employees Police and Fire Retirement Plan (PERA-P&F) annuitant who becomes employed in PERA-General covered employment will be subject to PERA's reemployed annuitant provision because PERA-P&F was spun out of PERA-General in 1959. However, a retiree from the State Patrol Retirement Plan who becomes reemployed in an MSRS-General covered position faces no reemployed annuitant penalties because the State Patrol Plan was originally not administered by MSRS, but was moved into MSRS for administrative purposes in 1969. The State Patrol Retirement Plan has no reemployed annuitant earnings provision in the plan, and the provision in MSRS-General law has been interpreted as not applying to State Patrol annuitants.

Reemployed annuitant earnings limitations in Minnesota law support the requirement that a public employee must terminate the employment relationship in order to receive a retirement benefit. The limitations ensure that politically connected public employees cannot manipulate the personnel system and also maximize their income by drawing a full retirement benefit along with a full salary. In doing this, the reemployed annuitant earnings limitations follow one of the traditional purposes for a retirement plan, which is to assist the personnel system in producing an orderly and systematic outtransitioning of senior employees who have reached the end of their normal working lifetime.

However, when reemployed annuitant earnings limitations do not apply uniformly, when some plans have no limits, when the limitations impact differently when applicable, or when no limitations apply to most reemployed annuitant situations (i.e., a public plan annuitant employed by a private sector employer or by a public sector employer of a different level or branch of government), the basic fairness of the limitations can be questioned.

The following chart provides information on the reemployed annuitant earnings limitation laws in Minnesota's public plans:

Retirement Plan	Applicable Compensation	Limit Threshold	Effect After Threshold Exceeded	Reemployment Period Retirement Coverage	Exceptions
General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General)	Salary or wages from state of from employer of MSRS-General members	Social Security maximums (\$13,560 annually if under the Social Security normal retirement age; \$36,120 in year in which Social Security normal retirement age is reached; no limit thereafter)	Suspension of annuity for the balance of the calendar year or until reemployment termination, with the suspended annuity amounts deposited in a separate account, earning six percent compound annual interest, payable at the later of age 65 or one year after the reemployment ends	No retirement coverage	No application to service as temporary legislative employee. Suspension lifted during any sick leave
MSRS Correctional State Employees Retirement Plan (MSRS-Correctional)	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General	Same as MSRS-General
State Patrol Retirement Plan	No provision	No provision	No provision	No provision	No provision
Legislators Retirement Plan*	No provision	No provision	No provision	No provision	No provision
Elective State Officers Retirement Plan	No provision	No provision	No provision	No provision	No provision
Judges Retirement Plan	No provision	No provision	No provision	No provision	No provision

Retirement Plan	Applicable Compensation	Limit Threshold	Effect After Threshold Exceeded	Reemployment Period Retirement Coverage	Exceptions
MSRS Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified)	No provision	No provision	No provision	No provision	No provision
Public Employees Retirement Association (PERA)	Salary from governmental subdivision employment or public employee labor union employment	Social Security maximums (\$13,560 annually if under the Social Security normal retirement age; \$36,120 in year in which Social Security normal retirement age is reached; no limit thereafter)	Suspension or reduction, whichever produces higher annual amount. Suspension of amount is for the balance of the calendar year or until re-employment termination. Reduction is one-half of the excess over the maximum if under the Social Security full retirement age and one-third of the excess over the maximum if at the Social Security full retirement age. The reduction or suspended amount is deposited in a separate account, earning six percent compound annual interest, payable at the later of age 65 or one year after the reemployment ends.	No retirement coverage	No application to service as a local government elected official
Public Employees Police & Fire Fund (PERA-P&F)	Same as PERA	Same as PERA	Same as PERA	Same as PERA	Same as PERA
Teachers Retirement Association (TRA)	Income from teaching for employing unit covered by TRA, income from consultant or independent contractor teaching services for employing unit covered by TRA, or income received by comparable position if greater than actual income received	Social Security maximums (\$13,560 annually if under the Social Security normal retirement age; \$36,120 in year in which Social Security normal retirement age is reached; no limit thereafter)	Reduction in following calendar year annuity of one-half of the excess over the maximum, with the annuity reduction amount deposited in a separate account earning six percent compound annual interest, payable at the later of age 65 or one year after the reemployment ends	No retirement coverage	No application to interim superintendents during a lifetime limit of three 90-day exemption periods or to reemployed retired Minnesota State Colleges and Universities faculty working between 33.3 and 66.7 percent of full time with salary under \$46,000 or application to higher education salary over \$46,000 if total higher education salary is greater than \$46,000
First Class City Teacher Retirement Fund Associations	Same as TRA, except for applicable employers	Same as TRA	Same as TRA, except reduction is one-third of excess over the maximum	Same as TRA	Same as TRA
Minneapolis Employees Retirement Fund (MERF)	No provision	No provision	No provision	No provision	No provision
Local Police or Salaried Firefighter Relief Associations	Typically no provision	Typically no provision	Typically no provision	Typically no provision	Typically no provision

C. Example of Teachers Retirement Association (TRA) Reemployed Annuitant Earnings Limitation Provision. The current TRA limit, Minnesota Statutes, Section 354.44, Subdivision 5, provides for a reduction in the subsequent year's annuity of one dollar for every two dollars earned in excess of the Social Security limitation, which is \$13,560 annually (\$1,130 monthly on a 12-month basis or \$1,507 monthly on a nine-month basis) in 2008 for retirees before the year in which Social Security normal retirement age is reached (between age 65 and age 66 for retirees with birth years between 1937 and 1955) and is \$36,120 for the year of attaining the Social Security full retirement age.

**TRA Annuitant Retiring at Age 63**

Final Five Years' Salary

Year 1 .....	48,430
Year 2 .....	50,850
Year 3 .....	53,390
Year 4 .....	56,060
Year 5 .....	58,858

Highest Five Successive Years Average Salary	\$53,517.65
Benefit Accrual Percentage (30 Years x 1.7)	<u>x .51</u>
	\$27,294 (\$2,274.50/month) <sup>1</sup>

		Situation 1				Situation 2				Situation 3	
		TRA Annuitant without any Reemployment				TRA Annuitant with \$25,000 Reemployment, Current Law <sup>2</sup>				TRA Annuitant with \$25,000 Reemployment, Reemployment Earning Limit of \$46,000	
Year 1	TRA Annuity		\$27,294	Reemployed Earnings	\$25,000	TRA Annuity	27,294	Reemployed Earnings	\$25,000	TRA Annuity	27,294
	Total		\$27,294	Total	\$52,294	Total	\$52,294	Total	\$52,294	Total	\$52,294
	TRA Annuity		\$27,294	Reemployed Earnings	\$25,000	TRA Annuity:		Reemployed Earnings	\$25,000	TRA Annuity:	
Year 2				Year 1 Earnings	\$25,000	Year 1 Earnings	\$25,000	Year 1 Earnings	\$25,000	Year 1 Earnings	\$25,000
				Earnings Limit	13,560	Earnings Limit	13,560	Earnings Limit	46,000	Earnings Limit	46,000
				Excess Amount	\$11,440	Excess Amount	\$0	Excess Amount	\$0	Excess Amount	\$0
				\$1 for \$2 Deferral <sup>3</sup>	\$5,720	\$1 for \$2 Deferral <sup>3</sup>	\$0	\$1 for \$2 Deferral <sup>3</sup>	\$0	\$1 for \$2 Deferral <sup>3</sup>	\$0
				TRA Base Annuity	\$27,294	TRA Base Annuity	\$27,294	TRA Base Annuity	\$27,294	TRA Base Annuity	\$27,294
				Deferred Amount	5,720	Deferred Amount	0	Deferred Amount	0	Deferred Amount	0
				Remaining Annuity	\$21,574	Remaining Annuity	\$27,294	Remaining Annuity	\$27,294	Remaining Annuity	\$27,294
Total		\$27,294	Total	\$46,574	Total	\$54,794	Total	\$54,794	Total	\$54,794	

<sup>1</sup> Does not include any reduction due to early receipt of the annuity

<sup>2</sup> Year 2 annuity amount assumes no Minnesota Post Retirement Investment Fund (Post Fund) post-retirement adjustments and assumes no increase in the Social Security earnings test amount, although both are likely.

<sup>3</sup> Reduction amount is deposited in a separate account, credited with six percent compound interest annually, payable at the later of age 65 or one year after termination of the reemployment.



1.1 ..... moves to amend H.F. No. 4131 ; S.F. No. ...., as follows:

1.2 Page 1, after line 14, insert:

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

1.1 ..... moves to amend H.F. No. 4131 ; S.F. No. ...., as follows:

1.2 Page 1, line 12, after "Commission" insert "....."

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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

**EIGHTY-FIFTH  
SESSION**

**HOUSE FILE No. 4131**

March 27, 2008

Authored by 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; Public Employees Retirement Association police and  
1.3 fire plan; providing a one-year exemption from reemployed annuitant earnings  
1.4 limitations for certain Metropolitan Airports Commission police officers.

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

1.6 Section 1. **PERA POLICE AND FIRE; TEMPORARY EXEMPTION FROM**  
1.7 **REEMPLOYED ANNUITANT EARNINGS LIMITATIONS.**

1.8 Notwithstanding any provision of Minnesota Statutes, section 353.37, to the  
1.9 contrary, due to the need to provide additional service because of the Republican National  
1.10 Convention, a person who is receiving a retirement annuity from the public employees  
1.11 police and fire plan and who is employed as a sworn peace officer by the Metropolitan  
1.12 Airports Commission is exempt from the limitation on reemployed annuitant exempt  
1.13 earnings under Minnesota Statutes, section 353.37, for the period January 1, 2008, until  
1.14 December 31, 2008.