



**S.F. 750**  
(Betzold)

**H.F. 982**  
(Murphy, M.)

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

*Affected Pension Plan(s):* MSRS-General  
*Relevant Provisions of Law:* Coded Provision  
*General Nature of Proposal:* Revision of Allowable Service Credit for Certain Job Share Program Participants  
*Date of Summary:* March 6, 2009

### **Specific Proposed Changes**

This bill is a special law provision that allows former participants, active or retired, in the Minnesota job share program who were employed on a half-time basis, upon application, to receive service credit for the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) on the same basis as non-job share program part-time employees. For retired state employees, their retirement benefit would be recomputed based on any additional service credit obtained as of the first day of the month next following the effective date of the legislation, but without any retroactive recomputed annuity amount.

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

1. Equitable considerations; accuracy of the contention of unfairness.
2. Actuarial cost of the credit grant.
3. Accuracy in identifying all applicable individuals.
4. Appropriateness of including current retirees in service credit grant; likelihood of future demands for retroactive benefits to retirees.
5. Precedent.

### **Potential Amendments**

**S0750-1A** adds an allocation of the actuarial cost of the service credit grant between the affected departments if the Commission believes that the respective departments should bear the cost of the special legislation rather than all MSRS-General-covered employees at large.



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: S.F. 750 (Betzold); H.F. 982 (Murphy, M.): MSRS-General; Revision of Allowable Service Credit for Certain Job Share Program Participants

DATE: March 5, 2009

## Summary of S.F. 750 (Betzold); H.F. 982 (Murphy, M.)

S.F. 750 (Betzold); H.F. 982 (Murphy, M.) is a special law provision that allows former participants, active or retired, in the Minnesota job share program who were employed on at least a half-time basis, upon application, to receive service credit for the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) on the same basis as non-job share program part-time employees. For retired state employees, their retirement benefit based on any additional service credit obtained would be recomputed as of the first day of the month next following the effective date of the legislation, but would be payable without any retroactive recomputed annuity amount.

## Public Pension Complaint of Former Minnesota Job Share Program Participants

Participants of the former Minnesota job share program, operational from 1980 for an undetermined number of years, receive (or received, if retired) prorated service credit from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for any employment in the program that was less than full-time employment, while comparably situated part-time state employees who were employed outside of the job share program were credited with full-time allowable service credit if they were employed for at least 50 percent of full-time employment. These 50 percent of full-time or more former job-share employees desire to be treated identically to all other half-time or greater part-time employees in state service.

## Relevant Background Information

- **Attachment A** contains background information on the Minnesota job share program.
- **Attachment B** contains background information on the manner in which the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) credits allowable service credit, including for part-time employees.

## Discussion and Analysis

S.F. 750 (Betzold); H.F. 982 (Murphy, M.) grants ten individuals, five active and five retired, full-time service credit from the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) for their time in the Minnesota job share program if the person was employed for at least 50 percent of full-time employment. The increase in the retirement annuity for the retirees would be increased for annuity payments after the passage of the legislation, without retroactive payments.

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

1. Equitable Considerations; Accuracy of the Contention of Unfairness. The policy issue is the extent of the equitable considerations that favor or disfavor the proposed grant of additional service credit to half time or greater state employees who were in the Minnesota job share program, especially the accuracy of the contention that is made that those employees were treated unfairly. The equitable argument in favor of the proposed legislation is that the Minnesota job share program participants who were employed for at least 50 percent of full-time employment received less service credit from MSRS-General than all other part-time state employees working outside of the job share program. Commission Principles of Pension Policy generally provide for equal treatment both within retirement plans and between retirement plans. The equitable argument disfavoring the service credit grant is that the Minnesota job share program governing statute, from the start of the program, provided for the pension service credit proration that the affected individuals actually received. The current rule on the proration of service credit in MSRS-General was enacted in 1985 and was not extended to the job share program participants at that time. Minnesota Management and Budget indicates that, despite the

statutory pension credit allocation language for the program, the information that was personally provided to participants when they applied for inclusion in the program did not indicate that any pension credit allocation would occur. A copy of a brochure utilized by the former Department of Employee Relations entitled "Questions and Answers About Job Sharing" is attached.

2. Actuarial Cost of the Credit Grant. The policy issue is the actuarial cost of the additional service credit grant proposed for five active and five retired members of the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) who were previously employed in the Minnesota demonstration job sharing project in the 1980s and who were employed at least half time. Based on a potential recomputation of MSRS-General retiree benefits and benefit estimates of MSRS-General active member retirement annuities prepared by MSRS, based on the actuarial reserve factors used to calculate Minnesota Post Retirement Investment Fund (MPRIF) transfers and optional annuity form calculations, the total one-time increase in the actuarial accrued liability of MSRS-General as a result of the service credit grant would be \$281,096.81. Of this total, \$158,640.82 is the total actuarial accrual liability increase for active members (mean of \$31,728.16; range of \$7,345.79 to \$42,944.62) and \$122,455.99 is the total actuarial accrual liability increase for retired members (mean of \$24,491.20; range of \$7,783.41 to \$58,551.56). The benefit increase resulting from the service credit grant ranges from 6.65 percent to 12.04 percent for the five active members and from 7.84 percent to 76.17 percent for the five retired members. The following indicates the funded condition and funding requirements of MSRS-General as of July 1, 2008, and adjusted for the service credit grant liability as if it occurred on July 1, 2008:

<b>MSRS-General 2008</b>						
	<b>Current Actuarial Results</b>		<b>Actuarial Impact of S.F. 750/H.F. 982</b>		<b>Resulting Actuarial Condition</b>	
<u>Membership</u>						
Active Members		48,823				48,823
Service Retirees		21,736				21,736
Disabilitants		1,620				1,620
Survivors		3,090				3,090
Deferred Retirees		14,951				14,951
Nonvested Former Members		<u>6,865</u>				<u>6,865</u>
Total Membership		97,085				97,085
<u>Funded Status</u>						
Accrued Liability		\$9,994,602,000		\$281,097		\$9,994,883,097
Current Assets		<u>\$9,013,456,000</u>		<u>\$0</u>		<u>\$9,013,456,000</u>
Unfunded Accrued Liability		\$981,146,000		\$281,097		\$981,427,097
Funding Ratio	90.18%				90.18%	
<u>Financing Requirements</u>						
Covered Payroll		\$2,378,816,000				\$2,378,816,000
Benefits Payable		\$418,757,000				\$418,757,000
Normal Cost	7.78%	\$185,140,000			7.78%	\$185,140,000
Administrative Expenses	<u>0.23%</u>	<u>\$5,471,000</u>			<u>0.23%</u>	<u>\$5,471,000</u>
Normal Cost & Expense	8.01%	\$190,611,000			8.01%	\$190,611,000
Normal Cost & Expense	8.01%	\$190,611,000	0.00%	\$0	8.010%	\$190,611,000
Amortization	<u>4.38%</u>	<u>\$104,192,000</u>	<u>0.001%</u>	<u>\$29,851</u>	<u>4.381%</u>	<u>\$104,221,851</u>
Total Requirements	12.39%	\$294,803,000	0.001%	\$29,851	12.391%	\$294,832,851
Employee Contributions	4.50%	\$107,047,000			4.50%	\$107,047,000
Employer Contributions	4.50%	\$107,047,000			4.50%	\$107,047,000
Employer Add'l Cont.	0.00%	\$0			0.00%	\$0
Direct State Funding	0.00%	\$0			0.00%	\$0
Other Govt. Funding	0.00%	\$0			0.00%	\$0
Administrative Assessment	<u>0.00%</u>	<u>\$0</u>			<u>0.00%</u>	<u>\$0</u>
Total Contributions	9.00%	\$214,094,000			9.00%	\$214,094,000
Total Requirements	12.39%	\$294,803,000	0.001%	\$29,851	12.391%	\$294,832,851
Total Contributions	<u>9.00%</u>	<u>\$214,094,000</u>	<u>0.00%</u>	<u>\$0</u>	<u>9.000%</u>	<u>\$214,094,000</u>
Deficiency (Surplus)	3.39%	\$80,709,000	0.001%	\$29,851	3.391%	\$80,738,851

The proposed legislation does not allocate the actuarial cost of the proposed service credit grant among current MSRS-General-covered employers, but funds the liability from the overall financing of the retirement plan. If the liability were to be allocated among the seven state departments with affected employees or retirees, the allocation from agency budgets would be as follows:

Agriculture	\$9,683.26
DEED	\$125,272.99
DHS	\$37,717.81
DNR	\$42,944.62
DOT	\$22,392.24
Health	\$35,740.10
MnSCU	\$7,345.79

**Amendment S0750-1A** adds an allocation of the actuarial cost of the service credit grant between the affected departments if the Commission believes that the respective departments should bear the cost of the special legislation rather than all MSRS-General-covered employers at large by adding it to the unfunded actuarial accrued liability of MSRS-General.

3. Accuracy in Identifying All Applicable Individuals. The policy issue is the accuracy of the process of identifying all retired and active state employees who participated in the Minnesota job share program at a half-time or greater level. If only some of the affected individuals are identified and others are discovered later, the actuarial cost of the proposed legislation will be understated and policymakers will be potentially misled as to its financial impact. Minnesota Management and Budget informs the Commission staff that it utilized a careful and comprehensive process, using both the records of job-share personnel from the former Department of Employee Relations (DOER), which was required to approve all job share arrangements before they occurred, and additionally surveying all state agencies for a review of their records to identify any lapse or failure in DOER records, and also crosschecking the resulting information with the Minnesota State Retirement System (MSRS). If the Commission wants to gain additional comfort about the accuracy of identifying applicable individuals, representatives of Minnesota Management and Budget could be requested to testify about the process that the department used to identify past Minnesota job share program participants.
4. Appropriateness of Including Current Retirees in Service Credit Grant; Likelihood of Future Demands for Retroactive Benefits to Retirees. The policy issue is the appropriateness of extending the service credit grant to former state employees who retired before January 2009, the appropriateness of not providing those retirees with retroactive benefit increase payments, and the likelihood that those retirees will seek retroactive benefit increase payments in the future. Barring a strong showing of favorable equities, the Commission generally does not extend retirement changes to individuals who have terminated active employment and who are or will soon be in retirement annuity pay status. This is a logical outcome of the Commission's view of the purpose of public retirement systems, which is as an augmenting feature of the personnel system in encouraging new potential employees, retaining existing personnel, and accommodating the systematic outtransitioning of employees at the normally expected conclusion of their working lifetimes. Providing benefits to former employees who have already outtransitioned from active employment does not assist the personnel system. If, as in the proposed legislation, retirees are included in the benefit change, thereby denoted or distinguished as a special meritorious group, but not provided retroactive increased benefit amount payments after affirming their special status, that establishes a strong possibility that these retirees may eventually seek that benefit payment retroactivity. Minnesota Management and Budget representatives should be requested to provide a clear statement of the policy argument for not providing benefit increase amount retroactivity on the record, so that future Commissions and Legislatures have full information on the non-retroactivity decision in the event that they face any future retroactivity requests.
5. Precedent. The policy issue is the question of whether or not there is a past precedent that is arguably binding from a policy perspective on the Commission and the Legislature with respect to this request and the question of what potential this special legislation has to become arguably a binding precedent for future similar or identical demands. No enacted special or general legislation exists as a direct precedent for this request. In 2006, in dealing with a blind amendment offered by Representative Paul Thissen on behalf of former Representative Matt Entenza, the Commission declined to approve special legislation to make this same service credit grant for one former Minnesota job share program employee, apparently largely on the basis of uncertainty about the number of potential affected former Minnesota job share program participants, the actuarial cost impact for each individual, and the total actuarial cost impact on the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General). In 2006, Minnesota State Retirement System (MSRS) reported that it had contacted the former Department of Employee Relations and received information that

perhaps 200 individuals had participated in the Minnesota job share program at some time and that the total actuarial liability increase range for granting the additional service credit was estimated as being between \$1.5 million and \$2.5 million. If the information provided on the applicable Minnesota job share program participants is accurate and complete, the uncertainty about potential liability that faced the Commission in 2006 would be resolved. The special legislation is premised on resolving the equitable issue for all half-time or greater Minnesota job share program participants, so the proposed legislation would have no precedent value except for less than half-time former Minnesota job share program participants, who can be distinguished on equitable considerations, since there is no comparative difference in MSRS-General allowable service crediting between less than half-time non-job share program participants and less than half-time job share program participants.

## Attachment A

### Background Information on the Minnesota Job Share Program

In 1980 (Laws 1980, Chapter 572), a demonstration job sharing project in state government was authorized. The program applied to any agency in the executive branch, permitted up to 50 full-time positions to be selected for job sharing in up to ten state agencies, but as few agencies as possible, with no person permitted to be employed for less than 40 percent of full time, and, if the person was represented by an exclusive representative, permitted to participate with exclusive representative agreement. Persons participating in a job share position were to:

- receive the proportional share of the salary otherwise payable for the position;
- have retirement coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), the Teachers Retirement Association (TRA), or the State Patrol Retirement Plan, with MSRS-General or State Patrol Plan allowable service credited on a fractional basis in relation to full time;
- receive vacation and sick leave in proportion to their share of full time;
- receive medical and dental insurance coverage, with member payment of the portion of the actual insurance premium cost representing the unshared portion of the position;
- have holiday pay payable if the employee would have been scheduled to work on the holiday;
- receive full-time seniority; and
- have other benefits prorated if divisible.

In 1981 (Laws 1981, Chapter 210, Sections 40 to 46), a temporary job share program was created in order to increase career opportunities in Minnesota state employment. The program was codified as Minnesota Statutes 1982, Sections 43A.40 to 43A.465. Again, 50 positions were permitted to be included in the program, but with at least 15 of these positions in professional, supervisory, and managerial positions. The shared time is not permitted to be less than 40 percent of full time and, if a collective bargaining representative is applicable, the representative must agree to the job sharing selection. All shared positions were specified to be equivalent in classification to the full-time position from which the positions were converted. The same benefit, leave, and holiday provisions applicable to the 1980 program were codified in the 1981 program.

In 1999 (Laws 1999, Chapter 182, Section 20), the job share program was repealed.

## Attachment B

### Background Information on Allowable Service Credit by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General)

The General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), initially named the State Employees Retirement Association, was established in 1929 (Laws 1929, Chapter 191).

Membership in the State Employees Retirement Association was mandatory for state employees who were first employed after July 1, 1929. For state employees who were first employed before July 1, 1929, the employee initially had an option to become a member of the retirement plan through July 1, 1931. In 1941 (Laws 1941, Chapter 391), pre-1929 state employees were generally required to become retirement plan members. Membership expansions also occurred in 1945 (Laws 1945, Chapter 284) and in 1947 (Laws 1947, Chapter 631).

Before 1947, MSRS-General credited allowable service for both periods during which regular member contributions were made and prior periods for which the person made payments in lieu of regular contributions. After July 1, 1947, MSRS-General defined allowable service for the calendar months in which the member received salary or wages from which member contribution deductions were made and were deposited in the retirement fund.

By 1957, when MSRS-General coordinated with the federal Old Age, Survivors and Disability Insurance Program (Social Security) and its benefit plan was significantly revised, the definition of allowable service was succinct, basically covering only service that was covered by concurrent contributions or pre-membership service that was covered by payments in lieu of contributions and was credited on a full-month basis if there was any salary received from or for which contributions were made. No proration or partial service credit for part-time employment was initially provided for in MSRS-General law. Before 1973, MSRS-General was a career average salary defined benefit plan, where the amount of salary credit, rather than the amount of service credit, reflected the differences in retirement coverage value between full-time and part-time employees.

By 1967, the definition of allowable service was expanded, but was still credited in full-month increments for both part-time and full-time employees.

In 1973 (Laws 1973, Chapter 221, Section 1), the MSRS-General allowable service credit definition was modified with respect to service credit for part-time state employees, providing that the MSRS Board of Directors was to establish rules governing the accrual of allowable service credit for state employees with less than full-time employment. The Commission has no records indicating that any MSRS rules on service credit were ever actually promulgated by the MSRS board. Also in 1973 (Laws 1973, Chapter 653), MSRS-General was shifted from a career average defined benefit retirement plan to a final average salary defined benefit retirement plan, but no further modification in the MSRS-General allowable service credit definition was made.

In 1980 (Laws 1980, Chapter 342, Sections 1 and 2), the MSRS-General allowable service credit definition was modified with respect to part-time employees with the addition of a provision requiring fractional service credit for Metropolitan Transit Commission-Transit Operating Division (MTC-TOD) employees who are employed part-time for less than 32 hours per week or less than 1,664 hours per year. These employees received prorated service credit based on a 40-hour week or a 2,080 hour year, but received full-time equivalent salary credit.

In 1981 (Laws 1981, Chapter 224, Section 42), prorated service credit was required for part-time employees in the Minnesota demonstration job sharing project, based on a 40 hour week or a 2,080 hour year, but salary was credited by MSRS-General on a full-time basis.

In 1983 (Laws 1983, Chapter 128, Section 1), the 1980 MTC-TOD provision was modified, making it applicable to any MSRS-General member who was employed on less than 80 percent of a full-time basis, with proration of allowable service credit based on the relationship of actual salary to the full-time equivalent salary for the month or year, but retaining MSRS-General salary credit on a full-time equivalent basis. The Minnesota demonstration job sharing project provision was unchanged in 1983.

In 1985 (First Special Session Laws 1985, Chapter 7, Section 4), the adapted 1980 former part-time MTC-TOD employee service credit provision was made applicable to post-July 1, 1983, state employment and required allowable service credit proration only for part-time employment under 50 percent of full-time employment rather than under 80 percent of full-time employment and the two

MSRS-General part-time employment allowable service credit proration provisions were augmented by a provision requiring that the fractional service credit was to be used only for benefit calculation purposes, with full (non-prorated) service credit for vesting purposes.

In 1989 (Laws 1989, Chapter 319, Article 1, Section 2), the Minnesota demonstration job sharing project service credit provision was eliminated, leaving the adapted 1980 former part-time MTC-TOD employee service credit provision as the sole MSRS-General part-time service credit rule, with full-time salary credit and the prorated service credit limited to benefit calculation purposes and not utilized for vesting purposes.



**LAWS 1980, CHAPTER 572—H.F.No. 1662**

An act relating to state government; providing for a demonstration job-sharing project in state government; appropriating money.

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

Section 1. [43.56] PURPOSE. The purpose of sections 1 to 7 is to increase career opportunities in the Minnesota state service through job-sharing.

Sec. 2. [43.57] DEFINITIONS. For the purposes of sections 1 to 7 the following terms have the meanings given them:

- (a) "Agency" means a department, agency, commission, board, institution, or other entity in the executive branch in which all positions are under the same appointing authority.
- (b) "Commissioner" means the commissioner of personnel.
- (c) "Coordinator" means the coordinator of the Minnesota demonstration job-sharing program.
- (d) "Shared position" means a classified position which has been converted from a full-time position into part-time positions of equivalent class for purposes of sections 1 to 7.
- (e) "Program" means the Minnesota demonstration job-sharing program.
- (f) "Appropriate shared-time percent" means the percent of full-time hours allocated to a particular shared-time position.

Sec. 3. [43.58] POSITIONS AFFECTED. A total of 50 full-time positions within agencies of state government shall be selected for inclusion within the program. These positions shall be selected within as few separate agencies as possible, and in no case shall positions be selected in more than ten agencies. No fewer than 15 of these positions shall be either professional, supervisory or managerial positions. In no instance shall a person in a shared time position work less than 40 percent time. No position shall be selected if it is contained in a unit which is represented by an exclusive representative which has a collective bargaining agreement covering the unit unless the exclusive representative agrees to the selection. All shared time positions shall be equivalent in classification to the full-time position from which they are converted.

Sec. 4. [43.59] COORDINATOR. Subdivision 1. There shall be a coordinator of the program designated by the commissioner from among the employees of the department of personnel.

Subd. 2. The coordinator shall have the following powers and duties:

- (1) To select, in cooperation with the affected agencies and the commissioner, the agencies and the positions within the agencies to be included in the program;
- (2) To design and implement, in cooperation with the affected agencies and the commissioner, an evaluation plan for the program, in accordance with accepted research criteria, to ascertain the effect of job-sharing on employee satisfaction, productivity, absenteeism, administrative and supervisory time demands, and increased costs both direct and indirect, as well as any other relevant impact on employer or employee;
- (3) To coordinate the conversion of full-time to shared positions in the affected agencies and to assist in the design of the shared positions, with attention to employee and employer needs and to the potential for replicability of the program experience in other agencies throughout state government. All shared positions shall be equivalent in classification to the full-time position from which they are converted;
- (4) To assist the affected agencies and the commissioner in recruitment, selection and hiring for the affected positions;
- (5) To assist both supervisors and employees in the affected agencies in the transition to shared positions under the program and to recommend to the commissioner any modifications in rules, executive authority or statutes deemed desirable to effectuate the purposes of sections 1 to 7;
- (6) To monitor the positions selected pursuant to section 3, in cooperation with the affected agencies and the commissioner, throughout the term of the program; and
- (7) To assist the commissioner in reporting to the governor and the legislature on January 1, 1981 and January 1, 1982. The commissioner's report shall provide an evaluation of the experience of the program, with attention to the items listed in subdivision 2, clause (2) in addition to any other relevant information, and shall offer recommendations concerning the further increase of shared positions in the state service.

Sec. 5. [43.60] BENEFITS OF EMPLOYMENT. Subdivision 1. This section shall govern the compensation and benefits of employees in shared positions where inconsistent with other law.

