



TO: Members of the Legislative Commission on Pensions and Retirement  
FROM: Lawrence A. Martin, Executive Director *JLM*  
RE: S.F. xxxx; H.F. 3220 (Radinovich): PERA-P&F; Service Credit Purchase for Certain Mille Lacs Tribal Police Officers  
DATE: March 21, 2014

Summary of S.F. xxxx; H.F. 3220 (Radinovich)

S.F. xxxx; H.F. 3220 (Radinovich) permits a full-time police officer of the Mille Lacs Tribal Police Department to purchase two years of allowable service credit in the Public Employees Police and Fire Retirement Plan (PERA-P&F) from the four-year, eight-month period of tribal police department police employment rendered before the department was deemed eligible to have PERA-P&F coverage, with the purchase price set at the full actuarial value and with the employer obligated to participate in the purchase only at its option.

Public Pension Situation of Michael Taylor

Michael Taylor is a 47.75 year old full-time police officer with the Mille Lacs Tribal Police Department who was initially employed almost five years before the police department was permitted under state and federal law to participate in the Public Employees Police and Fire Retirement Plan (PERA-P&F) who wants to purchase as much of that pre-inclusion police service as he can financially.

Discussion and Analysis

S.F. xxxx; H.F. 3220 (Radinovich) allows a full actuarial value prior service credit purchase from the Public Employees Police and Fire Retirement Plan (PERA-P&F) without mandatory employer participation in paying the purchase price, by a Mille Lacs tribal police officer who has a significant portion of his public safety career rendered before his employing unit was deemed eligible for public pension plan coverage.

The proposed legislation raises a number of pension and related public policy issues for consideration and possible discussion by the Commission, as follows:

1. Conformity with Commission Policy Principles. The policy issue is whether or not the proposed legislation conforms with the applicable portion of the Commission's Principles of Pension Policy. Principle II.C.10 provides:

II.C.10. Purchases of Prior Service Credit

Purchases of public pension plan credit for periods of prior service should be permitted only if it is determined by the Commission:

- that the period to be purchased is public employment or relates substantially to the public employee's career,
- that the purchase payment amount from the member or from a combination of the member and the current or former employer must equal the actuarial liability to be incurred by the pension plan for the benefit associated with the purchase, appropriately calculated, without the provision of a subsidy from the pension plan unless an error or an omission by the pension plan was responsible for the loss of service credit,
- that the purchase payment amount must include a minimum payment by the member of the equivalent member contributions, plus compound interest from the purchase period to the date of payment unless the employer committed a particularly egregious error,
- that the purchase payment is the responsibility of the member, with the current or former employer authorized to pay some or all of the portion of the payment amount in excess of the minimum member payment amount, unless the employer has some culpability in the circumstances giving rise to the purchase and then a mandatory employer contribution may be imposed, and
- that the purchase must not violate notions of equity.

The proposed purchase appears to meet all of the requirements in the principle. The question of equitable notions is the only item that could merit any elaboration. Generally, in purchases, the adverse equitable considerations are potentially unnecessary delays in correcting a membership reporting error, which is not an issue in this case, or purchases of service that was not eligible at the time it was rendered, which could be an issue. Tribal police departments appear to be a relatively

recent phenomenon and consequently were not covered by public pension plans historically. Tribal governments have not generally been considered political subdivisions of the state. Tribal police departments were permitted to have PERA-P&F coverage for its police officers in 2000 (Laws 2000, Ch. 461, Art. 7, Sec. 2), but that authority was made contingent on receipt from the federal Internal Revenue Service of a determination that the tribal police department is considered to be an agency or instrumentality of the state and that the tribal contributions to the plan were contributions to a governmental pension plan under federal tax law (Section 414(d)). Those determinations apparently were not made until 2003. Given that the Legislature determined the tribal police service to be eligible service credit and the delay in its implementation was a function in whole or in part by federal bureaucratic red tape, this request does not appear to offend equitable notions.

2. Purchase of Partial Prior Service. The policy issue is the appropriateness of permitting the purchase of roughly 40% of the prior uncredited service credit period, potentially subjecting the Legislature to additional service credit purchase requests. The Commission staff understands that the purchase service credit length is a function of the affordability of the purchase payment price. Mr. Taylor can provide a better understanding of his intentions about any future service credit purchase request should this request be approved.
3. Precedent. The policy issue is the existence of precedents for the prior service credit purchase request and the potential for this request to be an adverse precedent for future requests. Although the Commission staff is not aware of any past tribal police department service credit purchases approved by the Commission and the Legislature, there have been numerous past service credit purchases for members with uncredited public employment that were made without any employer mandatory contribution. While there may be a handful of other tribal police officers with a similar uncredited period of employment, because this is a full actuarial value purchase at the requester's expense, the Commission staff does not perceive this request as creating an adverse precedent should it be approved.

**DATE:** March 14, 2013  
**TO:** LCPR Staff  
**FROM:** Shana Jones  
**SUBJECT:** Michael Taylor Service Credit Purchase  
Background

*State of Minnesota*  
*Public Employees Retirement Association*  
**PERA**  
*Office Memorandum*

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**Coordinated Plan Service**

Mr. Taylor has been covered by the Coordinated Plan through his employment with the City of Onamia since July 28, 2002, the onset of his employment according to the City. Mr. Taylor's account reflects casual or on-call employment as a part-time police officer with the City. Currently his Coordinated Plan service credit totals 5 years 10 months as of March 2014 which represents sporadic service credit for his employment period.

**Police and Fire Plan Service**

Mr. Taylor has been covered by the PERA Police and Fire Plan with the Mille Lacs Tribal Police since June 28, 2003, and with the City of Pierz since March 14, 2013. The City of Pierz provided a resolution to PERA substantiating Mr. Taylor's part-time employment with them as eligible for Police and Fire Plan coverage. His employment with the Mille Lacs Tribal Police is full-time. Mr. Taylor's Police and Fire Plan service credit totals 10 years 10 months as of March 2014, which represents full service credit for the time period.

**Mille Lacs Tribal Police Department**

Participation in PERA for a tribal police department is not mandatory. Mille Lacs was the first tribal police department to seek coverage under the Police and Fire Plan. The Attorney General's Office provided an opinion dated February 3, 1999, that current law did not allow for tribal police participation in PERA.

On November 19, 2002, the Mille Lacs Tribe received an IRS Revenue Ruling stating that the participation of its police officers in the Police and Fire Plan would not adversely affect the governmental status of the plan. The tribe submitted a resolution and letter from the tribe's attorney requesting Police and Fire Plan coverage to PERA on December 10, 2002. The resolution was adopted by PERA on March 18, 2003. The first payroll and deductions reported to PERA for all tribal police officers had a pay period begin date of June 28, 2003.

The Mille Lacs Tribal Police Department indicated that Mr. Taylor began employment October 29, 1998, but was not eligible for PERA until March 18, 2003, as full-time police officer though he was reported to PERA with a start date of July 5, 2003<sup>1</sup>.

**Estimated Purchase of Service Cost<sup>2</sup>**

If Mr. Taylor is seeking to purchase the period of time between PERA's acceptance of the tribe's resolution—March through May of 2003—the approximate actuarial purchase cost of those 3 months would be \$7,000.

If he is seeking to purchase the entire 4 years 8 months when he was an employee but not covered by PERA, the actuarial cost is approximately \$125,000.

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<sup>1</sup> Mr. Taylor's PERA start date was updated from July 5, 2003, to June 28, 2003, which corresponds to the first day of the first pay period received. The employer reported some employees with a June 28 start date and some with a July 5 start date. All accounts have been updated by PERA to have a June 28, 2003, coverage begin date.

<sup>2</sup> Estimated purchase cost based on actuarial method only as salary data for a contributions plus interest calculation was not available to PERA at the time of this request.

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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3220

03/20/2014 Authored by Radinovich

The bill was read for the first time and referred to the Committee on Government Operations

1.1 A bill for an act  
1.2 relating to retirement; public employees police and fire retirement plan;  
1.3 permitting the purchase of allowable service credit for pre-2003 employment by  
1.4 certain police officers of the Mille Lacs tribal police department.

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

1.6 Section 1. PERA-P&F; MILLE LACS BAND PRIOR SERVICE CREDIT  
1.7 PURCHASE AUTHORIZED.

1.8 (a) An eligible person described in paragraph (b) is entitled to purchase allowable  
1.9 service credit in the public employees police and fire retirement plan for the period  
1.10 specified in paragraph (c) by remitting the payment calculated under paragraph (d).

1.11 (b) An eligible person is a person who:

1.12 (1) was born on June 28, 1966;

1.13 (2) was initially employed as a full-time police officer by the Mille Lacs tribal  
1.14 police department on October 29, 1998;

1.15 (3) was initially employed as a part-time police officer by the city of Onamia on  
1.16 July 28, 2002;

1.17 (4) was initially employed as a part-time police officer by the city of Pierz on March  
1.18 14, 2013; and

1.19 (5) is an active member of the public employees police and fire retirement plan.

1.20 (c) The period of Mille Lacs tribal police department employment available for  
1.21 purchase is the two-year period of Mille Lacs tribal police department employment  
1.22 immediately preceding initial active membership in the public employees police and fire  
1.23 retirement plan in that capacity.

2.1 (d) The full actuarial value prior service credit purchase payment amount must be  
2.2 calculated under Minnesota Statutes, section 356.551.

2.3 (e) The eligible person must provide the executive director of the Public Employees  
2.4 Retirement Association with any relevant requested information pertaining to the service  
2.5 credit purchase.

2.6 (f) Authority to make a service credit purchase under this section expires on June 30,  
2.7 2015, or upon the eligible person's termination from public employment as defined under  
2.8 Minnesota Statutes, section 353.01, subdivision 11a, whichever occurs earlier.

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