

## **Background Information on Extended Leaves of Absence Service Credit**

### General Comments on Leave of Absence Provisions in Minnesota's Public Defined Benefit Plans

Minnesota's public defined benefit plans are a personnel policy tool of the employer which serve to attract sufficient numbers of new employees, to promote retention of capable existing employees, and to out-transition long-term employees at the end of their fully productive working life, by providing those long-term employees with retirement plan income which is sufficient, in conjunction with personal savings and social security, to allow the individual to retire without a significant drop in the standard of living.

Leave of absence provisions are found in most Minnesota defined benefit public pension plans. They permit the individual to receive either full or partial service credit for a period of break in service to the employer. The provisions are somewhat unusual in that they are providing service credit in the retirement plan for a period of time during which the individual was not providing service to the employer. The provisions presumably are justified in that they serve as retention tools. Another factor may be that the leave, if used to receive additional training or education, further enhances the productivity and value of the employee to the employer.

Minnesota public pension plans vary in the number of leave of absence provisions that apply, with teacher retirement plans typically having the largest number of leave of absence provisions because of unique aspects to that type of public employment.

With most forms of leave, the employee is required to make payments equivalent to the employee plus employer contributions to the pension fund if the individual is to receive service credit for a leave period. Depending on the type of leave, the employer may have an option to pay the employer contributions on behalf of the employee, or the employer may be mandated to make that payment. The general intention is to approximate the payment that would have been made to the pension fund if the employee had not been on leave. If the individual had worked during the period, employee contributions would have been deducted from pay, and those contributions along with the corresponding employer contributions would be transmitted to the retirement plan fund. When a leave occurs, some allowance is typically provided in law in recognition that the employee may have reduced compensation during the leave or possibly no compensation at all. Because of this, it is not uncommon to allow all or a portion of required contributions to be made after the end of the leave, in some cases a year or more later. If payments are delayed, interest is charged to replace the investment earnings on the contributions that would have been expected if the contributions had been made on a timely basis.

### Extended Leave of Absence Provisions

In 1977 (Laws 1977, Ch. 447, Art. IX), several teacher mobility incentives were enacted by the Legislature. The teacher mobility incentives included extended leaves of absences, with a continuation of full teacher retirement plan pension coverage, a teacher early retirement incentive program, and a part-time teaching with full-time teacher retirement plan pension coverage. The teacher mobility incentives were enacted as part of the 1977 school aids bill, represented a policy initiative of the House of Representatives under then Speaker Martin O. Sabo, and were developed to reduce a growing proportion of senior, highly compensated teachers. The program was intended to allow a teacher to take a five-year leave of absence to attempt to make a career change without disrupting the teacher's retirement coverage for the period. The program was not reviewed by the Commission in 1977 and has never been subjected to any detailed scrutiny by the Commission.

The extended leaves of absence program as enacted in 1977 (Laws 1977, Ch. 447, Art. IX, Sec. 1, 3, 6) permitted school district boards to grant an extended leave of absence without pay to full-time elementary or secondary school teachers with between 10 and 20 years of total teaching service under age 55, with the leave length of up to five years in duration. A teacher on an extended leave had a reinstatement right at the beginning of any school year during the leave, retained seniority and teaching contract rights during the leave, but the leave period was not included for the teacher's placement on the steps and lanes salary grid. If granted an extended leave of absence, the teacher was eligible to receive allowable service and salary credit if the teacher paid the member contribution to the Teachers Retirement Association (TRA) or the first class city teacher retirement fund association, based on the salary for the year preceding the leave and payable no later than the end of each fiscal year for which service and salary credit is sought. If the teacher pays the member contributions, the school district is obligated to pay the applicable employer contributions. No service credit was available if the teacher was placed on an unrequested leave of absence, if the teacher's contract was terminated, or if the teacher was covered by a Minnesota public pension plan other than a volunteer firefighter relief association for the same period.

The extended leave of absence program (Minn. Stat. Sec. 122A.46, 136F.43, 354.094, 354A.091) has been modified 20 times since 1977.

- In 1978 (Laws 1978, Ch. 764, Sec. 79-82, 116, 120) the school aid bill modified the qualifications for an extended leave to require five years of employment by the school district and ten years of total teaching service, required a school district report on denials of extended leave of absence requests, and shifted the responsibility for the payment of employer retirement contributions to the State of Minnesota (TRA and first class city teachers retirement fund associations).
- In 1979 (Laws 1979, Ch. 217, Sec. 6), in the first class city teacher retirement fund association coordinated program codification legislation, the style and usage conventions of the codification legislation were updated, and a requirement was added that the applicable school district had a 30-day deadline to make its employer contribution for a leave after being notified by the teacher retirement fund association of receipt of the required member contribution payment.
- Also in 1979 (Laws 1979, Ch. 334, Art. VIII), superintendents and area vocational technical schools were included in the extended leave of absence program, but superintendents were not obligated to be reinstated at the conclusion of the leave, and teachers on an extended leave of absence were permitted to render substitute teaching service (TRA and first class city teachers retirement fund associations).
- In 1980 (Laws 1980, Ch. 454, Sec. 1-5) state university and state community college faculty members were permitted to utilize the extended leave of absence program (TRA only).
- In 1981 (Laws 1981, Ch. 358, Art. 8, Sec. 2, 9-12, 14-17), in the school aids bill, an annual limit of 300 applications was set for the state payment of employer contributions for extended leaves of absence and the state payment was limited to the first three years of the extended leave of absence (TRA and first class city teachers retirement fund associations).
- In 1983 (Laws 1983, Ch. 314, Art. 10), part-time teachers were included in the extended leaves of absence program and the limit on the number of teachers covered by state-paid employer contributions for extended leaves of absence was reduced from 300 to 250 (TRA and first class city teachers retirement fund associations).
- In 1985 (1st Spec. Sess. 1985, Ch. 12, Art. 11, Sec. 5), the deadline on extended leave of absence member contribution payments was extended to 30 days after TRA notification if that is later than June 30 of the year to be credited (TRA only; comparable change made for first class city teachers retirement fund associations in 1979).
- In 1986 (Laws 1986, Ch. 444), gender-specific provisions in the extended leaves of absence provisions were replaced with non-gender-specific references (TRA and first class city teachers retirement fund associations).
- In 1987, (Laws 1987, Ch. 258, Sec. 12), relating to the first class city teachers retirement fund associations, references to “area vocational institutes” were changed to “technical institutes.” Also in 1987 (Laws 1987, Ch. 284, Art. 6, Sec. 5), the TRA extended leave of absence provision member contribution payment deadline was further extended, to September 30, with 6% interest after June 30.
- In 1989 (Laws 1989, Ch. 246, Sec. 2), relating to the first class city teachers retirement fund associations, statutory references to “technical institutes” were changed to “technical colleges.”
- Also in 1989 (Laws 1989, Ch. 293, Sec. 77-79), in an education bill, “area vocational technical school” references were revised as “technical institute” references (TRA and first class city teacher retirement fund associations).
- Also in 1989 (Laws 1989, Ch. 329, Sec. 20, 21, 23, 24), in the school aids bill, the state payment of extended leave of absence employer contribution amounts were terminated (TRA and first class city teacher retirement fund associations).
- In 1991 (Laws 1991, Ch. 130, Sec. 34) references to the state payment of extended leave of absence employer contribution amounts were removed (TRA only).
- Also in 1991 (Laws 1991, Ch. 340, Sec. 12), the TRA extended leave of absence provision was amended to require that each employing unit certify extended leaves of absence it granted before the end of the fiscal year in which the leave was granted and eligibility for participation in the program was restricted to teachers who have a right of reinstatement to their position at the conclusion of the leave.

- In 1992 (Laws 1992, Ch. 598, Art. 3, Sec. 1) interest on late extended leaves of absence employee contributions was increased from 6% to 8.5% (TRA only).
- In 1995 (Laws 1995, Ch. 141, Art. 3, Sec. 20) references to “teachers retirement fund” and teachers retirement association in the TRA extended leaves of absence provision were clarified (TRA only).
- In 1996 (Laws 1996, Ch. 305, Art. 1, Sec. 80) references to the Minnesota State Colleges and Universities System extended leave of absence provision were revised (TRA only).
- In 1998 (Laws 1998, Ch. 397, Art. 11, Sec. 3) cross-references affected by an educational law recodification were revised (TRA and first class city teacher retirement fund associations).
- In 2000 (Laws 2000, Ch. 461, Art. 12, Sec. 6-10), relating to the first class city teacher retirement fund associations, the extended leave of absence service credit provision was extended to plan members employed by the Minnesota State Colleges and Universities System (MnSCU). Also in 2000 (Laws 2000, Ch. 461, Art. 3, Sec. 32), the employer extended leave of absence certification deadline was reset to the date that the leave was granted from the end of the applicable fiscal year (TRA only).
- In 2001 (1st Spec. Sess. Laws 2001, Ch. 1, Art. 2, Sec. 22) a reference to the Minnesota State Colleges and Universities System was corrected (TRA only).
- In 2003 (1st Spec. Sess. Laws 2003, Ch. 12, Art. 3, Sec. 2), the TRA extended leaves of absence provision permitted school districts and collective bargaining units to enter into an agreement for the employer to pay all or part of the member and employer retirement contributions for teachers on leave.
- In 2005 (1st Spec. Sess. Laws 2005, Ch. 8, Art. 3, Sec. 4), the TRA extended leave of absence member contributions were made payable annually by June 30 of the fiscal year for which service credit is to be received and a special authorization for the member contribution payment from pre-tax assets after June 30 was authorized if authorization for the payment was received by the third party administrator of the pre-tax asset plan before the applicable June 30 and the late payment includes monthly interest based on the 8.5% pre-retirement interest rate assumption.
- In 2007 (Laws 2007, Ch. 134, Art. 2, Sec. 31-35, 41, 42, and with minor clarifications in 2008), for TRA only, a generalized procedure for making payments to receive service credit for leaves of absence was enacted, applying to TRA extended leaves of absence, parental leaves, family leaves, medical leaves, and service credit purchases for strike periods. The employer has the option of paying the employer contributions on behalf of the employee. If payment of employee and employer contributions was received before June 30 of the leave, no interest is required. If payment is received in the year following June 30, interest is required from June 30 until the last day of the month in which payment is received. If payment is not made until more than one year after June 30 of the leave, a full actuarial value payment is required. For purposes of this payment procedure, each year of an extended leave is considered as a separate leave.

The following compares the provisions of the general statewide and major local retirement defined benefit plans under current law with respect to crediting allowable service for extended leaves of absence:

Plan	Extended Leave of Absence Provision
MSRS-General	No provision.
PERA-General	No provision.
TRA	Service credit for an extended leave of absence for a period of up to five years granted under Minnesota Statutes, Section 122A.46 or Section 136F.43, if the leave is certified to TRA, may be credited if payment is made under the procedure specified in Minnesota Statutes, Sections 354.094 and 354.72. (The member contribution is payable by the member or is payable in whole or in part by the employer as the employer and the teacher’s collective bargaining representative agree. The employer contribution is payable allocated between the member and the employer as the teacher and the employer agree. The contribution amounts must be calculated based on the covered salary for the year preceding the extended leave. Payments received by June 30 of the leave are without interest. If payment is made during the following fiscal year, interest (8.5% annually, expressed as a monthly rate) is required from June 30 until the end of the month in which payment is made. After one year beyond June 30 of the leave, a full actuarial value payment is required to receive service credit. For purposes of this payment procedure, each year of the extended leave is considered to be a separate leave.) To qualify for service credit, the extended leave of absence must include a right to reinstatement to employment during the leave and at the end of the leave.

During the leave, the person receiving service credit for the leave has the status of an active member of the retirement plan. If there is a failure to pay required member or employer contribution equivalent amounts in any fiscal year, TRA membership terminates as of the start of the fiscal year, and teacher is not permitted to accrue service credit for any later years of the leave until the payment for the earlier year is made. If a teacher does not resume teaching at the conclusion of the leave, TRA membership terminates as of the start of the fiscal year following the conclusion of the leave. The program does not apply to discharged teachers, teachers placed on an unrequested leave of absence, retrenched, or laid off, or a teacher whose contract is terminated. Teachers on an extended leave are prohibited from other Minnesota public pension plan coverage other than by a volunteer firefighter relief association, but a teacher on extended leave can serve as a substitute teacher. [354.094 and 354.72]

DTRFA                      Service credit for an extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before June 30 of the fiscal year for which the teacher is to receive credit. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan other than a volunteer firefighter relief association, but may serve as a substitute teacher. [354A.091]

SPTRFA                      Service credit for an extended leave of absence of up to five years granted under Minnesota Statutes, Section 122A.46 or 136F.43, may be credited if the member and the employer, in the proportion that they agree, pay the member and employer contributions based on the annual salary received for the year immediately prior to the leave. Payment must be made before June 30 of the fiscal year for which the teacher is to receive credit. A teacher on an extended leave of absence is not permitted to be a member of any other Minnesota public pension plan other than a volunteer firefighter relief association, but may serve as a substitute teacher. [354A.091]