SF4410 (Pappas), HF4069 (Feist), as amended by S4410-1A: Exclusion of J-1 visa holders from participation in TRA and PERA

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Introduction

Affected Plans: Teachers Retirement Association (TRA) and pension plans administered by the Public Employees Retirement Association (PERA)

Laws Amended: Minnesota Statutes, section 353.01, subdivision 2b, and section 354.05, subdivision 2

Brief Description: Revising the definition of "teacher" for TRA and "excluded employees" for PERA to exclude J-1 visa holders from having to participate in the plans

Amendment: S4410-1A (author's amendment)

Background

To fill openings in special education, English as a second language, early childhood, and other programs, Minnesota public school districts hire teachers from abroad who come to the United States on J-1 and H1-B visas. The focus of the bill is on J-1 visa holders. According to the U.S. Department of State, the J-1 visa program enables "foreign nationals to come to the U.S. to teach, study, conduct research, demonstrate special skills or receive on the job training for periods ranging from a few weeks to several years."

Individuals on the J-1 teacher program are authorized to stay for 3 years, which can be extended for an additional 2 years. As explained by the U.S. Citizenship and Immigration Services:

> Length of stay: Time necessary to complete the program but may not exceed 3 years. Exception: Sponsors may request from [the Department of State] an extension of 1 or 2 years, but not by a semester or by other fractions of academic years.

We understand that when their stay expires, J-1 teachers are required to leave the U.S. for at least 2 years. One condition of obtaining a J-1 visa is that the individual must pledge no intent to remain in the U.S. or seek more permanent status.

According to data provided to us by Lattice Global, one of two designated sponsors of a J-1 program in Minnesota, Minnesota school districts employed 129 new J-1 visa holders in 2024 and are currently estimated to employ 497 J-1 visa holders.

All teachers in Minnesota public schools are required to participate in TRA and contribute 8% of pay. An employee of a school district who is not considered a “teacher” under TRA’s definition is required to participant in the PERA General Plan and contribute 6.5% of pay.

Under both TRA and the PERA General Plan, members vest after three years of service. If a member leaves teaching service or public employment, a member:

- is eligible to receive a retirement annuity as early as the early retirement age of 55 or, to avoid the early retirement discount, at the normal retirement age of 65 for TRA or age 66 for the PERA General Plan; or
- may take a refund of the member’s employee contributions, with interest computed on contributions at 3% as of the end of each fiscal year through the last day of the month prior to the month in which the refund is issued.

Section- by- Section Summary

This summary assumes that Amendment S4410-1A is adopted. The bill includes a section that amends the eligibility for St. Paul Teachers Retirement Fund Association, but that section is deleted by the amendment.

As amended, the bill consists of two sections:

Section 1, which is added by the 1A amendment, amends the definition of “excluded employees” in Section 353.01, subdivision 2b, one of several definitions that determine eligibility for the PERA pension plans. If an individual is a “public employee” as defined in subdivision 2, the individual is covered by PERA, unless the individual is an “excluded employee” under subdivision 2b. Section 1 amends the definition of “excluded employee” to exclude “persons who are citizens of a country other than the United States and employed on a J-1 visa.”

Section 2 amends the definition of “teacher” in Section 354.05, subdivision 2, which defines eligibility for TRA. Paragraph (b) describes persons who are not “teachers.” Section 2 adds new clause (6) to this paragraph for “a person who is a citizen of a country other than the United States and employed on a J-1 visa.”

Considerations

Visa holders prefer current pay to a future retirement annuity. We understand from Lattice Global that J-1 visa holders prefer to receive current pay than have pay deferred into a pension plan from which they will eventually receive a very small pension decades after the period of their U.S. employment. We can only imagine the complexity of the tax treatment of receiving a small retirement annuity from a pension plan in Minnesota when paid to a citizen of Romania, Kenya, or Jamaica, the most common home countries of J-1 visa holders in Minnesota.

Visa holders lose credit for years of service if they return to Minnesota schools on a more permanent basis. If a J-1 visa holder returns to Minnesota with a more permanent status after the period of J-1 service, and begins to participate in TRA, the member will not receive credit for those earlier years of teaching service as a J-1 visa holder.

TRA and PERA will not receive employer contributions they would have otherwise received. For TRA, employer contributions are 9.81% of pay; for the PERA General Plan, employer contributions are 7.5% of pay. Excluding J-1 visa holders from membership means that TRA and the PERA General Plan will not receive employer contributions based on pay to these individuals that the plans would otherwise have received.

St. Paul Teachers Retirement Fund Association receives employee contributions of 8.75% of pay and employer contributions of 13.59% of pay. The loss of these contributions may have been the reason St. Paul Teachers requested to be removed from the bill, although the loss of employee contributions would have occurred anyway due to the likely event that a J-1 visa holder would request a refund after ending the period of U.S. employment.