

Legislative Commission on Pensions and Retirement

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TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Susan Lenczewski, Executive Director

DATE: March 12, 2018

SUBJECT: S.F. 2971 (Lang); H.F. 3353 (Miller) and Amendment S2971-1A: Revision to 1992 session law regarding the Swift County-Benson Hospital

S.F. 2971 (Lang); H.F. 3353 (Miller), as amended by Amendment S2971-1, deletes a provision in a 1992 session law that requires a successor employer of the employees of the Swift County-Benson Hospital to provide benefits and pensions “comparable” to the “pension program and benefits” provided by the Public Employees Retirement Association (PERA). The 1992 session law can be found at Laws 1992, Chapter 534. The Swift County-Benson Hospital is a governmental employer and its employees are public employees covered by the PERA General Plan.

The 1992 session law gave the Swift County-Benson Hospital, which at the time was organized and operating under a joint powers agreement between the county of Swift and the city of Benson, the authority to reorganize and establish a hospital district. The session law sets forth the required governance structure, the powers, and the borrowing authority of the proposed hospital district.

Specifically, Section 10, Subdivision 3, of the session law lists the powers of the hospital district. Subdivision 3, Paragraph (b), states:

If the Swift county or Benson hospital is sold or leased to a private organization, the successor employer shall provide hospital employees who were members of the public employees retirement association immediately before the lease or sale *a pension program and benefits comparable to those provided by the public employees retirement association.*

The session law does not define what is meant by the term “comparable” or, generally, the phrase “pension program and benefits comparable to those provided by [PERA].” We have discovered no legislative history to clarify the requirement that pensions and benefits “comparable” to the benefits provided by PERA be provided.

The legislature has provided for employees whose public pension plan coverage ends when their hospital employer is sold to a private employer, referred to as “privatization.” In 1999, Chapter 353F was added to the statutes relating to PERA to provide enhanced pension benefits to the employees of hospitals that are privatized. Section 353F.01 describes the purpose and intent of the chapter as follows:

Legislative Commission on Pensions and Retirement

The purpose of this chapter is to ensure, to the extent possible, that persons employed at public medical facilities who are privatized and consequently are excluded from retirement coverage by the Public Employees Retirement Association will be entitled to receive future retirement benefits under the general employees retirement plan of the Public Employees Retirement Association commensurate with the prior contributions made by them or made on their behalf upon the privatization of the medical facility.

Chapter 353F provides enhanced benefits under PERA for employees of a hospital that is sold to a private employer. The enhanced benefits include accelerated vesting, a higher rate of augmentation of deferred benefits, counseling services, and continued eligibility for disability and survivor benefits.

Today, over 25 years after the session law was enacted, the Hospital, which today is known as the Swift County-Benson Health Services, appears to be evaluating its options as it works to remain profitable. Legislators have been contacted by attorneys and others who appear to be involved in negotiations that may result in the sale of the Hospital to a private employer. There is concern that the language in the session law requiring a successor employer to provide “comparable” benefits could interfere with the sale of the Hospital, which may be beneficial to Swift County and the City of Benson. While it is likely that a private employer will provide some form of retirement benefit after the purchase, it is probably unlikely that the retirement benefit will be a pension plan. Pension plans in the private sector are rare and increasingly expensive due to more restrictive law and regulations.

Amendment S2971-1 deletes paragraph (b) and the new language added by S.F. 2971/H.F. 3353. According to the language of Chapter 353F and PERA, the deletion of paragraph (b) and the new language will not have an impact on the availability of Chapter 353F benefits to these employees should the Hospital be sold to a private employer.