



## MINNESOTA PROFESSIONAL FIRE FIGHTERS

8100 Wayzata Boulevard • St. Louis Park, MN 55426-1338

phone: 763-545-8100 • fax: 763-545-0018

April 24, 2020

Rep. Mary Murphy  
Chair Legislative Commission on Pensions and Retirement  
Room 343  
State Office Building  
St. Paul Minnesota 55155

Sen. Julie Rosen  
Vice-Chair, Legislative Commission on Pensions and Retirement  
Room 2113  
Minnesota Senate Building  
St. Paul, Minnesota 55155

Re: HF 4298/SF 4203 (PERA Disability provisions)

Dear Chair Murphy and Vice-Chair Rosen:

My name is Chris Parsons. I am the President of the Minnesota Professional Fire Fighters (MPFF).

I am writing to express the MPFF's opposition to HF 4298/SF 4203. In our view this bill is unlawful and it is poor personnel policy, particularly at a time when first responders are exposed to a life-threatening pandemic on every call.

We believe this bill discriminates on the basis of age. The bill simply eliminates disability benefits for firefighters over the age of 55 who have not yet accumulated 20 years of service. This means any man or woman hired as a firefighter in Minnesota over the age of 35, and who becomes disabled before working for 20 years has different pension protections based solely on their age.

There is simply no logic in this. We are hiring more people over the age of 35 than in the past. Older firefighters are at greater risk of being disabled, particularly due to the COVID-19 virus. This bill could well take away their disability retirement protection.

As I mentioned, we believe this bill is illegal age discrimination. We consulted with Robert Klausner, a lawyer who has been advising public pensions all over the country for more than 40 years, including having advised PERA, a number of the Minnesota fire and police relief

associations, and our parent organization--the IAFF--on pension matters. More than that, Mr. Klausner was the lawyer who represented the state of Kentucky in the leading US Supreme Court case on age discrimination involving pension plans. Mr. Klausner has, at no cost to the MPFF or to the state, provided LCPR staff and our legal counsel with a legal memorandum explaining the defects in this bill. That opinion is attached.

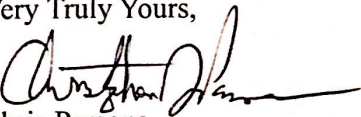
In Kentucky, a firefighter could retire at age 55 with 5 years of service OR 20 years regardless of age. To get a disability, a member could not be eligible under either option for a service retirement. The Kentucky law was upheld by the Supreme Court because there were many instances in which a younger firefighter could be denied a disability but an older firefighter could still receive the benefit. For example, a 38 year old who had 20 years of service could not get a disability benefit because that individual had reached normal retirement eligibility. A 45 year old firefighter with 5 years of service could receive a disability because he or she would not be eligible to retire for 10 more years. Under HF 4298/SF 4203 no one who is 55 could receive a disability benefit. As noted in the LCPR staff analysis, all 45 year old persons with 20 years of service can get a disability but no 55 year old persons with less than 20 years can get disability benefit. In other words, age is the deciding factor. I am told by staff that there are 240 PERA members in that excluded group.

If HF 4298/SF 4302 is adopted, there could well be lawsuits under Minnesota's state age discrimination laws. It was explained to me that the EEOC can sue the in federal court, although an individual cannot. But it was also explained to me that the state has no immunity for claims under Minnesota age discrimination laws.

But, put aside the legal issues. This bill is just bad public policy and says that Minnesota does not care about the welfare of its older public safety workers. At a time when we are under more pressure and risk that any time, how can anyone support cutting benefits for reason other than the firefighter is over 55?

The MPFF respectfully request that the LCPR not include this bill in the final omnibus pension bill you will recommend to the full legislature this year.

Very Truly Yours,



Chris Parsons

President, Minnesota Professional Fire Fighters

Cc. LCPR Commission Members  
Susan Lenczewski, LCPR Executive Director  
Chad Burkitt, LCPR assistant Director  
Brian Rice, MPFF attorney  
Brian Peters, MPPOA