

1.1 **A RESOLUTION**
1.2 **OF THE LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT**

1.3 **WHEREAS**, nearly every legislative session, legislators introduce bills that provide pension
1.4 benefits to individual residents of Minnesota, mostly constituents, who claim they were denied
1.5 benefits due to an error committed by the staff of a Minnesota public pension plan or the constituent's
1.6 public employer; and

1.7 **WHEREAS**, the Legislative Commission on Pensions and Retirement (Commission) receives
1.8 requests from legislators to consider these bills and frequently does consider these bills at
1.9 Commission meetings; and

1.10 **WHEREAS**, Article XII of the Minnesota Constitution states:

1.11 *In all cases when a general law can be made applicable, a special law shall not be enacted....*
1.12 *The legislature shall pass no local or special law ... granting to any private corporation, association,*
1.13 *or individual any special or exclusive privilege, immunity or franchise whatever or authorizing*
1.14 *public taxation for a private purpose; and*

1.15 **WHEREAS**, Minnesota Statutes, section 356.635, subdivision 13, states:

1.16 *The executive director of each plan may correct an operational, demographic, employer*
1.17 *eligibility, or plan document error as the executive director deems necessary or appropriate to*
1.18 *preserve and protect the plan's tax qualification under section 401(a) of the Internal Revenue Code,*
1.19 *including as provided in the Internal Revenue Service's Employee Plans Compliance Resolution*
1.20 *System (EPCRS) or any successor thereto. To the extent deemed necessary by the executive director*
1.21 *to implement correction, the executive director may:*

1.22 *(1) make distributions;*

1.23 *(2) transfer assets; or*

2.1 (3) *recover an overpayment by reducing future benefit payments or designating appropriate*
2.2 *revenue or source of funding that will restore to the plan the amount of the overpayment; and*

2.3 **WHEREAS**, Article 8, Section 12, of the 2024 Pension and Retirement Policy and
2.4 Supplemental Budget Bill (2024 Pension Bill) moves subdivision 13 to its own new statutory section
2.5 (§356.636) and amends the subdivision to provide that an executive director may correct an error
2.6 without regard to any time limits on correction imposed elsewhere in the statutes, clarify language,
2.7 and require the executive directors to annually report on errors corrected and any costs associated
2.8 with correction; and

2.9 **WHEREAS**, prompt correction of errors and reducing or eliminating special legislation on
2.10 pension benefits for constituents will result in the following benefits:

2.11 (1) Constituents will not need to undergo the uncertainty, hassle, and possible embarrassment
2.12 of having their private pension concerns addressed by the Commission and the legislature in public
2.13 forums;

2.14 (2) Constituents and pension plan staff and governing boards will save time and expense by
2.15 not having to go through an appeals process, respond to legislative requests, and appear at
2.16 Commission meetings to answer questions and testify;

2.17 (3) The Commission and Commission staff will save time, especially meeting time, allowing
2.18 more time to focus on issues affecting all members of Minnesota's public pension and retirement
2.19 plans.

2.20 **NOW, THEREFORE, BE IT RESOLVED** that the Commission, to underscore the
2.21 importance of this statute and the need to avoid passing legislation that is unconstitutional, directs
2.22 the executive directors of the Minnesota State Retirement System (MSRS), Public Employees
2.23 Retirement Association (PERA), Teachers Retirement Association (TRA), and St. Paul Teachers
2.24 Retirement Fund Association to exercise the authority granted by Section 356.635, subdivision 13,
2.25 as amended by the 2024 Pension Bill and correct operational, demographic, or employer or employee
2.26 eligibility error, or an error in a plan document that is not a statute promptly, as required by the IRS
2.27 Employee Plans Compliance Resolution System (EPCRS); and

2.28 **BE IT FURTHER RESOLVED** that the executive directors must inform their respective
2.29 governing boards about the statute, EPCRS, the unconstitutionality of special legislation, and the
2.30 new annual reporting requirement and discourage board members from encouraging constituents
2.31 to seek correction of errors at the legislature.

2.32 Dated: April 29, 2024