

February 22, 2000
Basement Hearing Room, State Office Building

5th Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

Representative Harry Mares called the meeting to order at 6:12 P.M. and noted a quorum was not present.

Commission members present:

Representatives Harry Mares, Philip Krinkie, Mary Murphy, and Rich Stanek
Senators Dean Johnson, LeRoy Stumpf, and Roy Terwilliger

2. Consideration of the Actuarial Assumption Changes and Actuarial Method Changes Recommended by the Commission Actuary

Mr. Lawrence Martin, Executive Director, Legislative Commission on Pensions and Retirement, reviewed the staff memo dated February 16, 2000, which summarizes the actuarial assumption and method changes recommended by the Commission actuary. Amendment LCPR00-64 makes the various statutory actuarial assumption changes, which mostly relate to salary scale assumptions. Mr. Martin then reviewed a draft motion that would approve the various actuarial assumption changes that are not statutory, which are based on the most recent quadrennial experience study for MSRS-General, PERA and TRA. Mr. Martin said the Commission must approve actuarial assumption changes that are non-statutory actuarial assumptions.

Mr. Martin then summarized proposed amendments. LCPR00-63 implements the recognition of funding surpluses recommended by Mr. Thomas Custis, Milliman & Robertson, Inc., the Commission actuary. The actuarial value of assets recommended by Mr. Custis is contained in LCPR00-65, which suggests a fairly complicated method of calculating the actuarial value of assets. LCPR00-66 is an alternative method suggested by staff recommending the use of market value as the actuarial value of assets. LCPR00-70 shifts the obligation to create the quadrennial projection valuations from the Pension Commission to the Finance Department. Rep. Mares remarked that he highly recommends the support of that amendment.

11. H.F. 1838 (Davids); S.F. 1559 (Oliver): Deferred Compensation; Investment Option Expansion

Sen. Oliver offered Amendment LCPR00-84, a delete-everything amendment that would revise 1999 law to match as closely as possible the substantive changes that appear in this bill. Sen. Oliver said this bill would remove all restrictions on the number of vendors eligible to participate in the 403(b) matching program. A school board may choose to establish a limit on the number of vendors under this bill.

Sen. Stumpf asked who is in the 403(b) eligibility category. Sen. Oliver said K-12 teachers and employees are eligible. Sen. Stumpf asked if the eligible investment group is the same as those eligible under the 403(b). Sen. Oliver said there is no change in the eligibility of participants, just investment options available to those participants. Sen. Stumpf asked if we did this last year. Rep. Mares said last year the Commission directed the State Board of Investment (SBI) to look into this and create up to a total of 25 providers - 20 insurance and 5 mutual funds.

Mr. Howard Bicker, Director, State Board of Investment (SBI), provided background on this issue. Mr. Bicker said that three years ago SBI recommended to the Legislature a statewide 403(b) provider, but that proposed legislation was not enacted.

The following individuals testified in support of the bill: Mr. Hank Stankiewicz, Education Minnesota, Mr. Alve Jemtrud, Director of Economic Services, Education Minnesota, Mr. Bob Meeks, MSBA, and Mr. Rich O'Connor, Copeland Companies. Mr. Bill Strusinski, TIAA-CREF, testified in opposition to this bill.

Rep. Mares moved Amendment LCPR00-84. **MOTION PREVAILED.** Rep. Mares moved S.F. 1559; H.F. 1838, as amended, be included in the omnibus pension bill. **MOTION PREVAILED.**

1. **Approval of the Minutes of the Commission Meetings of January 11, 2000 and January 25, 2000**
Rep. Stanek moved the approval of the minutes of the Commission meetings of January 11, 2000 and January 25, 2000. **MOTION PREVAILED.**
2. **Continued discussion of Consideration of the Actuarial Assumption Changes and Actuarial Method Changes Recommended by the Commission Actuary**

With a quorum present, Rep. Mares asked Mr. Martin to again review item #2 of the agenda. Mr. Martin again reviewed Amendments LCPR00-65 and LCPR00-66.

Mr. Dave Bergstrom, Director, MSRS, testified in support of LCPR00-65. He said it would smooth out the ups and downs of the market. He opposed LCPR00-66, saying it would be subject to the changes in the market. Mr. Martin said two amendments have been provided today because of past Commission concerns regarding Mr. Custis's recommendation, which is contained in LCPR00-65. Mr. Martin said it is not a very understandable method and will provide actuarial value of assets less than those produced by the current method.

Rep. Krinkie moved Amendment LCPR00-65. **MOTION PREVAILED.**

Mr. Martin said LCPR00-64 implements the statutory assumption changes recommended by the Commission actuary. Rep. Stanek moved Amendment LCPR00-64. **MOTION PREVAILED.**

Mr. Martin again reviewed the draft motion that would approve the various actuarial assumption changes that are non-statutory and recognizes the various experience problems in PERA. Ms. Mary Vanek, Director, PERA, testified to this motion and said PERA supports the assumptions as appropriate. Rep. Mares moved the draft motion. **MOTION PREVAILED.**

Mr. Martin again reviewed LCPR00-63, which implements the recognition of funding surpluses recommended by Mr. Custis, the Commission actuary. This would implement the method used for PERA-P&F implemented by the Legislature last year. Rep. Murphy moved LCPR00-63. **MOTION PREVAILED.**

Mr. Martin said LCPR00-70 shifts the responsibility of a quadrennial projection study from the Pension Commission to the Department of Finance. Mr. Bergstrom noted that the cost of this study is borne by the retirement plans and questioned the need for this study at all. He suggested eliminating the requirement altogether or changing the language to read "may" instead of "shall." Mr. Bill Eisele, Department of Finance, said they would support making this report optional. Rep. Mares moved LCPR00-70, with a verbal amendment, page 1, line 15, delete "shall" and insert "may;" page 2, line 13, delete "shall" and insert "may." **MOTION PREVAILED.**

5. **H.F. 3019 (Knoblach); S.F. _____ (): MSRS-Correctional; Inclusion of Past Phoenix Program Service in Coverage**

Rep. Knoblach presented a technical amendment, LCPR00-82. He said this amendment changes "Phoenix" to "Phoenix/Pomiga," and adds two assistant group supervisors to extend this bill to three individuals. Rep. Mares moved Amendment LCPR00-82. **MOTION PREVAILED.**

Rep. Knoblach summarized the bill and said these three individuals were overlooked in 1996 when 33 additional employment classifications were included in MSRS-Correctional. Rep. Knoblach said these three individuals in the state prison system had very extensive contact with inmates and should be included in the MSRS-Correctional Plan.

Rep. Mares asked Mr. Bergstrom what the total cost of this bill is. Mr. Bergstrom said the purchase costs for these individuals range from \$1,500-3,000. The present value added to the fund is \$20,000 for two of the individuals and \$38,000 for the third. Rep. Mares asked if these are the

only three people affected by this bill. Mr. Bergstrom said these are the only three he is aware of, but there may be more. Mr. Bergstrom said this sets a precedent because this is a buyback of service for a job classification that was not in law originally.

Rep. Murphy moved H.F. 3019, as amended, to be included in the omnibus pension bill.

MOTION PREVAILED.

7. H.F. 2543 (Gleason); S.F. 2358 (Ranum): MTRFA; Purchase of Service Credit of Certain Prior Teaching Service

Sen. Ranum distributed some handouts to the members. Sen. Ranum said this bill would authorize a current Minneapolis teacher, Ms. Mary Starleaf, to purchase 14 years of uncredited prior service, requiring Ms. Starleaf to pay member contributions with interest and the school district to pay the balance of the purchase payment amount. Mr. Paul Carlson, attorney for Mary Starleaf, testified on Ms. Starleaf's behalf and went over his client's background relative to this issue. Ms. Starleaf testified on her behalf.

Mr. Martin said this raises four public pension policy issues. The first issue is whether there is an equitable basis for granting this prior purchase credit permission. The second issue is who makes the prior service credit purchase payment. If the school district was responsible, past Commission practice would have the school district bear a substantial portion of the cost. The third issue is the binding arbitration that occurred in the early 1980s. Mr. Martin suggested having some additional information on the binding arbitration would be appropriate. The fourth item is precedent, both past and future.

Mr. Jim Grathwol, Minneapolis Public Schools representative, testified against this bill. Mr. Grathwol said current law provides a solution to this problem. Mr. Carlson said this case is distinguishable from the precedent cases because the district actually erred in not including Ms. Starleaf in the pension plan and that she was not treated equally with other teachers in the same situation. Rep. Wenzel asked Mr. Carlson why this wasn't resolved with the school district. Mr. Carlson said they tried, but with no success. Sen. Stumpf asked why she couldn't buy this service back under the legislation passed last year. Rep. Mares said community education service was not addressed in that legislation. Sen. Stumpf suggested there is a loophole in last year's legislation that should be closed. Mr. Martin said it would be difficult to differentiate between those individuals who should be granted authority and those instances where it might be a less clear teaching service.

Ms. Karen Kilberg, Director, Minneapolis Teachers Retirement Fund, testified that MTRFA felt that Ms. Starleaf is qualified to purchase this service under 354A.104.

Mr. Martin told members he sees three options: 1) pass the bill as currently constituted; 2) amend it to make the mandatory employer contribution optional; or 3) amend it to provide a mandatory employer payment if, as a result of litigation, that is what the court orders. Sen. Ranum, as a fourth option, asked if the Commission can mandate the school district to pay a portion of the purchase payment amount. Rep. Mares asked the staff to draft amendments addressing these options and the Commission will review it at the next Commission meeting.

8. H.F. 2685 (Wagenius); S.F. 2506 (Ranum): Minneapolis Fire Relief Association, Revising Retiree Marriage Duration Requirement for Survivor Benefit Eligibility

Rep. Wagenius said this bill would permit the payment of a survivor annuity to a widow whose marriage occurred four years, not five years, before the retired member's death. She said the current situation is "highly confused" and noted they would support staff amendment LCPR00-71, a delete-all amendment which would be a special law for a single individual.

Mr. Brian Rice, General Counsel, Minneapolis Firefighters Relief Association, said the fund does not have a formal position on the bill. He said they would support LCPR00-71 and noted it does have local approval. Mr. Rice said their preference would be to undo the 1994 law that appeared in the 1997 law which shouldn't have been there. Mr. Rice said this is something he could work with the Commission staff to address.

Sen. Stumpf moved Amendment LCPR00-71. **MOTION PREVAILED.** Rep. Stumpf moved H.F. 2685; S.F. 2506, as amended. **MOTION PREVAILED.**

12. H.F. 2979 (Abeler); S.F. 3042 (Scheid): Various Plans; Modification of Limitation on Defined Benefit Plan Benefits

Rep. Abeler introduced Mr. Russ Stanton, lobbyist for state university and community college faculty. Mr. Stanton said this bill applies to one person at North Hennepin Community College and revises 1999 law, Section 356.61, by adding to gross income, for purposes of determining the maximum annual benefit received, the mandatory employee contributions made to the primary pension plan. Mr. Stanton said TRA does not oppose this bill.

Mr. Burek suggested the director of TRA provide testimony to state there is in fact a problem here and not just miscommunication. Mr. Burek said it not clear that Section 356.61 has any applicability in this case. Mr. Gary Austin, Director, Teachers Retirement Association, said TRA thinks 356.61 is applicable because TRA is a defined benefit plan. Rep. Murphy asked Mr. Austin how many people would be affected by this bill. Mr. Austin said under five.

Mr. Burek discussed LCPR00-96 which would add an effective date and make the provision retroactive. Amendment LCPR00-97 would repeal Section 356.61, which states in Minnesota law the limitations found in Section 415 of the Internal Revenue Code on the maximum benefit which may be paid to plan retirees, and make the repealer retroactive. Mr. Stanton said the federal limits have changed many times since this law was enacted, and that he feels a better policy approach would be to say the Federal limits apply. Mr. Stanton said if this isn't done, the retroactive date is needed to take care of the affected individual. Rep. Murphy moved to lay this on the table for a further meeting. **MOTION PREVAILED.**

9. H.F. 3025 (Stanek); S.F. 2463 (Betzold): PERA-P&F; Inclusion of Part-time Metro Transit Police Officers

Rep. Stanek introduced two individuals in attendance to testify on behalf of this bill which would include part-time Metropolitan Transit police officers in PERA-P&F retirement coverage. Mr. Mike Colfus, police officer for the City of Brooklyn Center, and a part-time police officer for the Metropolitan Transit Police, testified in support of this bill. Mr. Dean Mooney, Police Chief, Metro Transit Police Department, also testified in support of this bill. Rep. Murphy asked Officer Colfus how many hours per week he worked for the Metro Transit Police. Officer Colfus answered that part-time Transit police officers work an average of 20 hours per week and these same officers work an average of 40 hours per week full-time.

Ms. Mary Vanek, PERA, said the PERA board reviewed the language and does not oppose it. She spoke to Mr. Tom Custis, Milliman & Robertson, who confirmed the overall cost to the plan over time will be accounted for by employee contributions. She said the police and fire plan was created to cover licensed law enforcement personnel and these individuals are working in that capacity for MTC. Rep. Mares asked about Social Security. Ms. Vanek said the individuals are currently participating in Social Security because they are not covered by another pension plan and once they participate in a plan not covered by Social Security they may have to seek exclusion. Rep. Mares said there are some questions that need to be addressed and recommended laying this over to the Interim.

2. Consideration of a Change in the Re-employment Annuitant Earnings Maximums of the Various Retirement Plans

Mr. Martin referred members to the staff memo dated February 16, 2000, which provides background information on this subject. Mr. Martin explained that LCPR00-38 is a basic amendment which sets up a mechanism where money that is deducted from a retiree's benefit check by virtue of exceeding the reemployed earnings limit would no longer cancel, but would be deferred to a separate savings account payable at age 70.

Mr. Martin summarized three amendments drafted at the request of the Commission. LCPR00-67 resets the age for receipt at 67, or one year after termination; LCPR00-68 resets the age for receipt at 66, or one year after termination; and LCPR00-69 resets it at age 65, or one year after

termination. Mr. Martin referenced a handout relating to changes in Congress with Social Security limits. This is a copy from the National Journal of 2/17/00. Legislation has been introduced in Congress to repeal all or most of the earnings limitations for Social Security. If this happens, all or much of current Minnesota reemployed annuitant earnings limits may go away.

Mr. Jay Stoffel, Director, Duluth Teachers Retirement Fund, testified he is not certain about the income tax issue when this income is moved into the Minnesota Supplemental Retirement Fund. He said they are not sure if this is a tax-free dollar amount or an after-tax dollar amount. Mr. Stoffel said they need time to look into the issue. Mr. Gary Austin, TRA, testified that he shares the same concerns that Mr. Stoffel has. Starting up and maintaining small defined contribution accounts is also a concern of Mr. Austin's. He felt that with no restrictions, as soon as the "Rule of 90" is reached, teachers would retire, begin drawing post-refund increases and return to the job they previously held. Mr. Austin felt this is extreme for what is trying to be accomplished. Mr. Stoffel suggested an alternative solution of a 403(b).

Rep. Mares moved LCPR00-69. **MOTION PREVAILED.**

4. H.F. 675 (Mares); S.F. ____ (): Various Plans; Administrative Provisions

Rep. Mares asked Mr. Burek to summarize the articles in this bill and point out any staff concerns. Mr. Burek said Article 1 contains provisions that are largely administrative and went on to summarize pension policy issues raised by a number of sections in this bill.

Sections 1 and 34 of Article I include MnSCU reemployed annuitant waiver language that some MnSCU faculty may view as a benefit takeaway. Currently, \$35,000 in reemployed annuitant earnings are exempt from reemployed annuitant offsets. These two sections revise that limit in law, if the person is retired for only a portion of the year during the first year of annuity receipt, to say the maximum income must be prorated. Mr. Burek then noted inconsistent treatment among plans and said if these changes are made to MSRS and TRA, comparable changes are needed in the first class city teacher law.

Article 1, Sections 2, 11, and 32, deal with direct deposit provisions. The concern is whether the pension funds can retain sufficient control or ability to recapture any amounts that were paid in error.

Article 1, Section 3, makes the MSRS State Patrol Plan consistent with MSRS defined benefit plans by specifying that service credit will be granted for any month in which contributions are made, rather than on a daily or pay-period basis. The proposed change creates a minor benefit improvement.

Article 1, Section 18, raises the issue whether substantive changes should be made in this part-time service provision. There are some inequities in the part-time provisions regarding who can receive PERA-P&F coverage.

Article 1, Section 33, revises TRA law to remove a requirement that the election is to be irrevocable. TRA does permit individuals to revoke an election. The issue is how much, if any, discretion the fund should have in doing that.

Article 1, Section 36, is a minor benefit improvement regarding an extension of time for interest paid on a refund for minor dependents.

Mr. Burek said Amendment LCPR00-72 would amend LCPR00-62 (the working document), lines 2 and 3, by reinstating language in the TRA accelerated annuity provision to keep in the "irrevocable" language. LCPR00-72 would also modify, for consistency reasons, the first class city teacher laws to make the same changes in the MnSCU reemployed annuitant waiver in MSRS-General and TRA law.

Mr. Gary Austin, TRA, commented on Section 33, the "irrevocable" provision. He testified against the adoption of the Commission amendment. Mr. Burek said if the Commission wants the original language reinstated, a motion would be needed to remove lines 2 and 3 of LCPR00-72. Rep. Murphy moved the deletion of lines 2 and 3 from LCPR00-72. **MOTION PREVAILED.**

Mr. Russ Stanton testified to the MnSCU reemployed annuitant waiver, saying that the current system works very well. He felt prorating the first year of service would hinder their ability to reemploy teachers when they are needed most in the fall and asked that Sections 1 and 34 be deleted from the bill. Rep. Wenzel asked why these provisions were in the bill. Mr. Burek said these provisions were in the administrative bill the funds put together. MSRS and TRA felt that, without the prorating language, it is abuse to allow an individual to earn \$35,000 and be exempt from any reemployment penalties if the person is only retired for half a year. Rep. Wenzel recommended removing these sections from the bill.

Ms. Vanek testified to Article 1, Section 18, regarding full service credit for part-time work. Ms. Vanek said they are going to review why PERA does not have prorated service credit like the other plans. She said this review would include police and fire language.

Mr. Burek reviewed a possible amendment, LCPR00-73, which proposes to delete Article 2, to delete substantial portions of Article 3, and to delete Article 4. The working document, LCPR00-62, Article 2, contain benefit provisions with many sections that revise refund language in all MSRS, TRA, and PERA plans. These provisions authorize the funds to pay individuals a refund with 6% interest despite the laws in effect at the time of termination. Mr. Burek expressed concern about the removal of the presumption against retroactivity.

Mr. Bergstrom testified in support of the provisions authorizing retroactive member refunds with 6% interest. Rep. Mares said this will be addressed at the next Commission meeting.

Mr. Austin testified in support of Article 4, the extension of full actuarial value procedure.

Rep. Wenzel asked about Article 1, Section 27, TRA's termination of teaching service. Rep. Wenzel asked for clarification of this language. Mr. Hank Stankiewicz said that, for retirement purposes, termination of teaching service occurs on the last day of the school calendar.

Mr. Dave Bergstrom asked to go on record about a possible reverse-IMP situation at MSRS. Currently, members in MSRS-Unclassified, once they have 10 years of service, can switch to MSRS-General. Part of this bill will close that option to all new employees after July 1, 2000. Mr. Bergstrom feels that when the market turns, a lot of members will move from MSRS-Unclassified to MSRS-General and MSRS will be hit with those liabilities.

The meeting adjourned at 10:08 P.M.



Lisa Diesslin, Secretary