

S.F. 1553

(Murphy)

H.F. 1350

(Ozment)

**Executive Summary of Commission Staff Materials**

<u>Affected Pension Plan(s):</u>	Public Employees Retirement Association (PERA) General Plan
<u>Relevant Provisions of Law:</u>	Proposed new Minnesota Statutes, Sections 383D.48 and 383D.49
<u>General Nature of Proposal:</u>	Inclusion of a new group in PERA-General
<u>Date of Summary:</u>	March 22, 2001

Specific Proposed Change

Add Dakota County Agricultural Society Employees to PERA General. Employees of the Dakota County Agricultural Society would become eligible for PERA-General Plan coverage.

Policy Issues Raised by the Proposed Legislation

1. Sufficient Governmental Connection. The issue is whether the employees of this agricultural society are sufficiently similar to public employees to warrant coverage by a public pension plan, PERA-General.
2. Match Between Nature of Employment and Nature of the Plan. The issue is whether this plan, or any public defined benefit plan, is appropriate given the employment characteristics of the proposed coverage group. If salaries are very low, if much of the employment is part-time, or if the agricultural society is not an organization of expected long duration, coverage in a public plan may not well suit the employees.
3. Scope Concerns. If there is a question of whether these employees are sufficiently governmental to warrant coverage in a public plan, the number of employees involved may be a concern. Commission members may wish to inquire whether PERA coverage for employees of this one society may lead to numerous similar requests.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek *EB*

RE: S.F. 1553 (Murphy); H.F. 1350 (Ozment): PERA General: Authorizing Coverage for Dakota County Agricultural Society Employees

DATE: March 22, 2001

Summary

S.F. 1553 (Murphy); H.F. 1350 (Ozment): PERA General: Authorizing Coverage for Dakota County Agricultural Society Employees, would authorize employees of the Dakota County Agricultural Society to be covered by the Public Employees Retirement Association (PERA) General Plan, and would authorize Dakota County to provide financial and accounting services to Metropolitan Inter-County Association employees. Local approval is required.

Background

The portion of S.F. 1553, H.F. 1350 which is pension-related is language in the bills declaring Dakota County Agricultural Society employees to be county employees for purposes of public pension coverage. The effect is to declare that employees of this society will be entitled to PERA General coverage, providing salary thresholds and similar requirements are met. The bills include language stating that the Dakota County Agricultural Society employees are not county employees for any other purpose.

The primary issue raised by the bill is whether these employee positions are sufficiently governmental in nature that inclusion in PERA General is warranted. In the past, PERA, and also the directors of the Minnesota State Retirement System (MSRS) and the Teachers Retirement Association (TRA), have raised concerns about including individuals or groups in their public plans when the employment is more similar to private sector employment than public sector employment. However, there are situations in all these plans where individuals in private sector employment or quasi-public sector employment are included. An example is coverage provided for labor union officials who represent public sector employee groups. We also note legislation passed in 1999 and 2000 for teacher plans, which authorized purchase of service credit in teaching plans for private sector teaching service and service in various community-based organizations. It may be the case that no problems with federal tax qualification will occur providing the plan's membership group is primarily public.

Within PERA, various groups have at times been included for plan coverage where the group is quasi-public or private sector in nature. In addition to coverage for labor union officials (Section 353.017), current PERA law (Section 353.025) authorized PERA General coverage for employees of the Range Association of Municipalities and Schools. At one point in time, coverage was provided to employees of the Suburban Health Nurses Association. This latter organization no longer exists.

Policy Issues.

S.F. 1553 (Murphy); H.F. 1350 (Ozment): PERA General: Authorizing Coverage for Dakota County Agricultural Society Employees, would authorize employees of the Dakota County Agricultural Society to be covered by the Public Employees Retirement Association (PERA) General Plan, and would authorize Dakota County to provide financial and accounting services to Metropolitan Inter-County Association employees. Local approval is required.

The bills raise the following pension policy issues:

Nature of the proposed coverage group. The issue is the nature of the proposed new coverage group and whether the group is sufficiently public in nature to justify inclusion in a public sector plan. Under the bill language, these individuals are not to be considered county employees for any purpose other than to qualify for PERA coverage (page 2, lines 5 to 7). This raises the question, if they are not in general to be considered as county employees, are they sufficiently public to justify inclusion in a public sector plan? The LCPR may wish to hear brief testimony from PERA's Executive Director regarding any reservations she may have regarding the proposal, in addition to any testimony from a representative of the proposed coverage group.

Match between type of employment and the plan. In addition to questions of whether the group is sufficiently public in nature to justify coverage, the LCPR may also wish to inquire about the approximate salary levels of the various employees, turnover, and whether the organization is likely to continue for a prolonged or indefinite period. If salaries are low, and/or if part-time employment is common, many of the employees may fail to qualify for PERA coverage because of salary thresholds in the plan. If turnover is high or if there is a fair chance that the organization may not endure for the long term, the employees who do gain access to PERA may never vest, and even if they do vest, the best option may be to take a refund.

Other pension coverage. The LCPR may wish to inquire whether these employees have any other pension coverage due to the employment, to avoid creating double coverage.

Scope Concerns. If the LCPR has reservations about whether the proposed coverage group is sufficiently public in nature to justify plan inclusion, the LCPR may wish to inquire whether there are organizations similar to the Dakota County Agricultural Society operating in other counties, and the nature of any provided pension coverage. If the group is deemed to be quasi-public or private sector in nature, what may be acceptable if the proposed group is very small may not be acceptable to the LCPR if allowing Dakota County Agricultural Society employees to have PERA coverage may lead to similar requests by other groups.

Amendment.

If the LCPR wishes to act on S.F. 1553 (Murphy); H.F. 1350 (Ozment), it may wish to consider amendment LCPR01-129. This amendment is technical in nature. Under PERA law, PERA provides pension coverage to employees of governmental subdivisions (as governmental subdivision is defined under Section 353.01, Subdivision 6) who are included for plan coverage (under Section 353.01, Subdivisions 2 and 2a). The amendment proposes to add reference to the Dakota County Agricultural Society in these PERA law provisions. (The amendment would also add the Spring Lake Fire Department, Incorporated, as a governmental subdivision for PERA purposes, consistent with legislation that passed last year permitting employees of that organization to have PERA General or PERA P&F coverage for employment with that organization.) The changes in the PERA law provisions would be contingent on local approval to include the Dakota County Agricultural Society employees. The amendment also proposes to delete language which is unnecessary and which might lead to conflict in the future with PERA pension law in Chapter 353.

1 M moves to amend S.F. No. 1553; H.F. No.
2 1350, as follows:

3 Delete everything after the enacting clause and insert:

4 "Section 1. Minnesota Statutes 2000, section 353.01,
5 subdivision 2a, is amended to read:

6 Subd. 2a. [INCLUDED EMPLOYEES.] Public employees whose
7 salary from one governmental subdivision exceeds \$425 in any
8 month shall participate as members of the association. If the
9 salary of an employee is less than \$425 in a subsequent month,
10 the employee retains membership eligibility. The following
11 persons are considered public employees:

12 (1) employees whose annual salary from one governmental
13 subdivision exceeds a stipulation prepared in advance, in
14 writing, to be not more than \$5,100 per calendar year or per
15 school year for school employees for employment expected to be
16 of a full year's duration or more than the prorated portion of
17 \$5,100 per employment period expected to be of less than a full
18 year's duration. If compensation from one governmental
19 subdivision to an employee under this clause exceeds \$5,100 per
20 calendar year or school year after being stipulated in advance
21 not to exceed that amount, the stipulation is no longer valid
22 and contributions must be made on behalf of the employee under
23 section 353.27, subdivision 12, from the month in which the
24 employee's salary first exceeded \$425;

1 (2) employees whose total salary from concurrent
2 nontemporary positions in one governmental subdivision exceeds
3 \$425 in any month;

4 (3) elected officers for service to which they were elected
5 by the public-at-large, or persons appointed to fill a vacancy
6 in an elective office, who elect to participate by filing an
7 application for membership, but not for service on a joint or
8 regional board that is a governmental subdivision under
9 subdivision 6, paragraph (a), unless the salary earned for that
10 service exceeds \$425 in any month. The option to become a
11 member, once exercised, may not be withdrawn during the
12 incumbency of the person in office;

13 (4) members who are appointed by the governor to be a state
14 department head and elect not to be covered by the Minnesota
15 state retirement system under section 352.021;

16 (5) employees of elected officers;

17 (6) persons who elect to remain members under section
18 480.181, subdivision 2;

19 (7) employees of a school district who receive separate
20 salaries for driving their own buses;

21 (8) employees of the Minnesota association of townships
22 when the board of the association, at its option, certifies to
23 the executive director that its employees are to be included for
24 purposes of retirement coverage, in which case coverage of all
25 employees of the association is permanent;

26 (9) employees of a county historical society who are county
27 employees;

28 (10) employees of a county historical society located in
29 the county whom the county, at its option, certifies to the
30 executive director to be county employees for purposes of
31 retirement coverage under this chapter, which status must be
32 accorded to all similarly situated county historical society
33 employees and, once established, must continue as long as a
34 person is an employee of the county historical society and is
35 not excluded under subdivision 2b; and

36 (11) employees who became members before July 1, 1988,

1 based on the total salary of positions held in more than one
2 governmental subdivision; and

3 (12) employees of the Dakota county agricultural society.

4 Sec. 2. Minnesota Statutes 2000, section 353.01,
5 subdivision 6, is amended to read:

6 Subd. 6. [GOVERNMENTAL SUBDIVISION.] (a) "Governmental
7 subdivision" means a county, city, town, school district within
8 this state, or a department or unit of state government, or any
9 public body whose revenues are derived from taxation, fees,
10 assessments or from other sources.

11 (b) Governmental subdivision also means the public
12 employees retirement association, the league of Minnesota
13 cities, the association of metropolitan municipalities, public
14 hospitals owned or operated by, or an integral part of, a
15 governmental subdivision or governmental subdivisions, the
16 association of Minnesota counties, the metropolitan intercounty
17 association, the Minnesota municipal utilities association, the
18 metropolitan airports commission, the Minneapolis employees
19 retirement fund for employment initially commenced after June
20 30, 1979, the range association of municipalities and schools,
21 soil and water conservation districts, and economic development
22 authorities created or operating under sections 469.090 to
23 469.108, the Spring Lake Park fire department, incorporated, and
24 the Dakota County Agricultural Society.

25 (c) Governmental subdivision does not mean any municipal
26 housing and redevelopment authority organized under the
27 provisions of sections 469.001 to 469.047; or any port authority
28 organized under sections 469.048 to 469.089; or any hospital
29 district organized or reorganized prior to July 1, 1975, under
30 sections 447.31 to 447.37 or the successor of the district, nor
31 the Minneapolis community development agency.

32 Section 3. [383D.48] [METROPOLITAN INTER-COUNTY
33 ASSOCIATION.]

34 Notwithstanding any other law to the contrary, Dakota
35 county may provide financial and accounting services, including
36 payroll management and records, to the Metropolitan Inter-county

1 Association. Notwithstanding this section, Metropolitan
2 Inter-county Association employees are not county employees for
3 any purpose.

4 Sec. 4. [383D.49] [AGRICULTURAL SOCIETY.]

5 Notwithstanding any other law to the contrary, Dakota
6 county may provide financial and accounting services, including
7 payroll management and records, to the Dakota County
8 Agricultural Society and may determine that employees of the
9 society are county employees for the purposes of section 471.61.
10 Dakota County Agricultural Society employees are not county
11 employees for any other purpose.

12 Sec. 5. [DAKOTA COUNTY AGRICULTURAL SOCIETY EMPLOYEE
13 PENSION CERTIFICATION.]

14 Notwithstanding section 4, the Dakota county board of
15 commissioners may certify to the executive director of the
16 public employees retirement association that employees of the
17 Dakota County Agricultural Society are county employees for
18 purposes of retirement coverage under chapter 353, which status
19 must be accorded to all similarly situated Dakota County
20 Agricultural Society employees.

21 Sec. 6. [EFFECTIVE DATE; LOCAL APPROVAL.]

22 (a) Sections 1 to 4 are effective the day after the
23 governing body of Dakota county and its chief clerical officer
24 timely complete their compliance with Minnesota Statutes,
25 section 645.21, subdivisions 2 and 3.

26 (b) Section 5 is effective the day after the governing
27 board of Dakota county and its chief clerical officer timely
28 complete the compliance with Minnesota Statutes, section 645.21,
29 subdivisions 2 and 3, and certification to the executive
30 director of the public employees retirement association."

31 Amend the title accordingly

Senators Murphy, Wiener, Metzen, Knutson and Pariseau introduced--

S.F. No. 1553: Referred to the Committee on State and Local Government Operations.

1 A bill for an act

2 relating to Dakota county; authorizing Dakota county
3 to provide certain benefits and services; authorizing
4 inclusion of certain employees in PERA; proposing
5 coding for new law in Minnesota Statutes, chapter 383D.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. [383D.48] [METROPOLITAN INTER-COUNTY
8 ASSOCIATION.]

9 Notwithstanding any other law to the contrary, Dakota
10 county may provide financial and accounting services, including
11 payroll management and records, to the Metropolitan Inter-county
12 Association. Notwithstanding this section, Metropolitan
13 Inter-county Association employees are not county employees for
14 any purpose.

15 Sec. 2. [383D.49] [AGRICULTURAL SOCIETY.]

16 (a) Notwithstanding any other law to the contrary, Dakota
17 county may provide financial and accounting services, including
18 payroll management and records, to the Dakota County
19 Agricultural Society and may determine that employees of the
20 society are county employees for the purposes of section 471.61.

21 (b) The Dakota county board of commissioners may certify to
22 the executive director of the public employees retirement
23 association that employees of the Dakota County Agricultural
24 Society are county employees for purposes of retirement coverage
25 under chapter 353, which status must be accorded to all

1 similarly situated Dakota County Agricultural Society employees
2 and, once established, must continue as long as a person is an
3 employee of the Dakota County Agricultural Society and is not
4 excluded under section 353.01, subdivision 2b.

5 (c) Notwithstanding this section, Dakota County
6 Agricultural Society employees are not county employees for any
7 other purpose.

8 Sec. 3. [EFFECTIVE DATE; LOCAL APPROVAL.]

9 Sections 1 and 2 are effective the day after the governing
10 body of Dakota county and its chief clerical officer timely
11 complete their compliance with Minnesota Statutes, section
12 645.21, subdivisions 2 and 3.