



TO: Senator Lawrence J. Pogemiller

FROM: Lawrence A. Martin, Executive Director *JAM*

RE: Recouping the Actuarial Present Value for the PERA-P&F Death Benefit Paid Relative to the Late St. Louis Park Police Officer David Day

DATE: February 9, 2006

Summary of First Special Session Laws 2005, Chapter 1, Article 4, Section 97

On June 30, 2005, as part of First Special Session Laws 2005, Chapter 1, the agricultural, environmental, natural resources, and economic development appropriations bill, an amendment to the death benefit provision of the Public Employees Police and Fire Plan (PERA-P&F) was enacted. The PERA-P&F survivor benefit amendment provided survivors of PERA-P&F members who die while in active military service with a duty-related survivor benefit and made the change retroactive to any applicable death on or after September 11, 2001. The PERA-P&F survivor benefit amendment was apparently intended to provide a full duty survivor benefit to the widow of the late St. Louis Park police officer, David Day, who had less than one year of PERA-P&F service credit, who did not die in the line of duty while serving in the military in Iraq, and whose spouse did not meet the one-year of marriage minimum duration requirement.

PERA Resolution on the PERA-P&F Survivor Benefit Change

The Public Employees Retirement Association (PERA) board adopted a resolution in September 2005, expressing concern about the 2005 Special Session Public Employees Police and Fire Retirement Plan survivor benefit change and requesting the Legislative Commission on Pensions and Retirement to advance proposed legislation that would rescind the 2005 Special Session PERA-P&F survivor benefit change and that would reimburse the PERA-P&F retirement fund for the cost of any benefit paid under the 2005 Special Session benefit change.

Potential Responsive Commission Actions

In responding to the 2005 Special Session Public Employees Police and Fire Plan (PERA-P&F) survivor benefit change and the Public Employees Retirement Association (PERA) board resolution, the Commission could take one or a combination of the following actions:

1. Repeal the 2005 Special Session PERA-P&F Survivor Benefit Increase. Amendment LCPR06-BA006 would repeal First Special Session Laws 2005, Chapter 1, Article 4, Section 97, effective upon final enactment.
2. Charge Employers for the Cost of the 2005 Special Session PERA-P&F Survivor Benefit Change. Amendment LCPR06-BA007 would impose a special obligation on the applicable employer if an employee on active military service dies qualifying a survivor to a benefit under the 2005 Special Session benefit change. The special obligation would be the present value of the additional benefit obtained under the 2005 Special Session benefit change.
3. Charge St. Louis Park for the Cost of the David Day Survivor Benefit. Amendment LCPR06-BA008 would allow St. Louis Park to pay the actuarial cost of the survivor benefit that the widow of David Day became entitled to receive by virtue of the 2005 Special Session benefit change and would reduce by the present value amount St. Louis Park's State aid if the city declines to reimburse PERA-P&F.

either the securities delivered to the commissioner by the holder, if they still remain in the hands of the commissioner, or the proceeds received from the sale, but no person has any claim under this section against the state, the holder, any transfer agent, registrar, or other person acting for or on behalf of a holder for any appreciation in the value of the property occurring after delivery by the holder to the commissioner. If the property is of a type customarily sold on a recognized market or of a type that may be sold over the counter at prevailing prices, the commissioner may sell the property without notice by publication or otherwise. The commissioner may proceed with the liquidation after holding for one year, with the exception of securities being held as the result of an insurance company demutualization, these types of securities may be sold upon receipt. This section grants to the commissioner express authority to sell any property, including, but not limited to, stocks, bonds, notes, bills, and all other public or private securities. A person making a claim under section 345.35 is entitled to receive the securities delivered to the administrator by the holder, if they remain in the custody of the administrator, or the net proceeds received from sale, and is not entitled to receive any appreciation in the value of the property occurring after sale by the commissioner. The commissioner may liquidate all unclaimed securities currently held in custody in accordance with this section.

Sec. 97. Minnesota Statutes 2004, section 353.657, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** In the event a member of the police and fire fund dies from any cause before retirement or after becoming disabled and receiving disability benefits, the association shall grant survivor benefits to a surviving spouse, as defined in section 353.01, subdivision 20, and who was married to the member for a period of at least one year, except that if death occurs in the line of duty no time limit is required. For purposes of this section, line of duty also includes active military service, as defined in section 190.05, subdivision 5. The association shall also grant survivor benefits to a dependent child or children, as defined in section 353.01, subdivision 15.

Notwithstanding the definition of surviving spouse, a former spouse of the member, if any, is entitled to a portion of the monthly surviving spouse benefit if stipulated under the terms of a marriage dissolution decree filed with the association. If there is no surviving spouse or child or children, a former spouse may be entitled to a lump-sum refund payment under section 353.32, subdivision 1, if provided for in a marriage dissolution decree but not a monthly surviving spouse benefit despite the terms of a marriage dissolution decree filed with the association.

The spouse and child or children are entitled to monthly benefits as provided in the following subdivisions.

EFFECTIVE DATE. This section is effective immediately and applies to members of the police and fire fund at any time on or after September 11, 2001.

Sec. 98. ~~[354B.33]~~ **IRON RANGE RESOURCES AND REHABILITATION; EARLY SEPARATION INCENTIVE PROGRAM AUTHORIZATION.**

PERA Board Resolution

Whereas, Senate File 2192 and House File 2365 were introduced to extend the Police and Fire Fund survivor benefit to a surviving spouse of a member of the Fund from the City of St. Louis Park who was killed while on military leave of absence; and

Whereas, the special legislation was required because the member and spouse had not been married the required one year to qualify the spouse for the survivor benefit from the Police and Fire Fund; and

Whereas, the Legislative Commission on Pensions and Retirement approved the proposed legislation pending the approval of the Public Employees Retirement Association (PERA) Board of Trustees; and

Whereas, the PERA Board of Trustees did not approve the proposed legislation stating that the Board opposed any exception to the current length of marriage requirement and further stating that if the Legislature did approve the payment of the benefit, the PERA Police and Fire Fund should receive funding from some source to cover the cost of the survivor benefit payable to the individual to whom Senate File 2192 and House File 2365 applied; and

Whereas, the pension bill that included this special survivor benefit provision did not pass the regular session of the Legislature; and

Whereas, during the special session the Legislature passed, and the Governor signed into law Chapter 1 in which Article 4, Section 97 expanded the definition of in line of duty death to extend the payment of benefits beyond the original scope of the benefit design of the Police and Fire Fund by including death while on military leave of absence for any purpose; and

Whereas, the PERA Board of Trustees, at a minimum, deems the expansion of this benefit to be inequitable by making it available only to members of the Police and Fire Fund while the State has not provided for similar benefits for other public employees or private citizens of the State who are on military leave; and

Whereas, the PERA Board of Trustees opposes the use of the assets held in trust for the members and beneficiaries of the Police and Fire Fund for this expanded benefit;

Now, therefore be it resolved that the PERA Board of Trustees asks that the Legislative Commission on Pensions and Retirement advance legislation to rescind the modification of the Police and Fire Fund death benefit enacted in Chapter 1 of the 2005 Special Session; and

Furthermore, that the Legislature reimburse the Police and Fire Fund for the benefit already approved, and any additional benefits that may be approved under the enactment of Chapter 1 of the 2005 Special Session, Article 4, Section 97.

Adopted September 8, 2005

LCP & R SEP 19 2005

1.1 moves to amend S.F. No.; H.F. No. as follows:

1.2 Page .., after line .., insert:

1.3 "Sec. ... **REPEALER.**

1.4 First Special Session Laws 2005, chapter 1, article 4, section 97, is repealed.

1.5 Sec. **EFFECTIVE DATE.**

1.6 Section ... (relating to the repeal of First Special Session Laws 2005, chapter 1,
1.7 article 4, section 97) is effective on the day following final enactment."

1.8 Renumber the sections in sequence and correct internal cross-references

1.9 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No. as follows:

1.2 Page .., after line .., insert:

1.3 "Sec. Minnesota Statutes 2004, section 353.65, is amended by adding a
1.4 subdivision to read:

1.5 Subd. 3b. **Certain additional employer contributions.** If a survivor becomes
1.6 eligible for a survivor benefit under section 353.657, subdivision 1, as amended by First
1.7 Special Session Laws 2005, chapter 1, article 4, section 97, and would not have been
1.8 eligible under Minnesota Statutes 2004, section 353.657, subdivision 1, the employing
1.9 unit which last employed the member before death must reimburse the public employees
1.10 police and fire retirement fund for the applicable actuarial present value. The actuarial
1.11 present value of this survivor benefit must be calculated by the consulting actuary retained
1.12 under Minnesota Statutes, section 356.214, based on the applicable mortality assumption
1.13 and postretirement interest rate used for the June 30, 2005, actuarial valuation and must
1.14 be certified by the executive director of the Public Employees Retirement Association.
1.15 If the employing unit declines to make the payment within 30 days of notification, the
1.16 executive director of the Public Employees Retirement Association shall certify that fact
1.17 to the commissioner of finance. Upon receipt of that certification, the commissioner of
1.18 finance shall deduct the actuarial present value amount, plus interest, from any subsequent
1.19 state aid or state payment amount for the employing unit and shall transmit that amount to
1.20 the public employees police and fire fund to discharge this obligation."

1.21 Renumber the sections in sequence and correct internal cross-references

1.22 Amend the title accordingly

1.1 moves to amend S.F. No.; H.F. No. as follows:

1.2 Page .., after line .., insert:

1.3 "Sec. ... **ST. LOUIS PARK; REIMBURSEMENT OF CERTAIN PERA-P&F**
1.4 **PENSION COSTS.**

1.5 (a) With respect to survivor benefits attributable to a person who was born on
1.6 October 29, 1979, who was a member of the police department of the city of St. Louis
1.7 Park, who died on February 21, 2005, and who was covered by First Special Session Laws
1.8 2005, chapter 1, article 4, section 97, the city of St. Louis Park may reimburse the public
1.9 employees police and fire retirement fund for the applicable actuarial present value, plus
1.10 interest at the rate of 0.71 percent per month since July 1, 2005. The actuarial present
1.11 value of this survivor benefit must be calculated by the consulting actuary retained under
1.12 Minnesota Statutes, section 356.214, based on the applicable mortality assumption and
1.13 postretirement interest rate used for the June 30, 2005, actuarial valuation and must be
1.14 certified by the executive director of the Public Employees Retirement Association.

1.15 (b) If the city of St. Louis Park declines to make the payment authorized under
1.16 paragraph (a) on or before July 1, 2006, the executive director of the Public Employees
1.17 Retirement Association shall certify that fact to the commissioner of finance. Upon receipt
1.18 of that certification, the commissioner of finance shall deduct the actuarial present value
1.19 amount, plus interest, from any subsequent state aid or state payment amount for the city
1.20 of St. Louis Park and shall transmit that amount to the public employees police and fire
1.21 fund to discharge this obligation."

1.22 Renumber the sections in sequence and correct internal cross-references

1.23 Amend the title accordingly