



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Ed Burek, Deputy Director **EB**
RE: Plan Administrators' Requests for Additional Consideration of Administrative Provisions Contained in S.F. 578 (Betzold); H.F. 1123 (Murphy, M.)
DATE: March 5, 2009

Introduction

At the February 27, 2009, meeting of the Legislative Commission on Pensions and Retirement, the Commission worked through most of the provisions in S.F. 578 (Betzold); H.F. 1123 (Murphy, M.) that raise policy concerns. Based on that review, the Commission recommended several sections of the bill, some revised by amendment, to be included in the omnibus pension bill. Senator Betzold instructed the pension plan administrators to submit requests for any additional provisions contained in the bill which the plan administrators feel deserve further consideration during the 2009 Legislative Session.

Commission staff received four e-mails in response, which are attached, indicating the sections which the MSRS, PERA, TRA, and DTRFA administrators request be given further consideration. The plan administrators are requesting actions on all of the remaining sections of the bill other than the four dealing with TRA's service credit determination procedures, which the Commission discussed at some length and declined to include.

Discussion

Commission staff has grouped the requested provisions into categories, beginning with the least controversial and easiest to handle. The sections are summarized in the February 27, 2009, staff materials, along with a considerably more detailed discussion of the implications of these provisions.

Group 1: Technical Provisions (Sections 3-4, 6-8, 14-16, 18, 20, 24, 32, 34-35, and 46).

These sections are non-controversial. They remove obsolete language, correct cross-references, move language to more appropriate provisions, or clarify language without revising the substance. No amendments are needed.

All of the groupings that follow either raise some policy issue which the Commission may wish to consider, or they may be non-controversial but require a little time to process because the Commission would need to consider an amendment to get the provision in proper form.

Group 2: Federal Compliance Provisions (Sections 41-44).

This group contains sections the plans sought to revise for consistency with federal requirements. No policy issues were raised in the staff memo on these provisions, but Philip Kapler, Executive Director, SPTRFA, has indicated that an amendment is needed (**Amendment S0578-25A**, attached) to correct two references to federal provisions.

Group 3: TRA Payroll Cycle Reporting Requirements (Section 28).

Section 28 revises TRA payroll cycle reporting requirements to allow TRA to receive more timely information on reemployed annuitants. The staff memo raised no policy concerns regarding this provision. However, because the Commission chose not to include the revisions to TRA's service credit procedures, an amendment to Section 28 is needed (**Amendment S0578-26A**, attached) if it is to be included in the bill.

Group 4: MSRS, PERA, TRA Appeal Process Revision (Section 45).

Section 45 adds new language permitting, but not requiring, an executive director to require a plan member who is appealing the executive director's decision on a disability or other benefit application to participate in a fact-finding session conducted by an administrative law judge, and if applicable have a vocational assessment. The proposed procedure has merit, but given that some applicants may prefer not to take part in that process, the Commission may wish to hear brief testimony before deciding whether to include this provision.

Group 5: TRA Refund Provisions (Sections 23 and 26).

Sections 23 and 26 revise two TRA refund provisions by requiring that the accumulated value of any disability benefits an individual may have received must be deducted from any refund the individual (or the individual's survivors) will receive upon termination. The proposed treatment is not unreasonable. However, Commission members may wish to make sure they are comfortable with this proposal since they may receive complaints from constituents who contend the revision in law is unfair.

Group 6: TRA Reemployed Annuitant Provisions (Sections 22 and 27).

These are TRA provisions which shift reemployed annuitant exempt income determinations (Section 22) and reporting regarding these reemployed annuitants (Section 27) from a calendar year basis to a fiscal year basis. A few issues are whether some transition language is needed to better specify how the plan will shift to fiscal year comparisons from calendar years, and whether the effective dates on the two provisions are appropriate. The provisions would become effective on January 1, 2010, which seems an odd date for a provision which will not be used until July 1. If there is a need to revise the effective dates, it could be done by verbal direction to the Commission staff.

Group 7: PERA Disability Provisions (Sections 10-13).

Sections 10 to 13 revise various PERA disability provisions regarding the plan's basic member disabilitants. PERA's intention is to clarify these provisions; and to correct what PERA considers an error in its laws by revising the laws to comply with long-standing PERA practice. If these provisions are to be considered for inclusion, the Commission may wish to have brief testimony from the PERA Executive Director to ensure the Commission is comfortable with the changes and to receive assurance that the revision does not cause harm.

Group 8: First Class City Teachers Plan Erroneous Contribution Provision (Section 36).

Section 36 would add to first class city teacher law an erroneous contribution provision, patterned after the existing TRA provision. An issue is that the provision is not fully consistent with the PERA erroneous contribution provision which the Commission chose to include in the omnibus bill, and which PERA contends is fashioned to meet current Internal Revenue Service (IRS) requirements. More work may be needed over the interim to create erroneous contribution provisions for all plans that meet IRS requirements.

Ed Burek

From: Erin Leonard [Erin.Leonard@state.mn.us]
Sent: Monday, March 02, 2009 10:31 AM
To: sen.don.betzold@senate.mn
Cc: Ed Burek; Larry Martin; Lisa Diesslin
Subject: SF578- Administrative Provisions for Statewide Retirement Plans

Senator Betzold-

There is one provision in SF578 that was not discussed at the LCPR hearing on Friday, February 27th that MSRS would like considered for inclusion in the 2009 Omnibus Pension Bill.

Section 45, adds language to the Appeal Procedure in M.S. 356.96, subd. 5 to permit the Executive Directors of the funds to direct a disability applicant who is appealing the denial of disability benefit to participate in a fact-finding session with an administrative law judge and/or vocational assessment with a qualified rehabilitation counselor. The language is permissive and gives the Board of the plan involved in the appeal more information to make appeal determinations.

Thank you for your consideration. Please let Dave Bergstrom or me know if you have any questions.

Erin Leonard
Minnesota State Retirement System
phone: 651-284-7848
fax: 651-297-5238

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Peggy Orren

From: listserv@senate.mn on behalf of Mary.Vanek@state.mn.us
Sent: Monday, March 02, 2009 3:07 PM
To: sen.don.betzold
Subject: Response to directive on administrative bill
Attachments: 2009Bill.doc

Senator Betzold:

We are forwarding to you, with a copy to LCPR staff, the sections of Senate File 578 that we believe should be included in the omnibus pension bill. Many of these provisions are truly technical clean up, with a number of them actually initiated by LCPR staff. We have not addressed any of the TRA or first class city teacher fund provisions, except the IRS compliance sections. We will rely on our colleagues in those plans to respond to you on their own provisions, as applicable.

We hope this is what you had intended in your direction to us to finalize the elements of this bill we felt should move forward this year.

Mary Most Vanek
PERA
Dave Bergstrom
MSRS

<<2009Bill.doc>>

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Sections of Senate File 578 to be included in the 2009 Omnibus Pension Bill

Sections 1 and 2 – technical amendments to section 43A.346

It is our understanding that Representative Murphy moved inclusion of these sections, as introduced, in the omnibus pension bill.

Sections 3 and 4 – cleans up obsolete language in MSRS General Plan contribution rates

Modifications in both sections were initiated by LCPR staff; accepted by MSRS.

Section 5 – PERA allowable service credit modifications

It is our understanding that Representative Murphy moved inclusion of this section, as introduced, in the omnibus pension bill.

LCPR staff amendment SO578-20A is acceptable to PERA staff with a change on line 1.9 from “clause 7” to “clause 8” to align with LCPR staff’s reorganization of PERA law.

Section 6 – corrects a cross reference due to reorganization of allowable service in section 5.

The modification to this section was initiated by LCPR staff as a result of LCPR staff recommendation to reorganize PERA’s allowable service credit section of statute; accepted by PERA.

Sections 7 and 8 – cleans up obsolete language in PERA General Plan contribution rates

Modifications in both sections were initiated by LCPR staff; accepted by PERA

Section 9 – modifies PERA’s erroneous receipts and disbursements section of law

It is our understanding that Representative Murphy moved approval for the amendment LCPR SO578-24A to be accepted and replaces the original section 9 of the bill. PERA requested and supports amendment SO578-24A. The amended language is to be included in the omnibus pension bill.

Section 10 – modifies language in the language governing PERA’s General Plan disability language.

This modification was initiated by LCPR staff; accepted by PERA.

Section 11 – moves this language from section 353.33, subdivision 11 to a new subdivision 1a in section 353.33.

This is truly a technical change that should be included in the omnibus bill.

Section 12 – deletes the language moved to a new subdivision in section 11.

This is truly a technical change that should be included in the omnibus bill.

Section 13 – modifies language in PERA’s section of statute governing General Plan disability benefit; restructures the language to make it more understandable.

These changes were recommended and initiated by LCPR staff; accepted by PERA.

Sections 14 and 14 – cleans up obsolete language in PERA Police and Fire Plan contribution rates.

These changes were initiated by LCPR staff; accepted by PERA.

Section 15 – corrects a cross reference due to LCPR staff's suggested reorganization of PERA's allowable service credit subdivision.

This is truly a technical change that should be included in the omnibus bill.

Section 38 – gives the retirement systems administrative subpoena authority to facilitate the collection of information on a jointly held bank account when pension payments are deposited directly into the account of an eligible benefit recipient who is not sole owner of the account. This language aligns the retirement systems with the same authority held by other state agencies, MERF, and legislative commissions and committees. Will save money.

It is our understanding that the LCPR accepted this section to be included in the omnibus pension bill.

Section 41 and 42 – modifies qualified plan maximum compensation language to allow for postretirement adjustments to be included in the maximum compensation to be considered for IRS purposes, and corrects cross references to updated treasury regulations.

This language was recommended by PERA's qualified plan tax consultant as well as St. Paul Teachers' tax attorney as necessary to update the language expected to be included in a qualified plan's document – for our purposes, our statutes.

Sections 43 and 44 – updates Minnesota's statutes with the ability to accommodate non-spousal beneficiary roll-overs and includes the term in the definition section of who is considered a "distribute" for purposes of roll-overs of contributions.

This is a necessary modification to Minnesota's statutes to keep the plans' documents in compliance with IRS qualified plan requirements.

Section 45 – modifies the plans' appeals procedure statute to allow the plan director to send a case to the Office of Administrative Hearings or to a qualified rehabilitation counselor to help develop a comprehensive record on a case being appealed to a plan's governing board.

Requested by MSRS at the urging of the System's legal advisor.

Lisa Diesslin

From: Luther Thompson [Luther.Thompson@state.mn.us]
Sent: Wednesday, March 04, 2009 10:41 AM
To: 'sen.don.betzold@senate.mn'; Lisa Diesslin; Lisa Diesslin
Cc: Laurie Hacking; Phil Kapler; J. Michael Stoffel; Dave Bergstrom; Mary M. Vanek
Subject: TRA Remaining Administrative Bill Provisions
Attachments: 2009 Remaining Administrative Bill Provisions.doc

Senator Betzold:

Attached are the remaining TRA administrative bill provisions that we believe should be included in the omnibus pension bill.

I trust that this response meets with your request that the pension funds respond to the LCPR with remaining administrative bill provisions that may be included on the LCPR agenda under item #9 at the March 6th LCPR meeting.

Please let me know of any other questions.

Thanks

Luther Thompson
TRA

Teachers Retirement Association: Summary of remaining individual administrative provisions in S.F. 578, H.F. 1123, that TRA requests be included on the LCPR agenda under item #9, at the March 6th LCPR

Section 18 - Fiscal year - Moves TRA's "fiscal year" definition to the definition section from the board authority provision.

Section 20 – Employee contribution – Eliminates obsolete language.

Section 22 - Resumption of teaching service after retirement – Modifies the time period for earnings after retirement to be based on fiscal year versus calendar year, enabling TRA to utilize normal payroll reporting process by school districts rather than manual reporting processes.

Section 23 – Death before retirement – Technical correction that clarifies that disability benefits received by the member must be deducted from any refund to be paid to beneficiaries; this is consistent with PERA law.

Section 24 – Determination by executive director – Eliminates obsolete language.

Section 26 - Calculation - Technical correction that clarifies that disability benefits received by the member must be deducted from any refund; this is consistent with PERA law.

Section 27 - Post retirement income reporting – Payroll reporting will be used to determine retiree earnings after retirement amounts rather than each employer unit providing a report.

Section 28 - Payroll cycle reporting requirements – Modifies payroll reporting requirements; employer units will not need to compute service credit, but will need to report reemployed annuitant salary. **(The striking of clause 7 should not occur if the service credit calculation reforms noted below are not included in the 2009 Omnibus Pension Bill.)**

Section 32 - Deferred annuity; augmentation – The intention was to revise Minnesota Statutes, Section 354.55, Subdivision 11, to delete obsolete references to language in Section 354.44, Subdivision 6. The language is revised for style and clarity, without changing the meaning.

Section 46 – Repealer - Repeals the TRA fiscal year definition in the TRA board provision; it is being moved to TRA's definition provision. Also repeals an outdated provision.

The remaining issue for TRA is the service credit determination reform provisions (Sections 17, 19, 28, 29, 30, and 33).

TRA understands the LCPR's preference to review our service credit proposal during the interim. TRA has worked with its employer units and teachers on reforming TRA's method for calculating service credit for the past two years. TRA strongly believes the proposal is a very important and necessary administrative reform. Delaying the proposal one year is acceptable if that is the Commission's wish.

However, if time permits during the remainder of this legislative session, TRA would appreciate an earlier review and would be available to answer all LCPR member questions.

Lisa Diesslin

From: J Michael Stoffel [jstoffel@dtfa.org]
Sent: Thursday, March 05, 2009 10:29 AM
To: sen.don.betzold@senate.mn; Lisa Diesslin; Lisa Diesslin
Cc: 'Laurie Hacking'; 'Luther Thompson'; 'Phil Kapler'; 'Dave Bergstrom'; 'Mary M. Vanek'; amos.briggs@senate.mn
Subject: DTRFA Remaining Administrative Bill Provision

Senator Betzold:

Below are the remaining DTRFA administrative bill provisions that we believe should be included in the omnibus pension bill:

Section 34 – a necessary technical correction

Section 35 – removes obsolete language

Section 36 – new provision pertaining to erroneous deductions (we have no provisions in current law to cover these situations)

I send this to you in response to your request that the Fund Directors identify the remaining administrative bill provisions that should be included in the 2009 Omnibus Pension Bill.

Please let me know if you need anything additional.

Thank you.

Jay Stoffel

Executive Director
Duluth Teachers' Retirement Fund Association
625 East Central Entrance, Duluth, MN 55811
Phone: 218/722-2894 • Fax: 218/722-8208

1.1 moves to amend S.F. No. 578; H.F. No., as follows:

1.2 Page 28, line 28, delete "1.415-2(d)(2)" and insert "1.415(c)-2(b)" and delete "

1.3 1.415-2(d)(3)" and insert "1.415(c)-2(c)"

- 1.1 moves to amend S.F. No. 578; H.F. No., as follows:
- 1.2 Page 19, lines 24 to 25, reinstate the stricken language
- 1.3 Page 19, lines 27 to 28, reinstate the stricken language and delete the new language
- 1.4 Page 19, line 30, delete "(10)" and insert "(11)"
- 1.5 Page 19, line 31, strike "(11)" and insert "(12)"
- 1.6 Page 19, line 32, delete ", except for the" and insert " ."
- 1.7 Page 19, delete line 33