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TO: Members, Legislative Commission on Pensions and Retirement

FROM: Mark Shepard, House Research
Stephanie James, Senate Counsel, Research, and Fiscal Analysis

RE: LCPR authority to approve changes in economic assumptions

Conclusion

You asked for our thoughts on the statutory authority of the Legislative Commission on Pensions and Retirement (LCPR) to revise economic assumptions used in public pension plan actuarial valuations. We think the LCPR has statutory authority to approve changes proposed by public pension plans in salary increase and payroll growth assumptions, but not preretirement and postretirement interest rate assumptions.

Discussion

Minnesota Statutes, section 356.215 subdivision 8 specifies various economic assumptions to be used in actuarial valuations by public pension plans.

- Paragraph (a) specifies preretirement and postretirement interest rate assumptions.
- Paragraph (b) specifies salary increase assumptions.
- Paragraph (c) specifies payroll growth assumptions.

Section 356.215, subdivision 8, paragraph (d) provides that the salary increase and payroll growth assumptions set in paragraphs (b) and (c) continue to apply unless a different salary or payroll assumption:

1. has been proposed by the governing board of a retirement plan;
2. is accompanied by the concurring recommendation of the plan's actuary; and

3. has been approved or deemed approved under a process specified in section 356.215, subdivision 18.¹

Section 356.215, subdivision 18 specifies a process for changing actuarial assumptions. Subdivision 18 provides that assumptions may be changed only “with the approval of the Legislative Commission on Pensions and Retirement or after a period of one year has elapsed since the date on which the proposed assumption change or changes were received by the Legislative Commission on Pensions and Retirement without commission action.”

Section 356.215, subdivision 18 paragraph (a) applies before July 2, 2010, and paragraph (b) applies after July 1, 2010. Paragraph (a), which no longer applies, referred to changes in actuarial assumptions “other than preretirement interest, postretirement interest, salary increase, and payroll increase.” Paragraph (b), which now applies, refers to changes in actuarial assumptions “other than postretirement interest and preretirement interest.” Note that the law in effect before July, 2010 specifically excluded from the subdivision 18 process changes in salary increase and payroll increase changes. The law that now applies does not exclude changes in the salary increase and payroll increase assumptions.

We come to the following conclusions, based on our reading of section 356.215, subdivisions 8 and 18:

- Section 356.215, subdivision 18 clearly does not allow the LCPR to approve changes in assumptions for postretirement interest and preretirement interest.
- Section 356.215, subdivision 18 does not specifically exclude the LCPR from approving any other actuarial assumptions. The fact that the law in effect before July 2010 excluded LCPR from approving changes to salary increase and payroll growth assumptions, and that the law now in effect does not contain these exclusions is strong evidence of legislative intent that the LCPR has authority to approve proposed changes in salary increase and payroll increase assumptions.
- Section 356.215, subdivision 18 does not override section 356.215, subdivision 8. So the requirements of subdivision 8 also apply to assumption changes. This means that before LCPR can approve changes in salary increase or payroll growth assumptions, the changes must be proposed by the governing board of the retirement plan and must be accompanied by a recommendation from the plan’s actuary. The same requirements apply before a proposed change can take effect because a year has elapsed since the proposed change was submitted to the LCPR.
- Section 356.215, subdivision 9 requires actuarial valuations concerning “mortality, disability, retirement, withdrawal, retirement age, and any other relevant demographic or economic factor” to be set at levels consistent with those determined in the most recent

¹ The 2012 Legislature amended section 356.215, subdivision 8 to change certain interest, salary, and payroll growth assumptions. The 2012 legislation struck language that had been enacted in 2008, stating that: (1) the salary and payroll assumptions in subdivision 8 applied “Before July 2, 2010”; and (2) that the process for governing boards to propose different assumptions applied “After July 1, 2010.” It appears that these 2012 changes were technical, removing references to 2010 because those dates had passed. The 2012 Legislature left in place the substance of the process in subdivision 8, paragraph (d) allowing governing boards of retirement plans to propose different salary or payroll assumptions. Laws 2012, chapter 286, article 1, section 2.

quadrennial experience study (if required) or representative of the best estimate of future experience, if a quadrennial experience study is not required. We think salary and payroll assumptions are a “relevant...economic factor.” Thus we think the substantive requirements in subdivision 9 apply to the governing boards of retirement plans when they are making proposals for salary or payroll assumptions under subdivision 8, and to the LCPR when it is approving these proposals under subdivision 18.²

Our conclusions would have been different before the changes enacted by the legislature in 2008 (Laws 2008, chapter 349, article 10, sections 13 and 15). Before the 2008 changes, the salary increase and payroll growth assumptions were specified in law, as is the case now. But there was no mechanism (other than passing a new law) for changing assumptions such as salary increase and payroll growth that were specified in law. The 2008 legislature enacted the new process discussed above.³

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² The 2008 legislation which amended section 356.215, subdivisions 8 and 18 did not amend section 356.215, subdivision 9. The fact that this subdivision was not amended supports that conclusion that the legislature intended the requirements of subdivision 9 to apply to the new process that the 2008 legislation established in subdivisions 8 and 18

³ A 2008 LCPR staff memo raised a policy issue about the appropriateness of discontinuing the practice of setting economic actuarial assumption in statute and shifting to a process where actuarial assumptions are set by the retirement plan governing boards with Commission approval. LCPR staff prepared an amendment for commission consideration eliminating the proposed delegation of authority. The same staff memo raised a policy issue about the appropriateness of a provision in the proposed legislation that the commission would be required to approve or disapprove actuarial assumption change recommendations within six months (eventually changed to one year before this provision was enacted in 2008) or the proposed changes would become effective without legislative action. The staff developed a number of possible amendments for commission consideration. See, memo from Larry Martin to LCPR, March 3, 2008, summarizing H.F. 3041.