



TO: Members of the Legislative Commission on Pensions and Retirement
FROM: Susan Lenczewski, Executive Director
RE: H.F. 2810 (Howe); S.F. 2743 (Pappas): PERA-P&F; Modifying Public Safety Officer Death Benefits and Determination of "Killed in the Line of Duty" under PERA
DATE: March 28, 2016

Summary of H.F. 2810 (Howe), 1st Engrossment; S.F. 2743 (Pappas), 1st Engrossment

Section 1 expands the definition of "killed in the line of duty" for purposes of the public safety officer benefit provisions under Minnesota Statutes §§ 299A.41 through 299A.475. These sections provide for death benefits in the form of a payment, educational reimbursement and continued group health plan coverage when a public safety officer is killed in the line of duty. Under the bill, "killed in the line of duty" will include a heart attack, stroke or vascular rupture that occurs while on duty or that occurs within 24 hours of non-routine stressful or strenuous physical law enforcement, fire, rescue, emergency medical, prison security, disaster relief or other emergency response activities.

Section 2 amends the "killed in the line of duty" definition in Chapter 353 relating to the Public Employees Police and Fire Retirement Plan (PERA-P&F) to include a death that is determined to be "killed in the line of duty" by the Commissioner of Public Safety under the expanded definition.

Considerations

1. Commissioner of Public Safety is not a PERA Fiduciary. The bill shifts the duty of determining eligibility for enhanced survivor benefits from PERA to the Commissioner of Public Safety. The Commissioner has no fiduciary duty to PERA and has no obligation to consider the financial impact or precedent of any of his or her decisions on PERA or the fund.
2. Proposal Amounts to an Unfunded Mandate to PERA. There is no separate source of funding for PERA to pay enhanced benefits in these circumstances, as there are for the other benefits provided under Minn. Stat. § 299A. PERA is funded by both employer and employee contributions, so employee contributions will be used to pay for benefits when applied to an expanded group of recipients.
3. To the Extent of the Impact on PERA, the Bill Does Not Conform State Law to Federal Law, Because Federal Law Does Not Apply to Pension Plans. Federal law does not require public or private pension plans to provide death benefits in the case of death in the line of duty. The federal Hometown Heroes Act and related amendments provide death, disability, and educational benefits when a public safety officer dies in the line of duty, but does not require that those benefits be provided through pension plans. The only similar federal law is the Uniformed Services Employment and Reemployment Rights Act (USERRA), which dictates certain benefits under pension plans for people in the military/armed forces and reserves. To the extent the bill imposes requirements on PERA, it is not a federal law conformity measure since federal law does not apply to pension plans with regard to killed in the line of duty benefits.