

January 29, 1996
Basement Hearing Room, State Office Building

15th Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

January 29, 1996 Meeting

Representative Richard Jefferson, Chair of the Legislative Commission on Pensions and Retirement, called the meeting to order at 6:35 P.M.

Commission members present:

Representatives Jeff Bertram, Richard Jefferson, Bob Johnson, Phyllis Kahn, and Steve Smith
Senators Steven Morse, Lawrence Pogemiller, Phil Riveness, LeRoy Stumpf, and Roy Terwilliger

13. H.F. 2467 (Daggett); S.F. 2234 (Sams): TRA; Extension of Deadline For Certain Part-time Teacher Coverage

Lawrence A. Martin, LCPR Executive Director, reviewed the staff memo on this bill. He noted that New York Mills School District failed to file the necessary paperwork on time to permit a certain teacher to participate in the part-time teaching with full-time service credit program. This bill requires TRA to accept the late filing and requires the school district to pay the additional contributions required plus interest on the omitted amount.

Sen. Morse asked whether the school district has taken responsibility for the late filing.

Jerry Nessler, New York Mills School District Superintendent, testified that when they realized they had made an administrative error, they contacted everyone involved to determine the best way to remedy the error.

Gary Austin, TRA Executive Director, reviewed the short paper draft amendment provided by TRA. He testified that the amendment required the employee to pay the employee contribution and the school district to pay the employer contribution plus interest on both contributions.

Rep. Jefferson moved the short paper draft amendment to H.F. 2467. **MOTION PREVAILED.**

Sen. Morse asked when interest would begin to accrue. Mr. Austin stated that it would accrue from October 1, to the date of payment or June 30, whichever was later.

Sen. Riveness moved H.F. 2467 as amended. **MOTION PREVAILED.**

12. H.F. 2272 (Dauner); S.F. 2103 (Langseth): TRA; Exempt Interim Superintendent From Earnings Limit

Mr. Martin reviewed the background and policy issues on this bill. He noted that this bill would provide an extension to the interim superintendent exemption from the TRA benefit earnings limit. The current exemption runs out February 6, 1996. Mr. Martin stated that the interim superintendent provision was added as a floor amendment to legislation passed in 1989. It passed without LCPR review of the policy behind the provision so the policy is not clear to Commission staff.

Richard Link, the interim superintendent, testified that he originally worked for 12 days on an interim basis, the superintendent then returned to work and subsequently died. Mr. Link has been the interim superintendent since the superintendent's death. Discussion followed.

Rep. Kahn stated that she would like to look at the issue of reemployed annuitants.

Sen. Morse requested a review of the higher ed reemployed annuitant provision. Mr. Martin stated that higher ed faculty members are permitted to earn \$30,000 to \$35,000 before the reemployed annuitant's benefit is reduced.

Mr. Austin testified that the interim superintendent provision is unique to TRA and that the limit was set at 90 days as an incentive to encourage hiring a permanent superintendent. Mr. Austin further testified that once Mr. Link earned more than the Social Security earnings limit of \$8,280, his TRA pension benefit would be reduced \$1 for every \$2 he earned and this would

probably occur early in April, 1996. Discussion followed.

Rep. Jefferson moved H.F. 2272; S.F. 2103. **MOTION FAILED.**

1. **Approval of Meeting Minutes, Meetings of October 26, November 15, and 16, 1995**
Rep. Kahn moved approval of the meeting minutes. **MOTION PREVAILED.**

2. **Final Consideration of Commission Action of January 22, 1996**

Mr. Martin reviewed the omnibus pension bill to date and noted that it reflects the action last meeting of an LCPR Subcommittee but not acted upon due to the lack of a quorum. The following are the bills that were included in this action:

- a. **H.F. 1085 (Farrell); S.F. 906 (Kelly): St. Paul Police and Fire; Clarification of Limit on Post Benefit Reductions**
- b. **H.F. 1560 (Leighton); S.F. 1353 (Piper): Austin Fire; Clarification of Survivor Benefit Coverage**
- c. **H.F. 2097 (Greiling); S.F. 2197 (Krentz): StPTRFA; Deadline For Back Contributions on Certain Part-Time Service**

Rep. Jefferson moved approval of the omnibus pension bill to date. **MOTION PREVAILED.**

4. **H.F. 1072 (Vickerman); S.F. 800 (Frederickson): PERA; Springfield Hospital Physicians Exempt From Coverage**

Edward Burek, LCPR Deputy Executive Director, reviewed the staff memo on this bill. He noted that this bill would exempt current Springfield Hospital physicians but not future physicians from PERA coverage. Mr. Burek stated that the current physicians were recruited with the understanding that they would be considered independent contractors for purposes of Social Security and PERA coverage. However, Springfield Hospital was not authorized to institute such a policy and after an IRS audit, the IRS assessed the hospital and the physicians for back Social Security and Medicare taxes. PERA then concluded that the physicians must be considered public employees and required the physicians and hospital to pay the omitted PERA salary deductions. Mr. Burek reviewed amendments LCPR96-15, a technical amendment, and LCPR96-16, which would exclude these physicians and all future physicians at Springfield Hospital from PERA coverage.

Rep. Johnson questioned the language on page 4 of LCPR96-16. Mr. Burek responded that if omitted contributions occur for longer than a 60 day time period the employer must make the contributions for the extended time period. This amendment allows Springfield Hospital to get a refund of the employee contributions they were required to make.

Mary Vanek, PERA, testified in opposition to LCPR96-16.

Sen. Stumpf asked how many physicians were included in this bill.

Rep. Vickerman responded by summarizing the testimony of Scott Thorson, the Springfield Hospital administrator, who was unable to attend this meeting due to the weather. She read that the hospital has three physicians affected by this legislation although originally there were four. She also read that when Springfield Hospital merged with the clinics in 1982, an IRS representative from the City of Mankato advised them that the physicians could be considered independent contractors. During the compliance interview in 1994, the IRS reversed that decision and assessed Social Security and Medicare taxes for 1993 in the amount of \$40,000 plus interest and penalties, and 1994 taxes in the amount of \$26,000. She further testified that Springfield Hospital needs this exemption from PERA coverage so that they can competitively recruit physicians.

Sen. Morse questioned whether the State of Minnesota could exempt certain public employees from public pension plan coverage under federal government regulation.

Ms. Vanek testified that PERA has 50 hospitals with physicians covered by PERA and they oppose permitting this exemption for Springfield Hospital, they oppose this bill and they are concerned about setting a precedent.

Sen. Morse asked if there was an amendment prepared to provide an option for either the PERA defined benefit plan or the PERA defined contribution plan. Mr. Burek responded that

there was not an amendment to provide that option.

Ms. Vanek testified that the PERA Board is opposed to select groups pulling out of the PERA defined benefit plan to join the PERA defined contribution plan.

Rep. Vickerman testified that providing an option allowing the physicians to select either the PERA defined benefit plan or the PERA defined contribution plan would be an acceptable alternative to this bill.

Sen. Morse moved an amendment to permit the current and future Springfield Hospital physicians an irrevocable option to select the PERA defined contribution plan or the PERA defined benefit plan. **MOTION PREVAILED.**

Rep. Johnson stated that if this option is provided only for Springfield Hospital other hospitals throughout the state will be requesting the same option in the future.

Sen. Pogemiller moved to amend the amendment to provide this option to physicians in all public hospitals on a statewide basis. **MOTION PREVAILED.**

H.F. 1072 (Vickerman); S.F. 800 (Frederickson) was laid over to Friday's meeting to provide staff an opportunity to put the amendments in concept in written form.

8. H.F. 1908 (Jefferson); S.F. 1694 (Kroening): Minneapolis Fire; Recodification

Mr. Martin reviewed the staff memo and author's amendment on this bill. He noted that the delete all amendment makes seven changes. He further stated that the recodification of Minneapolis Fire law has been postponed until next session.

Brian Rice, Best and Flanagan and representing the Minneapolis Fire Relief Association, testified regarding why the provision passed by the Legislature in 1994 to permit survivor coverage for spouses upon remarriage was not approved by the City of Minneapolis, Mr. Rice testified that he believed it was due to a lack of communication between the relief association and the city because they were involved in a dispute over another issue.

Walter Schirmer, Minneapolis Fire Relief Association, testified that the relief association and the city did have preliminary discussions on this issue but the dispute over another issue caused an end to discussion on all issues.

Sen. Kroening testified in support of the delete all amendment.

Sen. Morse questioned whether there was actuarial work on this bill. Mr. Martin stated that staff did receive actuarial work performed by Gabriel, Roeder, Smith & Co. after the staff memo was completed and that copies of the information had been passed out to members.

Mr. Rice testified that changes 1, 2, and 6 from the staff memo were practices that the Minneapolis Fire Relief Association currently implemented and so they do not involve a new actuarial cost. Changes 3, 4 and 5 were new items. Change 7 has a significant actuarial cost. The bill has a local approval clause.

Sen. Pogemiller moved amendment LCPR96-11. **MOTION PREVAILED.**

Sen. Pogemiller asked whether the city could approve the changes individually. Mr. Rice testified that items 1 to 6 were in Article 1 and would need to be approved as a package. Item 7 was a separate article and it could be handled separately. Sen. Pogemiller suggested separating Article 1 into two separate articles with 1, 2, and 6 in one article and 3, 4, and 5 in another. Rep. Kahn suggested separating each of the six items being discussed.

Sen. Pogemiller moved an amendment in concept to amendment LCPR96-11 separating each of the items. **MOTION PREVAILED.**

Sen. Pogemiller moved H.F. 1908; S.F. 1694 as amended. **MOTION PREVAILED.**

15. H.F. 2522 (Solberg); S.F. 2442 (Lessard): Itasca County Hospital; Provide Benefits Similar to PERA's for Privatized Public Employees

Mr. Burek reviewed the staff memo and amendment LCPR96-17.

Sen. Pogemiller moved amendment LCPR96-17. **MOTION PREVAILED.**

Sen. Pogemiller moved H.F. 2522; S.F. 2442 as amended. **MOTION PREVAILED.**

11. H.F. 2123 (Van Engen); S.F. 1911 (Johnson, D.E.): MSRS; Purchase of Service Credit by Willmar MSRS Member

Mr. Burek reviewed the staff memo and stated the bill would permit two individuals to purchase service credit with subsidized terms. They were part of a program that allowed individuals to obtain additional training, they received a stipend from the State while training, and the program guaranteed them a position when they returned. In 1985, MSRS enacted a generalized one year leave of absence provision. MSRS extended the leave of absence provision retroactively based on an Attorney General's opinion. The training program the individuals in this bill entered was a 14 month program and did not fit the MSRS leave of absence provision. Other individuals whose training did fit leave of absence guidelines were permitted to purchase service credit by paying the employee and employer contribution plus interest.

Dave Bergstrom, MSRS Executive Director, testified that under this bill, each of the employees would be required to pay approximately \$6,787. The full actuarial value of the purchase would be \$78,348 for one individual and \$72,925 for the other. He testified that he believes the method of computing full actuarial value overstates the amount and that the actuarial value should be more in the range of \$20,000 to \$23,000.

Sen. Morse asked how many other employees might be in this situation. Mr. Bergstrom responded that very few employees may be in this situation.

Sen. Morse moved an amendment in concept to define this as a leave of absence for educational purposes. **MOTION PREVAILED.**

H.F. 2123; S.F. 1911 was laid over to Friday's meeting to provide staff an opportunity to put the amendment in concept in written form.

Rep. Johnson moved to have H.F. 947 taken off the table and requested that it be put on the Friday meeting agenda. **MOTION PREVAILED.**

10. H.F. 2050 (Johnson, A.); S.F. 2060 (Krentz): Spring Lake Park Fire; Coverage For Fire Prevention Personnel

Mr. Martin reviewed the bill and noted that Spring Lake Park Fire wishes to have some firefighters function as fire prevention personnel and not fire suppression personnel. They want to clarify that these individuals can be included in the Spring Lake Park Volunteer Fire pension plan.

Rep. Jefferson moved amendment LCPR96-13. **MOTION PREVAILED.**

Mr. Martin reviewed the five public policy issues raised by this legislation.

Sen. Riveness stated that although volunteer firefighter pensions are low, police and firefighter pensions are premised on the risks inherent in their occupations. He questioned whether providing volunteer firefighter coverage to a fire prevention person would set a precedent.

Nyles Zikmund, Fire Chief Spring Lake Park, Blaine, and Moundsview, responded that the purpose of this bill was to serve the citizens of those communities. He wants to get the message out that fire prevention is effective and it works.

Sen. Riveness stated that he fully supports fire prevention work but the stress, danger, and risks are probably not the same as they are in fire suppression work. He is not specifically concerned with this bill but with the precedent that it might set. As an example, he stated that in the debate to expand the Correctional Plan, the criteria used to include employees in the plan was how much danger or risk their job entailed and the percentage of time they were exposed to that danger or risk.

Rep. Alice Johnson responded that providing this pension coverage for fire prevention is necessary for recruitment in Spring Lake Park.

Rep. Bob Johnson stated that he would like to see this become a statewide bill. Discussion followed.

Sen. Stumpf asked for a definition of a fire prevention person and whether the person would be hired by the department or the city.

Mr. Zikmund testified that NFP publishes a standard for fire prevention personnel and detailed the duties of that position.

Sen. Morse stated that he would like to see a cap on the number of people doing fire prevention. Sen. Krentz testified against micro-managing the volunteer fire department.

Rep. Kahn supported making this a statewide bill.

Mr. Zikmund testified that the Minnesota State Fire Chiefs Association and the Minnesota State Fire Department Association have not voted to support this bill. Possibly next year, if they vote to support this issue, enabling legislation to make this statewide could be added.

Rep. Kahn stated that maybe this bill should wait until next year rather than dealing with it twice.

Rep. Bertram suggested passing this legislation as a test case of the concept.

Rep. Kahn stated that if it were set up as a pilot program it should include language that had a time limit for the program and provide for a method of evaluating the program. Discussion followed.

Sen. Pogemiller noted that including fire prevention people in the volunteer fire plan does not increase state contributions, therefore, it is a local issue. He further stated that he does not understand the reluctance to make it statewide. Mr. Zikmund responded that it is necessary to educate and raise the comfort level of other fire departments before making this a statewide provision. Discussion followed.

Rep. Alice Johnson urged the Commission to keep this bill a local bill as it may be premature to make it statewide.

Rep. Kahn stated that she did not see that current language restricted Spring Lake Park Fire from hiring fire prevention people and including them in their pension plan. She is concerned about passing this legislation when the Minnesota State Fire Chiefs Association has not endorsed the proposal.

Brian Rice, Best and Flanagan, testified that only people involved in fire suppression activities are eligible to be considered firefighters. The fire community views the inclusion of fire prevention activities as a departure from accepted practice. He further testified that the view among fire service personnel is that their higher benefits are justified because of the dangerous activities they are involved in.

Rep. Kahn moved to make this bill a statewide bill and to provide a local approval clause.
MOTION PREVAILED.

H.F. 2050; S.F. 2060 was laid over to Friday's meeting to provide staff an opportunity to put the amendment in concept in written form.

6. H.F. 1272 (Carlson); S.F. 1150 (Reichgott Junge): MTRFA; Purchases of Service Credit By Former Minneapolis Teachers

Mr. Burek reviewed the policy issues, background information, and amendment LCPR96-12. The amendment would require the individual to pay the current 8.5% interest rather than 6% interest and updated the payment date from 1995 to 1996.

Sen. Stumpf questioned whether the former teacher would be vested if this additional service credit were purchased. Mr. Burek responded that the person would be vested. Discussion followed.

Rep. Carlson testified in support of this bill and testified that Ms. Hillstrom stated that she was not given the opportunity to participate in the pension plan or she would have participated.

Karen Kilberg, MTRFA Executive Director, concurred with Mr. Burek that the individual would be vested with the purchase of this additional service credit. Ms. Kilberg testified that during the time period when Ms. Hillstrom was not covered by the pension plan, hourly

employees were not permitted coverage. Discussion followed.

Rep. Kahn suggested amending the bill to require the payment of full actuarial value, permitting the school district to pay a portion, and providing a local approval clause.

Ms. Kilberg testified that other people are in this same situation and suggested making the bill more general so that the Pension Commission's time would not be taken up again with this issue. Ms. Kilberg further testified that reserve teachers were given the option to join the pension fund but hourly teachers were not permitted to join.

Sen. Stumpf moved approval of the amendment in concept to require the payment of full actuarial value, permitting a school district contribution, and requiring local approval.

MOTION PREVAILED.

H.F. 1272; S.F. 1150 was laid over to Friday's meeting to provide staff an opportunity to put the amendment in concept in written form.

14. **H.F. 2487 (Garcia); S.F. 2035 (Riveness): Richfield Fire; Pre-Consolidation Benefit Increase**
Mr. Martin reviewed the staff memo on this bill and noted that the bill was drafted with two articles. Article 1 provided for five benefit increase proposals. Article 2 made the conforming changes to Minnesota Statutes that are required. He noted that the actuary has not completed the actuarial work on this benefit increase.

Sen. Riveness testified in support of this bill.

Steve Devich, Assistant City Manager, testified that their auditors recommended that the City work toward consolidation of the relief association. They are willing to offer the fire relief association the benefit improvements in this bill and review the pending consolidation of the Richfield Fire Relief Association but if these measures cost the city more money, they will not approve the measures. He further testified that the actuarial work shown in the staff memo is based on the 1994 actuarial valuation but the exceptional gains made on investments in 1995, which provided approximately \$1,000,000 more in assets, put the fund in a much better actuarial position in 1995. Mr. Devich testified that the Richfield Fire pension benefit does not include money earned for overtime, longevity pay, clothing allowance, etc. He noted that the bill does include a local approval clause and the Richfield City Council is on record as favoring the benefit improvements and consolidation depending on the actual cost of the measures. Discussion followed.

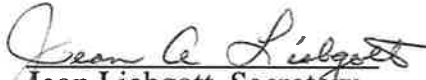
Sen. Morse questioned how the Richfield Fire benefits compared with PERA-P&F. Mr. Martin responded that the benefits were comparable for the most part.

Sen. Riveness moved approval of H.F. 2487; S.F. 2035. **MOTION PREVAILED.**

Rep. Jefferson stated that the following bills were withdrawn from tonight's agenda:

3. **H.F. 932 (Jaros); S.F. 363 (Solon): Duluth Police and Fire Consolidation Account; Retroactive Postretirement Adjustments to 1987**
5. **H.F. 1244 (Kahn); S.F. 1074 (Chandler): St. Paul Police; PERA-P&F For Certain Ex-St. Paul Police Officer**
7. **H.F. 1287 (Rostberg); S.F. 1141 (Johnson, J.B.): MSRS Exempt Certain MSRS Retiree From Reemployed Annuitant Earnings Limit**
9. **H.F. 2021 (Broecker); S.F. 1714 (Runbeck): TRA; Retroactive Benefits For Certain Disabilitants**

The meeting adjourned at 9:50 P.M.


Jean Liebgett, Secretary