

October 3, 1996  
Room 10, State Office Building

22nd Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

Representative Richard Jefferson, Chair of the Legislative Commission on Pensions and Retirement, called the meeting to order at 12:17 P.M.

**Commission members present:**

Representatives Richard Jefferson, Bob Johnson, Phyllis Kahn, Tom Osthoff, and Steve Smith  
Senators Steven Morse, Lawrence Pogemiller, Phil Riveness, and LeRoy Stumpf

**Commission members with an excused absence:**

Senator Roy Terwilliger

1. **Approval of Meeting Minutes; Meetings of August 15, 1996 and September 12, 1996**  
Rep. Tom Osthoff moved approval of the meeting minutes of the August 15, and September 12, 1996, Commission meetings. **MOTION PREVAILED.**

Lawrence A. Martin, LCPR Executive Director, referred members to an issue that was not on the Commission's agenda, the Distribution of the 1996 Fire State Aid. He stated that the Department of Revenue recently provided Commission staff with information regarding the 1996 fire state aid allocation which included the minimum fire state aid amounts established by legislation passed last session. Mr. Martin stated that 324 municipalities were recipients of additional fire state aid under the minimum floor provision while 365 municipalities were recipients of fire state aid payments based solely on the old formula. He further referred members to Attachments A and B which provided specific information on individual fire state aid recipients.

Rep. Kahn questioned whether the minimum fire state aid was designated solely to increase firefighter pension benefits for the funds that received it. Mr. Martin responded that language was not included in the legislation that passed that required the additional funding be used to provide additional firefighter pension benefits. Sen. Morse stated that the bill did require the additional funding to be used solely for pension purposes. Rep. Kahn stated that she would like a before and after minimum state aid benefit chart by next May. Mr. Martin stated that the State Auditor's compilation report, which is published every other year, shows firefighter pension benefits but those benefits are limited by a three year moving average of assets in the pension fund. Rep. Kahn stated that she would be interested in data on funds that are well funded but provide small benefits. Sen. Morse stated that he believes the majority of funds that receive the additional minimum state aid will increase benefits rather than just sit on the additional funds.

Rep. Osthoff stated that he was surprised at the last Commission meeting to learn of the high benefits paid to some volunteer firefighters for the small number of hours worked. He stated that according to a paper he read the Gladstone, North St. Paul and Maplewood firefighting companies were guaranteeing a \$75,000 lump sum payment to their retirees. Mr. Martin responded that the maximum lump sum amount payable is \$4,000 per year of service for a 20 year period which would equal \$80,000. He also noted that only a handful of plans reach that level. Rep. Osthoff requested a verbatim transcript of that portion of the testimony from the September 12, 1996, Commission meeting. Discussion followed regarding the hours of service required and the pension benefits provided to volunteer firefighters.

Gus Welter, a former officer of the MN State Fire Department Association, stated that the State Auditor does receive the names and benefits paid by each relief association. Rep. Smith asked if that report would also show the number of hours of service provided over the years. Mr. Welter stated that each department keeps detailed records and could provide that information. Rep. Smith suggested calling each department to request that information.

Sen. Morse commented, as an item of information, that one of the concerns of some Commission members has been the number of volunteer firefighter funds that invest primarily in cash but the permanent school fund, with approximately one-half billion dollars to invest, was required by state law to be 100% invested in cash.

**2. Review of and Commission Action on Proposed Reformulation of Commission Principles of Pension Policy (Continuation of Commission Reviews of January 22, 1996; and September 12, 1996)**

Mr. Martin provided background information on this issue and stated that both as an interim Commission and up until 1980 as a permanent Commission, the Commission periodically reviewed and modified the Principles of Pension Policy. During the 1995 interim, Rep. Jefferson began a thorough review of the Principles over a three month period involving several informal meetings with all interested parties. The Reformulation of the Commission Principles of Pension Policy is the result of that review and indicates additions to the policy with underscoring and deletions with strikeouts. It is Rep. Jefferson's intention to take action on these principles prior to the next legislative session. Rep. Jefferson stated that the Commission deals with some subject matter over and over again and he believes that the primary purpose of updated Principles of Pension Policy is to enable the Commission to remain consistent in its handling of those issues. If the Commission deviates from its Principles, he wants the Commission to be aware of that deviation.

Rep. Johnson stated that he would like to know what the difference is between principles versus rules versus guiding philosophies. He has several questions regarding the reformulated Principles.

Rep. Osthoff suggested adding procedures for how legislators should go about having a bill move through the Pension Commission process. Discussion followed.

Sen. Pogemiller recommended incorporating the Commission's procedures with the Principles of Pension Policy. He then questioned the origin of the two pieces of information included in members' packets.

Mr. Martin noted that the staff memo contains the Reformulated Principles that were arrived at as a result of the meetings held by Rep. Jefferson; the separate document that does not note a source was provided by Mr. Eugene Waschbusch, StPTRFA Executive Secretary, earlier in the week and represents the reformulation by some or all of the major pension funds. Discussion followed.

Mr. Martin began to review the Reformulated Principles. He noted that the fund directors version deletes the first sentence of the preamble.

Mr. Waschbusch testified that the major fund directors' version contains suggestions that they believe simplifies and condenses the language in the Principles of Pension Policy and also emphasizes the positive. To maintain a positive approach the fund directors struck the first sentence in the Preamble. Rep. Kahn recommended retaining the first sentence as the second sentence. Sen. Riveness recommended deleting the first sentence rather than moving it. Discussion followed and it was agreed that staff would rework the Preamble.

Mr. Martin reviewed II.A., the Purpose of Minnesota Public Pension Plans and noted that Rep. Jefferson's version provides new language with three purposes listed. The proposal from the Waschbusch group does away with most of this new language. Rep. Kahn favored Rep. Jefferson's version and stated that this language may have prevented former Governor Quie from taking pension assets to balance the State budget. Sen. Riveness agreed with Rep. Kahn's opinion. Rep. Johnson recommended adding a statement with regard to providing adequate funding in this section. Discussion followed, members recommended, and Rep. Jefferson agreed that the working group would get together again next week to reconcile the three versions of the Principles of Pension Policy proposed by Rep. Jefferson, the Waschbusch group, and Rep. Johnson.

**3. Mandated Commission Study: Comparison of Defined Contribution Pension Plans and Defined Benefit Pension Plans (Fourth Consideration)**

Mr. Martin reviewed the status of the Defined Contribution/Defined Benefit Study and requested direction from members on how to conclude the study.

Rep. Osthoff asked what the law mandating the study required. Mr. Martin reviewed the law. Rep.

Osthoff recommended that the changes enacted at the federal level in the minimum wage bill be included in this study. He also stated that the mandated study language required only that the Commission provide the advantages and disadvantages of the two types of benefit plans and does not require a recommendation. Discussion followed regarding the issue that caused this study to be mandated. Mr. Martin stated that the mandate for the study came out of the Springfield Hospital issue in which the doctors at the hospital wanted to be exempted from PERA membership. The Commission ultimately recommended legislation that allowed the doctors the option of participating in PERA's Defined Contribution Plan. Commission members also began to question the advantages and disadvantages of defined benefit and defined contribution plans and added the mandated study language. Discussion followed.

Sen. Pogemiller moved to recommend that the Commission study on this topic fulfill the minimal requirements of the mandated language by providing the advantages and disadvantages of each benefit plan and include any applicable federal taxation considerations. **MOTION PREVAILED.**

**4. Definitions of Covered Salary for Local Police and Salaried Firefighter Relief Associations and Consolidation Accounts; Extent of Potential Problem and Options For Potential Resolution**

Sen. Pogemiller reviewed the background on this topic and noted that in recent years there have been disputes between funds and municipalities regarding what is included in the definition of salary. Sen. Pogemiller requested that staff research the definition of salary currently in use by local police, salaried firefighter and consolidation funds in an effort for the Commission to become proactive in heading off future disputes. He reviewed the four options provided in the memo for potential Commission action. Discussion followed.

Rep. Kahn suggested that the Commission develop a general definition of salary and use it as a guideline when future Legislation on the topic comes up with the understanding that future definitions should move toward the Commission's definition. Rep. Osthoff asked if Rep. Kahn was suggesting that the Legislature enact a law concerning something that should be negotiated locally?

Sen. Pogemiller stated that Rep. Osthoff's concern is one of the points Sen. Pogemiller was trying to resolve. The whole intent in bringing up this issue was to be proactive and to prevent taxpayer dollars from being spent in court resolving disputes between municipalities and bargaining units. Sen. Pogemiller suggested a combination of Option B and Option C as the potential resolution of this issue. Rep. Osthoff was concerned with the Commission and Legislature potentially preempting collective bargaining rights. Discussion followed.

Mr. Martin stated that he sees a need for some clarification of the definition of salary for local police, paid firefighters, and consolidation funds to enable the plans to be properly administered. Rep. Osthoff stated that the definition of salary is clear to those that it affects at the local level. Rep. Kahn stated that it would be helpful to everyone to have more clarity in the definitions of salary.

Gerald Bridgeman, President of the Minneapolis Police Relief Association, testified that when the Commission studied the definition of salary in 1994, local groups were not included. He further testified that past legal conflict with regard to the definition of salary has been limited to about five funds. To address this problem in the City of Minneapolis, all parties involved now identify the points that they believe will affect pension benefits at every bargaining meeting that is held. He supported allowing this issue to be resolved at the local level. Discussion followed.

Walter Schirmer, Executive Secretary of the Minneapolis Fire Relief Association, testified that the court did not decide the outcome of the dispute in Minneapolis. The dispute was resolved in mediation. Discussion followed.

Rep. Johnson reviewed discussion that occurred during the 1994 meetings of the Salary Review Advisory Committee. He recommended that the Commission take no action on this issue and allow it to be handled at the local level.

Rep. Kahn asked what was the resulting actuarial cost to change the definition of salary for Minneapolis Police and Fire? Mr. Martin responded that the change in the definition of salary caused the unfunded accrued liability for the two funds to double. He believed the unfunded liability rose from \$40 million to \$80 million. Discussion followed and Sen. Pogemiller reviewed the background of the Minneapolis salary dispute. Sen. Pogemiller questioned whether pensions should be collectively

bargained. Mr. Bridgeman testified that pension benefits should not be collectively bargained because when they were, they were not funded.

Dick Nelson, retired Minneapolis police officer, provided an historical perspective on how pensions were taken off of the bargaining table in 1972.

Wilfred Jyrkas, President of the St. Paul Police Retirees Association, testified that PERA was interpreting the survivor benefit passed last session differently than what was the intent of the legislation when it was brought forward. As a result, surviving spouse benefits have been reduced for some survivors when benefit increases have been paid on a pre-tax basis. He wanted the Commission to be aware of that problem. Mr. Martin provided further background on this topic and discussion followed.

Bob Wetherille, retired Minneapolis firefighter, testified that the percentage of salary an employee paid for a pension benefit and the percentage of pension the employee received for each year of service was removed from the collective bargaining process but the salary amount was negotiable. He provided additional historical perspective and testified that the court has interpreted salary to include any special pay provisions that are provided to all employees.

Sen. Pogemiller indicated he would have further discussion with staff on this issue.

5. **Mandated Commission Study: Study of Providing Pension Plan Coverage For Educational Breaks in Service For Regional Treatment Center and Related Department of Human Services Employees (First Consideration)**

Edward Burek, LCPR Deputy Executive Director, reviewed the staff memo on this issue. He stated that the original bill on this topic was drafted for two individuals who had agreements with their employers to terminate employment to allow them to obtain additional education, provided them with a stipend and agreed to rehire the employees when their educational training was ended. In 1985 MSRS added a leave of absence provision to law and permitted retroactive application of the leave of absence provision due to a controversial opinion by the Attorney General's office. The two individuals referenced in the original bill were not permitted to purchase service credit for their educational leave because they terminated employment. After Commission discussion on this issue during the last Session, it became apparent that several other individuals had situations similar to the original two individuals. The Commission decided to study the topic to try to specify a fair resolution, to try to determine the number of employees that might be involved, and the potential liability in granting this past service credit. Mr. Burek stated that he had contacted the Department of Human Services to request that they try to identify the employees that may have participated in this program. The Commission may want the Department to testify at a future Commission meeting. Discussion followed.

Rep. Jefferson set the meeting to discuss the Principles of Pension Policy for October 14, 1996, at 9:30 A.M. in the State Office Building.

The meeting adjourned at 3:25 P.M.

  
Jean Lieb Gott, Secretary