

January 30, 1998  
Room 318, Capitol

18th Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

Senator Steven Morse, Chair of the Legislative Commission on Pensions and Retirement, called the meeting to order at 2:15 P.M.

**Commission members present:**

Representatives Mike Delmont, Richard Jefferson, Phyllis Kahn, Harry Mares, Mary Murphy and Steve Smith

Senators Don Betzold, Dean Johnson, Steven Morse, Lawrence Pogemiller, and LeRoy Stumpf

**Commission members absent:**

Senator Roy Terwilliger

**Agenda Items Discussed**

**2. Completion of Designated Study: Review of Required Purchase of Prior Service Credit Payment Amount Determination Procedure and Other Prior Service Credit Purchase Topics (Third Consideration)**

Lawrence A. Martin, LCPR Executive Director, provided background on this topic. He stated that this topic involved two issues. The first issue was the amount of money paid for prior service credit purchases. The second issue was whether to expand the types of service for which an individual could purchase service credit. Mr. Martin stated that to date, the Commission had discussed and compared the current "boilerplate" calculation method with the actuarial cost method and the alternative method proposed by TRA. Mr. Martin noted that TRA had modified their alternative method since the Commission last reviewed the issue. He also noted that the Commission had received comments from the PERA and MSRS actuaries which were generally favorable for the TRA alternative method in its most recent version. Mr. Martin referred members to the second page of the handout from TRA and stated that Tom Custis, the Commission-retained actuary, had testified that more often than not, the TRA alternative method would produce a purchase price less than the actuarial liability of the purchase. TRA requested Mr. Custis to review the numbers using their latest alternative method, and Mr. Custis FAXed a copy of his response which now showed that the purchase price would be higher than the actuarial liability.

Mr. Martin reviewed amendment LCPR98-42, which contained language to implement the TRA proposed alternative method. He stated that the purchase amount would be the difference between paragraph (b) and (c). He stated that the alternative, with the additional modifications prepared by TRA, specified a minimum and the minimum was implemented in paragraph (d). He stated that paragraph (d) specified two minimums. The first minimum required the payment amount to be at least as much as all the current contributions for the service credit purchased would have provided. The second minimum, for a test period, required payment of an amount at least as much as the accrued liability of the service credit purchased to prevent the pension funds from accruing any liability as a result of the purchase. The amendment also provided that either the Pension Commission actuary or the fund actuary, using a Commission actuary approved program, compute the purchase payment amount. Sen. Morse suggested a reporting review requirement.

Gary Austin, TRA Executive Director, provided members with a copy of the Milliman & Robertson, Inc. letter dated 1/22/98. He referred members to the last page of the letter and testified that under the TRA method, the proposed purchase payment amount for a 35 year old with four years of service would be \$1,573 but, because of the minimum requirement, the person would be required to pay the actuarial accrued liability of \$2,582. He further testified that under all the other cases noted, the proposed purchase amount would be higher than the actuarial accrued liability amount. He testified in support of TRA staff doing the calculations.

Sen. Morse asked why the Milliman & Robertson, Inc. actuarial accrued liability cost numbers were lower now. Mr. Austin responded that Mr. Custis's prior calculations were grouped somewhat rather than calculated on an individual basis. Sen. Morse noted that Mr. Custis's previous calculation for an individual age 50 with 24 years of service was \$7,543 whereas the new calculation showed \$4,139. Mr. Austin stated that he did not know why the numbers changed so much. Mr. Austin also stated that he would like the calculations done by the staff for each fund using tables laid out by the actuary. Sen. Morse stated that Commission policy is no subsidized buybacks. Mr. Austin stated that he supported that policy. Sen. Morse asked Mr. Austin for suggestions on how to test this new method. Mr. Austin suggested analyzing each of the fund's experience in three years. He also noted that the actuaries for all the major funds and the first class city funds have signed off on the TRA proposed method. Sen. Morse recommended accepting the TRA proposed procedure for a three year trial period and then sunseting the procedure unless it was proven that subsidized buybacks were not being provided. Discussion followed.

David Bergstrom, MSRS Executive Director, testified in support of the TRA proposed procedure and in opposition to having an actuary do the calculations. He further supported tracking and reviewing the experience after three years and sunseting it if there had been a loss. Discussion followed.

Karen Kilberg, MTRFA Executive Director, testified that MTRFA was not opposed to the TRA proposed procedure but the MTRFA Board had not yet approved it.

Mary Vanek, PERA Executive Director, testified in support of the TRA proposed procedure and in opposition to having an actuary do the calculations.

Judy Johnson, MERF Executive Director, testified in support of the TRA proposed procedure.

Sen. Pogemiller moved to amend LCPR98-42 by deleting page 3, lines 31 to 36, page 4, lines 1 to 15, and by adding language to provide for an annual review of the purchases that have occurred under the procedure with a three year sunset if the funds experienced a loss. **MOTION PREVAILED.**

**1. Consideration of Revisions in the Legislative Commission on Pensions and Retirement Rules of Operation**

Mr. Martin reviewed the current Rules of Operation for the LCPR. He noted that the Commission's prior procedure was to define a majority as six members and to require three members from the House and three members from the Senate to pass all pension legislation. With the expansion of the Commission to 12 members, the Rules of Operation needed to be modified. He referred to a handwritten sheet changing the majority requirement from six to eight and the pension legislation recommendation requirement to four members from each body. Senator Morse suggested changing the majority requirement to seven members rather than eight. Rep. Kahn suggested setting the majority requirement at seven but leaving the recommendation of pension legislation at three from each body. Discussion followed.

Sen. Betzold moved to set the majority requirement at seven and the recommendation of pension legislation requirement at four from each body. **MOTION PREVAILED.**

**7. S.F. 2410 (Price); H.F. 2802 (Slawik): PERA; Special Survivor Benefit For Certain Deceased St. Paul City Building Inspector**

Sen. Leonard Price provided background on this issue. He testified that Mr. Donald Juenemann, a St. Paul Housing Inspector, was 38 days from reaching the Rule of 90 retirement when he was killed in the line of duty. Mr. Juenemann's surviving widow would have received an additional \$456 per month had her husband died after retiring under the Rule of 90 benefit.

Mr. Martin reviewed the four policy issues raised by this bill and suggested that PERA testify regarding the actuarial cost to PERA if this legislation was recommended. Discussion followed.

Mary Vanek, PERA Executive Director, provided a Fact Sheet on this issue and testified that Mr. Juenemann had requested benefit estimates from PERA but had not sent in a completed retirement application. She further testified that the actuarial liability of providing the Rule of 90 survivor

benefit under this bill would be \$73,000.

Terry Haltiner, representative of the City of St. Paul, testified that the city did not have any written documentation with regard to Mr. Juenemann's retirement date. In a discussion with Mr. Juenemann's supervisor, the supervisor stated that he had been told Mr. Juenemann was planning to retire in February. Sen. Morse asked if the City would support paying the actuarial value of this benefit increase. Mr. Haltiner stated that he would discuss it with the appropriate people. Discussion followed.

Sen. Pogemiller moved S.F. 2410 with an amendment to allow the City of St. Paul the option to pay PERA the \$73,000 actuarial difference in benefits and to include a local approval clause.

Rep. Jefferson noted that eight days after Mr. Juenemann's death he would have been eligible for retirement with a Rule of 90 benefit. He questioned the fairness of characterizing the \$73,000 as a subsidization of the surviving spouse benefit. Sen. Price testified in support of the bill as it was originally written. Discussion followed. Sen. Morse stated that the Commission must not look at pension policy in terms of a particular individual. He stated that if this bill passed, PERA must transfer \$414,000 to the post fund but if the bill did not pass, PERA would transfer \$341,000.

Sen. Pogemiller moved S.F. 2410 with an amendment to allow the City of St. Paul to pay PERA all or a portion of the actuarial difference in the post fund transfer, to allow the State to make an appropriation to PERA for a portion of the post fund transfer amount, and to include a local approval clause. Discussion followed and Mr. Haltiner testified that he believed the City would be willing to pay a share of the actuarial difference in the post fund transfer amount. Members of the Commission also clearly stated that their consideration of this issue and their potential resolution of it was based strictly on the circumstances relating to an employee who was killed in the line of duty within one month of eligibility for full retirement benefits under the Rule of 90. Mr. Martin read the concept of the motion on this issue which said that the City of St. Paul would have to pay at least half of the required difference in the post fund transfer amount and whatever portion was not appropriated by the State of Minnesota. Sen. Pogemiller moved S.F. 2410 with the language Mr. Martin previously read, a local approval clause, and including, as the Commission's reason for taking this action, the homicide in the line of duty within one month of eligibility for full retirement benefits statement. **MOTION PREVAILED.**

**5. S.F. 2053 (Solon); H.F. 2585 (Jaros): PERA-P&F Consolidation Accounts; Election of MPRIF Post Retirement Adjustments For Certain Retirees**

Sen. Solon provided background on this issue and introduced retired members of the Duluth police department. Sen. Solon testified that after the Duluth Police Relief Association consolidated with PERA, some Duluth police officers made the wrong decision as to whether to continue coverage under PERA or the Duluth Police Relief Association. Rep. Jaros also testified in support of this bill.

Mr. Martin reviewed the staff memo on this issue. He noted that the bill would permit individuals who, as active members after consolidation of their local plan with PERA, selected local plan pension coverage, to now choose the PERA post retirement adjustment mechanism rather than the escalator provided in their local pension plan coverage. He reviewed background on the options available to members after consolidation and the post fund increases provided by the MPRIF. He briefly reviewed amendment LCPR98-36, a technical amendment that clarified the language in the bill. He reviewed the seven policy issues raised by this bill and noted that the first policy issue dealt with the irrevocable election members made after the consolidation. Mr. Martin stated that 28 consolidation accounts out of 42 have members who elected the local plan. He noted that 221 members selected the local plan after consolidation. He stated that the retirees supporting this legislation offered the argument that retirees who selected the post fund were receiving higher retirement benefits than the retirees who did not but Mr. Martin noted that the bill did not provide for retroactivity so that perceived unfairness would continue even if this bill was passed and possibly the Commission may be requested to address that in the future. He concluded by stating that this bill did not include a local approval clause and also that it would set a precedent for future requests for a second chance election.

David Royal, a retired Duluth police officer, testified that when the Duluth Police Relief

Association consolidated with PERA there was a lot of confusion since this was the first consolidation of a large relief association. He stated that Duluth pension board members counseled some members to elect the local plan and other members to elect PERA and it was assumed that the board members were knowledgeable. At that time, PERA had not set up a counseling program so members listened to rumors and to people who did not have all the information needed to make an informed decision. Mr. Royal testified that he retired shortly after consolidation and selected the local plan because, under PERA, he could not retire until age 55 and under the Duluth plan he could retire before reaching age 55. He retired at age 50 after 26 years of service and has a current pension benefit of \$1,822.41 per month. Another retired Duluth police officer who retired at age 50 but prior to consolidation, selected the MPRIF after consolidation and receives a benefit \$650 higher than Mr. Royal's benefit. He further testified that all of the assets of the Duluth Police Relief Association are being invested by the SBI and achieved a 22% investment gain last year. Since consolidation, he no longer is represented. Discussion occurred regarding requesting that the city increase retirees benefits.

Sen. Morse asked how long Mr. Royal was retired. Mr. Royal responded that he had been retired for eight years. Sen. Morse asked what was the position of the City of Duluth on this issue. Mr. Royal stated that the City wanted to know the cost of the bill and the retirees could not provide actuarial work on the cost. Sen. Solon testified that the City of Duluth is reluctant to provide the benefit to the fire department because of the high liability of that fund. Sen. Solon asked Mr. Royal why some members selected PERA and some the local plan immediately following consolidation. Mr. Royal stated that he believed one member went to the relief association office and was counseled to choose PERA while another member who was counseled away from the relief association office by another person chose the local plan. Discussion followed. Sen. Morse noted that Mr. Royal had two opportunities to select PERA benefits, once when the Duluth Police Relief Association consolidated with PERA and once when he retired. Mr. Royal testified that he was not made aware of the opportunities to select PERA. At the time, he was concerned with the difference in retirement ages between PERA-P&F with normal retirement age of 55 while the Duluth local plan permitted retirement anytime after age 50.

Mary Vanek, PERA Executive Director, testified that PERA staff did work with Duluth Police Relief Association members in a group setting and did make individual counseling sessions available. It was a difficult process for the first funds that consolidated because members had a choice between what the post fund offered at the time and their negotiation power with their municipality. She testified regarding the counseling provided by PERA when relief associations consolidated. Sen. Johnson asked whether the pre-retirement counseling of members could be standardized. Ms. Vanek stated that PERA has a standard procedure but local plan members had a higher comfort level with their local board members. Sen. Johnson asked what the cost would be if this bill were passed. Ms. Vanek stated that PERA does not have the specific actuarial accrued liability cost. Sen. Morse stated that the Commission would need actuarial work before considering this benefit and also wanted to hear testimony from the affected municipalities. Discussion followed and members agreed that this bill raised serious policy implications.

Rep. Mares moved a verbal amendment to page 1, line 10, after "subdivision" insert "1 or". Ms. Vanek explained that Rep. Mares amendment would change the bill to allow retired members who selected the local plan upon consolidation as well as the members who were active at the time of consolidation and later selected the local plan to now change that selection to the MPRIF. **MOTION PREVAILED.** Discussion followed.

Lowell Lybarger, a retired Rochester firefighter, testified that although the Rochester firefighters were aware that changes were proposed for the MPRIF adjustment mechanism, they selected the local plan. However, if they had been allowed to change that selection after the MPRIF adjustment mechanism changed, they would have selected the post fund. He testified in support of this bill.

Clinton Bragg, retired Duluth police officer, testified in support of the bill. At the time he retired, his local benefit was 20% higher than the PERA-P&F benefit so he took the local benefit.

Sen. Morse laid this item over.

**3c. S.F. 1507 (Hottinger); H.F. 1230 (Johnson, R.): TRA; Authorization of Service Credit Purchase For Prior Uncredited Leave**

Mr. Martin reviewed the background on this issue and noted that this was a late 80's extended leave of absence, for which service credit is purchasable, mischaracterized as an "other" leave, for which service credit is not purchasable. He stated that the mischaracterized leave appeared to be the fault of the school district and the bill provided that the member would pay the contribution that would have been paid had the leave not been mischaracterized, plus interest.

Gary Austin, TRA Executive Director, testified that the member contribution plus interest would be \$9,853 as of June 30, 1998. He also provided a letter from the school district admitting their error and recommended removing language requiring this issue to go before an Administrative Law Judge.

Rep. Ruth Johnson testified in support of the bill.

Mr. Martin suggested that if the Commission required the school district to pay the remaining full actuarial value and, if the district did not make that payment, the money would be taken out of their education aid. Discussion followed.

Sen. Pogemiller moved amendment LCPR98-38 including the new method for calculating the purchase of prior service credit, striking the ALJ language, and on page 4, lines 12 and 13, delete "shall" and insert "may". **MOTION PREVAILED.**

**3b. S.F. 139 (Cohen); H.F. 416 (Entenza): TRA; Authorization of Service Credit Purchase For Multiple Sclerosis Leave**

Edward Burek, Deputy Executive Director, reviewed the background on this bill and stated that there was a letter attached to the staff memo in which the school district indicated that they made an error in this case. He noted that the Commission should add the new method for calculating purchase of prior service language to this bill.

Mr. Austin testified that the employer and employee contribution for this purchase of service would be \$534 plus interest. He testified that the total amount would be approximately \$900 and the employee share would be about \$400.

Rep. Entenza testified in support of this bill and provided additional background.

Rep. Jefferson moved to amend this bill by including the new method for calculating the purchase of prior service credit, by requiring the member to pay contributions plus interest, and by requiring the school district to pay the remainder. **MOTION PREVAILED.**

Rep. Kahn noted that the Commission does not have sufficient members to pass legislation.

Sen. Morse laid this item over until a sufficient number of members was available to pass legislation.

**4. S.F. 2555 (Morse); H.F. 2970 (Kahn): Judges Retirement Plan; Increasing Salary and Contributions**

Sen. Morse stated that a bill on the judges issue had been introduced. He noted that members had an amendment in their packet and that it was circulated to interested parties.

Mr. Burek reviewed the issue and stated that the bill provided a salary increase for judges as well as a pension contribution increase which required judges to pay a higher percentage of the normal cost for the benefit they received. He stated that the issue raised at the last LCPR meeting was how to tie the contribution rate increase to the salary increase and he referred members to amendment LCPR98-29 to resolve that issue.

Sandy Neren, Legislative Counsel for the District Judges Association, testified that the Judges Association has seen the amendment and did not have a problem with it.

Sen. Morse stated that there were other people who were not in the Judges Plan but whose salaries

were tied to the judges salary and who would not receive the salary increase nor the increase in pension contributions.

Rep. Kahn moved amendment LCPR98-29. **MOTION PREVAILED.**

Sen. Morse laid this item over until a sufficient number of members was available to pass legislation.

**3d. S.F. 1939 (Betzold); H.F. 2525 (Koskinen): TRA; Extension of Part-Time Teacher Service Credit Program For Certain School District**

Mr. Martin reviewed the background on this bill and stated that it would permit three teachers to file forms after the deadline for the part-time service full-time credit program because their school districts failed to meet the filing deadline. Mr. Martin reviewed several policy issues related to this bill and to teacher mobility incentive programs. He referred to a table on page 2 of the staff memo which showed the school districts that had missed the deadline for filing for teachers in their districts over the last three years. Mr. Martin reviewed LCPR98-37, a technical amendment to the bill, LCPR98-38, which provided for a prospective flexible deadline and fines for the school district for non-compliance, and LCPR98-39, which provided for a retroactive flexible deadline to 1995 and fines for the school district for non-compliance. He noted that Commission staff worked with representatives from TRA and MEA on the flexible deadline amendments. He also stated that he did not know why TRA requested retroactivity to 1995 rather than 1994 when deadline problems first began.

Sen. Betzold introduced Deb Hewinkle from the Anoka-Hennepin School District who is one of the three teachers that the original bill addressed. He stated that the three teachers submitted their paperwork on time but the school district did not send it to TRA prior to the deadline. Since 1995, 18 school districts have been identified as having a similar problem. He supported making this bill broader and including the provision for a retroactive flexible deadline. Sen. Betzold suggested amending page 2, line 34, by deleting "1995" and inserting "1994" and also by including the new service credit calculation method.

Deb Hewinkle, a teacher with the Anoka-Hennepin School District, provided background on her situation and her reasons for using the part-time teaching program. She further testified in support of continuing part-time teacher programs and other flexible service programs.

Sen. Morse asked whether there were any estimates of what the cost would be under the new service credit calculation method. Gary Austin testified that he only had a cost estimate for the Minnetonka school district constituent of Rep. Smith, which was about \$6,000, but he estimated that the cost for the other teachers in this situation for the 44/100ths of a year service credit they needed would be approximately \$5,500 for the total employee and employer contribution plus interest per teacher under the new calculation method.

Sen. Betzold moved LCPR98-39 with the new purchase of service calculation method, with the employee paying contribution plus interest and the school district paying the remainder of the cost, and with retroactivity to October 1, 1994. **MOTION PREVAILED.**

Sen. Morse laid this item over until a sufficient number of members was available to pass legislation.

**6. S.F. 2200 (Pogemiller); H.F. 2623 (Delmont): PERA; Establishment of Local Government Correctional Retirement Plan**

Rep. Delmont provided background on this bill. He stated that the bill was introduced to correct inequities for employees who are charged with dangerous and hazardous duty assignments. County jails and work houses have replaced sheriff's deputies with civilian correctional guards and with the adoption of the Community Corrections Act, individuals are being sentenced to county correctional facilities. These correctional officers are in the PERA Coordinated Plan although their jobs have a dangerous element that other PERA Coordinated Plan members' jobs do not have. This bill provided for a normal retirement age of 55, improved the line-of-duty disability for these employees, and provided a small increase in their multiplier. He referred members to the letters of support in the packet of information that he had provided. He introduced Bob Johnson to review the

technical aspects of the bill.

Bob Johnson, representing Teamsters Local 320, testified in support of this bill and stated that the Local Correctional Officers Plan was repealed for lack of utilization as part of the Uniformity Bill last session while local correctional officers were trying to organize so that they could become participants in that plan. He testified that the Local Correctional Officers Plan was established in 1987 for certain counties and implementation of the plan was voluntary. The plan included a 2% multiplier, normal retirement at age 55, and a generous disability benefit. He noted that actuarial cost estimates have been received for three scenarios and that the authors of the bill are seeking an accrual rate increase from 1.7% to 1.8%, an improvement in the disability benefit, and a prospective age 55 normal retirement age for these employees.

Sen. Morse asked if these employees couldn't be defined as state employees and included in an already established plan such as MSRS Correctional rather than reestablishing another plan. Mr. Johnson stated that the employees would be happy to be covered by the MSRS Correctional Plan but they are county employees and removing them from PERA could cause PERA to suffer a loss. Mr. Johnson also testified that transferring these 1600 employees to MSRS-Correctional would make the cost prohibitive due to the significant employee and employer contribution rate increase necessary to provide the MSRS-Correctional Plan benefits for these local government employees. Sen. Morse asked if establishing this plan would create an unfunded mandate for the counties. Mr. Johnson testified that this plan would require an increase in both the employee and employer contribution rate and would provide a 52/48 percent ratio rather than the 60/40 percent ratio for most public safety employees. He further testified that this bill with the amendment would increase the cost for the counties but the danger and risks that these employees incurred in their jobs warranted the increased cost.

Sen. Pogemiller requested that Jim Mulder testify.

Jim Mulder, the Executive Director of the Association of Minnesota Counties, testified that his board had not yet taken a position on this issue. He believed that the counties would oppose the bill since they did not accept it in the ten years that the plan was available on a voluntary basis. Sen. Pogemiller asked whether the counties would view this proposal as inappropriate pension policy or just unaffordable. Mr. Mulder testified that the county commissioners recognized that many local correctional employees as well as county health, social service, highway, and court employees have jobs that are threatening but he did not know whether the correctional employees jobs were uniquely more so than the other employees mentioned. Sen. Pogemiller requested that the county commissioners make a determination as to whether this was a policy issue or a money issue. Mr. Mulder agreed to return with the comments from the counties.

The meeting adjourned at 6:15 P.M.

  
Jean Liebgott, Secretary