

March 10, 1999
Room 300N State Office Building

3rd Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

March 10, 1999 Agenda

Representative Harry Mares, Chair of the Legislative Commission on Pensions and Retirement, called the meeting to order at 5:05 P.M.

Commission members present:

Representatives Philip Krinkie, Harry Mares, Mary Murphy, Steve Smith, Rich Stanek, and Stephen Wenzel

Senators Don Betzold, Dean Johnson, Lawrence Pogemiller, LeRoy Stumpf, and Roy Terwilliger

Commission members absent:

Senator Steven Morse

Agenda Items Discussed

Representative Mares noted a quorum was not yet present. He started the meeting and said action would be taken when a quorum was present.

Report on 7/1/1998 Actuarial Valuations and Recommendations for Actuarial Assumption and Standards Changes, Thomas K. Custis, Milliman and Robertson, Inc.

Mr. Custis asked the Commission to refer to the back of his report and to follow his presentation with the charts found there which would highlight most of his comments. The valuation reports this year produced very little in the way of surprises. In general, each of the funds had favorable experiences. Likewise, on the projected basis, the results are similar. Mr. Custis referred to information new this year, page 11 of his report, which is a table based upon the change in statute last year recognizing the change in buyback provisions for prior service credits. A specific comparison of the change in liability, based upon valuation results, versus the amount that was actually charged to purchase that service credit, was requested. Mr. Custis noted it is a very difficult comparison to make on a one-by-one basis. He went on to explain the calculation method used to calculate the buyback purchase amount and the liability to the various pension funds. Mr. Lawrence Martin, Executive Director of the Legislative Commission on Pensions and Retirement, asked Mr. Custis why two other purchases authorized, DTRFA and MSRS-General, were omitted from the report. Mr. Custis noted they were omitted because they were not completed by the valuation date.

Mr. Custis noted that two years ago, Milliman & Robertson, Inc., completed a four-year experience study of the three major pension funds. The recommended changes in actuarial assumptions were in a chart referred to by Mr. Custis. The economic changes recommended have to do with the salary scale. Milliman and Robertson, Inc. recommended that the assumptions included in statute would be limited to those that are the base underlying economic assumptions and that all the rest of the assumptions be adopted by the Legislative Commission on Pensions and Retirement and incorporated in the actuarial standards.

The change in asset assumptions were reviewed and Mr. Custis suggested the recommended method be adopted. He then reviewed a new recommendation dealing with overfunded pension plans. He recommended treating all plans the same and to recognize plans with assets in excess of accrued liability on a rolling 30-year basis.

H.F. 291 (Folliard); S.F. 302 (Kelly, S.P.): TRA; Minnetonka Teacher Medical Leave Service Credit Purchase

Mr. Martin reviewed the staff memo on this bill and Amendment LCPR99-52. He noted this bill is for a Minnetonka public school teacher purchase of medical leave of absence. The amendment provided for the school teacher to pay \$4,060 of the purchase payment amount, the Minnetonka School District to bear ½ of the cost not paid by the member involved (\$13,000),

and TRA to bear the other half of the total actuarial cost (\$13,000). Representative Folliard testified in support of Amendment LCPR99-52. Dr. Mike Lovett, Assistant Superintendent for the Minnetonka schools, introduced himself. Dr. Lovett testified that he learned that the way the bill had been written, the liability to the school district was \$27,000 rather than the hundreds or \$1,000 they had originally understood the cost to be. Mr. Gary Austin, Executive Director of TRA, testified that TRA should absorb half of the liability due to an error by TRA. Mr. Lovett said the school district would be willing to pay the back interest on the purchase payment amount (\$1,000) and would support legislation to allow Mrs. Dorothy Rootes to purchase the prior unpurchased service credit. Representative Mary Murphy asked Mr. Lovett how he came to the \$1,000 liability amount for the school district. Mr. Lovett testified that the school district had been told by Mark Shepard that their liability would be \$1,000. Representative Folliard testified that the \$1,000 amount was told to Mr. Lovett by TRA in December of 1998. Mr. Lovett testified that the school district should not be assessed \$13,000. Senator Johnson moved amendment LCPR99-52 be adopted. **MOTION PREVAILED.**

H.F. 366 (Kelliher); S.F. 5 (Spear): TRA; Omitted Contribution Interest Charge Repayment

Mr. Martin reviewed the staff memo on this bill and Amendment LCPR99-51. He explained the bill relates to a Hopkins school teacher who had an omitted contribution from the late 60's, early 70's. The school teacher was charged a considerable amount of interest. The bill would refund the interest charge this teacher paid on the omitted contribution. LCPR99-51 provides a mechanism for the Commission to refund the roughly \$1,000 to the teacher, and to allocate between the school district and TRA the full cost, plus six percent interest, of the omitted contribution.

Senator Johnson moved a verbal amendment to Amendment LCPR99-51; page 1, line 3, delete everything after "(a)"; line 4, delete the new language up to "Independent." **MOTION PREVAILED.**

Senator Johnson moved the amended Amendment LCPR99-51 which requires the Hopkins School District to pay the full cost, \$1,004.08 plus six percent interest, of the omitted contribution. **MOTION PREVAILED.**

Representative Mares asked the Commission staff to come back with an opinion on what the options are on handling individual bills, such as H.F. 366, that are presented each Session to the Commission.

H.F. 440 (Abrams); S.F. 372 (Robertson); TRA; Independent School District No. 16 (Spring Lake Park) Sabbatical Leave Service Credit Purchase

Mr. Edward Burek, Deputy Director of the Legislative Commission on Pensions and Retirement reviewed the staff memo on this bill. At the last meeting the Commission wanted to pursue the extent of the school district responsibility for the failure of this teacher to obtain service credit from TRA for this sabbatical leave. No written response was received by the Commission from the school district and there was no representative of the school district at this meeting. Two amendments to the bill were discussed. The first one, LCPR99-39, was a technical amendment specifying a time limit for repaying this amount and made payment by the school district optional. LCPR99-40 mandated the school district to pay the balance of the actuarial value.

Representative Murphy moved LCPR99-40. **MOTION PREVAILED.**

Representative Harry Mares moved H.F. 152 as amended. **MOTION PREVAILED.**

H.F. 152 (Rostberg); S.F. 183 (Johnson, J.B.): MSRS-Correctional; Expansion of Plan Coverage To Cambridge Hospital METO Program Employees

Representative Krinkie moved H.F. 152. Representative Rostberg provided background on the METO program employees and reviewed the situation for the METO employees. He testified in support of this bill because of the danger these employees are exposed to. The clientele the employees work with are psychologically disabled, otherwise they would be in prison, and pose a threat to the personal safety of the employees. This bill would move these employees from MSRS-General to MSRS-Correctional. Senator Johnson also testified in support of this bill. Mr. Tom Beer, AFSCME, representing the state employees at Cambridge, introduced himself and testified in support of this. Mr. Beer distributed a handout.

Mr. Martin reviewed the staff memo on this bill and noted that amendment LCPR99-54 is a

technical amendment. Mr. Martin reviewed the policy issues involved. He noted METO is a treatment program, rather than a correctional program. Mr. Martin noted the attraction to this plan is the early age for retirement. The disadvantage is the mandatory age 55 retirement. There are some job positions that are still waiting for the transfer to MSRS-Correctional which is a pending item for the Commission from December, 1998. He then reviewed the appropriateness of including part-time employees in MSRS-Correctional coverage since this plan currently includes few, if any, part-time employees. Amendment LCPR99-55 restricts inclusion into MSRS-Correctional to full-time employees. Amendment LCPR99-56 includes those employees who are 75% of full-time or greater. Mr. Martin reviewed the actuarial impact on MSRS-General and MSRS-Correctional with the transfer of these employees from one plan to another. Mr. Martin cautioned that any expansion of the MSRS-Correctional Plan becomes a precedent for future expansions. This bill also provides an early retirement health insurance incentive for these employees.

Carol Mueller, Recreation Therapist Assistant, METO, introduced herself and testified in support of this bill. She was previously employed at Moose Lake Sexual Psychopathic Personality Treatment. She provided additional background on the dangerous work environment at METO and listed a number of dangerous work related situations. Mr. Beer testified that Ms. Mueller's testimony proves the significant occupational threat to these METO employees. Mr. Beer then commented on the five policy issues in the staff memo. He noted that in the staff memo, policy issue #2, the staff position of Recreation Therapist Assistant was not included and should be added to the list of employees for transfer to MSRS-Correctional. Mr. Beer recommended covering part-time employees in this bill.

Senator Stumpf asked how many employees are involved with this bill and if it is self-contained. Mr. Beer said it is self-contained and 115 people are involved plus the Recreation Therapist Assistant. Representative Mares asked if all 115 people met the standard of 75% contact with patients. Mr. Beer said yes. Mr. Terry Anderson, Department of Human Services, introduced himself and clarified that 115 is the number inclusive of the Recreation Therapist classification. Mr. Anderson testified there would be a cost to the agency engendered by the increased employer contribution. Mr. Dave Bergstrom, Director, MSRS, introduced himself and said the Correctional Plan is 112% funded and the financial integrity of the plan is maintained, including this group, and it would not require a contribution increase. Senator Stumpf asked if there is movement between institutions of these employees and what happens to that retirement classification. Mr. Anderson said there is minimal movement between institutions.

Mr. Tom Beer testified in opposition to LCPR99-55 and LCPR99-56. He testified it is the nature of a human services treatment program to have a higher ratio of staff working with these very high risk individuals. In a human services treatment program the maximization of staff is handled by use of a significant number of part-time employees. He supported all of these employees having the option of being in the MSRS-Correctional Plan. Representative Murphy voice her opposition to LCPR99-56.

Senator Stumpf moved a verbal amendment to LCPR99-54; page 1, line 16, add "recreation therapist assistant;" and renumber the subsequent clauses, and page 1, line 15, after "nurse" add "senior". **MOTION PREVAILED.**

Senator Stumpf moved H.F. 152 as amended.

H.F. 410 (Entenza); S.F. (): MSRS: Crediting Certain Service to MSRS Correctional Plan Rather Than MSRS General; Authorizing Recomputation of Annuity

Representative Entenza testified that this is a highly individualized issue. This person has service credit from MSRS General and MSRS Correctional. This person would like to move some of the time from MSRS General to MSRS Correctional. Representative Mares asked for testimony from Mr. Richard Kaufman, and asked that this bill be laid over for further verification of the case.

H.F. 435 (Milbert); S.F. 235 (Metzen): MSRS: Authorizing Purchase of Service Credit by Department of Transportation Employee in Laborer, Labor 1 Job Classification

Senator Stumpf moved H.F. 435. Senator Metzen testified in support of this bill which would allow Mr. Gail Gaston to purchase three years of service credit in MSRS General. Mr. Edward Burek provided background information on this bill. This bill would allow Mr. Gaston to pay the employee equivalent contributions, plus 8.5% interest, and would require the Department of

Transportation to pay the remaining balance of the full actuarial value. Mr. Burek stated an important policy issue is the precedent this proposed legislation could set for similar legislation. Lacking evidence of any employer error in the case presented by this bill, it would appear that the employer is being penalized for following applicable law. Amendment LCPR99-57 would require Mr. Gaston to pay the full actuarial value with the employer permitted, but not required, to pay a portion of the cost. Amendment LCPR99-58 is a technical amendment.

Senator Terwilliger moved Amendment LCPR99-58. **MOTION PREVAILED.**

Representative Wenzel asked why this individual was excluded from MSRS General coverage while employed as a Laborer 1. Mr. Dave Bergstrom, Executive Director of MSRS, testified that during the period involved, this job classification was excluded from membership by law. Representative Krinkie noted policy issue #2 of the staff memo which stated this individual qualifies for the "Rule of 90" this month without the purchase of service. Mr. Bergstrom confirmed that to be true. Representative Murphy asked if there would be financial significance to the fund if 100 people requested the purchase of this Laborer I service. Mr. Bergstrom said the total cost of \$2-1/2 million would be paid by the Highway Department under the language in this bill.

Representative Mares asked that the Department of Transportation provide additional information on this issue and that this bill be laid over until that time.

H.F. 1080 (Boudreau); S.F. 1254 (Neuville); PERA-P&F; Grandparenting of Coverage For Certain Rice County Correctional Employees

Senator Pogemiller moved H.F. 1080. Senator Neuville reviewed the background for this bill. He testified that there are 17 Rice County sheriff's department employees who are inappropriately covered by PERA-P&F rather than the PERA Coordinated Program who have been in this plan since October of 1976. This bill would allow these employees to be grandfathered in, and allowed to stay in, PERA-P&F.

Mr. Lawrence Martin reviewed the staff memo on this bill and said these individuals are not licensed as peace officers by the POST Board which is a requirement of PERA-P&F coverage. Amendment LCPR99-62 would only grandparent in correctional employees who remain correctional employees. Mr. Martin then discussed the policy issues related to this legislation. Rice County could have these individuals licensed by the POST Board so they would fully qualify as PERA-P&F members. Amendment LCPR99-66 would do the grandparenting only up to July 1, 1999, excluding future employees unless they are POST certified. Amendment LCPR99-63 provides for a deduction from PERA-P&F benefits any Social Security benefits obtained by post-1998 employment for these Rice County correctional employees. Amendment LCPR99-64 provides for the collection of \$102,684, plus interest, from future police state aid from Rice County for aid they were not entitled to, and provides a special audit by the Legislative Auditor to determine any amounts of aid overpayments before 1994. LCPR99-65 provides for a penalty if an employer miscertifies an employee and puts them in the wrong pension plan.

Representative Stanek asked if this deals with 17 Rice County correctional employees. Ms. Jody Bushe, Rice County Jail Administrator, testified there are 10 current employees, the remaining seven have left for various reasons. Senator Neuville testified that Rice County incorrectly put these people into PERA-P&F 21 years ago and it was discovered in 1998. Mrs. Mary Vanek, Executive Director, PERA, testified they have no documentation on this matter. She noted some counties permit correctional officers in PERA-P&F but they require POST Board licensing. Review of the records of the ten individuals currently participating, who are classified as correctional officers, found that three of the 10 potentially meet POST criteria. Representative Stanek asked Ms. Vanek what kind of precedent this legislation would set. Mrs. Vanek voiced her concern about that and hoped H.F. 1444 would clarify the language defining peace officers for PERA-P&F eligibility.

Representative Mares recommended an interim study of this issue.

Mrs. Vanek testified in opposition to Amendment LCPR99-63.

Senator Terwilliger moved Amendment LCPR99-62. **MOTION PREVAILED.** Senator Pogemiller moved Amendment LCPR99-63. **MOTION PREVAILED.** Senator Pogemiller moved to amend LCPR99-64 as follows: Page 1, line 9, after "following" insert "amounts" and

delete the balance of the line; page 1, delete line 10; page 1, line 11, delete the language before “must”; page 1, line 12, after “county” insert “in ten annual installments”; page 2, line 2, after “uncollected” delete the balance of the line; page 2, delete line 3, page 2, line 4, delete “recollection”. **MOTION PREVAILED.** Senator Pogemiller moved LCPR99-64 as amended.

Gene Maun, Rice County Administrator, testified in opposition to LPR99-64.

Representative Murphy noted we are only recovering excess police state aid from 1994 to 1998 from Rice County. Mr. Martin stated that the Legislative Auditor will determine the amount of any excess police state aid received by Rice County before 1994. Senator Johnson recommended the county have longer than 10 years to pay back this amount. Senator Pogemiller moved to amend the amendment to allow Rice County 20 years to pay back the excess police state aid. **MOTION PREVAILED.**

Mr. Martin reviewed Amendment LCPR99-65 which provides a mechanism to penalize the employer who miscertifies an employee. This amendment would be state-wide. Senator Terwilliger moved LCPR99-65 to be effective August 1, 2000. **MOTION PREVAILED.**

Mr. Martin reviewed Amendment LCPR99-66 which would grandfather past service for these employees and would require Rice County to get these individuals licensed as POST Board peace officers as of July 1, 1999. Ms. Bushe testified that correctional officers do have some of the responsibilities of licensed officers. She noted the possible loss of staff if the two-year licensed training were required. The Commission recommended this bill be laid over for interim study. Senator Pogemiller recommended “hold harmless” language for a year. Ms. Vanek said PERA would agree to that and they are doing research on this issue. Representative Mares directed the staff to draft hold harmless language.

H.F. 708 (Mares); S.F. 711 (Johnson, D.H.): MSRS, PERA, TRA: Authorizing MSRS, PERA, and TRA to Jointly Purchase or Construct a Building to House These Pension Fund Administrations

Senator Johnson reviewed this bill which authorizes the three associations to build a new building or purchase an existing one. Senator Terwilliger moved Amendment H708A2. **MOTION PREVAILED.** Mr. Dave Bergstrom, MSRS, testified this is purely a business decision on the part of MSRS. He stated it would allow the funds to share boardrooms, copy centers, and various other duplicative functions. Representative Krinkie noted the bill states the project is exempt from approval by the Capital Area Architectural and Planning Board. Mr. Bergstrom said this is because of the timing involved with lease expirations.

Mr. Bergstrom testified the Department of Administration would be very involved in the building process and a pre-design document has been approved by them. Representative Mares recommended that staff talk to the Finance Committee people and come up with some boilerplate language. **MOTION PREVAILED.** Representative Mares moved H.F. 708 as amended. **MOTION PREVAILED.**

H.F. 1179 (Mares); S.F. 1426 (Stumpf): Teacher Pension Plans; Authorizing Out-of-State Teaching Service, Prior Military Service, and Maternity Leave and Breaks-in-Service Credit Purchases For Teachers

Mr. Martin reviewed the staff memo on this bill which related to the four teacher pension plans and authorized the purchase of four types of service. He noted the Commission studied this topic during the interim. Mr. Martin said Amendment LCPR99-67 is a technical amendment. Representative Mares moved LCPR99-67. **MOTION PREVAILED.**

Mr. Hank Stankiewicz, Education MN, testified in support of this bill and noted an important issue in the bill is the employees will pay the full actuarial value of the service credit they purchase. Teachers Karen Tomlinson, Joan Blomley, Vernelle Manly, Louis Hoenthan, Bruce Bartels, and Gary Bennett testified in support of this bill. Mr. Stankiewicz referred to a handout from the National Education Association on research done on the issue of portability. He noted only five states do not allow portability, including Minnesota. Representative Wenzel asked if those teachers who had their careers forcibly interrupted would be liable to pay the full actuarial cost. Mr. Stankiewicz said yes, they would be charged the full actuarial cost. Representative Mares said everyone should be treated equally and this bill does that. Representative Murphy provided a letter from a Duluth teacher, Mary Lou Wickland, that stated even though the cost of her buyback was \$74,000, she thought it was well worth it.

Mr. Gary Austin, Director, TRA, testified in strong support of this bill. He stated that at the request of the Commission, TRA conducted a random survey of TRA members. He summarized the survey for the Commission. According to the survey, 56% of the members who responded, or 785, indicated they had service they could purchase in military, maternity, or out-of-state teaching. Senator Johnson asked what the cost involved in the buyback potentially would be. Mr. Austin replied that if a member is close to retirement, the cost would be more than 20% of their current salary and up to 40% to purchase one year of service.

Mr. J. Michael Stoffel, DTRFA, testified in support of this bill and said they would like the maternity leave buyback provision not be restricted to one year because of a forced leave provision in the rules of employment at the time of these leaves. Mr. Gene Washbusch, Executive Secretary, StPTRFA, testified in support of this bill and said that all St. Paul teachers with maternity leaves prior to 1989 were not eligible to purchase that service. This bill would rectify that. He also discussed the portability issue and noted StPTRFA's support of that. Ms. Karen Kilberg, MTRFA, testified in support of this bill. Representative Murphy moved the 8-1/2x11 amendment. **MOTION PREVAILED.** Senator Stumpf moved Amendment LCPR99-72. **MOTION PREVAILED.** Senator Terwilliger moved LCPR99-80 and then withdrew this amendment to consider making it broader. Senator Pogemiller moved that private and parochial teaching service and Peace Corps and VISTA service credit be added to this bill. Mr. Martin recapped Senator Pogemiller's verbal amendment to the language in the bill. **MOTION PREVAILED.** Senator Betzold moved to remove all military service buyback provisions in this bill. **MOTION DID NOT PREVAIL.**

H.F. 589 (Mares); S.F. 772 (Pogemiller): Tax-Sheltered Annuities; Expansion of Vendors For Employer Matching Contributions

Mr. Martin reviewed the staff memo on this bill which expands the number of tax-sheltered annuity arrangements eligible to receive employer matching contributions. He then reviewed the policy issues of this bill and noted there isn't a very detailed pension policy on handling savings programs. Amendment LCPR99-59 is a technical amendment. Senator Pogemiller moved LCPR99-59. **MOTION PREVAILED.** Amendment LCPR99-60 resets the effective date to January 1, 2000. Senator Pogemiller moved Amendment LCPR99-60. **MOTION PREVAILED.**

Senator Betzold asked if this was the same issue the Commission passed a few years ago when the 403(b) vendor number was decreased. Representative Mares said yes, the number was limited to 10. Mr. Howard Bicker, Director, State Board of Investment, had no position on the bill. He said it would eliminate all the input in 403(b) plans by SBI. Two years ago, SBI did a report on 403(b) providers and came back with a report to the legislature recommending a state-wide 403(b) program. He stated this bill would do the exact opposite. Mr. Bicker said that report has never been heard and he feels it deserves a hearing. Mr. Phil Riveness, representing TIAA-CREF, currently not a 403(b) provider, testified in support of the Commission studying this issue over the interim. Mr. Rich O'Conner, Regional Manager of Copeland Companies, Inc., testified in support of this bill. It would allow them to do business all over the state if school districts choose to do business with them. Two years ago, the Commissioner of Commerce submitted a report to the Legislature stating there were 100 companies qualified to do 403(b) business. Currently, only 10 companies are permitted to participate. Mr. O'Conner feels the administration of investment options is not the issue it was in the past due to new and better technology.

Senator Pogemiller recommended reviewing the report done by the State Board of Investment. Mr. Bicker stated the law says SBI has to evaluate this program on an ongoing basis, but they aren't required to do RFP's on a regular basis. Senator Pogemiller asked Mr. Bicker what he thought of the mutual fund issue. Mr. Bicker said there are mutual fund options now, but a state-wide 403(b) plan would allow direct access to mutual funds, without insurance company retainment.

Representative Mares recommended laying this over for further discussion.

Meeting adjourned at 10:53 P.M.


Jean Liebgot, Secretary

LJC