

January 11, 2000
Room 200, State Office Building

1st Meeting



LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

MINUTES

Representative Harry Mares called the meeting to order at 1:23 p.m. He noted that the Commission did not yet have a quorum and that agenda items would be taken out of order. He also noted that agenda item #3 would be taken up at a later date and agenda item #6 was pulled at the author's request. He introduced and welcomed Lisa Diesslin as the new Administrative Secretary for the Commission.

Commission members present at this meeting:

Representatives Philip Krinkie, Harry Mares, Mary Murphy, Rich Stanek, and Stephen Wenzel
Senators Don Betzold Dean Johnson, Lawrence Pogemiller, LeRoy Stumpf, and Roy Terwilliger

Agenda Items Discussed:

7. Report of Fire Pension Subcommittee: Volunteer Firefighter Relief Association (VFRA) Changes; Minneapolis Firefighters Relief Association Additional Post-Retirement Adjustment Mechanism.

Rep. Mares thanked Rep. Stanek and the members of the Fire Pension Subcommittee. He asked Lawrence A. Martin, LCPR Executive Director, to review the report. Mr. Martin referred members to the three items in their packets relating to the work of the subcommittee. Mr. Martin noted that the work product of the subcommittee (LCPR99-308) is three articles, two relating to Volunteer Fire and one relating to the Minneapolis Fire Department.

Mr. Burek reviewed the items covered in Article 3 and the associated policy issues. Mr. Burek explained that Article 3 creates an additional post-retirement adjustment payment for this association in addition to the automatic escalator related to salary and the 13th check. Mr. Burek pointed out that this would be a one-time event that would or would not occur each year, it does not become an automatic part of the existing benefit.

Rep. Stanek noted that the subcommittee asked staff to draft two amendments to the bill for Commission consideration. Mr. Burek referred to amendments LCPR99-301 and LCPR99-302 are attached to his December 21, 1999 memo. The first allows the City of Minneapolis 15-year amortization rather than following the existing law which would require full funding in 2010.

Sen. Stumpf asked for a review of the discussion regarding the change in amortization. Rep. Stanek referred to Mr. Brian Rice, Oppenheimer Best and Flanagan, and general counsel for the Minneapolis Fire Department Relief Association. Mr. Rice noted that at the end of 1998, the fund was 105% funded. If in the future it were to be less than 100% funded, the City sought a 15-year period to amortize any unfunded liability. He mentioned the City's concern that they wanted to look at this as a permanent benefit structure that would not need further modifications and that they hoped that this 15-year period would guard against any sudden movements in the market and wouldn't impose a huge burden on the City in any one year. After 2010 any unfunded liabilities in the plan have to be made up all in one year. Mr. Rice testified that the City supports the legislation as it came out of the subcommittee, and they have requested to add back the 15-year provision that was removed in the subcommittee.

Mr. Burek reviewed LCPR99-301 and LCPR99-302, both dealing with normal cost contribution issues, which staff was directed by the subcommittee to draft. LCPR99-301 would remove Section Four in the subcommittee report, regarding the City's normal cost contribution requirements. LCPR99-301 would ratify past underpayments, but would require the City, beginning with calendar year 2000, to make normal cost contributions that would otherwise be required under general law. LCPR99-302 is an alternative to Section Five in the subcommittee report, which says that if there is any payout in a given year under this new benefit improvement covered by the act, then the City does not have to make any normal contribution, a procedure not followed under any other plan. LCPR99-302 would allow negative amortization, if the

organization is more than fully funded. The actuary determines what negative amortization would be required to bring the association back down to full funding level by the full funding date of the plan, which is 2010.

Rep. Stanek explained that the second task of the subcommittee concerned volunteer firefighters and he asked staff to review the bill. Mr. Martin reviewed the memo and the pension policies related to LCPR99-308. Mr. Martin noted that an item that came up during the subcommittee discussions but which was removed from the bill has to do with the application of the open meeting law to volunteer firefighters. Rep. Stanek referred to amendment LCPR00-4, concerning the section of the original bill regarding the open meeting law that was removed for further discussion. Mr. Nyle Zikmund, Minnesota Area Relief Association Coalition (MARAC), testified that they have worked through the issues and that they support the change.

Sen. Betzold moved LCPR00-4. The motion prevailed.

Sen. Terwilliger raised a question regarding whether it would be a requirement that the benefit be increased. Mr. Zikmund responded that the language of the bill is permissive, allowing those local relief associations, if they have the assets, and if they have the city's approval, to pay a higher benefit. Sen. Stumpf asked if there are any changes in the reporting in addition to the one Rep. Stanek mentioned. Mr. Zikmund said that the subcommittee spent considerable time discussing the various reporting requirements and did not recommend any changes. Rep. Stanek noted that the State Auditors office was duly represented at the hearings and made their case.

Mr. Bicker, Executive Director, SBI, testified to the State Board of Investment's concern regarding the provision about self-direction. He wanted to make it clear that the SBI is not in the position to do individual account record keeping, and that this could be a very expensive proposition for the volunteers.

Rep. Mares said that this would be passed on to the Commission during the session. He invited Mr. Bicker to meet with him, Rep. Stanek, and others on the subcommittee, to discuss the issues.

1. Approval of Minutes of the Fire Subcommittee Meeting Minutes of November 9, 1999 and November 19, 1999.

Sen. Johnson moved approval of the minutes of the Fire Subcommittee Meeting of November 9, 1999 and November 19, 1999. **The motion prevailed.**

5. H.F. ___ (); S.F. ___ (): PERA-P&F; Purchase of Spring Lake Park Firefighter Service Credit

Mr. Burek reviewed the staff memo and policy issues raised by the bill. He noted that the bill as drafted could be clarified and that if the Commission is not comfortable with the language that staff be given direction regarding the nature of an amendment.

Mr. Nyle Zikmund, Spring Lake Park Firefighters, provided a history of the issue and testified on behalf of the bill. He provided some history on the issue of the initial application to PERA and rejection, the favorable ruling from the IRS, and subsequent acceptance by PERA. He noted that there is a technical correction – there are six members, not five. There is a part-time receptionist who also qualifies. He informed the Commission that they made notice to the Social Security Administration upon PERA approval, and they have also made written application to the Social Security Administration seeking the refunds. Upon refund they will move the service credit for that period of time. He noted that they are open to clarifying that no future prospective members are eligible for this, that only current members are eligible.

Ms. Mary Vanek, PERA, testified that PERA's legal advisor reviewed the documents that had been submitted to them, and the legal advisor is certain that the February 5th date was the date when the bylaws and the relationship changed, driving the IRS decision to treat this as an instrumentality and thus governmental for their purposes.

Mr. Zikmund informed the Commission that the three cities, Spring Lake Park, Blaine, and Moundsview, all support this changeover and support the legislation contained in the staff memo.

Rep. Mares directed staff to look at the issues of concern and draft amendments. This issue will be brought back during the session.

4. **H.F. ____ (); S.F. 2275 (Betzold): Judges Retirement Plan; Benefit Modifications**

Mr. Martin mentioned that it is staff's understanding that it is the author's intent to offer a "delete all" amendment, MS134, so the staff memorandum is prepared to MS134. Mr. Martin reviewed the staff memo and policy issues raised by this bill. Mr. Martin referred members to LCPR00-1, a technical amendment to MS134. It is staff's belief that LCPR00-1 does not make any substantive change to MS134. He noted that a copy was provided to both Mr. Bergstrom and to Ms. Neren and that the changes are not controversial.

Sen. Betzold moved LCPR00-1. The motion prevailed, the amendment was adopted.

The Honorable Kathleen Gearin, 2nd Judicial District Judge in St. Paul and President of the Minnesota District Judges Association, testified in favor of this bill. She referred to the importance of attracting and retaining judges from a variety of backgrounds. From the judges' point of view, the proposed changes are intended to address inconsistencies with other pension plans. She noted that none of the four proposed changes will be beneficial for all judges, but that the changes should be made because of fairness issues.

The Honorable Daniel H. Mabely, 4th Judicial District Chief Judge, Hennepin County, responded to staff's policy issue concern about encouraging judges to retire early by noting that judges serve later in life than any other group of state employees. He also mentioned that other groups have the benefit or the option of early retirement at age 55 and have a more reasonable retirement penalty. According to Judge Mabely, self-imposed and legally-imposed isolation in order to protect objectivity is one of the big stressors in the job, and is an aspect he feels warrants attention and justifies the reductions in the retirement age.

Mr. Dave Bergstrom, Director of the Minnesota State Retirement System (MSRS) testified that the fund could afford the changes. The MSRS actuary costed out the total package to be about .8% of pay, and the current sufficiency is 1.79%. Mr. Bergstrom explained that the judges were interested in trying to provide a way to handle the longer serving judges without costing a lot of money, so the cap was triggered to 24 years rather than to 70%. He also thinks that with this cap you'd have a more uniform retirement pattern, rather than judges waiting until they get a raise before they retire because the raise increases their cap as the cap is based on final pay. Mr. Bergstrom thinks they'll be better able to counsel judges.

Judge Gearin noted that they are waiting for the results from the legislative auditor, and if the cost looks like it's going to be significantly more, they may want make some changes.

2. **H.F. ____ () S.F. ____ (): PERA-P&F; Consolidation Accounts; Modify Survivor Benefits**

Mr. Burek reviewed the staff memo and policy issues raised by this bill. He includes amendment LCPR99-310, which is a "delete all" amendment to clean things up. Subd. 1 adds some clarifying language, and limits the election to individuals in the prior accounts who elected PERA-P&F post-retirement adjustments. Subd. 2 specifies that the actuarial equivalency is to be based only on the service pension without the automatic survivor coverage. Subd. 3 would cap the total benefit to the survivor at the time of that initial computation to not exceed the benefit received by the service pensioner or disabilitant just prior to death. Finally, Subd. 4 would add language that would invalidate the election of this optional annuity if the individual has not received counseling on the implications of the election.

Ms. Mary Vanek, Director of PERA, testified that this bill is an effort to resolve a long-standing problem for the St. Paul Police and Fire retired members of the consolidated accounts. In her conversations with Mr. Thomas Custis, the actuary retained by the Commission, Mr. Custis suggested that we leave the automatic benefit in place and allow these retirees a one-time individual election to take a lower benefit and provide a supplement to the automatic benefit through that means. Ms. Vanek testified to her concerns about the language on counseling, and that they could work with staff to come up with language that would be more comfortable to them. She also mentioned that the retired St. Paul police officers asked if there could be a consideration of a 15% and 25% option cost rather than just 50%. Ms. Vanek noted that PERA does not

currently have 15% option tables, but their actuary said that they could come up with tables to provide that factor.

Rep. Mares asked Ms. Vanek to work with staff to clarify the language and that the issue will be brought back during the session.

8. Commission Interim Topic: Public Employees Retirement Association Membership Eligibility Requirement Revisions (Third Consideration) - H.F. 1444 (Krinkie); S.F. 1468 (Stevens)

Mr. Martin reviewed the staff memo and policy issues raised by this bill. The staff memo is drawn to "delete all" amendment LCPR99-309 which increases the minimum salary threshold instead of replacing it with an hours-per-plan year measure.

Ms. Holly Rodin, Director, Service Employees International Union State Council, testified against the "delete all" amendment. She noted that her statements reflect the feelings of her organization as well as the ASME, Education Minnesota and the Minnesota School Employees Association. Their concern is that this would have an impact on many of the part-time workers and would continue to encourage the use of part-time employees in the schools. She commented that it is not clear whether this issue of short-time workers is part of what is contributing to the shortfall in the plan or not, so until that gets figured out they would be more comfortable with no change.

Sen. Pogemiller posed a question to Ms. Vanek, PERA, about employee contributions being returned to the employee but not the employer's portion, and if there is a way to give the cities back their money. Ms. Vanek responded that defined benefit plans count on the gains of employer contributions left behind by people who forfeit a right to a benefit to help keep costs down. She stated that the goal of the this bill was primarily to address employer concerns and to look at who's being covered by the plan. She affirmed their intention to work with the employee groups to determine if there a better way overall to address who should be in PERA and how the plan operates. In response to Sen. Stumpf's question about how many part-time employees we're talking about, Ms. Vanek replied that PERA is currently unable to track that information.

Ms. Vanek addressed an earlier question from Sen. Pogemiller about the bus driver provision. In 1973, a provision was added to the law covering bus drivers who drive their own buses. PERA doesn't currently use that criteria, instead they look to see if an employment relationship exists between the driver and the school and, if so, membership would be required if earnings are met.

Rep. Krinkie asked Ms. Rodin to provide him with any information she has about the number of people she believes would be impacted.


Rep. Mares suggested that there be further communication and discussion on the issue.

9. Mandated Commission Interim Project: Comparability of Public Sector and Private Sector Employee Pension and Other Post-Retirement Benefits (Third Consideration)

Mr. Martin referred members to the staff's draft of the report and noted that the Commission decided on two approaches: 1) to review current literature on pension and other post-retirement benefit practices and try to get a sense of what is the current practice and how things have developed; and 2) to solicit and compare from various sources hypothetical benefit amounts for typical employees under current Minnesota retirement benefit arrangements. Mr. Martin provided a brief synopsis of the contents of the report and noted that the appropriations bill rider provides for January 15, 2000 as the date that this report is due.

Sen. Pogemiller moved that the report be forwarded to the President of the Senate and the Speaker of the House by January 15, 2000. **The motion prevailed.**

The meeting adjourned at 4:13 p.m.



Lisa Diesslin, Secretary