



Date: December 12, 2019
To: PERA Board of Trustees
From: Doug Anderson, Executive Director
Amy Streng, Policy Coordinator
Subject: 2020 Legislative Agenda

The 2020 legislative session begins February 11, 2020. This memo and attachments summarize the legislative initiatives that the Board has either already adopted (Privatization), will be requested to reaffirm (Local Government Aid and 2018 SVF changes), or will be asked to consider for the first time at the December meeting (2019 SVF and other administrative changes). The memo summarizes each topic. The attachments include the specific Board actions or Staff recommendations for each topic.

Privatization

Minnesota Statutes Chapter 353F defines terms for member benefits and reporting requirements for entities that privatize. A privatizing entity can seek augmentation of benefits for eligible members by requesting an actuarial study measuring the impact to the General Employees Retirement Plan (the Plan). Augmentation of benefits means that an eligible active employee will receive an annual increase made to their accrued benefit from the date of privatization until their retirement date. After retirement they will receive annual adjustments in the same manner as other Plan members.

At the October 10 Board meeting, the Board considered two significant equity issues that exist within the current privatization process. The first is an issue of equitable benefits between the vast majority of Plan members who no longer receive any augmentation (i.e. existing terminated members) and those from privatized entities that continue to receive augmented benefits. The second equity issue is a shifting of costs from the privatized employer to the remaining participating employers and active members.

The Board voted to support three legislative initiatives that would stop augmentation for future privatized members, eliminate future augmentation for members of previously privatized entities, and require future privatizing employers to fully fund the cost of benefits for their members. The Board motions from the October 10 meeting are provided in Appendix A. No further Board action is needed at this time.

Local Government Aid

In 1997, the Legislature passed a significant pension reform bill that required increased contribution rates for employers and employees in the PERA General Employees Retirement Plan (the Plan). Employer contributions increased from 4.48 percent to 5.18 percent for a total increase of 0.70 percent. In an effort to help local governments, the Legislature included annual state aid based on

0.35 percent of total payroll for employees in 1997 covered by the Plan. Employers impacted include cities, counties, town, and other non-school jurisdictions.

The annual aid initially was approximately \$15 million. Because the aid was based on fixed 1997 payroll amounts, and there has been a reduction in eligible employers, the total amount of aid has declined. In FY 2019, the amount was \$13.919 million. The aid terminates on June 30, 2020, when the plan was initially expected to reach full funding.

The aid is set to terminate prior to the Plan reaching full funding. As a result, employers during the 2018 legislative session sought to continue the aid until the Plan reaches full funding. The projected full funding date is now estimated to be 2037.

During the April, 2019 Board Meeting, the PERA Board took an official position supporting the aid extension. The Legislature did not extend the aid during the 2019 session. PERA Staff recommends that the Board reaffirm the position as stated in Appendix B.

Statewide Volunteer Firefighter (SVF) Plan

The SVF Advisory Board and the Board approved five legislative proposals last year for the 2019 legislative session. However, the recommendations were not heard during the 2019 legislative session. The SVF Advisory Board met on September 26, 2019 and reaffirmed their support for the five legislative proposals which include: (1) a plan name change, (2) allowing a fire chief to initiate a cost request, (3) clarification of alternative service pension calculation rules, (4) clarification of responsibility for coverage approval, and (5) determining vesting portability.

The SVF Advisory Board considered other issues during 2019 and made two additional recommendations for the Board to consider. The first issue relates to a provision that was included in the 2019 Omnibus Pension Bill through which a municipality, independent nonprofit firefighting corporation, or a joint powers entity may terminate participation in the PERA SVF plan. The process includes fully vesting firefighters in their pension benefits, allocating assets in excess of benefit liabilities, and making immediate distributions. A session law grandfathered specific provisions that had already been established for any termination in process.

PERA's staff did not oppose the bill as drafted, because of the sense of urgency for the parties currently in the termination process. However, PERA staff noted the desire to review the new legislation with the PERA SVF Advisory Board in 2019 and report back to LCPR staff if there were any concerns. The Advisory Board considered the issue and recommended that the Board accept the legislation as drafted.

The second issue relates to the payment of supplemental benefits. In accordance with Minnesota State Statute 424A.10 Subd. 2, both a volunteer fire relief association or statewide volunteer firefighter fund are required to pay a supplemental benefit. The supplemental benefit is intended to offset taxes that must be paid on service pensions or benefit distributions.

For service pensions and disability benefits, the amount of the supplemental benefit is equal to 10 percent of the lump-sum distribution, up to a maximum of \$1,000. For survivor benefits, the amount of the supplemental benefit is equal to 20 percent of the survivor benefit distribution, up to a maximum of \$2,000. Both volunteer fire relief associations and statewide volunteer firefighter funds are eligible to apply for reimbursement from the State of Minnesota for supplemental benefits paid to qualified recipients.

The State Auditor's Volunteer Fire Relief Association Working Group recently considered the question of the supplemental benefit and multiple distributions. The issue was raised whether an individual who received multiple distributions through either the same entity or multiple entities should receive multiple supplemental benefits.

After discussion considering the administrative challenges and the intent of the statute, the State Auditor's Volunteer Fire Relief Association Working Group recommended that an individual receive a supplemental benefit for each distribution. The statute that the Working Group endorsed authorized a supplemental benefit payment with each lump-sum distribution and each supplemental benefit that is equal to 10 percent of the distribution up to a maximum of \$1,000 (or \$2,000 if the final is a survivor benefit). The SVF Advisory Board concurred with the recommendation of the State Auditor's Volunteer Fire Relief Association Working Group.

Appendix C restates the initial five SVF recommendations and the two additional recommendations from 2019. PERA Staff recommends that the Board support all seven SVF Advisory Board recommendations.

PERA Administrative Bill

Over the past few months, PERA staff have worked with the Legislative Commission on Pensions and Retirement (LCPR) and stakeholders to identify administrative changes to Minn. Statute 353, which governs the PERA General, Police & Fire, and Correctional plans. The changes brought forward are administrative in nature and do not have a material financial impact on the State, the Fund, or member benefits. The administrative changes remove obsolete provisions, provide necessary clarifications, and improve administration of the plans.

Appendix D describes the changes to Minn. Statute 353. Staff recommends that the Board approve the proposed administrative changes.

Retirement Systems Administrative Bill

PERA staff have worked with the other retirement systems and the LCPR to discuss changes to Minn. Statute 356, which governs all the plans. Together, the plans have identified administrative changes to Minn. Statute 356.

Appendix D details the proposed administrative changes. Staff recommends that the Board approve the proposed administrative changes.

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Appendix A – Privatization

On October 10, 2019, the Board made the following motions:

- 1. Falk moved that staff be directed to seek legislation that the augmentation of future benefits be eliminated for active members of entities that privatize in the future. The motion was seconded by Ford and passed unanimously.*
- 2. Green moved that staff be directed to seek legislation that all current augmentation rates be changed to 2 percent effective immediately and that augmentation be eliminated entirely for eligible active members effective December 31, 2023. The motion was seconded by Metusalem and passed unanimously.*
- 3. Blaha moved that staff be directed to seek legislation that for any privatization occurring on or after July 1, 2022, the unfunded actuarial accrued liability for an entity's eligible active members be determined using current actuarial assumptions and the plan funding ratio from the most recent actuarial valuation. That amount would then be amortized using current plan assumptions to develop an annual contribution sufficient to reduce the unfunded actuarial accrued liability to zero over a period of not more than 10 years. The motion was seconded by Falk and passed unanimously.*

No further Board action is needed at this time.

Appendix B – Local Government Aid

Staff recommends that the Board reaffirm the following position that was initially adopted at the April, 2019 Board Meeting:

The PERA Board supports continuance of the 1997 PERA Aid to local government employers.

Appendix C – Statewide Volunteer Firefighter (SVF) Plan

Staff recommends that the Board reaffirm the following SVF Advisory Board recommendations that were initially adopted at the April, 2019 Board Meeting:

1. *The Advisory Board moved to recommend that the PERA board direct staff to work with the LCPR to change the name to the Statewide Volunteer Firefighter Plan.*
2. *The Advisory Board moved to recommend that the PERA board direct PERA staff to work with the LCPR to draft changes to Minnesota Statutes 353G.11, to allow the fire chief for a lump-sum retirement division to request a cost estimate from the executive director of an increase in the service pension level.*
3. *The Advisory Board moved to recommend that the PERA board direct staff to work with the LCPR to draft changes to Minnesota Statutes 353G.09, subdivision 3, to separate the defined benefit and defined contribution computations into separate sections, clarify the application of non-forfeitable percentages, and add a section exclusively for deferred service pensions for former volunteer firefighters.*
4. *The Advisory Board moved to recommend that the PERA board direct staff to work with the LCPR to draft changes to Minnesota Statutes 353G.05, to ensure that coverage elections include joint approval from the municipality (or municipalities in the case of a joint powers entity) or firefighting corporation and the relief association.*
5. *The Advisory Board moved to recommend that the PERA board direct staff to work with the LCPR to draft changes to Minnesota Statutes 353G.13, to ensure that when a SVF member leaves a fire department, the benefit that they will receive upon retirement from that department is based on vesting service determined using all years of service through the end of service with that respective department, including years of volunteer service accumulated prior to that specific department. Subsequent years of service with a different department will not be considered in the benefit determination.*

Staff also recommends that the Board support the following Advisory Board recommendations that were developed in 2019:

6. *The Advisory Board recommends accepting the plan termination legislation as included in the 2019 Omnibus Pension Bill.*
7. *The Advisory Board recommends that the Board concur with the recommendation of the State Auditor's Volunteer Fire Relief Association Working Group with respect to supplemental benefit payments.*

Appendix D – PERA and Retirement System Administrative Changes

PERA 2020 Administrative Bill (Chapter 353)

353.371 Subd. 1 Phased Retirement Option: Same Position

The current statute states that if an employee enters into a phased retirement agreement to continue employment they must do so with the same employer. Proposed language clarifies that the employee must also remain in the same position to be eligible for a PRO agreement.

353.371 Phased Retirement Option: Violation

Proposed language clarifies that upon a violation of the PRO agreement, the retirement annuity will be suspended the month the violation occurs. A violation of the PRO agreement occurs when the employee exceeds a certain number of hours either in a pay period or a year. If an overpayment of a benefit occurs, the overpayment will be collected via a suspension of benefit until the overpayment has been paid.

353.01 Subd. 2 b (19) Seasonal Employee Definition

Proposed language amends the duration of employment for a seasonal employee from 185 consecutive calendar days to 6 months or less. This change makes the length of employment consistent with the temporary employee definition.

353.32 Subd. 4 & 5 Refunds after Death of Member or Former Member

Current language is redundant regarding refunds occurring without a beneficiary. Proposed language eliminates the current language and adds a reference to 356.65, which governs the procedure for unclaimed refund amounts.

353.657 Subd. 1 Vesting Requirements for Police and Fire Survivor Benefits

Current statute is silent regarding the minimum vesting requirements for Police & Fire Plan survivor (spouse and dependent children) benefits. Proposed language codifies the current process that a member must meet minimum vesting requirements to be eligible for survivor benefits.

353.31 Subd. 8 Accrual of Survivor Benefits

In order to be consistent with other retroactive payments, proposed language amends the timeframe for retroactive payment of survivor benefits to 6 months prior to the month in which the application is filed instead of the current 12 months.

353.29 Subd. 7, 353.30 Retroactive Payments Subd. 3 (c), 353.31 Subd. 8

The 2018 Omnibus Retirement Bill adjusted the timeframe for retroactive payments under 353.29 Subd. 7 and 353.30 Subd 3 (c). Proposed language clarifies that the 6 month timeframe includes the month in which PERA receives the completed application or verification of death.

353.30 Subd. 4 Reduction in Monthly Payments

353.29 Subd. 7 (c) states that the Fund cannot change a benefit once granted. The other Pension Funds either do not allow for a member to change their benefit or are seeking to not allow a member to adjust their benefit. Currently, our statute allows for a member to reduce their benefit, and subsequently restore it to the full amount, unlimited times. Proposed language eliminates the ability for an individual to reduce their benefit payment.

353.0141 Subd. 1 Military Service Purchase

Statute allows for a member to purchase one or more periods of service in the uniformed services (limited to five years), which occurred outside of public employment or if the deadline under USERRA was missed. Proposed language requires a member to purchase the full period of service if the period of service is one year or less. Proposed language will allow a member to purchase in six month increments beyond a period of one year.

Proposed language requires the member to be employed for a period of six months before the member is eligible to purchase the military service period. This requirement is consistent with PERA's repayment of refund statute.

2020 Retirement Systems Administrative Bill (Chapter 356)

356.44 Partial Payment of Pension Plan Refund

MSRS initiated discussion regarding the elimination of the partial payments for repayment of refunds. Proposed language eliminates the ability for a member to make partial payments for repayment of refunds.

**356.24 Supplemental Pensions or Deferred Compensation Plans, Restrictions
Upon Governmental Units**

Proposed language amends this statute to address additional fee disclosure requirements, clarify the use of supplemental pension plans, and repeal confusing language.

356.441 Tax-Qualified Status

Proposed language allows for the executive director in good faith to reject incoming contributions or transfers if they might jeopardize the recipient plan's tax-qualified status.

Staff recommends that the Board approve the proposed administrative changes and direct staff to seek legislation.