



Date: March 2, 2023
To: PERA Board of Trustees
From: Doug Anderson, Executive Director
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Subject: Duty Disability Provisions

SF 1959/HF 1234 Background

SF 1959 (Dibble)/HF 1234 (Her) continues progress on the development of a legislative proposal that seeks to address increasing trends and costs related to duty disability claims. Member and employer stakeholder groups have worked diligently last session and this year to develop legislation that implements measures directed at prevention, treatment, and financial support for both employees and employers arising from post-traumatic stress disorder (PTSD) injuries.

SF 1959/HF 1234 Summary

Minn. Stat. §299A.465, subd. 4, reimburses employers for costs associated with providing Minn. Stat. §299A.465 required health insurance for duty disability recipients. Currently, the fund has not been sufficiently funded to cover the costs experienced by employers. The bill requires that the employer provides at least one of the following: annual wellness training, an employee assistance program, or peer support program to be eligible for Minn. Stat. §299A.465 healthcare reimbursement. The bill also fully funds the account.

The bill also requires members who apply for a duty disability benefit based on a psychological condition to complete twenty-four weeks of treatment before a final determination for a duty disability can be granted. A member with a psychological condition would submit an initial application for duty disability. The member would submit one medical report opining that the member has a psychological condition and currently cannot perform the duties of a police officer or fire fighter. The employer is required to provide documentation certifying the dates the employer was on duty. The member would then complete a twenty-four week treatment period. During the treatment period, the employer continues to provide salary and benefits to the member. The state will reimburse the employer for these costs.

After the treatment period, the member's mental health professional would assess whether they are able to return to their position or to another position which provides equal or greater salary and benefits. This is a change from the usual standard, which is that a member cannot return to their former position. If the member is not able to do so, the member could then apply for a duty disability benefit pursuant to Minn. Stat. §353.031. PERA would be required to verify the treatment requirements were satisfied and determine if the member is eligible for a duty disability benefit. PERA would make one of three determinations: 1) extend the initial approval for an additional defined treatment period; 2) deny the application because the member is able to return to work in the same position or a similar

position with comparable salary and benefits; or 3) approve the application for duty disability. After the initial treatment period, if the member's mental health professional determined that the member is making progress and is expected to make further progress with additional treatment, the member may receive an additional eight weeks of treatment. If a member is determined to be able to return to work, the bill additionally allows for the employer to request a fitness of duty exam.

PERA Related Provisions

As mentioned above, PERA is responsible to administer the initial application process, determine if treatment requirements have been satisfied, and determine if the member is eligible for a duty disability benefit. From the administrative prospective, PERA is able to administer the provisions outlined in the bill. PERA staff notes that an issue the Board may want to direct staff to continue looking at is the modified occupational standard for mental injuries included in the bill. The modified occupational standard expands the definition to account for another vacant full-time position with the employer, which provides salary and employer-provided benefits, including pension benefits, that are equal to or greater than those for the position held by the employee on the date of injury, event, or onset of the mental illness. This modified standard has the potential to inequitably impact members based on the size of the department the member is employed by.

The PERA Board will be asked to consider additional modifications to duty disability benefits, offsets, and disability process that will be incorporated into SF 1959/HF 1234.

Staff Recommendation

PERA Staff recommends supporting SF 1959/HF 1234 and allowing PERA staff to continue to work with stakeholders and the Legislature to address the increasing disability trend and costs.