

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director

RE: S.F. 888 (Kubly); H.F. 704 (Koenen): PERA; RenVilla Nursing Home Privatization, Extending the Effective Date Prior Legislation

DATE: March 15, 2005

#### Summary of S.F. 888 (Kubly); H.F. 704

S.F. 888 (Kubly); H.F. 704 (Koenen) extends the effective date of 2004 legislation, which would have placed privatized RenVilla nursing home employees under the Public Employees Retirement Association privatization chapter (Chapter 353F), by extending the deadline for filing the Renville City Council local approval with the Secretary of State until December 31, 2005.

#### Background and Discussion

During the 2004 Legislative Session, the Legislative Commission on Pensions and Retirement heard H.F. 2672 (Koenen); S.F. 1871 (Kubly) for a RenVilla nursing home privatization. The Commission staff memo that was prepared for the hearing is attached.

The RenVilla Nursing Home was owned by the city of Renville, and its approximately 75 full-time employees and 35 part-time employees had coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General). The nursing home complex was expected to be sold to a private or non-profit organization, Renville Regional Senior Services, possibly in mid-March of 2004. If the sale were to occur, the RenVilla Nursing Home complex employees would no longer be eligible for continued PERA-General coverage. The new employer may provide the employees with some other form of retirement coverage for their ongoing employment at the facility. If the privatized employees are added to the PERA privatization chapter, they are given certain enhanced rights as deferred PERA annuitants, including higher deferred annuity augmentation rates, and ability to use post-privatization service to qualify for PERA's Rule of 90.

The Commission, after considering the policy issues raised in the staff memo, recommended that the 2004 bill should pass. The language for the RenVilla Nursing Home was blended with that of a few other privatization bills and was included in Laws 2004, Chapter 267, Article 12, Sections 1 and 4. Section 4, the effective date provision of the 2004 legislation, included two requirements typically included in PERA privatizations: 1) local approval and 2) a finding based on a review by the Commission actuary that PERA is not harmed by the privatization. For the legislation to be effective, general law (Section 645.021, Subdivision 3) requires that local approval must be filed with the Secretary of State before the start of the next legislative session. The 2005 Legislative Session began on January 4, 2005, and local approval for the RenVilla privatization had not been provided by that date because the sale did not occur.

Recently, Mary Vanek, PERA's Executive Director, indicated that a sale was expected to occur on January 24, 2005. For the 2004 PERA privatization language to be effective for the RenVilla nursing home, it would be necessary to extend the deadline stated in that legislation for filing local approval. S.F. 888 (Kubly); H.F. 704 (Koenen) extends the deadline to December 31, 2005, and also makes technical corrections in the language regarding the actuary. Since the Commission no longer retains an actuary, the required actuarial review will be conducted by the actuary retained by the Commission or by the actuary jointly retained by the retirement plan associations under Section 356.214, whichever is applicable.

#### Policy Issues

S.F. 888 (Kubly); H.F. 704 (Koenen) extends the effective date of 2004 session privatization legislation for the RenVilla nursing home employees by extending the deadline for filing the Renville City Council local approval with the Secretary of State from January 4, 2005, until December 31, 2005.

Policy issues raised by the bill include:

1. Support by the Current Parties for the Treatment Proposed in 2004. Since the expected sale during 2004 did not occur, the Commission is likely to seek assurance that the parties involved in the current sale support the treatment that would have occurred under the 2004 legislation before considering extending the deadline for filing local approval.

2. Treatment of Privatized Employees. Policy issues relating to privatizations were raised last year in the attached memo. In 2004, the Commission did recommend that RenVilla employees should be added to the PERA privatization chapter (Chapter 353F), as proposed in 2004 Session H.F. 2672 (Koenen); S.F. 1871 (Kubly). If the current parties remain supportive of the 2004 treatment, it is unlikely that the 2005-2006 Commission would decide to reverse or otherwise alter the proposed treatment of RenVilla employees, but it certainly has the authority to do so.
3. Impact on PERA. PERA would be better off if the 2004 RenVilla legislation never becomes effective. Placing employees in the PERA privatization chapter causes PERA to forgo some of the actuarial gains that would otherwise occur due to a privatization.
4. Extension of the Deadline. The Commission has on occasion extended local approval deadlines. One such case occurred in 1995 (Laws 1995, Chapter 262, Article 3, Section 7). In the 1995 bill, the time limit for approval of a 1994 local law which would provide PERA-P&F coverage to Hennepin County paramedics was extended to January 1, 1998, to provide additional time for a determination from the Social Security Administration that the paramedics are ineligible for coverage under the federal Old Age, Survivor, and Disability Program.