



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Lawrence A. Martin, Executive Director *LAM*

RE: Designated Commission Interim Study: Review of the Commission's Principles of Pension Policy (First Consideration)

DATE: August 15, 2007

Introduction

As an interim topic for consideration, the Commission chair, Representative Mary Murphy, has designated a review of the Commission's Principles of Pension Policy.

The interim topic is not a direct outgrowth of any pension legislation during the 2007 Legislative Session, but represents an opportunity for the Legislative Commission on Pensions and Retirement to provide guidance to interested parties and to future Commissions by reviewing its principles of pension policy in light of pension legislation enacted since the last review of the principles in 1995-1996.

This Commission meeting is the initial consideration of the topic by the Commission. The Commission staff expects Commission consideration on the topic to require two or three additional meetings to complete if the Commission desires to continue with project.

This Commission staff issue memorandum is the initial memorandum on the commission interim study. This memorandum will summarize the history of the Legislative Commission on Pensions and Retirement, will summarize the initial development of the Commission's principles of pension policy, will summarize the 1995 reformulation of the pension policy principles, will identify the pension legislation enacted during the period 1997-2007 that appears to be at variance with the 1995-1996 reformulated pension policy principles, and will identify the 1997-2007 pension legislation that raised issues that are not addressed specifically by the current version of the principles of pension policy. This Commission staff issue memorandum is intended to provide a context for additional consideration by the Commission of potential modifications in the principles of pension policy. Subsequent Commission issue memoranda, if the project proceeds, will provide a more detailed policy discussion of the current pension policy principles that Commission members conclude may need revision or restating in light of recent pension legislation and of the policy items that are not currently addressed by the principles of pension policy and that Commission members believe should be addressed.

History of the Legislative Commission on Pensions and Retirement

- a. Predecessor Commission. The initial special legislative body to review public pension issues was the Interim Commission to Study Minneapolis Pension Systems, created by Laws 1943, Chapter 449. The 1943 Interim Commission was comprised of three members of the Senate and three members of the House of Representatives. All members of this interim commission were from Minneapolis. The 1943 Interim Commission issued a report to the 1945 Legislature, which dealt with the soundness of the various Minneapolis public pension plans, the fairness of the benefits and cost, their comparative position relative to pension plans of other similarly sized cities, and the possibility for consolidating the various plans. From the concurrent resolution of the Legislature reprinted in the report of the 1943 Interim Commission, the commission was created as a means to handle persistent demands for retirement benefit increases in a time other than a busy legislative session and as a means to assemble sufficient actuarial or other experts to investigate the costs of proposed benefit increases. No significant legislation enacted by the 1945 Legislature appears to have resulted from the work of the 1943 Interim Commission.
- b. Interim Pension Commissions. Until 1955, there was no special legislative body with specific jurisdiction over Minnesota public pension plans. In 1955 (Laws 1955, Chapter 829), the Legislature created a legislative commission to report on retirement benefit plans available to government employees. In addition to the Legislative Research Committee, established in 1947, which dealt with various studies and topics, the 1955 Legislature created 24 interim commissions, including the 1955 Public Retirement Interim Commission. According to O. M. Ousdigian, the late retired Executive Director of the Public Employees Retirement Association (PERA), the motivation for the creation of the 1955 Public Retirement Interim Commission was the likelihood of a near term default on benefit

payments by PERA and the need to provide PERA and the other major public pension plans with a regularized source of employer funding. The Legislature reportedly modeled the 1955 Public Retirement Interim Commission on the Wisconsin Retirement Laws Commission.

The Public Retirement Interim Commission was reestablished four times over the next five bienniums, in 1957 (Extra Session Laws 1957, Chapter 13), in 1959 (Extra Session Laws 1959, Chapter 82), in 1963 (Laws 1963, Chapter 888, Section 9), and in 1965 (Laws 1965, Chapter 888, Section 5). The various public retirement interim commissions functioned during the interims between the biennial legislative sessions primarily to study pending pension problems, to formulate recommendations on those problems, and to produce a biennial report that contained the recommendations of the Commission as to future legislative enactments relating to the State's various public pension plans. No public retirement interim commission was established by the 1961 Legislature.

- c. Permanent Pension Commission. The 1965 Public Retirement Systems Interim Commission recommended to the Legislature the creation of a permanent Legislative Commission on Pensions, and the 1967 Legislature created the Legislative Retirement Study Commission as a permanent legislative commission (Laws 1967, Chapter 549, coded as Minnesota Statutes, Section 3.85). That Pension Commission was scheduled to terminate its duties on June 30, 1973, under terms of the 1967 legislation. In 1971 (Laws 1971, Chapter 818), the 1973 expiration date for the Pension Commission was eliminated. In 1975, the name of the Pension Commission was changed from the Legislative Retirement Study Commission to the Legislative Commission on Pensions and Retirement (Laws 1975, Chapter 271, Section 3). In 1984, the duties of the Pension Commission were expanded with the addition of authority to issue standards for public pension actuarial work, the addition of the requirement of hiring a major actuarial consulting firm to prepare the regular actuarial valuations of the largest Minnesota public pension plans, and an increase in the Commission budget (Laws 1984, Chapter 564, Sections 1 and 2).
- d. Mid-1990s Reviews of the Pension Commission Role and Function and Their Aftermath. In 1994, largely in response to complaints from former Representative Wayne Simoneau and from a former PERA Executive Director, James Hacking, the Legislative Audit Commission undertook a review of the adequacy of the oversight of local public employee pension plans. The Office of the Legislative Auditor retained an independent consultant, Allan Baumgarten, to conduct the review and prepare a report for the Legislative Audit Commission.

In 1995 (Laws 1995, Chapter 248, Article 2, Section 6) virtually every legislative commission, including the Legislative Commission on Pensions and Retirement, were scheduled to sunset on July 1, 1996, unless the Legislative Coordinating Commission affirmatively elected to continue the operation of the particular commission by January 1, 1996. The Legislative Coordinating Commission elected to continue the operation of the Legislative Commission on Pensions and Retirement in December 1995, after conducting review hearings. The 1997 Legislature (Laws 1997, Chapter 202, Article 2, Section 5) increased the membership of the Legislative Commission on Pensions and Retirement from ten (five House of Representative members and five Senate members) to 12 (six House of Representative members and six Senate members). In 1999 (Laws 1999, Chapter 222, Article 20), the membership of the Legislative Commission on Pensions and Retirement was reduced back to ten members.

In 2004 (Laws 2004, Chapter 223, Section 6), the duty previously assigned to the Commission to select and retain the consulting actuary to prepare the regular actuarial work for the statewide and major local Minnesota public pension plans was reassigned to the various pension plan administrators acting collectively. The reassignment of the consulting actuary retention duty was accompanied by a reduction in the Commission budget.

- e. Institutional Position within the Legislature and Nationally. Within Minnesota, the Legislative Commission on Pensions and Retirement is the second oldest joint legislative agency created by the Minnesota Legislature that is still in operation. The oldest operating Minnesota joint legislative agency is the Office of the Revisor of Statutes, which was established as a temporary entity in 1851, was established as a permanent entity in 1939, initially in the judicial branch, and was transferred to the legislative branch in 1973 (Laws 1973, Chapter 598, Section 2, Subdivision 6).

Nationally, the Minnesota Pension Commission is the second oldest public employee retirement commission. The predecessor to the current Wisconsin Joint Survey Committee on Retirement Systems was created in 1945 and is the oldest pension commission of general jurisdiction. The Massachusetts Commission, established in 1958, and the Nebraska Commission, established in 1959, are the third and fourth oldest public employee retirement commissions.

- f. Changes in Pension Commission Emphasis. During the early period of the operation of the Pension Commission as a permanent legislative entity, largely 1967 through 1971, the Pension Commission slowly made the transition from an interim commission, with its primary work product focus being the production of a biennial report with policy recommendations, to a legislative policy making body, with its primary work product focus being the processing of proposed pension legislation. The Commission continued to issue a biennial report, prepared during the interim until the early 1980s, but the report evolved to become less of a collection of Commission recommendations about pension law changes, with a supporting policy argument, and to become more of a summary of the actuarial and financial information routinely collected by the Commission. During the period after 1967, proposed pension legislation also began to be handled by the respective legislative bodies on a less fragmented basis, with the jurisdiction over proposed pension legislation assigned typically to a single standing committee rather than the previous practice, where proposed legislation was assigned based on the nature of the employee group (i.e., judicial pensions assigned to the Judiciary Committee, teachers pensions assigned to the Education Committee, or municipal employee pensions assigned to the Local Government Committee). After 1971, during the legislative session, the Commission began to function as a joint meeting of the pension committees or pension subcommittees of the respective legislative bodies. Since the 1980s, the appointment of specific pension subcommittees has become more episodic.

Over the last two decades, the Pension Commission has evolved into its current manner of operation, processing proposed pension legislation during the legislative session in advance of the applicable standing committee bill hearing deadline and undertaking a schedule of study topics during the interim between legislative sessions. By longstanding agreement, the standing committees with jurisdiction over pensions, currently the House Committee on Governmental Operations, Reform, Technology and Elections and the Senate Committee on State and Local Government Operations, do not typically schedule proposed pension legislation for a hearing until it has been reviewed and recommended by the Pension Commission. The Pension Commission regularly schedules hearings on proposed pension legislation prior to the established initial bill hearing deadline and processes a considerable portion of the proposed pension legislation that is introduced annually. The Pension Commission generally reviews about 85 percent of the proposed pension legislation introduced during a legislative session and recommends for forwarding to the relevant standing committees about one-half of proposed pension legislation introduced. During the interim between legislative sessions, the Commission selects an agenda of public pension topics for study and considers those topics at regular or periodic Commission meetings during the interim. The public pension topics for interim study largely arise out of proposed pension legislation from the prior legislative session, where the proposed legislation did not receive final Commission action because it required additional technical work, required additional actuarial work, or required more extensive debate and consideration than would be possible during the legislative session. Pension Commission consideration of proposed legislation typically includes the preparation of a Commission staff policy issue memorandum based significantly on the Commission's Principles of Pension Policy.

Principles of Pension Policy

The Principles of Pension Policy document, as reformulated by the Commission during the 1995 and 1996 Interims, and adopted in December 1996, is attached as Appendix A.

1997-2007 Pension Legislation Potentially at Variance with the Commission's Principles of Pension Policy

- a. In General. As last reformulated in 1995-1996 by the Commission, the Principles of Pension Policy have 39 substantive principles and five procedural principles. Of those 39 substantive principles, pension legislation during the 1997-2007 sessions directly touched upon at least 21 principles. With respect to 16 substantive principles, this recent pension legislation suggests a potential departure from or a potential need for a modification in the applicable principle.
- b. Principles for Potential Review.
1. Principle II.B.1. Creation of New Pension Plans indicates a general disfavor for the creation of new public employee pension plans, indicating that public employers should not be permitted to create new plans on their own initiative without legislative authorization and that new volunteer firefighter pension plans should be created on a county or comparable regional basis.

Two items of 1997-2007 pension legislation are potentially at variance with the thrust of the principle, even if they are not directly at variance with the language of the specific principle. Both changes occurred in 1999, with the creation of the Special Deputy State Fire Marshal – Fire/Arson Investigator Retirement Plan within the Minnesota State Retirement System (Laws 1999, Chapter

222, Article 15) and the creation of the Local Government Correctional Employees Retirement Plan within the Public Employees Retirement Association (Laws 1989, Chapter 222, Article 2). The MSRS Arson Investigator Plan provides a larger retirement benefit (2.0 percent benefit accrual rate) at an earlier age (age 55) than the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General), with a 70 percent increase in member contributions and with a 105 percent increase in employer contributions. The Local Government Correctional Employees Retirement Plan of the Public Employees Retirement Association (PERA-Correctional) provides a larger retirement benefit (1.9 percent benefit accrual rate) at an earlier age (age 55) than the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General), with a 23 percent increase in member contributions and with a 70 percent increase in employer contributions.

2. Principle II.B.3. Consolidation of Public Pension Plans indicates a broad goal of creating a more rational public pension plan structure, given the large number of plans within the State, and suggests that voluntary consolidations of smaller pension plans should be encouraged, with county or regional consolidated plans developed if a statewide plan is deemed to be inappropriate.

There were three items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree. One relates to volunteer firefighter relief association consolidations and two deal with the phase-out of local police and paid firefighter relief associations:

- 1) In 1999, the Minneapolis Firefighters Relief Association was permitted to continue in existence until it has fewer than 100 retirees rather than phasing out into a municipal trust fund upon having fewer than 100 active members (Laws 1999, Chapter 222, Article 6, Section 2).
- 2) In 2000, authority was granted for any two or more volunteer firefighter relief associations to consolidate, building off of the 1996 New Hope-Crystal Volunteer Firefighter Relief Association consolidation legislation (Laws 2000, Chapter 461, Article 16, Section 2).
- 3) In 2005, the Minneapolis Police Relief Association was permitted to continue in existence until there are fewer than 2006 total members (active, retired or survivor) rather than fewer than 100 (Laws 2005, First Special Session, Chapter 8, Article 11, Section 9).

The Minneapolis Firefighters Relief Association legislation and the Minneapolis Police Relief Association legislation departed from the eventual elimination of the local pension plan that had been previously mandated. The general volunteer firefighter relief association consolidation authority does not result in county or regional consolidated pension plans.

3. Principle II.C.1. General Preference for Defined Benefit Plans over Defined Contribution Plans reflects the current development of Minnesota public pension plans, with defined benefit pension plans predominating and with defined contribution pension plans limited to situations to provide portability, to reflect politically vulnerable public employment, or to implement supplemental plan coverage.

There were two items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree. One relates to replacement pension coverage for a group of public officials previously having public pension coverage while the other relates to pension coverage for a group of public sector individuals without prior pension coverage:

- 1) In 1997, newly elected legislators and constitutional officers and incumbent legislators and constitutional officers who elected Social Security coverage were made members of the Unclassified State Employees Retirement Program of the Minnesota State Retirement System (MSRS-Unclassified), a defined contribution plan (Laws 1997, Chapter 233, Article 2).
- 2) In 1999, the Kandiyohi County and Litchfield City Volunteer Rescue Squad members were made eligible for the PERA Defined Contribution Plan (Laws 1999, Chapter 222, Article 20).

The legislator and constitutional officer change was not clearly motivated by the employment factors cited in the principle, but appears to be a reaction to a perception about the nature of the pre-1997 coverage. The Kandiyohi-Litchfield Rescue Squad personnel situation also appears to lack any of the factors specified in the principle, but appears to be a function of financial considerations and a desire to avoid the creation of unfunded actuarial accrued liabilities.

4. Principle II.C.4. Appropriate Normal Retirement Ages suggests that the normal (unreduced for early retirement) retirement ages should be set based on the employability limits of average public employees and will be different for public safety employees when compared with general employees.

There was one item of 1997-2007 pension legislation that is potentially at variance with the principle to some degree. In 1997, eight years after setting the general employee retirement plan normal retirement age for post-1989 hires indexed to the Social Security unreduced benefit receipt age, with a maximum of age 67, the maximum age was reduced to age 66 (Laws 1997, Chapter 233, Article 1, Sections 17, 37, and 47, and Article 3, Section 1). No testimony was offered about any change in the employability limits of the average post-1989 hires that would substantiate the need for the change.

5. Principle II.C.5. Appropriate Early Retirement Reductions suggests that Minnesota public pension plans should not subsidize early retirement benefits and that, unless it is a part of an appropriately designed early retirement incentive, the early retirement reduction should be on an actuarial equivalent basis.

Two items of 1997-2007 pension legislation are potentially at variance with the principle to some degree:

- 1) In 1997, the actuarial equivalent early (pre-age 55) retirement reduction for the State Patrol Retirement Plan was replaced by a subsidized reduction factor (Laws 1997, Chapter 233, Article 1, Section 32).
- 2) In 1999, for the State Patrol Retirement Plan, the MSRS State Correctional Employees Retirement Plan (MSRS-Correctional), and the PERA Police and Fire Retirement Plan (PERA-P&F), the early (pre-age 55) retirement reduction was subsidized, with the MSRS-Correctional reduction factor changed from an actuarial equivalency reduction and with the State Patrol Retirement Plan and PERA-P&F reduction factor both further subsidized (Laws 1999, Chapter 222, Article 13, Section 5, and Article 14, Sections 1, 6, and 8).

The State Patrol Retirement Plan and PERA-P&F early retirement reduction factors are so slight after the 1999 change that the only logical next step to provide a benefit increase would be to reset the normal retirement age for the two plans at age 50 rather than age 55.

6. Principle II.C.7. Adequacy of Benefits at Retirement generally suggests that normal retirement benefits should respond to economic changes, should be adequate as of retirement, measured on the basis of the retiree's final salary, with 30 years of service as a reasonable public employment career, at the normal retirement age, and should reflect any Social Security benefit earned during public employment.

One item of 1997-2007 pension legislation is potentially at variance with the principle to some degree. For the Minneapolis Firefighters Relief Association, a retirement benefit increase was provided to retirees who are single, with the increase based on that unmarried status (First Special Session Laws 2001, Chapter 10, Article 15, Section 5). The benefit increase appears to have been motivated by a desire by single retirees to gain the advantages of a prior benefit increase that was granted to married retirees, due to the automatic survivor coverage previously provided by the relief association and its conversion into an optional annuity form. Marital status is not a factor in the policy principle.

7. Principle II.C.8. Post Retirement Benefit Adequacy indicates that the primary purpose for post retirement adjustments is to replace the impact of inflation on previously adequate retirement benefits, with the adjustment mechanism funded on an actuarial basis, and with the inflation measure based on a valid recognized economic indicator.

Five items of 1997-2007 pension legislation are potentially at variance with the principle to some degree:

- 1) In 1997, the Consumer Price Index component of the Minnesota Post Retirement Investment Fund statewide post retirement adjustment mechanism was reduced by one percent as part of the funding for an increase in the benefit accrual rates of the various statewide retirement plans (Laws 1997, Chapter 233, Article 1, Section 5).

- 2) Also in 1997, the thirteenth check lump sum post retirement adjustment mechanism of the St. Paul Teachers Retirement Fund Association (SPTRFA) was replaced by an annual annuitized post-retirement adjustment mechanism, funded from SPTRFA investment actuarial gains (Laws 1997, Chapter 233, Article 3, Sections 7 and 10).
- 3) Additionally, in 1997, the Minneapolis Police Relief Association and the Minneapolis Firefighters Relief Association thirteenth check post retirement adjustment mechanism was modified, increasing the amount of investment gain for distribution and expanding the definition of excess income (Laws 1997, Chapter 233, Article 4, Sections 1, 8 to 10, and 13 to 16).
- 4) In 1999, a "thirteenth check" post retirement adjustment mechanism based on relief association investment actuarial gains was created in addition to the existing post retirement escalator (indexation to the salary of a top grade police officer) for the Fairmont Police Relief Association (Laws 1999, Chapter 222, Article 3, Section 3).
- 5) In 2000, additional "thirteenth check" post retirement adjustment mechanisms funded from a portion of relief association assets in excess of a 110 percent funding ratio were created for the Minneapolis Police Relief Association and the Minneapolis Firefighters Relief Association (Laws 2000, Chapter 461, Article 17, Sections 1, 2, 7, 8, and 9).

Although funded on an actuarial basis, from actuarial gains, the St. Paul Teachers Retirement Fund Association mechanism places an actuarial burden on the overall funding situation of that underfunded plan and all of the mechanisms operate wholly or largely without reference to increases in the Consumer Price Index or other recognized measure of the effects of inflation on the elderly. In 2007, as a demonstration project, the SPTRFA post-retirement adjustment mechanism was temporarily replaced with an adjustment based wholly on the Consumer Price Index increase, subject to a five percent annual maximum. The SPTRFA demonstration project is likely to have a further detrimental actuarial impact on the plan and a study and report on the actuarial impact of the project was also mandated by Laws 2007, Chapter 134, Article 7.

8. Principle II.C.10. Purchases of Prior Service Credit suggests that the purchase of service credit in a defined benefit plan for prior periods of time should only be permitted if the period is either public employment or is substantially akin to public employment, if the service period for purchase has a significant connection to Minnesota, if the purchase is funded either from member payments or a combination of member and employer payments, if the purchase payment is the full actuarial value without a pension plan subsidy, and if the purchase does not offend equity notions.

Twenty-two items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 1998, a new service credit purchase payment amount determination process, developed by the consulting actuary retained by the Legislative Commission on Pensions and Retirement at the apparent instigation of the Teachers Retirement Association (TRA), was enacted on a temporary demonstration basis (Laws 1998, Chapter 390, Article 4, Sections 1 and 2).
- 2) In 1999, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for previously unpurchased interim military service, prior military service, out-of-state teaching service, maternity leaves, maternity breaks-in-employment parochial and private school teaching service, Peace Corps or VISTA service, and charter school teaching (Laws 1999, Chapter 222, Article 16, Sections 1 to 12).
- 3) Also, in 1999, Minneapolis Teachers Retirement Fund Association members were granted temporary authority to purchase service credit for previously uncredited part-time teaching service (Laws 1999, Chapter 222, Article 16, Section 13).
- 4) In 2000, MSRS-General and PERA-General members were granted temporary authority to purchase service credit for previously unpurchased interim military service or for prior military service (Laws 2000, Chapter 461, Article 4, Sections 1, 3, and 4).
- 5) Also in 2000, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for nonprofit corporation teaching service (Laws 2000, Chapter 461, Article 11, Sections 3 and 5).

- 6) In 2001, the Joint Subcommittee on Claims approved a claim for a St. Paul police officer who previously served in the Department of Public Safety for a service credit purchase and appropriated a substantial portion of the payment requirement (Laws 2001, Chapter 169, Section 5).
- 7) Also in 2001, TRA and first class city teacher retirement fund association members were granted expanded temporary authority to purchase service credit for foreign teaching service and tribal teaching service (First Special Session Laws 2001, Chapter 10, Article 5, Sections 5 and 11).
- 8) Additionally in 2001, Minnesota State Colleges and Universities System (MnSCU) faculty members who were members of the Individual Retirement Account Plan and were deferred vested TRA or first class city teacher retirement fund association members were authorized to purchase defined benefit plan service credit (First Special Session Laws 2001, Chapter 10, Article 6, Sections 9 and 15).
- 9) Also in 2001, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for prior University of Minnesota teaching service. In 2001, additionally, TRA and first class city teacher retirement fund association members were granted temporary authority to purchase service credit for Development achievement Center service (First Special Session Laws 2001, Chapter 10, Article 6, Sections 6 and 12).
- 10) Also in 2001, members of every Minnesota defined benefit plan other than a volunteer firefighter relief association were granted temporary authority to purchase service for family leaves, parental leaves, or parental breaks-in-employment (First Special Session Laws 2001, Chapter 10, Article 3, Section 2).
- 11) Additionally in 2001, a White Bear Lake school teacher with prior uncredited school district clerical employment was granted service credit for that clerical service at school district expense, without any member contribution requirement (First Special Session Laws 2001, Chapter 10, Article 17, Section 3).
- 12) In 2001, also, the temporary service credit purchase provisions enacted in 1999 and 2000 were extended for one year (First Special Session Laws 2001, Chapter 10, Article 6, Section 16).
- 13) In 2002, a further one-year extension in the various 1999-2001 prior service credit purchase provision was granted (Laws 2002, Chapter 392, Article 7, Section 1).
- 14) In 2003, another extension in the expiration date for the various 1999-2001 prior service credit purchase provisions was provided (Laws 2003, First Special Session, Chapter 12, Article 6, Sections 1 to 5 and 7).
- 15) In 2004, the full actuarial value service credit provisions for military service for the Minnesota State Retirement System (MSRS), the Public Employees Retirement Association (PERA), and the Teachers Retirement Association (TRA), were extended to 2006 (Laws 2004, Chapter 267, Article 17, Sections 1, 3, 4, 6, and 7).
- 16) In 2005, members of the Judges Retirement Plan were permitted to obtain service credit for a leave of absence of any duration with the payment of an amount equal to the plan normal cost applied to the judge's salary upon return from the leave, plus interest, and the authority expires one year after the conclusion of the leave (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 2 and 8).
- 17) Also in 2005, as part of newly enacted authority for the acquisition of service credit for strike periods, payment of equivalent contribution amounts plus interest were permitted within the first year after the strike, with a full actuarial value service credit purchase required after the first year and no service credit acquisition authorized after five years has elapsed since the conclusion of the strike (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 1, 5, 6, 7, and 8).
- 18) Again in 2005, the military service full actuarial value service credit purchase provisions were extended from 2006 to 2007 (Laws 2005, First Special Session, Chapter 8, Article 2, Sections 3 and 4).
- 19) Also in 2005, the full actuarial value service credit purchase methodology was refined and clarified with the addition of a recognition of Combined Service Annuity portability impacts in the calculation and the establishment of a minimum purchase payment amount (Laws 2005, First Special Session, Chapter 8, Article 10, Section 65).
- 20) In 2006, some individuals transferred from coverage by the General State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-General) to the

Correctional State Employees Retirement Plan of the Minnesota State Retirement System (MSRS-Correctional) were permitted to transfer past service credit with the individual's financial responsibility limited to the increment of additional required member contributions and leaving the remaining unfunded actuarial accrued liability attributable to the service credit transfer to be amortized by the employing unit within the existing contribution structure (Laws 2006, Chapter 271, Article 2, Section 12).

- 21) In 2007, the MSRS-Correctional/MSRS-General service credit transfer financial requirement was revisited, revised and codified for future application, with additional member and employer funding responsibility for additional contribution increments for pre-July 1, 2007, coverage transfers and member and employer full actuarial value funding for post-June 30, 2007, coverage transfers (Laws 2007, Chapter 134, Article 3, Section 5).
- 22) Also in 2007, the Teachers Retirement Association (TRA) procedures for the payment for strike periods and leaves of absence were revised to permit equivalent contribution-rate-based payments during the initial year after the event and a full actuarial value payment thereafter (Laws 2007, Chapter 134, Article 2, Sections 31-35, 41, and 42).

The 1998-1999 prior service credit purchase legislation and subsequent extensions or revisions differ from the policy principles in that the legislation was often generalized authority rather than a case-by-case determination, did not always require that the period of service for purchase be public employment or significantly akin to public employment, did not always require that the purchase period have a significant Minnesota connection, did not always require member participation in the purchase, may involve the provision of a net subsidy from the pension plan to the purchasers, may involve the provision of a substantial subsidy from the pension plan for some types of purchasers, and did not appear to always involve any rigorous formal application of equitable considerations. As a means for the acquisition of service credit outside the normal employment setting, leave of absence and service credit transfer provision blue into service credit purchases, with the funding requirements frequently different for each.

9. Principle II.C.11. Deadline Extensions and Waivers indicates that deadline extensions or waivers should only be permitted on a case-by-case basis and only be permitted if there is an equitable basis for the change, the change occurs on the narrowest possible basis, and the change is unlikely to become an inappropriate future precedent.

One item of 1997-2007 pension legislation appears to be potentially at variance with the principle. In 2003, city managers who were previously permitted to be excluded from coverage by the General Employee Retirement Plan of the Public Employees Retirement Association (PERA-General) in favor of national defined contribution plan coverage were permitted to irrevocably revoke that prior irrevocable election if the individual agrees not to seek a service credit purchase of any prior period uncovered by PERA-General (Laws 2003, First Special Session, Chapter 12, Article 4, Section 3).

The 2003 change was not a case-by-case change, it is unclear that any equitable basis was demonstrated and the requirement of a commitment not to seek a service credit purchase suggests that adverse precedential considerations were apparent at the time of enactment.

10. Principle II.C.13. Reopening Optional Annuity Elections indicates that retirees with an optional annuity form should not be able to reopen that optional annuity election.

One item of 1997-2007 pension legislation is potentially at variance with the principle. In 2000, language that specified that TRA's Social Security leveling optional annuity form is not revocable was removed (Laws 2000, Chapter 461, Article 3, Section 34).

11. Principle II.C.14. Benefit Increase Retroactivity indicates that benefit increases should not be made retroactive to retirees.

At least one item of 1997-2007 pension legislation is potentially at variance with the principle. In 1997, the increase in the service pension amount for the Minneapolis Firefighters Relief Association was made retroactive for existing service pension recipients (Laws 1997, Chapter 241, Article 2, Sections 2 and 10).

12. Principle II.C.17. Reemployed Annuitant Earnings Limitations indicates that reemployed annuitant earnings limitations should be applied narrowly to individuals who regain post-retirement

employment at the same level of government and that the limits should be standardized to the extent possible among public pension plans.

Three items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 2000, the prior benefit forfeiture aspect of the reemployed annuitant earnings limitation was reversed, so that if an MSRS, PERA, TRA, or first class city teacher plan annuity is reduced or terminated in any given year due to reemployment earnings within the given retirement system which exceeds annual maximum earnings allowable for that age for the continued receipt of full benefit amounts under the federal Old Age, Survivors, and Disability Insurance Program (Social Security), the balance of the individual's annuity payments are to be retained in an account in the applicable Minnesota public retirement fund and upon attaining age 65 or thirteen months following termination of the reemployment, whichever is later, the individual may apply for payment of his or her account balance plus six percent interest (Laws 2000, Chapter 461, Article 2, Sections 2, 5, 6, 8, and 10).
 - 2) In 2004, annuitants of the Public Employees Police and Fire Retirement Plan (PERA-P&F) who were working for the Metropolitan Airports Commission as police officers were made exempt from the reemployed annuitant earnings limitation for the period January 1, 2004, to June 30, 2007 (Laws 2004, Chapter 267, Article 7, Section 8).
 - 3) In 2007, field investigators of the former Midwest Forensic Pathology, P.A., who were employed before 2007, who are PERA-P&F annuitants, and who are transferred to Anoka County employment were exempted for the reemployed annuitant earnings limitation (Laws 2007, Chapter 134, Article 12, Section 2).
13. Principle II.C.18. Disability Definitions sets a goal of standardizing disability definitions to the extent possible, recognizing differences in the hazards of various types of employment.

There were four items of 1997-2007 pension legislation that are potentially at variance with the principle:

- 1) In 1998, a special disability benefit was created within PERA-General for local government correctional employees (Laws 1998, Chapter 390, Article 9, Section 3).
- 2) In 1999, that special disability benefit was repealed upon the creation of the PERA Local Government Correctional Employees Retirement Plan (PERA-Correctional) (Laws 1999, Chapter 222, Article 2, Section 20).
- 3) In 2001, for MSRS-General, for MSRS-Correctional, and for the State Patrol Retirement Plan, the basis for the determination of a disability was broadened to include examinations by psychologists and chiropractors (First Special Session Laws 2001, Chapter 10, Article 3, Sections 6, 7, 11, and 16).
- 4) In 2007, the duty disability definitions of the Public Employees Police and Fire Retirement Plan (PERA-P&F) were revised and benefit amounts realigned, attempting to limit enhanced duty disability benefit coverage to disabling events occurring during actual hazardous duty rather than regular employment activities (Laws 2007, Chapter 134, Article 4, Sections 2 and 7).

With the exception of the 2007 PERA-P&F definition revisions, little effort appears to have been expended by the various retirement plan administrators in fashioning more uniform disability benefit qualification provisions during the period 1997-2007.

14. Principle II.C.20. Future Pension Coverage for Privatized Public Employees provides that privatized public employees should be provided with comparable future replacement pension coverage and should not continue in public pension plan coverage.

There were at least 11 items of 1997-2007 pension legislation that are potentially at variance with the principle to some degree:

- 1) Although Laws 1996, Chapter 460, Article 1, established a different approach for privatized employees by creating expanded deferred annuitant eligibility within MSRS-General for privatized University of Minnesota Hospital employees, in 1997, for the privatizations of the Jackson Medical Center, the Melrose Hospital, the Pine Villa Nursing Home, and the Tracy

Municipal Hospital and Clinic, the former members were left with subsequent pension coverage based on the discretion of the privatizing employer (Laws 1997, Chapter 241, Article 2, Sections 16, 17, 18, and 21), but the privatized employees at the University of Minnesota Academic Health Clinics were accorded the expanded deferred annuitant eligibility treatment (Laws 1997, Chapter 241, Article 7, Sections 2 and 3).

- 2) In 1999, for the Glencoe Area Health Center, the Luverne Public Hospital, the Waconia-Ridgeview Medical Center, and Metro II, special expanded deferred annuitant eligibility within PERA-General was created (Laws 1999, Chapter 222, Article 1, Sections 1 to 8, and 10).
- 3) In 2000, employees previously considered to be nonpublic of the Spring Lake Park Fire Department and of Indian tribal governments were made eligible for PERA-General or PERA-P&F coverage (Laws 2000, Chapter 461, Article 7, Sections 2, 3, and 6).
- 4) Also in 2000, for the St. Paul Civic Center Authority, special expanded deferred annuitant eligibility treatment was extended to the privatized employees (Laws 2000, Chapter 461, Article 9).
- 5) In 2001, enhanced disability benefit eligibility was added to the 1996/1999 enhanced deferred annuitant eligibility legislation for MSRS-General and PERA-General (First Special Session Laws 2001, Chapter 10, Article 9).
- 6) In 2002, the Kanabec County Hospital was added to the 1999 PERA-General enhanced deferred annuitant eligibility provision (Laws 2002, Chapter 392, Article 5). Also in 2002, employees who are employed by the Minneapolis Asphalt Plant joint venture and who apparently do not meet the definition of "public employee" were included in Minneapolis Employees Retirement Fund (MERF) or PERA-General coverage (Laws 2002, Chapter 264).
- 7) In 2003, employees of the Red Wing Environmental Learning Center, a nonprofit corporation long associated with the Red Wing School District, were permitted to be certified by the school district as its employees solely for pension coverage purposes (Laws 2003, First Special Session, Chapter 12, Article 4, Sections 2, 6, and 10).
- 8) In 2004, Fair Oaks Lodge (Wadena), Kanabec Hospital, RenVilla Nursing Home, and the St. Peter Community Healthcare Center, were added to the PERA privatized employee chapter (Laws 2004, Chapter 267, Article 12, Sections 1 and 4).
- 9) Also in 2004, employees of the Achieve Program, in Anoka County, or of the Government Training Office, who were employed by either entity on the day prior to privatization, remain as members of PERA-General following the privatization for employment with the successor organization (Laws 2004, Chapter 267, Article 12, Sections 2 and 3).
- 10) In 2005, the Bridges Medical Services, the Hutchinson Area Health Care, and the Northfield Hospital were added to the PERA privatized employee chapter (Laws 2005, First Special Session, Chapter 8, Article 6, Sections 1 and 4).
- 11) In 2007, the Lakefield Nursing Home, the Lakeview Nursing Home in Gaylord, and the Oakland Park Nursing Home were added to the PERA privatized employee chapter (Laws 2007, Chapter 134, Article 5, Section 1).

The variability in the recent treatment of private sector or privatized public sector employees may indicate a need to clarify this Commission policy.

15. Principle II.D.2. Actuarial Funding of Pension Benefits suggests that Minnesota public pension plans be funded on an actuarial basis, with its Entry Age Normal Cost Method normal cost, administrative expenses, and amortization of unfunded actuarial accrued liability to be determined on a reasonable basis on average working career of the membership funded on a current basis.

Eleven items of 1997-2007 pension legislation are potentially at variance with the principle:

- 1) In 1997, a requirement for a quadrennial projection actuarial valuation was added as an alternative measure of the actuarial cost of defined benefit plans (Laws 1997, Chapter 233, Article 1, Sections 2 and 57).
- 2) Also in 1997, a reverse amortization requirement determination was authorized for MSRS-Correctional and for the State Patrol Retirement Plan, both of which had become fully funded (Laws 1997, Chapter 233, Article 1, Section 59).

- 3) In 2000, retroactive to July 1, 1990, the city contributions toward the normal cost requirements of the Minneapolis Fire and Minneapolis Police Relief Associations were permitted to be underpaid by the amount of any employee contribution amounts allocated to the health insurance escrow account rather than to the given association's special fund and if the second "thirteenth check" is payable, the city normal cost contribution requirement for that year to that association was waived (Laws 2000, Chapter 461, Article 17, Sections 3 and 4).
 - 4) In 2000, also, for the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association, any post full-funded condition unfunded actuarial accrued liability must be amortized on level-dollar basis over a 15-year period (Laws 2000, Chapter 461, Article 17, Section 5).
 - 5) Additionally, in 2000, the actuarial value of assets definition on which unfunded actuarial accrued liability and amortization determinations was made was revised (Laws 2000, Chapter 461, Article 1, Section 3).
 - 6) Also in 2000, the reverse amortization requirement determination was extended to all Minnesota public pension plans except the Minneapolis Firefighters Relief Association and the Minneapolis Police Relief Association (Laws 2000, Chapter 461, Section 6).
 - 7) In 2001, the amortization target date for PERA-General was extended to 2031 (First Special Session Laws 2001, Chapter 10, Article 11, Section 18).
 - 8) In 2003, the Legislators Retirement Plan was revised from a terminal funded plan to a "pay as you go" plan, with appropriations to be made from the state general fund to MSRS as necessary to pay benefits (Laws 2003, First Special Session, Chapter 1, Article 1, Sections 3 and 136).
 - 9) In 2004, the Minneapolis Police Relief Association amortization date was extended from December 31, 2010, to December 31, 2020 (Laws 2004, Chapter 267, Article 18).
 - 10) In 2005, the Bloomington Fire Department Relief Association amortization date was extended from December 31, 2010, to December 31, 2020 (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 1 and 3).
 - 11) In 2006, the full funding date for the Teachers Retirement Association (TRA) was reset to June 30, 2037 (Laws 2007, Chapter 277, Article 3, Section 34).
16. Principle II.D.3. Allocation of Funding Burden Between Members and Employers indicates that retirement benefits should be financed on a shared basis between members and employers, with the member and employer share for normal cost and administrative expenses and some portion of the amortization requirement shared on a matching basis for general employee plans, with the member and employer share of total cost on a 40 percent/60 percent basis for statewide public safety plans, and with the member and employer share of pension cost to be determined on a "case-by-case" basis for local public safety plans.

Numerous times during the period 1997-2007, pension plan contributions were established or revised. It is unclear that the contribution setting/resetting process has fully accorded with the principle. The following compares the member contribution rate with the normal cost and expenses of the retirement plan and with the total actuarial requirements of the retirement plan:

Retirement Plan	Member Contrib.	Empl'er Contrib.	Empl'er Add'l. Contrib.	Total Support	Normal Cost & Exp.	Total Actuarial Req.	Member Contrib. as % of Normal Cost & Exp.	Member Contrib. as % of Total Act. Req.
	%	%	%	%	%	%	%	%
<u>General Employee Plans</u>								
MSRS-General	4.00	4.00	--	8.00	8.73	10.11	45.82	39.56
PERA-General	5.63	5.63	0.50	11.76	7.98	12.90	70.55	43.64
TRA	5.51	5.23	0.57	11.31	9.76	12.11	56.45	45.50
DTRFA	5.50	5.79	--	11.29	9.95	15.19	55.28	36.21
SPTRFA	5.69	8.59	2.05	16.32	9.47	25.02	60.08	22.74
MSRS-Military Affairs	5.60	5.60	--	11.20	11.52	12.90	48.61	43.41
MSRS-Transportation Pilots	5.60	5.60	--	11.20	10.62	12.00	52.73	46.67
MERF	9.75	39.49	46.08	95.33	22.28	95.32	43.76	10.23

Retirement Plan	Member Contrib.	Empl'er Contrib.	Empl'er Add'l. Contrib.	Total Support	Normal Cost & Exp.	Total Actuarial Req.	Member Contrib. as % of Normal Cost & Exp.	Member Contrib. as % of Total Act. Req.
	%	%	%	%	%	%	%	%
<u>Specialty Plans</u>								
Legislators	9.00	--	--	9.00	18.64	111.24	48.28	8.09
Elected State Officers	--	--	--	--	--	--	--	--
Judges	7.59	20.50	--	28.09	18.08	30.73	41.98	24.70
<u>Public Safety Employee Plans</u>								
MSRS-Correctional	5.69	7.98	--	13.67	17.90	23.34	31.79	24.38
State Patrol	8.40	12.60	--	21.00	24.59	26.69	34.16	31.47
PERA-P&F	7.40	11.10	--	18.50	22.43	25.57	40.00	32.99
PERA-Correctional	5.83	8.75	--	14.58	12.28	12.68	47.48	45.98
MSRS-Arson Investig.	6.78	8.20	--	14.98	12.35	13.73	54.90	49.38

Source: 2006 Valuations. Rates are those in effect for FY2006 and blend multiple program rates if there are multiple programs.

1997-2007 Pension Legislation Raising Topics Largely or Wholly Unaddressed by the Commission's Principles of Pension Policy

- a. In General. Pension legislation enacted during the period 1997-2007 dealt with at least 15 topics that were not addressed in whole or in part in the Principles of Pension Policy when that document was last reviewed and revised by the Commission in 1995-1996.
- b. New Pension Policy Principle Topics Raised in 1997-2007.
 1. New Potential Topic: Administrative Structure and Governance. The 1995-1996 reformulation of the Commission's Principles of Pension Policy does not provide any guidance on the composition of pension plan governing boards, their purpose and function, and the manner in which public pension plans are administered.

Thirteen items of 1997-2007 pension legislation related to Minnesota public pension plan administrative structure and governance:

- 1) In 1999, the term in office for the retired member representative on the Board of Trustees of the Minnesota State Retirement System and for the retired member representative on the Board of Trustees of the Teachers Retirement Association was extended from two years to four years (Laws 1999, Chapter 222, Article 9, Sections 3 and 5).
- 2) Also in 1999, the salary of the secretary of the Minneapolis Police Relief Association was increased (Laws 1999, Chapter 222, Article 6, Section 1).
- 3) Additionally, in 1999, MSRS, PERA, and TRA were authorized to construct a retirement building funded by State revenue bonds to be retired by annual fund payments (Laws 1999, Chapter 222, Article 22, Sections 3 and 4).
- 4) In 2001, the Minnesota State Retirement System was made responsible for administering a post-retirement health care savings plan (First Special Session Laws 2001, Chapter 10, Article 7, Section 1).
- 5) Also in 2001, consultants retained by volunteer firefighter relief associations were required to provide a copy of the consultant's certificate of insurance (First Special Session Laws 2001, Chapter 10, Article 16).
- 6) Additionally, in 2001, the Open Meeting Law was extended to both State and local public pension plans (First Special Session Laws 2001, Chapter 10, Article 4).
- 7) In 2004, the salary of the Executive Secretary of the Minneapolis Firefighters Relief Association was increased (Laws 2004, Chapter 267, Article 13, Section 1).
- 8) In 2005, many administrative activities for the Hennepin County Supplemental Plan were shifted from the county to the Minnesota State Retirement System (MSRS). MSRS was to create accounts for each participant within the State Board of Investment Supplemental Retirement Fund to receive transferred assets. The participants' accounts will be administered by MSRS on behalf of the county and the applicable eligible employees. Any annual redemption of funds following termination of service may be in a lump sum or spread out over 12 months. MSRS was authorized to enter into an interagency agreement with Hennepin County to cover the MSRS costs (Laws 2005, First Special Session, Chapter 8, Article 11, Sections 4 to 8).

- 9) Also in 2005, for volunteer firefighter relief associations associated with a municipal fire department, the two positions previously filled by the mayor; and the clerk, clerk treasurer, or finance director will be filled by an elected municipal official and elected or appointed municipal official designated by the municipal governing board. If the relief association is a subsidiary of an independent nonprofit firefighting corporation, the board is reduced from ten to nine members with two, rather than three, trustees drawn from the officials of the municipalities served by the corporation (Laws 2005, First Special Session, Chapter 8, Article 9, Section 14).
 - 10) In 2006, the procedure for filling board vacancies for the Public Employees Retirement Association (PERA) was revised by granting the board authority to develop the particulars of filling vacancies (Laws 2006, Chapter 271, Article 3, Section 14).
 - 11) Also in 2006, the salaries of various board members of the Minneapolis Police Relief Association were increased (Laws 2006, Chapter 271, Article 9, Sections 1 and 4).
 - 12) Additionally in 2006, the employees of the former Minneapolis Teachers Retirement Fund Association other than the executive director were transferred to Teachers Retirement Association employment (Laws 2006, Chapter 271, Article 3, Section 43).
 - 13) In 2007, the 1985 requirement of Senate confirmation of the Public Employees Retirement Association (PERA) executive director was eliminated (Laws 2007, Chapter 134, Article 2, Section 20).
2. New Potential Topic: Plan Membership. The 1995-1996 reformulation of the Commission's Principles of Pension Policy does not provide any guidance on public pension plan membership, expansions of plan coverage, and changes in plan membership.

The 1997-2007 pension legislation included 34 items that related to public pension membership inclusions, exclusions, and transfers:

- 1) In 1997, Department of Revenue seasonal help in the classified service were included in MSRS-General coverage by adding them to the MSRS included-employee provision and were permitted to purchase service credit for past service, at full actuarial value, if the person has provided seasonal service to the department in each of the last three years (Laws 1997, Chapter 241, Article 8, Sections 3, 4, and 7).
- 2) Also in 1997, certain individuals at the Minnesota sexual psychopathic personality treatment center and individuals in certain employment classifications at the Minnesota correctional facility at Red Wing (auto mechanic lead, electrician, electrician master of record, groundskeeper intermediate, or plumber master) were added to an uncoded 1996 coverage election law authorizing a prospective coverage election by MSRS-Correctional rather than continued MSRS-General coverage (Laws 1997, Chapter 241, Article 11, Section 1, and Chapter 239, Article 9, Section 40).
- 3) In 1997, additionally, the MSRS-Unclassified Program was designated to provide coverage for all legislators and constitutional officers who are newly elected after June 30, 1997, and for those existing legislators and constitutional officers who choose prospective MSRS-Unclassified coverage (Laws 1997, Chapter 233, Article 2, Section 3).
- 4) In addition, in 1997, pipefitters working for the St. Paul school district newly employed after May 1, 1997, are not covered by PERA. Similar employees who were hired before that date were allowed to elect an exclusion from PERA coverage through an irrevocable election. Those electing exclusion with less than three years of PERA coverage were permitted to apply for a refund (Laws 1997, Chapter 241, Article 2, Sections 1, 8, and 12).
- 5) Furthermore, in 1997, non-teaching charter school employees were made public employees for purposes of PERA coverage (First Special Session Laws 1997, Chapter 4, Article 5, Section 10).
- 6) In 1998, legislators and constitutional officers with less than six years of service who elected to transfer from the Legislators Retirement Plan or the Elective State Officers Retirement Plan, as applicable, were authorized to transfer past member contributions plus 8.5 percent interest, plus an equivalent matching amount to represent past employer contributions, to an account established for the individual in the MSRS-Unclassified Program (Laws 1998, Chapter 390, Article 6, Section 1).

