State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

57 State Office Building
St. Paul, Minnesota 55155
Telephone (612) 296-2750
Lawrence A. Martin, Exec. Dir.
James E. Heidelberg, Asst. Dir.
Jean A. Liebgott, Adm. Sec.

TO: Legislative Commission on Pensions and Retirement

FROM: James E. Heidelberg, Assistant Director JH

RE: Summaries of Legislation Enacted in 1987 Regular Session

DATE: June, 1987

I. Provisions Applying to All Public Employee Pension Plans

A. Laws 1987, Chapter 372 (HF 1159)

Article 6, Sections 1 and 2, provides that all money held or credited to a plan as assets, including contributions, state aid, appropriations from the state or a governmental subdivision, and accrued investment earnings constitute a dedicated fund that can be used only for the payment of benefits and reasonable administrative expenses. No assets may be loaned or transferred to the state or a governmental subdivision or be used to amortize an unfunded actuarial accrued liability of another public pension plan. The provisions apply to all public employee pension plans in the state, including supplemental retirement plans and volunteer firefighter plans.

Article 10, Sections 1 and 2, authorize a public pension fund to request opinions from the attorney general.

B. Laws 1987, Chapter 157 (HF 940)

The act provides for a division of pension rights as marital property in a marriage dissolution action. The present value of the accrued pension benefit is included in marital property and can be divided up by the court with other marital property. A pension fund must write separate annuity checks to a divorced spouse in the event that there are insufficient other liquid assets to divide up at the time of the dissolution. Benefit payments to a divorced spouse do not start until the member retires. Each pension fund assumes a new administrative task of keeping track of spouses as well as members.

C. Laws 1987. Chapter 284 (HF 1213)

Article 2, Sections 3 and 4, amend the general statutory provisions concerning the wages, conditions, and hours of employment in the state. The sections limit the application of the mandatory retirement provision to private sector employers by removing reference to public sector employers, and they delete obsolete language.

These changes are part of the effort to make statutory changes that conform with the 1986 amendments to the federal Age Discrimination in Employment Act (ADEA) which prohibits most mandatory retirement age provisions.

II. Provisions Applying to the Commission

A. Laws 1987, Chapter 259 (HF 1026)

The act amends various provisions of statute to clarify the duties of the commission actuary and of actuaries retained by the various pension plans. It clarifies the responsibility of the Commission actuary in assisting the various pension plans when they establish reserve factors and actuarial equivalent annuity forms. It clarifies and revises various actuarial valuation and actuarial determination procedures applying to the Commission actuary. It also establishes a separate fund for the MSRS correctional employees plan. Assets of the correctional plan have been commingled with the assets of the MSRS general employees plan.

B. Laws 1987, Chapter 404 (HF 1315)

HF 1315 is the State Departments bill.

Section 62, requires the Commissioner to assess the major pension plans for the cost of the actuarial valuations performed by the Commission actuary. The plans are:

1) TRA
2) PERA
3) PERA P&F
4) MERF
5) Judges
6) State Patrol
7) MSRS general
8) MSRS correctional
9) Duluth Teachers
10) St. Paul Teachers
11) Minneapolis Teachers
12) Legislators
13) Constitutional Officers

The assessment will be based on the total number of active, inactive, and retired members of the plans.

III. Provisions Applying to the Statewide Funds

A. Laws 1987, Chapter 404

Section 52, provides lump sum post retirement payments to "pre-73" retirees of the following funds:

1) TRA
2) MERF
3) MSRS
4) Highway Patrol
5) PERA
6) PERA P&F

Each retiree will receive $20 for each full year of service in the December 1, 1987 and December 1, 1988 payments.

B. Laws 1987, Chapter 372

Article 9, Sections 1-10, 12-14, 17-18, and 22-36, provide for 5 year vesting for the statewide funds and the first class city teacher funds, and allows the local police and paid fire relief associations to adopt 5 year vesting with municipal approval. The bill does not include the judges plan, the legislators plan, Minneapolis Employees Retirement Fund (MERF), nor the volunteer firefighters plans.

C. Laws 1987, Chapter 284

Article 8, Sections 1 through 4, provide combined service disability and survivor benefits for the statewide funds, the first class city teacher funds, and MERF, but does not include the local police and paid fire or volunteer fire funds. The sections essentially expand the portability features of the existing combined service annuity provisions.

Article 1, Section 1, amends the state's data privacy law by limiting the disclosure of data collected and maintained by "statewide retirement systems to 1) name; 2) gross pension; and 3) type of benefit provided.

IV. Provisions Applying to MSRS

A. General Plan Provisions

1. Laws 1987, Chapter 284

Article 2, Section 1, eliminates mandatory retirement for all general state employees (except tenured state university and community college faculty). The amendment is part of the effort to bring statutory provisions in compliance with the 1986 amendments to the federal Age Discrimination in Employment Act (ADEA). Article 2, Section 9, repeals a section of law that specifies an age 70 mandatory retirement age for MTC transit operating division employees.

Article 4, Section 1, includes 5 percent a year interest on a refund of employee contributions upon the death of a member who does not otherwise qualify for an annuity. The change brings this section of law in conformance with other sections of statute. (Laws 1984, Chapter 564 increased to 5 percent the interest paid on refunds of employee contributions for the major funds.)

2. Laws 1987, Chapter 372

Article 1, Sections 2, 3, 5, and 8, shift retirement coverage for firefighters in the department of military affairs from MSRS to PERA police and fire.

3. Laws 1987, Chapter 404

Section 158, authorizes a retired judge to hear cases and be paid accordingly, but with a reduction equal to the retirement benefits the judge may be receiving from the MSRS general plan or the judges plan.

B. Correctional Plan Provisions

1. Laws 1987, Chapter 259

Sections 20 and 81, establish a separate fund for the correctional plan within MSRS. Assets of the correctional plan have been commingled with the assets of the MSRS general employees plan. According to section 81, the assets are to be allocated between the general plan and new correctional employees fund based on the actuarial report for July 1, 1986. Laws 1987, Chapter 372, Article 11, Section 3, change the date on which the new fund will be established by requiring the assets to be allocated based on the July 1, 1987 actuarial valuation.

2. Laws 1987, Chapter 372

Article 1, Section 4, provides that "special teachers" in juvenile as well as adult correctional facilities may be certified by the department of employee relations for coverage by the MSRS correctional plan. The section also requires the department of corrections to establish written criteria upon which to base its recommendations to DOER for certifying additional civil service classifications as rendering covered correctional service.

C. Highway Patrol Plan Provisions

Laws 198, Section 284

Article 2, Section 2, replaces a cross reference for a mandatory retirement age provision that is made obsolete by the provisions of Article 2, Section 1, which eliminates age 70 mandatory retirement except for certain tenured faculty and public safety employees.

D. Unclassified Plan Provisions

Laws 1987, Chapter 284

Article 4, Section 4, clarifies that covered employment for the plan includes state employment covered by the regular MSRS plan. The change corrects an error made in the provision in Laws 1986, Chapter 458.

E. Deferred Compensation Plan

Laws 1987, Chapter 284

Article 4. Sections 2 and 3, clarify that participation in the statewide deferred compensation plan is the option of the public employee not of the governmental employing unit. The plan is administered by MSRS and is available to all public employees. The provisions authorize the MSRS executive director to order a governmental unit to implement the plan if a public employee requests to participate. If the employing unit fails to implement the plan, the unit may not defer compensation to any other deferred compensation plan until the plan is implemented.

V. Provisions Applying to TRA

A. Laws 1987, Chapter 372

Article 7, Section 2, changes the retirement date of a Roseau school district teacher contingent upon the findings of an administrative hearing to be held by the TRA.

B. Laws 1987, Chapter 284

Article 1, Section 3, amends the state's data privacy law by classifying as private data the following TRA information about an individual: 1) address; 2) birth date; 3) direct deposit account number; and 4) tax withholding data.

Article 2, Sections 1 and 5, amend statutory provisions to comply with the 1986 federal Age Discrimination in Employment Act (ADEA). Section 1 removes mandatory retirement for all general state employees except for tenured state university and community college faculty, for which an age 70 mandatory retirement age remains. Section 5 amends a section of TRA law to remove mandatory retirement for all TRA members except for tenured state university and community college faculty, for which an age 70 mandatory retirement age remains. Article 2, Section 9, repeals a provision which authorizes a school board to establish an age 70 mandatory retirement provision.

Article 3, Sections 1 to 3, amend the state university and college supplemental retirement plan. Beginning January 1, 1988, participants will have an expanded list of investment options in the Minnesota supplemental investment fund and may choose to transfer among investment options more often. Beginning July 1, 1987 a participant may redeem shares (withdraw money) from the plan at age 55 rather than at age 60 (if the person is no longer employed by the state university or community college board).

Article 6, Section 1, excludes from the definition of "salary" payments in lieu of employer paid group insurance and other forms of employer paid fringe benefits.

Article 6. Section 2, adds the definition of "termination of teaching service" to mean termination by resignation of the member or termination of the member's contract by the employer.

Article 6, Section 3, adds the requirement that a retiree must have a petition signed by 10 retirees in order to file for election to the TRA board.

Article 6, Section 4, clarifies that the attorney general is the TRA legal advisor and that venue of all legal actions involving TRA is in the Ramsey County district court.

Article 6, Section 5, limits the length of time during which payments of member and employer contributions for extended leave of absence service credit may be made, and requires 6 percent interest on late payments.

Article 6, Section 6, adds an imputed salary to the definition of income from teaching service for purposes of determining the limit on earnings that applies to a TRA retiree who is drawing an annuity. The imputed salary is to be based on equivalent positions to determine how much teaching income a returning administrator may earn before suffering a reduction in the retirement annuity. The language was recommended by the TRA legal advisor.

Article 6, Section 7, allows a death benefit refund to be paid to more than one beneficiary.

Article 6, Section 8, revises the earnings limitations for disabilitants. A disabled member who returns to work will not be subject to a reduction in the disability benefit unless the earnings plus the amount of the original disability benefit exceeds the individual's salary at the date of the disability.

Article 6, Section 9, extends the authorization for payment of shortages in member contribution deductions from July 1, 1961 to June 30, 1957. Shortages in member contribution deductions prior to July 1, 1957 are not allowed because TRA membership was optional before that date.

Article 6, Section 10, clarifies that the augmentation on deferred annuities does not include the period of service restored by a repayment of refund.

Article 6, Section 11, clarifies the language of the joint and survivor annuity for the variable annuity plan to make it conform with the language already in the general plan provisions. An election of the joint and survivor annuity option by a surviving spouse is no longer required; payment is automatic if the member met the eligibility requirements for the death while eligible benefit.

Article 6, Section 12, recalculates annuities in the variable annuity program which were effective prior to May 1, 1984. The recalculation increases annuity amounts by using 8 percent rather than 5 percent interest annuity tables.

VI. Provisions Applying to PERA

A. General Plan Provisions

1. Laws 1987, Chapter 372

Article 1, Sections 9 through 21, establish a correctional plan for county and municipal employees of jails and workhouses who are not sworn police officers. The plan becomes effective July 1, 1988 for prospective service credit only. The plan is loosely patterned after the MSRS correctional officers plan.

Article 5, Sections 1 through 11, establish a defined contribution plan for ambulance service personnel. Those eligible are basic and advanced life support emergency medical service personnel who are employed by a public ambulance service or by a privately operated ambulance service that receives an operating subsidy from the governmental entity. Each ambulance service has the option to participate. Contributions are determined by the individual ambulance service. Assets are invested by the state board of investment in its supplemental investment fund.

Article 7, Section 1, adjusts a retirement annuity for a Ramsey County highway employee with a late career disability.

Article 7, Sections 3, 4, and 9, allow employees of the former Albany Community Hospital (section 3) and the former Canby Community Hospital (section 4) to receive refunds of their employee contributions and matching employer contributions plus 6 percent a year interest. The hospitals were taken over by private hospital firms and the employees are no longer public employees. Section 9 states the legislature's intent not to allow the refund of matching employer contributions for a similar situation in the future.

Article 7, Section 5, restores PERA membership for a Stearns County Historical Society employee.

Article 7, Section 6, excludes a Hibbing city council member from PERA membership. The provision allows the council member to be considered a terminated member of PERA, but provides the member with the option to choose PERA membership for the member's current term in office.

Article 9, Sections 11, 15, and 16, change the amount of the workers compensation offset from a disability benefit. Current law provides that PERA reduce disability benefit payments by the amount of any workers compensation award. The new language provides that PERA reduce disability benefit payments so that the sum of the disability benefit plus workers compensation does not exceed the individual's salary.

2. Laws 1987, Chapter 284

Article 1, Section 2, amends the PERA section of the state's data privacy law by classifying as private data the following PERA information about an individual: 1) address; 2) birth date; 3) direct deposit account number; and 4) tax withholding data.

Article 5, Section 1, amends the list of employees excluded from PERA. Service that is incidental to regular professional duties, and excluded, is redefined as incidental if the compensation is less than or equal to 25 percent of the pension's total gross earnings for all professional duties. Language is added to clarify the basis for determining the exclusion for seasonal and part time school employees. The exclusion for employees of the defunct CETA programs is eliminated. Article 5, Section 18, repeals obsolete statutory language which excludes CETA employees.

Article 5, Section 2, clarifies the definition of surviving spouse to mean the spouse with the same legal residence (at the time of the member's death or at the time of the member's disability).

Article 5, Section 3, authorizes the board as part of its powers and duties to establish a benefit appeals procedure, to purchase fiduciary liability insurance for board members and employees, and to purchase data processing insurance or to self insure for data processing losses.

Article 5, Section 4, requires additional reporting by employing units of status codes (information for PERA's computer) and of the date of actual salary payment, and clarifies that reports are required within 20 calendar days.

Article 5, Section 5, changes the reporting dates of payroll abstracts from January and July to March and October.

Article 5, Section 6, clarifies that the recovery of delinquent contributions by PERA and the payment of delinquent contributions by an employee or employer may not be made unless PERA has begun recovery action within three years of the omission.

Article 5, Section 7, increases the interest rate charged an employing unit on amounts due and payable to PERA. The rate is increased to 10 percent if more than 5 days late, with a minimum penalty assessed at $10 rather than $5.

Article 5, Section 8, authorizes the board to contract with a professional service to identify deceased annuitants and benefit recipients, rather than to rely upon collecting signature cards from benefit recipients.

Article 5, Section 9, directs the executive director to recover overpaid disability benefits by suspending or reducing any other benefit payable on behalf of the individual.

Article 5, Section 10, allows an individual on authorized sick leave who has received the maximum one year of service credit to receive a refund of contributions if the individual remains on sick leave 120 days after the one year.

Article 5, Section 11, clarifies the member contribution rate that must be paid for a special purchase of prior service credit.

3. Laws 1987, Chapter 157

Section 20, allows a retired member who had chosen a joint and survivor optional annuity, but who has subsequently divorced to elect to convert the joint and survivor annuity to a single life annuity.

B. Police and Fire Plan Provisions

1. Laws 1987, Chapter 372

Article 1, Sections 2, 3, 5, and 8, shift retirement coverage for firefighters in the department of military affairs from MSRS to PERA police and fire.

Article 9, Sections 19 through 21, change the amount of the workers compensation offset from a disability benefit in the same manner as for the general plan. (See the discussion in VI.A.1.)

2. Laws 1987, Chapter 284

Article 5, Section 12, adds the requirement that a governmental subdivision must include in a membership resolution for a part-time police or firefighter that the individual is to be covered by the PERA police and fire fund.

Article 5, Section 13, requires that an individual must be employed in a position for which the primary duties are to enforce the law and must be licensed as a police officer in order to be eligible for membership as a police officer in PERA police and fire.

Article 5, Section 14, provides for a larger recomputed retirement annuity at age 55 for certain short service PERA police and fire disabilitants. The recomputed retirement annuity must be chosen by the individual and the amount is based on the prior disability benefit.

Article 5, Section 15, authorizes a retirement annuity for PERA P&F disabled members age 55 or over who have at least 5 years of service, but less than 10 years of service. Section 17, makes the authorization retroactive to certain disabilitants who were disabled after May 31, 1986.

Article 5, Section 16, clarifies the requirements for receiving survivor benefits from the PERA P&F fund. A surviving spouse must have the same legal residence. The amount of a surviving spouse or children's benefit is to be based on the salary received during the last 6 months before death. Eligibility for the death while eligible surviving spouse benefit is increased to include deceased members within 30 years of service regardless of age.

VII. State Board of Investment Provisions

Laws 1987, Chapter 372

Article 8, Sections 1 through 8, expand the SBI's investment authority to increase the limit on equity investments, to purchase high-yield debt obligations, and to allow the purchase of variable rate government debt securities. The article made other less significant changes in SBI's investment authority. The article also adds the requirement that the SBI adopt an investment policy statement. (The SBI was not given the authority to purchase foreign securities.)

Article 1, Section 9, requires the SBI to invest the assets of a local employees correctional plan to be established July 1, 1988.

Article 5, Section 5, requires the SBI to invest the assets of a newly created ambulance personnel plan. The assets are to be invested in the Minnesota supplemental investment fund.

VIII. Provisions Applying to the First Class City Funds

A. First Class City Teacher Fund Provisions

1. Laws 1987, Chapter 372

Article 3, Sections 1 through 3, authorizes the board of Minneapolis Teachers to repeal the plan's "13th check" ad hoc post retirement increase and replace it with a different package of post retirement increases. The different package consists of 1) a recalculation of benefits based on the current formula; 2) a one-time permanent increase equal to 4 percent for each year in retirement for up to a maximum of 5 years; 3) a minimum retirement benefit of $9,000 per year for a 30 year career, prorated by the number of years of service; and 4) an annual automatic increase of 2 percent rather than 1.5 percent. In addition, the article provides for an annual permanent post retirement adjustment based on investment earnings in excess of 8 percent on assets of the entire fund.

Article 7, Chapter 6, authorizes the St. Paul Teachers Board to amend its bylaws to eliminate the prohibition against a retired member working in any capacity for the city of St. Paul while receiving a retirement annuity.

2. Laws 1987, Chapter 284

Article 2, Section 6, removes mandatory retirement for all first class city teachers. Section 9, repeals a provision authorizing a school board to establish an age 70 mandatory retirement provision.

Article 7, Sections 1 and 2, require that the books and accounts of the first class city teacher funds must be audited by the state auditor. Miscellaneous corrections in Article 11, Sections 1 and 2 of Chapter 372, correct a language error in and the effective date of Chapter 284, Article 7. The corrections clarify that 1) each first class city teacher fund is considered to be a local governmental entity with respect to a provision in the law governing the state auditor; and 2) the first audit to be performed by the state auditor is for fiscal year 1988 which ends June 30, 1988.

Article 8, Sections 1 through 4, expand the combined service annuity provisions to include combined service disability and survivor benefits. The first class city teacher funds are one group of funds covered by the portability mechanism. (See the discussion in III. C..)

B. B. Provisions Applying to MERF

1. Laws 1987, Chapter 404

Section 52, provides lump sum post retirement payments to "pre-73 retirees" in PERA, TRA, MSRS, and MERF. The payments, to be made on December 1, 1987 and December 1, 1988 are to be in an amount equal to $20 for each full year of service.

2. Laws 1987, Chapter 284

Article 2, Section 7, removes the mandatory retirement provision from the MERF law.

Article 8, Sections 1 through 4, expand the combined service annuity provision to include combined service disability and survivor benefits. MERF is one of the funds covered by the portability mechanism. (See the discussion in III. C..)

IX. General Law Provisions Applying to the Local Police and Salaried Firefighters Relief Associations

A. Laws 1987, Chapter 296 (SF 317)

The act authorizes any of the 48 local police or salaried firefighter relief associations to consolidate with PERA police and fire. Provisions of the bill include:

1) consolidation is on a voluntary basis;
2) consolidation must be approved by both the relief association and the municipality;
3) upon consolidation the administration of the relief association is transferred to PERA and the special fund of the relief association ceases to exist;

4) each active member of a consolidating relief association may choose to retain relief association benefits;

5) each current beneficiary of a consolidating relief association may choose to continue to receive post retirement increases as if the relief association were to continue or to receive post retirement increases from the Minnesota post retirement investment fund (which provides post retirement increases to retirees of PERA P&F and other statewide plans);

6) assets of each consolidating relief association are retained in a separate account in PERA;

7) a municipality must pay to PERA the full actuarial cost of the benefits chosen by the members of the consolidating relief association and must make annual employer contributions to PERA on behalf of those active members who choose PERA P&F benefits; and

8) the benefit plan provisions of each of the 48 relief associations that are potential candidates for consolidation are enumerated; a procedure for resolving a dispute over the plan provisions is included.

B. Laws 1987, Chapter 372

Article 1, Section 1, clarifies the salaries that may be paid to officers of the relief associations by amending statutory language authorizing administrative expenses.

Article 2, Section 1, subdivision 1, removes the age 35 limit for membership in a firefighters relief association in a city of the second class. An individual may now become a member of a relief association upon hiring at an age over 35. Subdivision 2 of Section 1 removes the age 35 limit for volunteers in relief associations in cities of the second class.

C. Laws 1987, Chapter 284

Article 2, Section 8, allows a mandatory retirement age provision that was in effect on March 3, 1983 for police officers and firefighters in second, third, and fourth class cities to be retained.

D. Laws 1987, Chapter 404

Sections 11 and 90, provide that the state auditor's office will receive $80,000 each year of the 1988-1989 biennium from police and fire state aid moneys in order to administer the aid programs. The $80,000 will be subtracted from the total of police and fire state aid moneys before the aid is distributed (according to M.S. sections 69.011 to 69.051). Section 90, amends the section in statute specifying the amount of aid available for distribution to reflect the reduction in available aids.

Section 49, appropriates police and fire amortization aid to the commissioner of finance. The appropriation should have been made to the commissioner of revenue. Laws 1986, Chapter 359 transferred responsibility for the amortization aid payments from the department of finance to the department of revenue.

X. Special Law Provisions Applying to the Local Police and Salaried Firefighters Relief Associations

Laws 1987, Chapter 372

Article 2, Sections 2 through 7 and 15, provides 5 year vesting for Minneapolis police.

Article 2, Sections 8 and 9, provide benefit increases to retired members of the Hibbing fire relief association and to surviving spouses and children.

Article 2, Section 10, provides a service pension increase for West St.Paul police by including longevity pay in the definition of salary.

Article 2, Section 12, allows Mankato police to provide post retirement increases for retired members for whom there exists no equivalent rank in the public safety department. The increases are to be the same percentage increase granted retired first class patrol officers in any year.

Article 2, Section 14, increases the benefits payable to surviving spouses of Virginia firefighters.

XI. General Law Provisions Applying to Volunteer Firefighters Relief Associations

Laws 1987, Chapter 372

Article 1, Section 22, clarifies that a general law provision limiting the amount of ancillary benefits that may be paid applies to every volunteer fire relief association, including Bloomington fire.

Article 1, Section 2, Subdivision 2, removes the age 35 limit for membership by volunteer firefighters in relief associations in cities of the second class.

XII. Special Law Provisions Applying to Volunteer Firefighters Relief Associations

Laws 1987, Chapter 372

Article 2, Section 11, provides for the transfer of assets and service credit from the Clifton independent nonprofit firefighting corporation relief association to another relief association in Duluth township upon dissolution of the Clifton relief association. All assets must be transferred and equal amounts of service credit for each member must be recognized in a new relief association.

Article 2, Section 13, allows members of the Millerville volunteer fire relief association to receive service credit in the relief association for time worked for the fire department before the relief association was incorporated. (The language is similar to a 1986 provision--Laws 1986, Chapter 458, Section 25--for Andover volunteer fire relief association.)

Article 7, Section 8, excludes members of the Plymouth volunteer fire relief association from membership in PERA police and fire (and PERA). Compensation paid to a Plymouth volunteer firefighter is excluded from the definition of salary for PERA purposes. Plymouth volunteer firefighters are entitled to a refund of employee contributions plus interest.

XIII. Miscellaneous Provisions Including Purchases of Prior Service Credit

Laws 1987, Chapter 372

Article 4, Section 1, authorizes a PERA member and a TRA member to purchase prior service credit at the full actuarial cost of the increase in benefit to be obtained by the purchase.

Article 4, Section 2, authorizes a former University of Minnesota employee with prior MSRS service credit and University faculty plan service credit to purchase the faculty plan service in MSRS. The purchase is allowed at a rate based on the individual's salary and MSRS contribution rates in effect at the time.