



TO: Members of the Legislative Commission on Pensions and Retirement

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

RE: Summary of the 2007 Public Employees Police and Fire Retirement Plan Disability Benefit Coverage Modifications

DATE: November 29, 2007

Laws 2007, Chapter 134, Article 4, revised the disability benefit coverage of the Public Employees Police and Fire Plan (PERA-P&F) and the Local Government Correctional Service Retirement Plan (PERA-Correctional). The disability program revisions included the following changes:

1. Normal Retirement Age Definition Added. Language is added clarifying that age 55 is the normal retirement age for PERA-P&F and PERA-Correctional. *Laws 2007, Ch. 134, Art. 4, Sec. 1. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
2. Duty Disability Definition Revised. "Duty disability" is defined as a physical or psychological disabling condition, expected to prevent the member from performing the normal duties of the position for a period of at least one year, caused by injury or disease incurred in performance of duties while protecting the property and personal safety of others, that present inherent dangers specific to the position covered by PERA-P&F. *Laws 2007, Ch. 134, Art. 4, Sec. 2. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
3. Less Frequent Duties Defined. "Less frequent duties" are defined as job description tasks performed occasionally, which are not carried out as part of the normal routine of the applicant's job. *Laws 2007, Ch. 134, Art. 4, Sec. 3. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
4. Line of Duty Death Defined. "Line of duty death" is defined as a death that occurs while performing duties specific to protecting the property and personal safety of others and that present inherent dangers specific to the positions covered by PERA-P&F. *Laws 2007, Ch. 134, Art. 4, Sec. 4. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
5. Normal Duties Definition. "Normal duties" are defined as the specific tasks designated in the applicant's job description, not including less frequent duties performed occasionally. *Laws 2007, Ch. 134, Art. 4, Sec. 5. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
6. Not Line of Duty Death Defined. "Not line of duty death" is defined as any death that is not a "line of duty death." *Laws 2007, Ch. 134, Art. 4, Sec. 6. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
7. Regular Disability Definition. "Regular disability" is defined as a physical or psychological disabling condition, expected to prevent the member from performing the duties of the position for a period of at least one year, which results from a disease or injury incurred from activities while not at work, or while at work performing duties that do not present inherent danger specific to the occupations covered by PERA-P&F. *Laws 2007, Ch. 134, Art. 4, Sec. 7. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
8. Revised Early Retirement Reduction Provision. The PERA-P&F early retirement provision is revised for new members hired after June 30, 2007, or for any former member who is reinstated after that date, by requiring an early retirement reduction of two-tenths percent, rather than one-tenth percent, for each month that the individual is under age 55. *Laws 2007, Ch. 134, Art. 4, Sec. 14. Source: H.F. 127 (Murphy, M.); S.F. 85 (Betzold)*
9. Duty Disability Benefit Computation Revision, Position-Specific Qualification Standard. For those who become disabled after June 30, 2007, and for those who qualify under a position-specific standard, PERA-P&F duty disability benefits are capped at 60 percent of the high-five average salary, rather than 60 percent plus 3 percent for each year in excess of 20. *Laws 2007, Ch. 134, Art. 4, Sec. 15. Source: Senate Government Operations Committee Amendment*

10. Duty Disability Benefit Computation Revision, Total and Permanent Standard. For those who become disabled after June 30, 2007, and for those who qualify under a total and permanent standard usually used in general employee plans, PERA-P&F duty disability benefits are capped at 60 percent of the high-five average salary plus 3 percent for each year in excess of 20. *Laws 2007, Ch. 134, Art. 4, Sec. 16. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
11. Disabilitant Optional Annuity Elections. The PERA-P&F disabilitant optional annuity election provision is revised by specifying that an optional annuity may be elected upon application for a disability benefit, or within 90 days of attaining age 55, or upon application to convert to an early retirement annuity payment. If the disabilitant was at least 55 when the disability occurred but had less than 20 years of service, an election may be made 90 days prior to the five-year termination date of the disability benefit. If a joint and survivor annuity was elected and the disabilitant dies before the date the disability benefit is transformed into a retirement benefit, the beneficiary may elect to have the benefit recomputed whenever recalculation of the benefit as a retirement benefit would provide an increased monthly payment amount. *Laws 2007, Ch. 134, Art. 4, Sec. 17. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
12. Reformulation of the PERA-P&F Non-Duty Disability Benefit as the “Regular” Disability Benefit. The PERA-P&F non-duty disability benefit is reformulated as the “regular” disability benefit capped at 45 percent of the high-five average salary, rather than 45 percent of the high-five salary plus 3 percent of that salary for each year of service in excess of 15. If the individual was at least 55 when disability occurred but does not have 15 years of service credit, the benefit is payable for only five years, and is then subject to cessation of disability benefit requirements described below in #16. *Laws 2007, Ch. 134, Art. 4, Sec. 18. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
13. Reformulation of the PERA-P&F Non-Duty Disability Benefit as the “Regular” Disability Benefit, Total and Permanent Standard. The PERA-P&F regular disability benefit, if a total and permanent standard is met, is capped at 45 percent of the average salary plus 3 percent of average salary for each year of service in excess of 15 years. *Laws 2007, Ch. 134, Art. 4, Sec. 19. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
14. Clarification of Limitation on Disability Benefit Provision. The PERA-P&F limitation on disability benefit provision is clarified by stating that a disability benefit cannot commence while the employee is on any form of employer-provided salary continuation plan or provision. *Laws 2007, Ch. 134, Art. 4, Sec. 20. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
15. Cessation of Disability Benefit Provision. The PERA-P&F cessation-of-disability-benefit provision is revised by requiring the benefit to end 1) when the individual reaches normal retirement age; or 2) if the disabled member chooses, the end of the month in which the disabilitant elects to convert to an early retirement annuity; or 3) if the disability benefit is required to terminate after five years (60 months), on the first of the month following the expiration of the five year period. If the individual remains disabled when the disability benefit terminates, the individual is deemed to be retired. The retirement annuity will be based on the number of years used in the disability benefit calculation or the actual years of service, whichever produces a higher benefit, and will include all prior benefit adjustments. Except as otherwise provided, the applicable law for computing the retirement annuity is the law in effect when the disability benefit was computed. *Laws 2007, Ch. 134, Art. 4, Sec. 21. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
16. Survivor Benefit Provision Restricted to Survivors of Pre-July 1, 2007, Disabilitants. The PERA-P&F disability survivor benefit provision is revised to provide survivor benefits only in cases where the disability benefit was granted prior to July 1, 2007. Post-June 30, 2007 disabilitants will need to elect a joint and survivor annuity to provide spousal coverage. *Laws 2007, Ch. 134, Art. 4, Sec. 22. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
17. PERA-P&F Disability Benefit Accrual Provision Revision. The PERA-P&F disability benefit accrual provision is revised to prohibit the commencement of a disability benefit while the individual is receiving salary or any salary-related form of compensation, except in cases of total and permanent disability. *Laws 2007, Ch. 134, Art. 4, Sec. 24. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
18. Prohibiting Disability Benefits in Chemical Dependency Cases. This new subdivision prohibits the payment of PERA-P&F disability benefits if the disability results from use of illegal drugs, unless

the individual was in, or is currently in, a drug rehabilitation program and is no longer engaging in illegal drug use. *Laws 2007, Ch. 134, Art. 4, Sec. 25. Source: H.F. 127 (Murphy, M.); S.F. 85 (Betzold)*

19. Survivor Benefit Revisions: Eligibility and Benefit Amounts. The “death while active or disabled” survivor benefit eligibility provision is revised to apply only in active or deferred situations (and not in disabled situations); is revised to specify that if the death was not a “line of duty death” the member must have accrued three years of service, rather than one year, for the spouse to be eligible for any annuity; by specifying that an active military service death will be a “not line of duty death” for purposes of survivor benefits; and by revising surviving spouse benefit amounts to 60 percent of average salary for a “line of duty death,” or a 50 percent of average salary benefit in all other cases, including if the death occurred while receiving disability benefits that accrued prior to July 1, 2007, rather than 50 percent of average salary in all cases. *Laws 2007, Ch. 134, Art. 4, Sec. 26-27. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
20. Revised Family Benefit Amounts. The existing family maximum (70 percent of average salary) will apply if the member’s death is a “not line of duty death” or if death occurred while receiving a disability benefit that accrued before July 1, 2007. The family maximum and family minimum are increased to 80 percent and 60 percent, respectively, in “line of duty death” situations. *Laws 2007, Ch. 134, Art. 4, Sec. 28-29. Source: H.F. 125 (Murphy, M., by request); S.F. 84 (Betzold, by request)*
21. New Section 353.031, Disability Determination Procedures, collects existing disability application, determination, and review procedures into a single provision, and generally will apply to disability determinations for all PERA defined benefit plans. *Laws 2007, Ch. 134, Art. 4, Sec. 8. Source: H.F. 127 (Murphy, M.); S.F. 85 (Betzold)*

Subd. 1. Application. The procedures of this section govern all PERA-General, PERA-Correctional, and PERA-P&F disability applications/determinations.

Subd. 2. Policy Statement. The disability standards applicable to each plan are noted: total and permanent for PERA-General Plan, and less stringent for PERA-P&F and PERA-Correctional.

Subd. 3. Procedure to Determine Eligibility. Disability applications must be in writing on forms provided by the Executive Director. The application must be made no later than 18 months after termination of service and all medical reports must support a finding that the disability occurred while the individual was an active plan member and not on leave or after termination of service occurred. The applicant shall provide a medical report signed by a licensed medical doctor and at least one other medical doctor, psychologist, or chiropractor and the applicant must authorize release of all medical records. If medical improvement is possible, the medical report must contain an opinion regarding when the individual is expected to improve to the point of no longer meeting disability standards. The employer must provide a report specifying actions taken to find available work for the individual and accommodations made to provide continued employment. A disability applicant may simultaneously file a disability and retirement application. If the disability application is denied, a retirement annuity would commence.

Subd. 4. Additional Requirements Specific to PERA-P&F and PERA-Correctional. If the application is filed within two years of the date of the injury, the application must be supported by evidence that the applicant is unable to perform the duties of the position held by the applicant on the date of the injury or illness and must be accompanied by an employer report noting any duties that the individual cannot perform. If the application is filed more than two years after the date of the disabling injury or illness, the report must focus on the individual’s ability to perform the duties assigned within the most recent 90 days prior to the application. Any claim for a duty-related disability must specify whether the disabling event occurred while the individual performing an act specific to the inherent dangers of positions eligible for PERA-P&F or PERA-Correctional coverage. Any application must be supported by a first report of injury. If an applicant continues in employment following the application for more than 45 days without being placed in an authorized leave, the application will be cancelled and the applicant cannot reapply, based on that same cause, for at least one year.

Subd. 5. Medical Advisor. PERA may contract with the Department of Health to provide medical advisors to PERA.

Subd. 6. Independent Medical Evaluation. The applicant must submit to an independent medical evaluation, paid for by PERA, if requested by the executive director.

Subd. 7. Refusal of Medical Examination or to Provide Medical Evidence. If medical evidence is not provided, PERA will not consider the application, or in the case of an existing disability benefit recipient, PERA will terminate the benefit.

Subd. 8. Proof of Continuing Disability. PERA is authorized to require, at any reasonable time, that a disabilitant submit proof of continued eligibility.

Subd. 9. Application Approval or Denial. The individual can appeal the Executive Director's decision to the PERA board within 60 days. The Executive Director can require the participant to take part in a fact-finding session conducted by an administrative law judge and/or a vocational assessment conducted by a qualified rehabilitation counselor.

Subd. 10. Restoring Forfeited Service. Individuals are permitted to repay refunds to restore service credit within six months after the effective date of the disability benefit or within six months after filing, whichever is later.

22. Various PERA Repealers. Given language moved from other sections to the new Section 353.031, various PERA provisions applicable to PERA-General, PERA-P&F, or PERA-Correctional are repealed. *Laws 2007, Ch. 134, Art. 4, Sec. 36. Source: H.F. 127 (Murphy, M.); S.F. 85 (Betzold)*

- Section 353.33, Subd. 6a, specifying PERA medical advisor authority.
- Section 353.33, Subd. 6b, specifying duties of the medical advisor.
- Section 353.33, Subd. 8, specifying consequences of refusal to submit to medical examination or to provide medical evidence.
- Section 353.656, Subd. 5, a PERA-P&F proof of disability provision.
- Section 353.656, Subd. 9, a PERA-P&F provision specifying consequences of refusal to submit to medical examination or to provide medical evidence.
- Section 353.656, Subd. 11, a PERA-P&F provision dealing with the duties of medical advisors.
- Section 353.656, Subd. 12, a PERA-P&F disability benefit approval provision.