H.F. 4117
(Holberg)

S.F. 3803
(Pariseau)

Executive Summary of Commission Staff Materials

Affected Pension Plan(s):	PERA-P&F
Relevant Provisions of Law:	Minnesota Statutes, Section 353.656
General Nature of Proposal:	Increases total and permanent duty disability benefits
Date of Summary:	March 28, 2008

Specific Proposed Changes

The proposed legislation increases Public Employees Police and Fire Retirement Plan (PERA-P&F) total and permanent duty disability benefits for those with less than 25 years of service. The benefits are revised from 60 percent of salary plus an additional three percent for each year of service in excess of 20, to 75 percent of salary plus an additional three percent for each year of service in excess of 25. The benefit increase would apply to all total and permanent disabilities occurring after the end of 2004, but increased payments are prospective only.

Policy Issues Raised by the Proposed Legislation

1. Issues of reversing 2007 legislative changes, which were intended to control the cost of PERA-P&F disability provisions.
2. Design of the benefit improvement, and how these total and permanent disability benefits would compare with duty disability benefits if another bill, H.F. 3713 (Nelson); S.F. 3405 (Betzold), also is enacted.
3. PERA position.
4. The cost of the benefit improvement, PERA-P&F's actuarial condition, and its existing contribution deficiency.
5. Potential consideration of contribution rate increase.
6. Effective date retroactivity issues

Potential Amendments

H4117-1A removes the retroactive effective date.

H4117-2A, an alternative to H4117-1A, replaces the effective date with a date to be specified.

H4117-3A revises the PERA-P&F employee and employer contribution rates starting in 2009. The employee contribution rate would increase by 1.2 percent of pay (from 9.4% to 10.6%) while the employer contribution would increase by 1.8 percent of pay (from 14.1% to 15.9%)

H4117-4A, an alternative to H4117-3A, would also increase the contribution rates in 2009, but would increase the employee contribution rate by 1.1 percent of pay (to 10.5%) and the employer contribution rate by 1.7 percent of pay (to 15.8%).

H4117-5A specifies that the revised benefit will include prior post-retirement adjustments.

H4117-6A, an alternative to H4117-5A, specifies that the revised benefit will not include prior post-retirement adjustments.

State of Minnesota \ LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT

TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director EB

RE: H.F. 4117 (Holberg); S.F. 3803 (Pariseau): PERA-P&F; Increasing Total and Permanent Duty Disability Benefits in Short Service Situations

DATE: March 27, 2008

General Summary of H.F. 4117 (Holberg); S.F. 3803 (Pariseau)

H.F. 4117 (Holberg); S.F. 3803 (Pariseau) increases the Public Employees Police and Fire Retirement Plan (PERA-P&F) total and permanent duty disability benefits for those with less than 25 years of service. The benefit increase would apply to all total and permanent disabilities occurring after the end of 2004, but increased payments are prospective only.

Background Information

A. Recent PERA-P&F Disability Cost Control Measures. **Attachment A** contains information on the recent extensive changes to control PERA-P&F disability costs.

B. Other PERA-P&F Disability Benefit Improvement Bill. H.F. 3713 (Nelson); S.F. 3405 (Betzold) would increase the disability benefit for PERA-P&F disabilitants who are disabled in the line of duty, but who do not meet the total and permanent standard, from 60 percent of salary, to 60 percent of salary plus three percent for each year of service in excess of 20 years.

Discussion and Analysis

The proposed legislation increases PERA-P&F total and permanent duty disability benefits for those with less than 25 years of service. The benefits are revised from 60 percent of salary plus an additional three percent for each year of service in excess of 20, to 75 percent of salary plus an additional three percent for each year of service in excess of 25.

The proposed legislation raises several pension and related public policy issues for Commission consideration and potential Commission discussion, as follows:

1. Issues of Reversing 2007 Legislative Changes. The issue is whether this bill, and also H.F. 3713 (Nelson); S.F. 3405 (Betzold), will serve to undermine the reform and cost control measures enacted in 2007. The Commission may choose to consider whether it is too early to reconsider any of the changes enacted as reform measures last year. The Commission may also choose to consider whether it will be possible to take action on one of these bills without taking action on both. Any reversal of the provisions passed last year will lead to pressure to reverse other benefit-related actions enacted as part of that legislation, including those related to general disabilitants, duty disabilitants, and survivors, the status of disabilitants at normal retirement age, and the reduced subsidy of early retirement. Any reversal of the 2007 provisions will increase PERA-P&F contribution requirements. This, in turn, creates a need to further increase employee and employer contribution rates, placing greater burdens on state aid and local employers. Higher PERA-P&F contribution rates will reduce the excess police state aids and all aid programs financed in whole or part from those excess aids.

2. Design of the Benefit Improvement. The issue is whether the benefit improvement is well designed. The bill increases benefits for total and permanent disabilitants with less than 25 years of service at the time of the disabling event. From that point onward, the benefit is the same as in currently law. Also, the Commission may wish to consider how PERA-P&F duty disability benefits will compare to those for PERA-P&F duty total and permanent disabilitants. H.F. 3713 (Nelson); S.F. 3405 (Betzold), the bill that provides a benefit improvement for PERA-P&F duty disabilitants who do not meet the total and permanent standard, would provide a benefit identical to that provided in the table below for total and permanent disabilitants under current law. Under the 2007 law, the benefit for PERA-P&F duty disabilitants who do not meet the total and permanent standard is 60 percent of the high-five average salary.

Years of Service	Current Law % of High-Five Salary	Proposed % of High-Five Salary	Years of Service	Current Law % of High-Five Salary	Proposed % of High-Five Salary
5	60%	75%	24	72%	75%
10	60	75	25	75	75
15	60	75	26	78	78
20	60	75	27	81	81
21	63	75	28	84	84
22	66	75	29	87	87
23	69	75	30	90	90

3. PERA Position. The issue is whether PERA supports the proposed legislation.

4. Cost. The issue is cost. Perhaps PERA can provide additional cost information to the Commission. The Commission does not typically consider benefit improvements without actuarial information on cost and the impact of that cost on contribution rate requirements. Attached is an e-mail from Mary Vanek, PERA Executive Director, providing some information on the lump sum transfer that would needed for the Minnesota Post Retirement Investment Fund to cover the additional benefits to those who would be covered by the retroactive effective date, but no information was provided on the general cost of this provision for all those who will become totally and permanently disabled after the enactment date. The Commission may wish to consider whether it is appropriate to consider this benefit proposal, particularly given the existing contribution rate deficiencies of this plan.

5. PERA-P&F Actuarial Condition. The issue is the current actuarial condition of PERA-P&F. The Commission may wish to consider whether it is appropriate to consider this benefit proposal, particularly given the existing contribution rate deficiencies of this plan, as indicated below, and given that the Commission may encounter pressure to increase benefits for other PERA disability categories. According to the 2007 actuarial report, although PERA-P&F is 95 percent funded, it has a serious contribution rate problem. Contributions currently made under law total 20.5 percent, creating a 5.6 percent contribution deficiency. Contribution rate increases are being phased in over a few years, with the last increase set to occur in 2009. Under existing law, for 2009 and thereafter the employee contribution rate is 9.4 percent of pay, and the employer rate is 14.1 percent of pay, for a total of 23.5 percent of pay. The current actuarial work below indicates that the total required contributions already exceed 26 percent of pay.

		2007
Membership		
Active Members		10,720
Service Retirees		4,938
Disabilitants		803
Survivors		1,291
Deferred Retirees		1,200
Nonvested Former Members		814
Total Membership		19,766
Funded Status		
Accrued Liability		$5,669,346,646
Current Assets		$5,382,707,345
Unfunded Accrued Liability		$286,639,301
Funding Ratio	94.94%	
Financing Requirements		
Covered Payroll		$699,841,244
Benefits Payable		$280,266,868
Normal Cost	22.19%	$155,328,501
Administrative Expenses	0.10%	$699,841
Normal Cost & Expense	22.29%	$156,028,342
Normal Cost & Expense	22.29%	$156,028,342
Amortization	3.77%	$26,384,015
Total Requirements	26.06%	$182,412,357
Employee Contributions	8.20%	$57,386,982
Employer Contributions	12.30%	$86,080,473
Employer Add'l Cont.	0.00%	$0
Direct State Funding	0.00%	$0
Other Govt. Funding	0.00%	$0
Administrative Assessment	0.00%	$0
Total Contributions	20.50%	$143,467,455
Total Requirements	26.06%	$182,412,357
Total Contributions	20.50%	$143,467,455
Deficiency (Surplus)	5.56%	$38,944,902

6. Consideration of Contribution Rate Increase. The Commission may wish to consider increasing contribution rates for this plan. If the 2007 legislation was urgently needed to address the cost of the PERA-P&F plan, then presumably there is a need to face the cost implications of partially unraveling that package. When the Commission considers a benefit improvement, it is common practice to increase contribution rates to cover the cost of the increase plus a further increase to eliminate existing contribution deficiencies in the plan. There is no section in this bill which revises contribution rates. The Commission may wish to consider an amendment to address contribution rates.

7. Effective Date: Retroactivity Issues. The retroactive effective date raises issues. As drafted, the bill applies to those who are totally and permanently injured after December 31, 2004. The Commission may wish to determine through testimony why that date was used, and the Commission may wish to decide whether to permit any retroactivity. The Legislature has taken no action which decreases any PERA-P&F disability benefit below that permitted by law at the time the disability occurred, and that benefit has been escalated through the Minnesota Post Retirement Investment Fund. Thus, no one is receiving less than promised under law. Any benefit increase legislation which provides a benefit increase to those already disabled is a gratuity rather than an obligation under contract. The Commission may be concerned that if retroactivity is provided to some, it may be difficult to deny it to others, whether the matter before the Commission deals with disability, retirement, survivor benefits, or any other benefit-related matters. If retroactive application becomes the norm, it will greatly increase the cost of any benefit changes enacted into law, making it increasingly difficult to enact changes deemed necessary to improve pension plan design and equity.

Potential Amendments for Commission Consideration

1. Amendment H4117-1A removes the retroactive effective date.

2. Amendment H4117-2A can be used if Amendment H4117-1A is not used. It permits the Commission to set a different retroactive application date than that specified in the bill (December 31, 2004) by filling in the blank with a different date.

3. Amendment H4117-3A revises PERA-P&F employee and employer contribution rates starting in 2009, assuming the cost of this benefit improvement is 0.5 percent of payroll and assuming the plan total requirements are as indicated in the 2007 actuarial valuation, which was 26.06 percent of pay. That total requirement, plus an estimated 0.5 percent of pay to cover the benefit improvement, totals 26.56 percent of pay. Under existing law, contributions in 2009 and thereafter must equal 23.5 percent of pay, which would leave a contribution deficiency of 3.06 percent of pay. The increase proposed in the amendment totals 3.0 percent of pay, divided 60 percent employer/40 percent employee, to conform to the usual sharing of burden in a public safety plan. The employee contribution rate would increase in 2009 by 1.2 percent of pay (from 9.4 percent to 10.6 percent) while the employer contribution would increase by 1.8 percent of pay (from 14.1 percent to 15.9 percent).

4. Amendment H4117-4A is an alternative to Amendment H4117-3A. It is comparable except that the assumed cost of the benefit increase is one-quarter percent of pay rather than one-half percent of pay. The employee contribution rate would increase in 2009 by 1.1 percent of pay (from 9.4 percent to 10.5 percent) while the employer contribution would increase by 1.7 percent of pay (from 14.1 percent to 15.8 percent).

5. Amendment H4117-5A can be used to clarify the treatment of those who became disabled after December 31, 2004, and before the final enactment date. This amendment specifies that the revised payment to these individuals will include any post-retirement adjustments paid to date.

6. Amendment H4117-6A, an alternative to amendment H4117-5A, specifies that the revised payment to these pre-existing disabilitants will not include prior post-retirement adjustments, but the new payment level cannot be below the amount received just prior to payment of the revised benefit required under this section.

Attachment A

Background Information on Recent Extensive Changes to Control PERA-P&F Disability Costs

In the 2004 and 2006 Sessions, the Legislature began addressing problems with the PERA-P&F disability benefit program. Major revisions followed in the 2007 Session when the Legislature passed considerable reforms for that plan to limit abuse of the disability program and to provide some cost control. Laws 2007, Chapter 134, Article 4 (the source bills were H.F. 125 (Murphy, M.); S.F. 84 (Betzold) in the form of delete-everything amendment H0125-3A, as amended) was requested by PERA, and it revised PERA-P&F disability benefit provisions and survivor provisions relating to all disabilities that commence after July 1, 2007, as follows:

1. Two revised disability categories were created, duty disability and regular disability, replacing the prior "duty" and "non-duty" categories, and the duty disability category was further divided into a total and permanent duty disability subgroup and other duty disability subgroup.

   As revised, the duty disability subcategory is a physical or psychological disability caused by performing job-related duties protecting the property and personal safety of others that present inherent dangers (rather than being any disability that occurs or is related to being on duty), and which results in the individual being unable to perform the normal duties of the position for a period of at least one year.

   In contrast, a total and permanent duty disability is a duty disability for which the individual qualifies under the total and permanent disability standard usually used for general employee plans. To meet a total and permanent disability standard, the individual must be unable to perform any gainful employment.

   The final category, regular disability, is any job-related disability resulting from activity that did not present inherent danger, and all disabilities resulting from any non-duty activity.

2. Total and permanent duty disability benefits are 60 percent of the high-five salary, plus three percent of the high-five for each year of service over 20. (This is the treatment which under prior law had been provided to all duty disabilitants.)

3. Duty disabilities other than total and permanent duty disabilities are capped at 60 percent of the high-five salary, rather than 60 percent plus three percent of the high-five for each year of service over 20.

4. Regular disabilities are capped at 45 percent of the high-five salary, rather than being computed like a service annuity based on actual service, with a minimum benefit of 45 percent of the high five.

5. Duty-related disabilitants who do not meet the total and permanent disability standard and all regular disabilitants who are at least age 55 at the time of disability but have less than 20 years service in duty disability cases, or 15 years service in regular disability cases, can receive disability benefits for five years, then the disability benefit must terminate.

6. The disability benefit, except those received by total and permanent duty disabilitants, is converted to a retirement annuity when the member reaches age 55; or for those who are 55 when the disability commenced, on the five-year anniversary of the disability; or when a member elects to convert to an early retirement annuity rather than the disability benefit.

7. Disability benefits can be retroactive for up to 90 days if salary or salary-equivalent benefits were not received during that period.

8. Disability benefits are not allowed if disability is due to illegal drug use and the individual has not taken part in a rehabilitation program and ceased drug use.

9. Three years of service, rather than one year of service, will be required to qualify for surviving spouse annuities if the member's death was not a line-of-duty death. (A "line-of-duty death" is a new term 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 the PERA-P&F. A "not-line-of-duty death" is any death that is not a line-of-duty death.)

10. Surviving spouse benefits in death-while-active situations are increased from 50 percent to 60 percent of final salary in line-of-duty death situations, and the family maximums related to line-of-duty deaths are revised accordingly.

11. Early retirement (by any individual who becomes a PERA-P&F member after June 30, 2007, or by a former member who is reinstated after that date) will require a reduction of .2 percent for each month that the individual is under age 55, rather than one-tenth.

These changes were in response to high and rising PERA-P&F disability provision costs. Information provided to the Commission last year when the Commission considered the above changes showed the normal cost of plan disability benefit provisions, as presented in the plan actuarial reports for selected years from 1990 through 2006. For comparison, the following table included three general employee plans (MSRS-General, PERA-General, and TRA), the two correctional employee plans (MSRS-Correctional and PERA-Correctional), and the two statewide public safety plans (the State Patrol Retirement Plan and PERA-P&F).

- For the general employee plans, the normal cost of disability benefit coverage is generally less than one-half of one percent of payroll.
- For the quasi-public safety/correctional employee plans, the normal cost of disability benefit coverage approaches that of public safety plan disability coverage.
- The public safety plan disability normal cost is much higher, over 2.3 percent of payroll in the State Patrol Plan and in excess of 3.4 percent of payroll in PERA-P&F as of the 2006 actuarial valuation.

The PERA-P&F disability normal cost approximately doubled as a percentage of payroll since 1990. The size of that increase actually could be considerably understated in the table, because it is based on the actuarial assumptions regarding probabilities of collecting disability benefits. In recent years those actuarial assumptions seriously understate usage. A recent experience study indicated that actual disability was 180 percent of the predicted number.

Table 1

Normal Cost of Disability Benefits
Expressed as Percentage of Covered Payroll

	1990	1995	2003	2004	2005	2006
PERA-General	0.30%	0.49%	0.37%	0.34%	0.35%	0.36%
MSRS-General	0.25%	0.27%	0.42%	0.45%	0.43%	0.42%
TRA	0.47%	0.62%	0.21%	0.18%	0.19%	0.21%
PERA-P&F	1.70%	2.12%	2.26%	3.50%	3.42%	3.42%
State Patrol	1.84%	2.39%	2.43%	2.50%	2.50%	2.34%
MSRS-Correctional	0.21%	0.24%	1.25%	1.61%	1.60%	3.06%
PERA-Correctional	n/a	n/a	1.86%	1.54%	1.53%	1.49%

Source: Plan actuarial valuation reports for identified years

While general employee plans set a stringent requirement to qualify for disability (that the individual must be incapable due to injury or disease of performing any meaningful employment), public safety plans typically use a requirement that the individual be unable to perform in the individual's assigned position. While unquestionably there are many public safety disabilitants who are severely disabled as a result of protecting the safety of others, there are also public safety plan disabilitants who have marginal impairments and function well, who have considerable employable skills, and who are earning considerable income from reemployment while receiving disability benefits. Some of these disability claims are due to injury while not at work, or while at work but not performing an employment-related duty.

Ed Burek

From: Mary.Vanek@state.mn.us
Sent: Friday, March 28, 2008 12:49 PM
To: Ed Burek
Subject: RE: Cost of H.F. 4117 (Holberg); S.F. 3803 (Pariseau)

Hard to say how many of the 121 duty disability recipients, approved since December 31, 2004 and who have less than 25 years of service, will come forward and want to have us reevaluate whether they'd qualify.

Staff identified three cases -- including Dan Wulff -- that they think would qualify under the total and perm requirement. The bill doesn't direct as to whether the Post Fund adjustments already paid are to be included in the new benefit, which we have assumed would become payable June 1, 2008. With Post Fund adjustments already paid added to the new higher level the Police and Fire Fund would have an additional cost of:

$116,129(monthly benefit difference = $795) for the age 56 recipient; $160,048 (monthly benefit difference = $915) for Mr. Wulff; and $161,566 (monthly benefit difference = $908) for the age 41 recipient.

If the Post Fund increases are not intended to be included in the new value, then the additional costs to PERA P&F are $98,448 (benefit difference = $674) , $143,719 (benefit difference = $822) and $132,133 (benefit difference = $742), respectively.

These values are based on required reserve transfers that would be required to be made to the Post Fund to cover the higher benefit level.

Mary Most Vanek, Executive Director
Public Employees Retirement Association
60 Empire Drive, Suite 200
St. Paul, MN 55103
(651) 296-8358

From: Ed Burek [mailto:edward.burek@lcpr.leg.mn]
Sent: Friday, March 28, 2008 12:22 PM
To: Mary Vanek (mary.vanek@state.mn.us)
Subject: Cost of H.F. 4117 (Holberg); S.F. 3803 (Pariseau)

Do you have an cost information on H.F. 4117 (Holberg); S.F. 3803 (Pariseau)? This is the bill which increases total and permanent PERA P&F total and permanent duty disability benefits, with eligibility retroactive to December 31, 2004.

.... moves to amend H.F. No. 4117; S.F. No. 3803, as follows:

Page 2, line 15, after "enactment" insert "."

Page 2, delete lines 16 to 18

.... moves to amend H.F. No. 4117; S.F. No. 3803, as follows:

Page 2, line 17, delete "December 31, 2004" and insert "..............."

.... moves to amend H.F. No. 4117; S.F. No. 3803, as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2006, section 353.65, subdivision 2, is amended to read:

Subd. 2. **Employee contribution rate.** (a) The employee contribution is an amount equal to the percent of the total salary of the member specified in paragraph (b). This contribution must be made by deduction from salary in the manner provided in subdivision 4. Where any portion of a member's salary is paid from other than public funds, the member's employee contribution is based on the total salary received from all sources.

(b) ~~For calendar year 2006, the employee contribution rate is 7.0 percent. For calendar year 2007, the employee contribution rate is 7.8 percent. For calendar year 2008, the employee contribution rate is 8.6 percent. For calendar year 2009 and thereafter,~~ The employee contribution rate is ~~9.4~~ <u>10.6</u> percent<u> of salary</u>.

<u>EFFECTIVE DATE.</u> <u>This section is effective as of the first full payroll period beginning on or after January 1, 2009.</u>

Sec. 2. Minnesota Statutes 2006, section 353.65, subdivision 3, is amended to read:

Subd. 3. **Employer contribution rate.** (a) The employer contribution shall be an amount equal to the percent of the total salary of every member as specified in paragraph (b). This contribution shall be made from funds available to the employing subdivision by the means and in the manner provided in section 353.28.

(b) ~~For calendar year 2006, the employer contribution rate is 10.5 percent. For calendar year 2007, the employer contribution rate is 11.7 percent. For calendar year 2008, the employer contribution rate is 12.9 percent. For calendar year 2009 and thereafter,~~ The employer contribution rate is ~~14.1~~ <u>15.9</u> percent<u> of salary</u>.

<u>EFFECTIVE DATE.</u> <u>This section is effective as of the first full payroll period beginning on or after January 1, 2009.</u>"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly