



S.F. 1601
(Olson, M.)

H.F. 1793
(Nelson)

Executive Summary of Commission Staff Materials

Pension Plan(s): Teachers Retirement Association
Relevant Provisions of Law: Minnesota Statutes, 354.06, Subdivision 1
General Nature of Proposal: Adds an additional retiree position to the TRA Board of Trustees
Date of Summary: August 4, 2009

Specific Proposed Changes

- Expands the TRA Board of Trustees from eight to nine members by the addition of a second retiree board member.

Policy Issues Raised by the Proposed Legislation

1. Question of whether pension boards are needed, and whether these state wide plan administrations should be eliminated and the function move to a state department.
2. Justification for the different board structures currently found among retirement plans.
3. Implications of adding additional seat rather than replacing an existing active member seat.
4. Adding seat will increase influence of retirees on TRA Board positions.
5. Adding additional retiree seat will encourage similar requests by other interest groups.
6. Question of whether bill is supported by TRA and unions.

Potential Amendments

S1601-1A is a technical amendment revises the new retiree board position term to begin on July 1, 2010, rather than July 1, 2009, and revises the initial term to be one year rather than two years.

S1601-2A, an alternative to Amendment S1601-1A, is a delete-everything amendment that adds a retiree position while decreasing the active member positions by one. The revision would occur on July 1, 2011, coinciding with the end of the term of one of the existing active member board positions.



TO: Members of the Legislative Commission on Pensions and Retirement

FROM: Ed Burek, Deputy Director *EB*

RE: S.F. 1601 (Olson, M.); H.F. 1793 (Nelson): TRA; Adding a Second Elected Retiree Position to the Board of Trustees

DATE: July 22, 2009

Summary of S.F. 1601 (Olson, M.); H.F. 1793 (Nelson)

S.F. 1601 (Olson, M.); H.F. 1793 (Nelson) amends the Teachers Retirement Fund Association (TRA) board provision (Minnesota Statutes, Section 354.06, Subdivision 1) by expanding the board from eight to nine trustees through the addition of an additional elected retiree position. The initial election for the new retiree position will be for a two-year term commencing on July 1, 2009, and ending June 30, 2011. Thereafter, the term is for four years.

TRA Board Membership

Under current law, TRA has eight board members, five that are elected and three that are appointed. The elected members consist of four teachers as defined in TRA law who are elected by the active plan members and one retiree elected by the plan retirees and survivors. The three appointed members are the Commissioner of Finance, the Commissioner of Education, and a representative of the Minnesota School Boards Association. The five elected members presumably will ensure that the active members of the plan and the retirees are well represented, while the three appointed members provide input reflecting financing and broad social policy. The Minnesota School Boards Association and the Commissioner of Finance reflect the state's financial interest in funding public education throughout the state and funding the pension plans of teachers. The Commissioner of Education represents the state's interest in education policy in general.

The elections for the various elected members are staggered, so not all elected member seats are up for election at the same time. The elections are for four-year terms. For the active member seats, two are elected in an odd year, and the other two are elected in the next odd year. The retiree seat is up for election every other odd year.

All board members, both elected and appointed, serve in a fiduciary capacity.

TRA Board Powers and Responsibilities

The TRA board is responsible for electing the board president and hiring the TRA executive director. The board, with executive director's assistance, hires and retains other administrative staff for the fund and retains other services as needed or as required by law.

The TRA board approves the TRA budget, which is then funded out of the body of the TRA fund or the incoming contribution stream, with the remainder being certified to SBI for investment. The board establishes bylaws to govern the plan and the organization consistent with state law, and amends these bylaws as needed over time.

As plan fiduciaries, the board is responsible for all aspects of the plan, including authorizing proper expenses, ensuring that TRA properly determines eligibility for membership, receiving the contributions required by law, properly determining and computing benefits, and maintaining membership and financial records.

In practice, the TRA executive director and staff make the benefit determination decisions, but through an appeal process, some cases are brought before the board. Sometimes these appeals deal with benefit amount determinations. For example, the Executive Director and his staff may conclude that various payments provided to a retiring member do not meet TRA's salary definition and thus should not be included in the high-five average salary used to compute the annuity. These determinations might then be appealed to the board. The most typical appeals are disability benefit claims. The executive director may

deny a disability claim due to a conclusion that the individual does not meet TRA's disability definition. The individual could then appeal the executive director's determination to the TRA board.

In addition to TRA's administrative staff of approximately 90 employees, TRA retains an actuarial services firm, currently Mercer Consulting. TRA is audited by the Office of the Legislative Auditor. Legal counsel of provided by the Office of the Attorney General. The plan's medical advisor, for purposes of advising the Executive Director and the Board on disability applications and disability benefit renewals, is the Minnesota Department of Health. By law, all TRA financial assets are invested by the State Board of Investment (SBI).

TRA: Retirees as a Percentage of Active Membership

Table 1 shows for recent years, 1998 through 2008, the relationship between TRA's active members and its retirees, with retirees defined as service retirements plus survivor annuitants. In 1998 TRA had 68,247 active members and 26,774 retirees. Alternatively, for every 100 active members there were 39 retirees. The ratio of retirees to active members has been increasing. In 2008, for every 100 active members there are 61 retirees. Looking at the last few years, the ratio of retirees to active members increased noticeably in 2006 to 56 percent, up from 51 percent a year earlier. In 2007, the ratio increased to 59 percent, and for 2008 the ratio is 61 percent. Throughout this period, there was one retired board member representative while there were four active member representatives.

Table 1
TRA Membership Data

Date	Active Members	Retirees ¹	Retirees ÷ Active Members	Current Law:
				Retiree Board Members ÷ Active Board Members
1998	68,247	26,774	39%	25%
1999	68,613	29,273	43	25
2000	70,508	31,437	45	25
2001	71,097	33,239	47	25
2002	71,690	34,423	48	25
2003	71,916	35,641	50	25
2004	72,008	37,060	51	25
2005	74,552	38,376	51	25
2006	79,164	44,053	56	25
2007	77,694	45,902	59	25
2008	76,515	46,340	61	25

¹ Retirees defined as service annuitants plus survivors.

Sources: TRA 2007 Comprehensive Financial Report (6/30/2007), pp. 71, 78;
TRA 2008 Actuarial Valuation Report, p. 2.

In interpreting the table, it should be noted that the 2006 through 2008 information is impacted by the merger of the Minneapolis Teachers Retirement Fund Association (MTRFA) into TRA. The MTRFA had a much higher percentage of retired teachers relative to active teachers than is true the remainder of TRA's general coverage group. The MTRFA actuarial report for 2005, the year prior to the merger, indicates the ratio of MTRFA retirees to MTRFA active members was 0.8, or 80 percent, while Table 1 indicates that for TRA in 2005, the ratio of retirees to actives was only 51 percent. Thus, some of the considerable increase in the TRA 2006 through 2008 retiree/active member ratio is due to this merger. The very high proportion of retirees to active members in Minneapolis schools may not hold in the more distant future. The large number of retirees from that school system is in part due to the MTRFA basic member program, which included generous crediting of service and various early retirement provisions. With most current Minneapolis teachers under the TRA coordinated plan, retirements may be delayed to later ages.

An additional problem is that the 2006 and 2007 active member totals as stated in the table are not fully reliable. The 2006 and 2007 TRA actuarial reports warn that the active member totals for those two years reflect some double counting of Minneapolis teachers. Some active Minneapolis teachers were counted as active members when they were transferred to TRA, and they were counted again as TRA records were created for their continuing employment. This appears to have been rectified by the 2008 actuarial valuation.

Minnesota Post Retirement Investment Fund Dissolution

Legislation was enacted in 2008 (Laws 2008, Ch. 349, Art. 1) requiring the Minnesota Post Retirement Investment Fund (Post Fund) to be dissolved if the funding ratio fell below 80 percent in any one year or below 85 percent in two consecutive years. The Post Fund funding ratio recently did fall below 80

percent, and the Post Fund was dissolved and Post Fund provisions in law were repealed. The retiree assets were transferred back to the applicable Minnesota State Retirement System (MSRS), Public Employees Retirement Association (PERA), or TRA plan and merged with the plan's active member assets. Benefit recipients are to receive an annual 2.5 percent increase in lieu of any other increase specified in the now repealed Post Fund laws.

Regarding the board membership issue, it is unclear how retirees will react to the Post Fund dissolution. With retiree assets now merged with active member assets and with procedures in place for properly funding TRA and other state-level pension plans, retirees have greater security and may feel less need for increased board membership. On the other hand, recent events caused a significant change, and retirees may feel more in need of an increased voice to ensure their interests are well represented.

Discussion and Analysis

S.F. 1601 (Olson, M.); H.F. 1793 (Nelson) expands the TRA board from eight to nine trustees through the addition of an additional elected retiree position, with an initial two-year term from July 1, 2009, to June 30, 2011, and four-year terms thereafter.

In current law, TRA elected board positions are for four-year terms, with half of the board positions up for election every two years, which ensures some continuity. The next election for the existing TRA retiree board member position will be for the four-year term from July 1, 2009, to June 30, 2013. To avoid having the existing retiree board member term and the proposed new retiree position term coincide, section 2 of the bill includes a transition provision causing the initial term for the new position be for two years, from July 1, 2009, to June 30, 2011, with a four-year term thereafter.

Policy issues raised by the bill include:

1. Need for More General Study of Public Pension Plan Governance. While the ratio of TRA retirees to active members might seem to justify adding another retiree to the TRA Board, the Commission might wish to consider that the primary charge to the board is to ensure that the plan is operated according to law. A similar charge is given to every commissioner or agency head in state government, and for the most part these departments and agencies operate without any board. Thus a more fundamental question is whether any of our retirement systems need a board, or any active or retired member representation. As part of this discussion, the Commission may wish to discuss merging retirement systems and shifting the duties presently performed by these retirement system administrations into a single state retirement department.
2. Differences in Board Structure Between Plans. The boards of the various retirement systems all perform very similar functions, yet the structure and size of these boards differ. An issue is whether these differences can be justified. If not, the Commission may wish to consider creating more uniformity between the various pension systems. Attachment A describes the structure and responsibilities of the boards of MSRS, PERA, TRA, the remaining first class city teacher plans, and the Minneapolis Employees Retirement Fund (MERF). The size of these boards range from seven for MERF, to eleven for MSRS and PERA. The size of the teacher plan boards ranges from eight to ten, with the smaller teacher plans having larger boards than TRA. The Duluth Teachers Retirement Fund Association (DTRFA), the St. Paul Teachers Retirement Fund Association (SPTRFA), and MERF, all of which receive direct state aid, have no state appointed members.
3. Implications of Adding an Additional Member to TRA Board versus Replacing an Existing Seat. The issue is whether a new seat should be added, as proposed in this bill, rather than replacing an existing active member seat. Replacing an existing active member seat with a seat reserved for a retiree may bring active members (and unions) into direct conflict with retirees. Instead, the bill would add a new seat, which may somewhat lessen that potential conflict. However, this creates another conflict by altering the mix of elected seats compared to appointed seats. The elected seats will have a bias toward the interest of employee groups (active employees and retired employees). In contrast, the appointed seats (the Commissioner of Finance, Commissioner of Education, and Minnesota School Board Association member) represent the interests of the general public, the taxpayers. Adding another elected member seat would mean that the appointed seats would represent 33% of the seats on TRA's board, rather than the current 37%.

An argument for not reducing the percentage of the board seats devoted to the appointed members is that the taxpayers bear the risk for this pension fund. Taxpayers pay the salaries of teachers and they make employer contributions to this fund which are at least the same as the employees, and often

greater. Whenever pension funds have unfunded liabilities, it is generally the employer who makes the additional contribution needed to amortize that unfunded liability. In contrast, active plan members and retirees are protected by law. Benefits promised to retirees and employees are specified in law and must be paid. Only in extraordinary circumstances have the courts permitted benefits to be reduced.

Given the responsibility and risk borne by the taxpayer and the protections provided to active members and particularly to retirees, one could contend that the percentage of state representation on this board should be increased, rather than be allowed to erode by adding another employee representative.

4. Interests of the Retirees Impacting Board Positions. The Commission may choose to consider that adding another retired member to TRA's board will change, to an extent, the interests and priorities of the TRA board and the legislative initiatives which the board may propose and support.
5. Encouragement of Additional Requests. The Commission may wish to consider that expanding the TRA board to include an additional retiree may encourage other groups to seek representation, and may undermine the Legislature's ability to deny such requests. In 2005, the Commission considered S.F. 648 (Betzold, by request); H.F. 1374 (Erickson), which would have added a seat to TRA's Board reserved for a person licensed by the Minnesota Board of School Administrators. The Commission heard the bill but did not recommend the bill to pass. If the current proposal is enacted, particularly if it leads to further additions of positions reserved for school administrators or other groups, the representation of the general taxpayer may be considerably eroded.
6. TRA and Union Position. The issue is whether TRA supports the proposed change and whether there is union support.

Potential Amendments for Commission Consideration

S1601-1A is a technical amendment revising the transition section of the bill. The bill was drafted assuming passage in the 2009, which did not occur. The amendment revises the language to have the first term of the new retiree position start on July 1, 2010, rather than July 1, 2009, and makes that initial term a one-year rather than two-year term.

S1601-2A, a delete-everything amendment and an alternative to Amendment S1601-1A, adds a retiree position but decreases the active member positions by one, leaving the total number of elected positions at five. The board composition revision would occur on July 1, 2011, coinciding with the end of the term of one of the current active member positions.

Attachment A
Minnesota Public Pension Plans
Board Structure and Responsibilities

Membership

MSRS	11 board members. [352.03, Subd. 1]
PERA	11 board members. [353.03, Subd. 1]
TRA	8 board members. [354.06, Subd. 1]
DTRFA	9 board members. [Article V]
SPTRFA	10 board members. [Articles, Art. V; Bylaws Art. III, Sec. 1]
MERF	7 board members. [422A.02]

Active Member Representation

MSRS	4 state employees elected by state employees covered by the system. [352.03, Subd. 1]
PERA	4 active members, elected by active and retired membership of the various plans administered by the association, of which one must be a police and fire plan member. [353.03, Subd. 1]
TRA	4 teachers elected by the active plan membership. [354.06, Subd. 1]
DTRFA	5 active members of the association elected by and from the active plan membership. [Article V]
SPTRFA	9 SPTRFA members elected by the SPTRFA membership. [Articles, Art. V; Bylaws Art. III, Sec. 1]
MERF	Up to three legally qualified voters, selected by the active members who may form an association for that purpose. [422A.02]

Ex Officio Representation

MSRS	3 governor appointees, one a constitutional officer, two public members knowledgeable in pension matters. [352.03, Subd. 1]
PERA	The state auditor or the auditor's designee and five governor appointees, of which one represents school boards, one represents cities, one represents counties, one is a PERA annuitant, and one is a public member who is knowledgeable in pension matters. [353.03, Subd. 1]
TRA	3 members; the commissioner of finance; the commissioner of children, families and learning; and a representative of the Minnesota School Boards Association. [354.06, Subd. 1]
DTRFA	One member of ISD No. 709 appointed by the school board chair and the superintendent of ISD No. 709 or the designee of the superintendent. [Article V]
SPTRFA	Chair of ISD No. 625 (St. Paul) or another school board member appointed by the ISD No. 625 board. [Articles, Art. V]
MERF	2 members, the mayor or mayor's designee, and city council member, selected by the council. [422A.02]

Retiree Representation

MSRS	1, elected by system disabled and retired members. [352.03, Subd. 1]
PERA	1, elected by the active and retired membership of the various plans. [353.03, Subd. 1]
TRA	1, elected by the retirees of the plan. [354.06, Subd. 1]
DTRFA	2, elected by the retirees of the plan. [Article V]
SPTRFA	No specific provision.
MERF	At least 2 legally qualified voters, also selected by the Minneapolis Employees Retirement Association. [422A.02]

Other Appointed Representation

MSRS	1, appointed by the Metro Council Transit Operation employee union. [352.03, Subd. 1]
PERA	None.
TRA	None.
DTRFA	None.
SPTRFA	None.
MERF	None.

Other Elected Representation

MSRS	2, with 1 elected by the State Patrol Plan membership and 1 elected by the Correctional Plan membership. [352.03, Subd. 1]
PERA	None.
TRA	None.
DTRFA	None.
SPTRFA	None.
MERF	None.

Exclusions and Restrictions

MSRS	MSRS employees and state employees on leave of absence are excluded. [352.03, Subd. 1]
PERA	For elected board positions, non-public /non-PERA members are excluded. [353.03, Subd. 1]
TRA	Elected trustees must be members in good standing at time of election. Teacher union employees who are members are excluded from board service. [354.06, Subd. 1, and 354.41, Subd. 7]
DTRFA	Elected active member trustees must be contributing members of the association and cessation of that active membership automatically terminates board membership, except that upon retirement, the trustee may continue board service until the next annual association meeting. The trustee representing the school board must be a member of the board of ISD No. 709 and cessation of service on the school board automatically terminates DTRFA board membership. A trustee representing the active membership who takes a leave of absence from ISD No. 709 employment for more than 60 days for any reason will have the

Exclusions and Restrictions

	person's position on the board declared vacant. [Article V]
SPTRFA	No specific provision.
MERF	For elected board positions, the person must be a legally qualified voter. No board member may participate in any deliberation or vote on a matter for which the person has a direct measurable personal gain interest. [422A.02; 422A, Subd. 2b]

Term, Duration, and Frequency

MSRS	4 years and until successor qualifies, staggered for the four elected board members. [352.03, Subd. 1]
PERA	To January 31 of fourth year of service and, for elected board members, until the successor qualifies. [353.03, Subd. 1]
TRA	Four years; staggered for the elected board members. [354.06, Subd. 1]
DTRFA	The term of the board representative is three years and until the successor qualifies. The term of the active or retired membership trustees is two years or three years, staggered and until the successor qualifies. The term of the school board representative commences on the first regular DTRFA board meeting held after the person's appointment. The term of active or retired member representatives commences on November 15 of the year of the election. [Article V; and Bylaws III]
SPTRFA	3-year terms, staggered, for elected board members. Elected board members are divided into three classes of three trustees each, with an election of a class each year at the annual meeting. [Bylaws Art. III, Sec. 1]
MERF	3 years, to January 1, staggered, and until the successor is duly elected. [422A.02]

Conduct of Election

MSRS	In a manner fixed by the board. [352.03, Subd. 1]
PERA	Board position filings October 1-7, annually; petition must be signed by a minimum of 25 PERA members; withdrawal until October 15; candidate statement corresponding to Secretary of State approved board requirements mailed by PERA to the membership; candidates with \$100 in contributions or expenditures required to file within 30 days after the election with the Campaign Finance and Disclosure Board; vote may be cast for only one candidate; no incumbency designation permitted; ballots and voting must ensure secrecy; Secretary of State must supervise the election. [353.03, Subd. 1]
TRA	Board position filings with minimum of ten plan member signatures; election must be completed by June 1 of each odd-numbered year. [354.06, Subd. 1]
DTRFA	Board members who are representatives of the membership must be elected at the annual membership meeting, to be held on the last Monday in October at 4:00 p.m. [Article V]
SPTRFA	Candidates for election to the board are required to be nominated by at least ten members of the association on a form prescribed by the board and available from the association office. The form is required to be filed with association office by December 1 prior to the election date. Nominations of candidates for the board also are permitted from the floor at the annual meeting, where the election is held by ballot. [Bylaws Art. IV]
MERF	Election by the Minneapolis Employees Retirement Association must be conducted in the first week of December annually. [422A.02]

Compensation

MSRS	As provided in Section 15.0575. [352.03, Subd. 1a]
PERA	No compensation for board service, but reimbursement of board member from PERA fund required for actual and necessary expenses. Public employee board members are not permitted to suffer loss of regular compensation as a result of board service. [353.03, Subd. 2]
TRA	No compensation for board members, but reimbursement of board members from TRA fund for necessary expenses related to board duties and reimbursement of the employer for a substitute teacher hired to cover the absence of the board member. Board members are not permitted to suffer loss of regular compensation as a result of board service. [354.06, Subd. 4]
DTRFA	Board of trustee members are required to render their services without compensation, except for the treasurer, who shall be compensated as the board determines. [Articles, Art. V; Bylaws IV]
SPTRFA	The secretary and the treasurer are to be paid a salary in an amount to be set by the trustees. Other members of the board are not permitted to receive any compensation for their board services, but are entitled to receive reimbursement for expenses that are reasonably and necessarily paid or incurred in the performance of their duties. [Bylaws Article V, Section 7]
MERF	No compensation for board members, but reimbursement for necessary expenditures. Board members who are city employees are not permitted to suffer a loss of salary or wages for board service. [422A.04, Subd. 1]

Indemnification of Board Members

MSRS	No specific provision.
PERA	No specific provision.
TRA	No specific provision.
DTRFA	No specific provision.
SPTRFA	The association is permitted to indemnify board members and employees from loss, damage, and liability incurred by, sustained by, or arising out of the performance of association duties unless willful misconduct, gross negligence, or bad faith is involved. [Bylaws Article V, Section 8]
MERF	No specific provision.

Removal

MSRS	As provided in Section 15.0575. [352.03, Subd. 1a]
PERA	No explicit provision.
TRA	No explicit provision.
DTRFA	A vacancy is required to be declared by the board if a representative of the membership goes on a leave of absence greater than 60 days. [Bylaws III]
SPTRFA	No specific provision.
MERF	No specific provision, but removal referenced in Section 422A.02. [422A.02]

