COLORADO PERA

Legislative UPDATE

April 2003

from the Colorado Public Employees' Retirement Association

Legislative Update is published periodically to keep interested persons informed on legislation affecting PERA

Deliberations By The Joint Budget Committee (JBC)

The JBC has introduced the Long Bill and the Legislature is busy discussing it, along with related bills to balance the state's budget in fiscal years 2002-03 and 2003-04.

One of the bills the JBC is counting on is SB 03-101, which would continue the PERA State and School Division employer contribution at 10.04 percent of salary through June 30, 2004. PERA supports SB 101, which establishes an orderly method for setting contribution rates. Page 2 describes the bill in more detail.

Among the 44 bills introduced by the JBC to help put spending in line with expected revenues are bills that would eliminate salary survey increases for certain state employees for the year that begins July 1 2003, suspend until 2006 the state's annual $25 million contribution toward the unfunded liability of firefighters' and police officers' pension funds, and temporarily eliminate the property tax exemption for persons age 65 or over who have owned and lived in their home for at least 10 years.

The JBC has decided for now to not propose furloughs (days off without pay) for all state employees. However, employees of the State Judicial Department will have taken eight days of furlough from October 2002 through June 2003. They are scheduled to have five more days of furlough in the year that starts July 1, 2003. The Judicial Department includes over 2,800 court and administration employees. Over 310 Judicial Department employees are currently eligible for retirement, and another 24 have retired since the furlough started.

The JBC has introduced SB 277 to allow any PERA member who is furloughed for any time from July 2002 through June 2004, to have his or her Highest Average Salary (HAS) calculated based on full salary. Members affected would be allowed to pay the member contribution on the unpaid salary. This payment would be made during the month prior to retirement or termination, and if the member pays the member contribution, the employer would be required to pay the employer contribution. PERA suggested a clarifying amendment, which was adopted by the Senate Finance Committee with agreement by the sponsor, Senator Peggy Reeves (Fort Collins). The full Senate passed the bill on April 3.

The Governor's Budget Office had suggested to the JBC that the member contribution rate might be set at 10.04 percent and the State rate decreased to 8 percent, at least for a while, to deal with the budget crisis. The JBC did not pursue this. But, the idea could come up again once the Legislature deals with the Long Bill for FY 2003-04.

There are several reasons why increasing the member rate would be a problem: (1) it probably would be an impairment of contract as no new benefits would be added, just a rate increase, (2) there are few, if any pension plans in which employees pay more than employers, and (3) PERA would be considerably worse off financially if the rate were lowered for the State by the same amount as the rate were increased for members. The employer contribution buys more benefit for each percentage point of contribution, compared to the member rate.

Legislation of Interest to PERA

SB 03-98: Modification of PERA Benefits Provisions

Sponsored by Senator Ken Arnold (Westminster) and Representative Tim Fritz (Loveland). The bill was passed unanimously by the House on March 24. Representatives Frangas, Jahn, Stafford and Vigil signed on as cosponsors.

SB 98 has returned to the Senate, and Senator Arnold will ask for a conference committee. In this procedure, three members of the House and three members of the Senate are appointed to a conference committee to meet and try to work out any differences, then send the bill back with recommended changes to both chambers for approval. Senator Arnold and Representative Fritz will be on the committee since they are the Senate and House sponsors of the bill.

The conference committee is expected to work on provisions that would assure that moneys in the Colorado County Officials and Employees Retirement Association (CCOERA) could be transferred to PERA, should Jefferson County or any other employer affiliated with CCOERA decide to affiliate with PERA. The bill currently contains provisions related to the process for local governments to withdraw from county plans, but these provisions would not be very effective in allowing withdrawals of assets from CCOERA or other county plans.

Below is a list of the provisions contained in the SB 98. For a detailed description of each item, visit PERA's Web site at www.copera.org, and click on the Legislation link on the home page.

- Sets maximum purchase of service credit for non-covered employment at 10 years, effective November 1, 2003.
- Allows employees of new affiliates to purchase the total number of years they worked for that employer under certain conditions.
- Requires a portion of the service credit purchase cost to be assigned to the Health Care Trust Fund.

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- Deletes a seldom-used provision to make direct payments in lieu of contributions.
- Provides for a 100 percent match on any remaining moneys in a retiree account upon death to be paid to the beneficiary.
- Gives district courts in a divorce action the jurisdiction to allow a retiree to remove a spouse who was a named cobeneficiary on his or her option 2 or 3 benefit, and change the benefit to option 1.
- Authorizes the retiree in the case above to elect an option 2 or 3 benefit and designate a new spouse as cobeneficiary upon remarriage.
- Allows employees of employers who affiliated after leaving CCOERA or another local plan to rollover their accounts to an eligible plan if they reach age 59 1/2, terminate employment, and other conditions.
- Requires a minimum of 65 percent of affected employees to vote in favor of leaving their local or CCOERA plan for another plan or to affiliate with PERA.
- Provides for staff of The Colorado Association of School Executives to become PERA members.
- Allows purchases of service credit for employment by a foreign employer, effective November 1, 2003.
- Allows retirees to fill the position of a member called into active military duty, without the 110-day calendar limit on work after retirement.
- Allows employees in the State Elected Officials Defined Contribution Plan to leave that plan and join PERA under certain conditions.

SB 03-101: Contribution Stabilization

Sponsored by Senator Dave Owen (Greeley) and Representative Brad Young (Lamar). Cosponsors include Senators Anderson, Arnold, Hanna, and Teck, and Representatives Coleman, Decker, Miller, and Tambor Williams. The bill was approved in the Senate Appropriations Committee with one technical amendment. The amendment reduces the appropriation to each state agency for the fiscal year that begins July 1, 2003, to reflect that the State and School Division contribution rate for that year will be 10.04 percent of salary rather than 10.15 percent rate, which is the rate that would be required in the absence of SB 101. This bill was passed by the Senate on March 10 and the House Finance Committee passed the bill on March 21. The bill is now in the House Appropriations Committee.

Under this proposal, employer contribution rates would remain constant when PERA's funding level is between 95 and 110 percent.

- Any funding level between 85 and 95 percent would be amortized over 30 years, and gainsharing provisions would not be in effect.
- MatchMaker contributions would end after December 2003 payrolls.
- Gainsharing provisions for the MatchMaker program and the Health Care Trust Fund would resume whenever PERA is over 110 percent funded.
- Funding levels below 85 percent or above 115 percent would be amortized over 20 years.
- Employer contributions would remain at their current level through June 30, 2004, for State and School and Judicial employers, and then increase depending on PERA's funding level.

Under this same proposal, employers would send their contributions to PERA by the fifth business day after employees are paid. The current due date is the 10th day after the end of the month in which employees were paid. This proposal brings employer contributions for PERA more closely in line with contributions employers make to defined contribution plans.

SB 03-142: Regulation of Pharmacy Benefit Managers (PBMs)

Sponsored by Senator Lewis Entz (Hooper) and Representative Gayle Berry (Grand Junction). This bill was passed by the Senate Business Affairs and Labor Committee on February 12 on a 5-2 vote. It is in the Senate Appropriations Committees and is scheduled to be heard on April 4.

PBMs are used by health care plans to effectively provide prescription drug benefits. The PERA Board is opposing SB 142 because there would be no benefit in the regulation of PBMs by the State Board of Pharmacy. Pharmacists must be licensed, and health care plans that contract with PBMs are regulated by the Division of Insurance. Even though further regulation is unnecessary, PBMs would have to pay an application fee and a four-year renewal fee of nearly $12,000.

SB 142 could restrict the ability of PBMs to secure drug discounts that save plans and their enrollees money on prescription drugs and health plan premiums. PERA and other opponents, including businesses and health care plans, are concerned that the State Board of Pharmacy would promulgate rules harmful to mail-order programs of PBMs.

SB 03-197: Delaying Payday for State Employees

Sponsored by Senator Owen and Representative Young. This bill is part of a package of bills that cuts state expenses for the fiscal year that ends June 30, 2003. The bill provides that salaries for the month of June would be paid on the first working day of July for all state employees, including higher education employees. For other months, payday will continue to be the last working day of the month. This results in 12 monthly paydays for state employees in calendar year 2003 and future years. SB 197 has been signed by the Governor.

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SB 03-233: Allow Deputy District Attorneys (DAs) and Other DA's Employees to Join PERA

Sponsored by Senator Mark Hillman (Burlington) and Representative Rob Fairbank (Littleton). This bill would allow Deputy DAs and other employees in the DA's office to join PERA or the State DC Plan under certain conditions. Statewide, there are 472 deputy DA's and 955 other employees (support staff).

Currently, only the elected DA is eligible for PERA, and other employees are excluded. The bill was amended by the Senate Finance Committee March 4 and passed by the Senate on March 10. It was passed by the House Finance Committee on March 21 and taken up by the full House on April 1.

The House amendment clarifies that if SB 98 passes, then DA's employees who join PERA would have the ability to purchase more than 10 years of service with the judicial district. Also, judicial districts would be state employers for PERA purposes.

SB 03-250: Possible Affiliation of Denver Public Schools (DPS) with PERA

Sponsored by Senators Paula Sandoval (Denver) and Norma Anderson (Lakewood) and Representatives Nancy Spence (Centennial), Rosemary Marshall (Denver) and Suzanne Williams (Aurora). This bill would merge the assets and liabilities of DPS Retirement System into PERA under conditions that are fair actuarially to both systems. DPS would join other Colorado school districts in PERA. The PERA Board supports the affiliation of Denver Public Schools under the terms that any affiliation would be cost neutral to PERA participants and the PERA trust funds.

The Senate passed the bill on March 25 and sent it to the House. It was approved by the House Finance Committee on April 2, and was sent to the House Appropriations Committee.

HB 03-1204: Disclosure by Investment Firms

Sponsored by Representative Joe Stengel (Littleton) and Senator Ed Jones (Colorado Springs). This bill was passed by the House of Representatives on February 21 and by the Senate on March 4. As amended, HB 1204 would require investment firms that sell corporate securities to the State Treasurer, PERA, FPPA, and any public entity to disclose whether they have a conflict of interest for any securities they offer to sell. The bill was signed by Governor Owens on March 20. PERA believes that disclosure is standard and it will not hamper investment functions.

HB 03-1327: Nonlicensed School Employees

Sponsored by Representative Dorothy Butcher (Pueblo) and Senator Abel Tapia (Pueblo). This bill would extend the program that allows school districts to declare a critical shortage of nonlicensed employees and hire PERA retirees to work full-time in nonlicensed positions with no reduction in their PERA retirement benefit. There are seven districts that currently are using the program. The program was enacted during the serious labor shortage of 1999-2000 and is due to expire this year.

PERA did not initiate HB 1327 and asked the House Education Committee to amend the bill at the hearing held on March 10.

Under current law, PERA benefits are temporarily reduced when a PERA retiree works more than 110 days for a PERA employer in a calendar year. If the retiree works four hours or less per day, the reduction in PERA benefit occurs if the work exceeds 720 hours in a calendar year.

PERA asked for these amendments to protect the PERA Health Care Trust Fund:

- Allow PERA retirees working in nonlicensed positions during the critical shortage to enroll in the district's health care program, and
- Provide that PERA will not pay a premium subsidy for these retirees who are working during the critical shortage. The retirees could enroll in PERACare but would not receive a premium subsidy from PERA while working full time.

The Committee also extended the program through June 30, 2005. The bill passed out of Committee with these amendments on March 17.

The critical shortage of nonlicensed employees program now would have requirements similar to those for school districts that declare a critical shortage of teachers, and allow retirees to work as teachers for more than 110 days per year with no reduction in retirement benefit. Under both programs, if a district declares a critical shortage, it must pay employer contributions to the retirement fund on salary paid to retirees who work during the critical shortage.

The full House approved the bill on April 2 with another amendment that continues the ability of the Denver Public Schools to declare a critical shortage of nonlicensed employees through June 2005.