

## Senate Bill 05-73. Work After Retirement by PERA Retirees for PERA Employers

**Status:** Signed by Governor Owens on June 2.

Sen. Dave Owen (Greeley) sponsored this bill that will count work under any arrangement by a PERA retiree for a PERA employer toward the 110-day per calendar year limit. This will close a loophole some PERA retirees are using to circumvent the 110-day limit on work after retirement.

The bill has three main provisions:

1. Apply the Amortization Equalization Disbursement (AED) on contributions paid by PERA employers on salaries paid to PERA retirees.
2. Require each PERA employer to send tax-related forms and data to PERA. PERA would be able to use the information to check the names of contractors and other non-employees against the names of PERA retirees, to review the vendors' structure, and to receive copies of the contracts or other arrangements upon request.
3. Count work after retirement for a PERA employer under any arrangement toward the 110-day per calendar year limit, as well as for employer contributions. Employment for a company not owned or operated by the retiree or an affiliated party would not be subject to the 110-day limit or employer contributions.

## Senate Bill 05-171. DPSRS Merger Authorization

**Status:** Signed by Governor Owens on May 24.

This bill was introduced by Sen. Paula Sandoval (Denver) and Rep. Jerry Frangas (Denver) at DPS' request. DPS is willing to pay the costs required to accomplish a merger on an actuarially neutral basis without adversely affecting PERA's funding status. The bill contains key elements including:

- DPSRS benefit recipients who began receiving benefits prior to the January 1, 2007 merger date would continue to receive the same benefits from PERA that they were entitled to receive under DPSRS.
- Active DPSRS members on the date of merger will have the right to receive the PERA benefit or the DPSRS benefit, but not both.
- New DPS employees hired on or after January 1, 2007, would receive PERA benefits.
- All DPSRS assets would be transferred to PERA on the merger date and DPS would make full payment to PERA by June 30, 2007, for liabilities resulting from the merger. DPS as an employer would pay the regular school district employer contribution rate to PERA on an ongoing basis.
- The merger agreement between DPS, DPSRS, and PERA could provide for DPS to put money in an escrow account toward payment for the cost of certain benefit features of the merger whose actuarial value cannot be determined easily until several years following the merger.
- DPS would be authorized to raise the necessary moneys to pay to PERA through the sale of PCOPs (Pension Certificates of Participation) prior to December 15, 2006.
- PERA, DPS, or DPSRS could terminate the merger prior to January 1, 2007, for specified reasons. PERA would have the ability to be paid for services it performs in preparing for the merger, even if the merger were terminated.

This issue contains summaries of legislation from the 2005 session that impact Colorado PERA.



## House Bill 05-1231. Technical Changes to SB 04-257

**Status:** Signed by Governor Owens on April 7.

Rep. Ted Harvey (Highlands Ranch) and Sen. Lois Tochtrop (Westminster) sponsored this bill as members of the State 401(a) Plan Committee to correct some parts of SB 04-257 regarding the DC plan option available for new hire state employees in 2006. The bill provides that:

1. The election by new state hires between the various plans (PERA DB, PERA DC, or State DC) is available to those employees who have not been active participants in any of the three plans in the prior 12 months.
2. Employees who have less than a 12-month break in service will be required to return to the plan they were in prior to the break.
3. PERA retirees who return to state employment may suspend their benefit and add to their PERA DB plan service credit as under current statutory provisions if they wish, but may not elect to participate in the PERA DC or State DC plans.
4. Neither State DC participants nor participants in the PERA DC plan may continue coverage in those plans if they transfer to a job in higher education. They would begin coverage under the statutory plan provided for them as new employees in higher education.
5. The State 401(a) Plan Committee will be allowed to retain professional advisers and independent consultants or experts to advise it regarding the proper discharge of the Committee's fiduciary duty "if necessary."

## *Other Bills of Interest to PERA*

### Senate Bill 05-93. Attachment of Public Pension Benefits

**Status:** Signed by the Governor on March 25 and will be effective for court orders on or after August 8, 2005.

Sen. Mark Hillman (Burlington) and Rep. Michael Garcia (Aurora) sponsored this bill. The bill allows for attachment of a public pension participant's benefits if the individual is required to pay restitution for theft, embezzlement, misappropriation, or wrongful conversion of public property. The bill also allows attachment in the event of a judgment for a willful and intentional violation of fiduciary duties where the offender or a related party received direct financial gain. Distributions from public pension plans are not subject to legal process except for limited reasons: to pay federal tax liens, to satisfy garnishments to pay child support, to make payments required by DROs (domestic relations orders), and now with SB 93, to pay restitution and judgments in limited circumstances.

### House Bill 05-1083. Department of Military and Veterans Affairs

**Status:** Signed by Governor Owens on May 27.

This bill, sponsored by Rep. David Balmer (Centennial) and Sen. Deanna Hanna (Lakewood), includes several changes affecting this department of state government. An amendment adopted by the Senate would allow a member of the military forces who is engaged in service for the state to elect to have state employee benefits after he or she has been serving for 30 consecutive days. This option would be available only if the individual were not a salaried member of the military forces, and only if there are appropriations for the state's contribution.

## Senate Bill 05-163. Senior Judges Program

**Status:** Signed by Governor Owens on April 22.

This bill was initiated by the State Judicial Department and was sponsored by Sen. Shawn Mitchell (Broomfield) and Rep. Terrance Carroll (Denver). SB 163 allows a retired judge in the Senior Judge Program to participate longer than the 12-year limit that now exists.

## Senate Bill 05-137. Identity Theft

**Status:** Signed by Governor Owens on June 1.

Sponsors of the bill were Sen. Dan Grossman (Denver) and Rep. Angie Paccione (Ft. Collins). The bill allows a consumer to put a security freeze on his or her credit report in the absence of any indication of identity theft.

Sen. Grossman added an amendment at PERA's request that would allow pension plans to access a credit report "to determine the consumer's eligibility for plan benefits or payments authorized by law or to investigate fraud." PERA uses consumer reporting agencies to locate inactive members, to obtain current address information for mailings, and to check against databases listing deaths.

## Senate Bill 05-10. Administration of Local Government Pension Plans

**Status:** Signed by Governor Owens on April 22.

This bill was sponsored by Sen. Norma Anderson (Lakewood) and Rep. Fran Coleman (Denver). It was initiated by the Legislative Audit Committee following its audit of CCOERA (the Colorado County Officials and Employees Retirement Association). SB 10 allows the State Auditor's Office to audit CCOERA every three years, revises the composition of the CCOERA board, establishes clear fiduciary duties for board members, and entitles each CCOERA board member to \$100 for each board meeting attended, in addition to reimbursement for actual and necessary expenses.

## Senate Bill 05-209. Long Appropriations Bill

**Status:** Signed by Governor Owens on May 2.

The Joint Budget Committee, led by Sen. Abel Tapia (Pueblo) this year, introduced this bill that contains funding for state government for the year that begins on July 1, 2005. The Long Bill contains funding for the PERA employer contribution rate of 10.15 percent of salary for regular state employees, as well as funding for the AED payment to PERA of 0.5 percent of salary for January 2006 through June 2006.

## Senate Joint Memorial 05-006. Opposing Social Security Privatization

**Status:** Passed by the Legislature on May 9.

This measure was sponsored by Sen. Bob Hagedorn (Aurora) and Rep. Alice Madden (Boulder) and would resolve that the Colorado Legislature request the U.S. Congress to "reject proposals to divert money out of Social Security to fund private accounts." SJM 006 also urges Congress to "carefully study a variety of potential changes that will address Social Security's problems" and says that "any changes adopted by Congress should strengthen Social Security's family income protections without reducing guaranteed benefits or increasing the (federal budget) deficit."

## Legislation Introduced That Did Not Pass

### House Bill 05-1117. PERA Early Retirement

**Status:** Defeated by the House State, Veterans, and Military Affairs Committee on February 8 at the request of Rep. Berens.

Introduced by Rep. Bill Berens (Broomfield), HB 1117 would have created a retirement window for state employees.

The bill stated that any member who is a state employee and who first retires between July 1, 2005, and July 1, 2006, may, at no cost to the member, elect to add up to three years to the member's age and up to three years to the member's service credit for purposes of calculating service retirement eligibility and service retirement benefits.

### House Bill 05-1300. Increased Regulation of Pharmacy Benefit Managers

**Status:** Defeated by the House Health and Human Services Committee on March 14.

This bill was sponsored by Rep. Jack Pommer (Boulder) and Sen. Lewis Entz (Hooper) and was designed to require public disclosure of confidential terms negotiated by a pharmacy benefit manager (PBM) and the health care plans with which it contracts. PBMs, including Caremark for PERA's self-insured health plans, administer prescription drug benefits by developing networks of retail and mail-order pharmacies and negotiating discounts with drug manufacturers. Public disclosure of terms, such as negotiated discounts, would damage competition. Drug manufacturers would be less willing to give pricing concessions to any PBM, and premiums and copays for consumers would move higher.

### Senate Bill 05-54. Conversion of Pinnacol Assurance to Non-Profit Status

**Status:** Postponed indefinitely by the Senate Business, Labor, and Technology Committee on February 7.

This bill would have made Pinnacol Assurance a nonprofit insurance company subject to generally applicable insurance laws. The bill would have also required Pinnacol to pay premium taxes on its workers' compensation insurance business in Colorado. Primary sponsors of SB 54 were Sen. Norma Anderson (Lakewood) and Rep. Andrew Romanoff (Denver).

Under the bill, Pinnacol would have been more independent from the state, but not structured completely like a private company. Pinnacol proposed to PERA and to the Legislature that its membership in PERA be frozen as of June 30, 2006.



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