

Testimony for SB18-200
Senate Finance Committee
March 13, 2018

I'm Ron Baker, the Interim Executive Director of Colorado PERA. Thank you for the opportunity to address the Committee.

I wanted to start by thanking the sponsors of SB200 for starting a very important process. The PERA Board recognizes this is the first step of a process that will unfold over the next few weeks, but appreciates that we now have a starting point.

The PERA Board has not yet taken a formal position on SB200. The Board has questions and concerns that it hopes will be resolved as the bill moves forward and, to that end, has directed PERA staff to continue to work with the General Assembly to advance the process. I am here to testify to that end, and to answer questions you may have about proposed changes contained in the bill.

As you recall, this process started at PERA about 18 months ago and resulted in a package of recommendations presented by the Board to the legislature. As subject matter experts, the PERA Board has made their recommendations to the General Assembly about how to improve the PERA's funded status. In doing so, the Trustees are fulfilling their duties as fiduciaries to the PERA membership. As policy makers, the General Assembly will determine PERA's benefit and contribution structure.

We have provided you with a handout outlining the differences between the PERA Board's recommendations and SB200. This is also posted on our website.

While PERA is not insolvent, our funded status does demand attention. The PERA Board believes it is prudent and judicious to take action now to ensure secure retirement benefits for the public workforce now and in the future.

In its current form, this bill satisfies many of the PERA Board's goals including:

- Preserving the Defined Benefit plan
- Returning PERA to 100 percent funding within 30 years; and
- Sharing the responsibility of the cost to achieve that funding goal among employers, employees and retirees

The PERA Board does have reservations about two items in the proposed bill; the legality of changing the retirement age for current employees and the composition and role of the legislative oversight committee.

As written, the bill would raise the age of eligibility for full service retirement based on a calculation determined by a member's age as of 1/1/2020. For every four years younger than the age of 46, a current employee would work one year longer before being eligible for retirement.

Our legal concerns about this provision are two-fold: We believe this change violates the contract rights of our existing members to their base benefit calculation. It is our opinion that members have a contract right to their age and service eligibility requirements. Changing the age requirement for retirement for existing members would likely result in litigation and be found unconstitutional. In addition to the constitutional concerns, changing the age and service eligibility requirements for existing members also raises the concern of compromising PERA's qualified status under the Internal Revenue Code, which could have significant tax implications on the members of the PERA system.

In the current bill, there is not only the age increase for current members, but also a provision stating new hires do not have a contract right to their age and service eligibility requirements. Our legal team sees the same IRS issue if the age and service eligibility requirements are changed once the member is vested.

Regarding the legislative oversight committee, the PERA Board is looking for clarification about the role and authority of the committee, particularly how it would intersect with the governance roles of the PERA Board.

The bill also expands access to the PERA Defined Contribution Plan. We understand the intent of the bill is to provide more PERA members with the choice between the PERA Defined Benefit and Defined Contribution Plans in a way that is cost-neutral to the DB plan. By cost-neutral, the intent is to not increase the amount of PERA's unfunded liability nor extend the amortization period to reach 100% funded status. The mechanism by which this is achieved is provided in the bill and I'm happy to answer any questions you may have on how it works.

As I mentioned before, I am here at the direction of the PERA Board to support your process and serve as a resource. I am happy to take your questions.