

## **H.F. 1234 / S.F. 1959 – Informational Summary**

### **New Requirements for Duty Disability Applications for Mental Health Injuries for PERA Police and Fire and State Patrol Plans**

- The initial part of the bill, which has been worked on in the legislature for at least two years, imposes additional requirements for individuals applying for PERA Police and Fire or MSRS State Patrol Plan duty disability benefits based on a mental health injury. If the bill passes, an individual must first certify to PERA that they have a mental health condition, and then receive a minimum of 24 weeks of therapy, before requesting approval to return to work or to apply for disability benefits. The employer may request a fit for duty examination before an individual can return to work following a period of therapy. FFD examinations will be conducted by a qualified professional selected by the employee from a panel established by the a number of entities, including (but not limited to) the League of Minnesota Cities, Association of Minnesota Counties, Minnesota Professional Fire Fighters Association, and the Minnesota Chiefs of Police Association.
- The bill also provides therapy for those P&F and State Patrol Plan members who meet certain requirements, at no cost, as well as paid time off for a mental health injury, for a limited period of time. These expenses are reimbursable by the State of Minnesota under certain circumstances.
- The bill is silent as to whether a person’s job is protected beyond the 12 weeks of FMLA leave.

### **Re-Application**

- Current duty disability beneficiaries would be required to “reapply” for benefits, rather than submit proof of “continuing disability.” This language is potentially troublesome because it may trigger other areas of chapter 353 or health care continuation pursuant to section 299A.465. PERA also added language requiring an applicant to prove that the ongoing disability is the same disability that was approved in the individual’s original application for duty disability. It also shifts the burden of proof to the reapplicant, rather than PERA, which has historically been the case as established by the courts. These two substantive provisions are significant changes – contrary to what PERA suggests. PERA’s internal documents stated the expected outcome of “[t]he reapplication process will more clearly distinguish that a disability benefit is not granted indefinitely.” This process will also “[r]equire members to provide additional information as part of annual proof of disability reapplication process.”

### **Offsets**

- The new offset provisions penalize re-employed duty disability beneficiaries twice – 1) the first offset kicks in from the first dollar earned, and may result in a loss of up to HALF of that member’s earnings, and 2) earnings are now capped at 100% of a

combination of disability benefits plus re-employment earnings. Duty disability beneficiaries will be financially punished for obtaining re-employment, no matter how minimal their earnings.

- The offset formula has been changed twice since its introduction on March 6, 2023. Current offsets are as follows:
  - 1) The LESSER of a) half an individual's re-employment earnings, or high-five (x) 11.8% (x) (20 (-) years of service at time of disability) (÷) (55 (-) age at the time of disability). This offset does not apply to those with over 20 years of service, **PLUS**
  - 2) Re-employment earnings + disability benefits that exceed 100% of the current salary for similar positions.
- PERA and some legislators claim that duty disability benefits are causing a financial crush to PERA's P&F Plan, jeopardizing the health and longevity of the fund for future retirees. This is FALSE.
  - First, these provisions have NOT been vetted by any type of actuarial analysis. The Minnesota Reformer noted "[t]he fund is already underfunded by about \$1.7 billion due to poor investment returns last year." [Reformer Article](#)
    - **As of June 30, 2022, PERA accounted for 1,351 duty disability recipients.** [Go to page 141](#) PERA notes there are 1,912 duty disability recipients. This number is inaccurate. We have reason to believe this number is much lower than 1,351, as this number accounts for people over 55, whose benefit has converted to a normal pension.
    - **PERA's total deductions increased over \$133.5 million to almost \$2.5 billion across all plans** (General Employees Plan, Police and Fire Plan and Correctional Plan). **The Police and Fire Plan benefit increase was 1%. Disability (regular disability, duty disability, and permanent/total disability) accounted for approximately \$16 million of the \$133.5 million increase.** General Plan increased by 1.5%. Correctional Plan increased 2.5%. [Go to page 24](#)
  - LELS is NOT universally on board with these provisions, again contrary to the representation of certain legislators.
- PERA asserts that "if the future disability rates are 250% higher than those from 2015-2019, the estimated annual cost of the Plan will increase by about \$40 Million [sic] per year, which is about 4% of payroll." [Legislation Info](#) This is based on pure speculation. The number of PERA applications have returned to pre-2020 numbers.
- PERA's own commissioned study indicates that if disability rates remain at 150% of pre-2020 figures, fund will still have sufficient contributions. [Go to page 21](#) Notably, even if disability rates increase 350%, the funding ratio is virtually unaffected.
- PERA's investments – across all funds – are down in the last two years due to shaky markets. Nonetheless, **the P&F fund is currently 93.06% funded, up from 92.01% in 2021**, the General Plan is currently 87.44% funded, up from 85.26% in 2021, and the Corrections Plan is currently 105.09% funded, up from 103.89% in 2021. [Go to page 118](#)