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April 29, 2010

MEMORANDUM

TO: Legislative Education Study Committee

FR: Ally Hudson

RE: CHANGES TO RETIREMENT BENEFITS FOR EDUCATORS AND PUBLIC EMPLOYEES

In 2010, the Legislature passed, and the Governor signed, five bills that amended either the *Educational Retirement Act* (ERA) or the *Public Employees Retirement Act* (PERA). For each of these bills, Attachment 1 (2010 Legislation Impacting Retirement Benefits for Educators and Public Employees), outlines the current provisions in law as well as the 2010 amendments if applicable.

While Attachment 1 provides details for each bill, certain provisions merit additional highlighting. Two of the five bills amend only the PERA:

- to align the return-to-work (RTW) provisions in that act more closely with those in ERA; and
- to allow a retired member a one-time opportunity to change the designated beneficiary.

The other three bills amend the ERA:

- to ensure that retirees will not see a decrease in pensions due to a negative cost-of-living adjustment (COLA) which, according to the Legislative Finance Committee (LFC), could occur under the formula in current statute during a deflationary period;

- to delay, by one year, the 0.75 percent contribution increase scheduled for ERB employers in FY 11 which, according to LFC, saves employers approximately \$18.3 million; and
- to correct what LFC calls an unintended consequence of previous legislation by clarifying that pension amounts can be disclosed.

Furthermore, since parity has always been of interest to the Legislative Education Study Committee, Attachment 2 (Comparison of ERA and PERA Benefits), provides the committee with an appraisal of selected provisions from both plans.

2010 Legislation Impacting Retirement Benefits for Educators and Public Employees

Amendments Impacting Return-to-Work Provisions

	CURRENT PROVISIONS IN LAW	2010 LEGISLATION
Public Employees Retirement Act (PERA)	<p>Current statute provides that a retired member may be subsequently employed by an affiliated public employer pursuant to the following:</p> <ul style="list-style-type: none"> • the retired member has not been employed by an affiliated public employer for at least 90 days; • beginning January 1, 2007, PERA-affiliated employers who re-employ PERA retirees are responsible for paying both the employee and employer contribution amounts on salaries earned by the re-employed retirees; and • no additional service credit is accrued during the retirees' re-employment with a PERA affiliate. 	<p>As of July 1, 2010, FL/CS/SB 207a (Laws 2010, Ch. 18) Public Employees Returning to Work amends the PERA for members returning to work by requiring that:</p> <ul style="list-style-type: none"> • the retiree complete a 12-month break in service; • the retiree cannot be retained as an independent contractor with the employer from which he or she retired during the 12-month break in service; • no contributions are made by the employee or employer when a retiree suspends his or her pension and returns to work; • no service credits or contributions to the retirement fund are accrued by the previously retired member or that member's affiliated public employer during the period of re-employment except as provided in current statute; and • upon re-retirement, pension benefits will resume following procedures specified in current statute for initial retirement. <p>For retirees who are re-employed before July 1, 2010:</p> <ul style="list-style-type: none"> • the retiree is grandfathered in under the laws in place when he or she was re-employed; • re-employed retirees who were grandfathered in must begin paying the employee contribution portion on their salary; • the employer will continue to pay the employer contribution amount on behalf of the employee; and • employee contributions made during re-employment are nonrefundable and stay in the PERA fund. <p><i>Exemptions from the provisions previously noted, except for the prohibition on accrual or purchase of service credit, are provided for a retired member who works for the Legislature during the legislative session and for a retiree who is an elected official.</i></p>
Education Retirement Act (ERA)	<ul style="list-style-type: none"> • 12-month layout period prior to applying for the Return to Work program. Retirees may <u>not</u> work for, contract with, or volunteer in a typically paid position for an ERB employer during the 12-month layout period; • employers make employer and employee contributions (FY 10); • members who retired before 1/1/2001 may return to work without a layout; • members who retired before 1/1/2001, but suspend their pensions, must layout for 90 days; • a retiree may earn the greater of \$15,000 or 0.25 FTE with an ERB employer and maintain his or her pension; and • retirees may work as independent contractors but must follow IRS code. 	<p>The 2010 Legislature did not amend the return-to-work provisions in ERA.</p>

2010 Legislation Impacting Retirement Benefits for Educators and Public Employees

Other Amendments Impacting Retirement Benefits

	CURRENT PROVISIONS IN LAW	2010 LEGISLATION
Public Employees Retirement Act (PERA)	<ul style="list-style-type: none"> Current statute does not allow a survivor beneficiary designation to change after the first pension payment has been issued. 	<p>As of May 19, 2010, HB 16a (Laws 2010, Ch. 19) <i>Retirement Beneficiary Deselection Option</i> amends the PERA to:</p> <p style="padding-left: 40px;">grant a retired member a one-time irrevocable option to deselect a designated beneficiary, as long as the beneficiary at the time of retirement was (a) not deceased, and (b) not the retiree's spouse.</p>
Education Retirement Act (ERA)	<ul style="list-style-type: none"> Current statute does not provide for the release of pension amounts to the public. 	<p>As of May 19, 2010, HB 231a (Laws 2010, Ch. 60) <i>Disclosure of Educational Pension Amounts</i> amends the ERA to:</p> <ul style="list-style-type: none"> authorize the disclosure to the public of Education Retirement Board (ERB) members' or retired members' pension amounts.
	<ul style="list-style-type: none"> Current statute requires that decreases in the Consumer Price Index cause a decrease in retiree benefits. Since the Consumer Price Index showed a decrease from 2008 to 2009, the result would have been a 0.4% reduction in a retiree's monthly benefit. 	<p>As of July 1, 2010, HB 239 (Laws 2010, Ch. 81) <i>No Educational Retirement Benefit Adjustments</i> changes the language to state:</p> <ul style="list-style-type: none"> "Annuities shall not be decreased in the event that there is a decrease in the Consumer Price Index between the next preceding calendar year and the preceding calendar year."
	<ul style="list-style-type: none"> Current statute requires the employer contribution to increase by 0.75 percent beginning July 1, 2005 through June 30, 2011 (FY 05 – FY 11). 	<p>As of July 1, 2010, SB 91 (Laws 2010, Ch. 67) <i>Delay Educational Retirement Contributions</i> amends the ERA to:</p> <ul style="list-style-type: none"> delay, until FY 12, the 0.75 percent increase in the employer contribution to the Educational Retirement Fund that would otherwise take effect in FY 11.

COMPARISON OF ERA AND PERA BENEFITS

Category	ERA	PERA – State General Member Plan 3
Membership Eligibility	<ul style="list-style-type: none"> • Regular/Defined Benefit Plan¹ – All public school and university employees working more than 0.25 of Full Time Equivalent (FTE) are eligible for membership in ERB; • Alternative Retirement Plan (ARP) – Certain two- and four-year community college, university faculty, professional employees, persons who perform research, and other services pursuant to a contract between a local administrative unit (LAU) and the federal government may choose within the first 90 days of employment to join the ARP, a defined contribution plan²; after seven years (84 months) of contributing to the ARP, participants may elect to switch to the defined benefit plan as new members; service credit may be purchased for ARP service; and educationally certified employees in certain state agencies with an educational component may choose either ERB or PERA plan, unless they possess a current teaching certificate. 	<p>All employees of PERA affiliates must be members of PERA <u>excluding</u> the following:</p> <ul style="list-style-type: none"> • seasonal and temporary employees; • part-time employees working less than 20 hours in a 40-hour pay period or less than 40 hours in an 80-hour pay period; • student employees; • elected officials; • retired legislative workers; and • retired members from ERB.
Retirement Eligibility	<p><u>Initial membership prior to July 1, 2010:</u></p> <ul style="list-style-type: none"> • 25 years of service, regardless of age; • Rule of 75: age + service = 75; or • age 65 with 5 years of service. <p><u>Initial membership after July 1, 2010:</u></p> <ul style="list-style-type: none"> • 30 years of service, regardless of age; • Rule of 80: age + service = 80; or • age 67 with 5 years of service. 	<ul style="list-style-type: none"> • 25 years of service, regardless of age; • age 65, with 5 years of service; • age 64 with 8 years of service; • age 63 with 11 years of service; • age 62 with 14 years of service; • age 61 with 17 years of service; or • age 60 with 14 years of service.
Contributions <i>Contribution percentages through June 30, 2011.</i>	<p><u>Over \$20k</u></p> <ul style="list-style-type: none"> • Member: 9.4% of salary • Employer: 10.9% of salary • Total: 20.3% <p><u>Under \$20k</u></p> <ul style="list-style-type: none"> • Member: 7.9% of salary • Employer: 12.4% of salary • Total: 20.3% 	<p><u>Over \$20k</u></p> <ul style="list-style-type: none"> • Member: 8.92% of salary • Employer: 15.09% of salary • Total: 24.01% <p><u>Under \$20k</u></p> <ul style="list-style-type: none"> • Member: 7.42% of salary • Employer: 16.59% of salary • Total: 24.01%

¹ A defined benefit plan provides retired employees with a fixed monthly annuity based primarily on the employee's salary history and years of service. Under this plan, the employer bears the investment risk.

² A defined contribution plan guarantees that an employer makes a predetermined fixed contribution into an account established by the employer for the employee. An employee may then elect or be required to also contribute some of his compensation. In a defined contribution plan, the employee bears the investment risk of meeting the employee's retirement income goals.

Category	ERA	PERA – State General Member Plan 3
Cost-of-Living Adjustment (COLA)	<ul style="list-style-type: none"> • ½ the Consumer Price Index (CPI) beginning at age 65 capped @ 4%; • if CPI is less than 2%, then equals CPI; and • minimum @ 0%. 	<ul style="list-style-type: none"> • 3%; implementation depends on retirement date with a minimum of approximately 2.5 calendar years after retirement.
Withdrawn Service Credit and Forfeited Service Credit	<p style="text-align: center;"><u>Withdrawn Service Credit</u></p> <ul style="list-style-type: none"> • Upon terminating employment, a member may withdraw his or her contribution plus interest (the interest rate is determined annually by the Board). • The cost to purchase withdrawn service is 8% from the date of withdrawal to the date of purchase. 	<p style="text-align: center;"><u>Forfeited Service Credit</u></p> <ul style="list-style-type: none"> • Service credit for which a member withdrew – or forfeited – employee contributions and interest in the past can be purchased by paying the total of the amount withdrawn plus interest from the date the contributions were withdrawn to the date of purchase. <p>5.25% - Interest prior to 12/31/83 10.0% - Interest: 1/1/84 - 12/31/01 8.0% - Interest: 1/1/02 to present</p>
Allowed Time and Air Time	<p style="text-align: center;"><u>Allowed Time</u> (no provision for air time)</p> <ul style="list-style-type: none"> • Members can purchase up to five years of service from private educational service or public educational service in another state. • Cost is actuarial. For example, a 50-year old with 20 years of earned service making \$40,000 would pay \$26,459 for one year of allowed service. 	<p style="text-align: center;"><u>Air Time</u>³</p> <ul style="list-style-type: none"> • Members must be vested with five years of earned service credit to be eligible to purchase up to 12 months of “air time” permissive service credit. • Cost is full actuarial value. A 50-year old with 20 years of earned service making \$40,000 would pay an estimated \$18,222 for one year of air time.
Military Service Credit	<ul style="list-style-type: none"> • Members vested with five years of earned service credit can purchase up to five years of non-intervening military service credit at any time. • Cost is a total of the employee and employer contribution rate (20.3% in FY 10), multiplied by the average of the highest 60 consecutive months of salary for each month of military service credit purchased. 	<ul style="list-style-type: none"> • Members vested with five years of earned service credit can purchase up to five years of non-intervening military service credit at any time. • Cost is a total of the employee and employer contribution rate (24.01% for State General Member Plan 3), multiplied by the average of the highest 36 consecutive months of salary for each month of military service credit purchased.
Miscellaneous Service Credit	<ul style="list-style-type: none"> • ERB does not allow the purchase of any service credit other than the allowed time, military service, and withdrawn service discussed above. 	<p>PERA provides for purchasing the following additional service credit:</p> <ul style="list-style-type: none"> • service prior to affiliating with PERA; • civilian prisoner of war; • cooperative work study programs; and • employment with a utility company, library, museum, transit company, or by a nonprofit organization taken over by a PERA-affiliated public employer.

³ Air time is service credit that is not tied to employment with a PERA affiliate.

Category	ERA	PERA – State General Member Plan 3
Retirees Returning to Work	<ul style="list-style-type: none"> • 12-month layout period prior to applying for the return-to-work program. Retirees may <u>not</u> work for, contract with, or volunteer in a typically paid position for an ERB employer during the 12 month layout period; • employers make employer and employee contributions (FY 10 only); • members who retired before 1/1/2001 may return to work without a layout; • members who retired before 1/1/2001 but suspend their pensions must layout for 90 days; • a retiree may earn the greater of \$15,000 or 0.25 FTE with an ERB employer and maintain his or her pension; and • retirees may work as independent contractors but must follow IRS code. 	<p>Effective July 1, 2010, a retiree is eligible to return to work for a PERA affiliate as long as the following conditions have been met:</p> <ul style="list-style-type: none"> • the retiree must complete a 12-month break in service from the date of retirement; • the retiree cannot be retained as an independent contractor with the employer from which he or she retired during the 12-month break in service; and • no contributions are made by the employee or employer when a retiree suspends his or her pension and returns to work. <p><u>Retirees re-employed before July 1, 2010</u></p> <ul style="list-style-type: none"> • retirees who were re-employed by a PERA affiliate before July 1, 2010 were grandfathered in under the laws in place when they were re-employed; • re-employed retirees who were grandfathered in must begin paying the employee contribution portion on their salary; • the employer will continue to pay the employer contribution amount on behalf of the employee; and • employee contributions made during reemployment are nonrefundable and stay in the PERA fund.
Benefit Calculation	<p>Final average salary of highest five consecutive years of service X Years of service X .0235</p> <p>No maximum benefit. 80% benefit is reached after 34 years of service.</p>	<p>Final average salary of highest three consecutive years of service X Years of service X .03</p> <p>Benefit maximizes at 80% with 26 years and eight months of service.</p>