

SENATOR JULIE A. ROSEN

Senate District 23
Chair, Finance Committee

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Senate

State of Minnesota

October 13, 2017

Mr. Jim Nobles, Legislative Auditor
Office of the Legislative Auditor
658 Cedar Street, Room 140
St. Paul, MN 55155

Dear Mr. Nobles:

As Chair of the Legislative Commission on Pensions and Retirement, I am writing to request that you review the composition of the governing boards of the Minnesota State Retirement System, the Public Employees Retirement Association, and the Teachers Retirement Association. In looking at the composition of the governing boards, please also investigate compliance with the relevant statutory requirements, specifically Chapters 352 (for MSRS), 353 (for PERA), and 354 (for TRA) of the Minnesota Statutes, and consider whether these requirements are sufficient and consistent with current best practices for public pension plan boards.

Also, even though the boards of MSRS, PERA, and TRA have no decision-making authority with regard to the investment of plan assets, each board member does have fiduciary duties regarding oversight of the array of benefits offered by each plan, compliance with statutes, reasonableness of administrative expenses, and monitoring plan administration and actuarial valuations, among other duties. Accordingly, please include in your review consideration of the requirements of Chapter 356A of the Minnesota Statutes and board member compliance with these requirements.

Specifically, please include in your report the following:

1. The enclosed information sheet summarizes the statutory requirements regarding the membership of the three boards. Do you have any recommendations regarding whether the number of members, the types of members, and the member appointment and election processes are appropriate or whether they should be changed, perhaps to be consistent with best practices?
2. We are aware that many board members hold officer positions in a union. The Public Employment Labor Relations Act (PELRA) specifically states that pension contributions and benefits are not terms and conditions of employment subject to bargaining. How influenced are board members by organized labor? Is any influence appropriate and should union officers be board members? Do you have a recommendation based on best practices for public pension plan boards?



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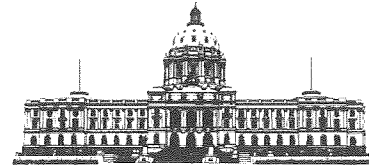
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3. Are employers adequately represented on the boards? In the context of the pension funds, employers are the agencies, municipalities, counties, school districts, and other public entities who employ the employee members of the pension plans and whose budget must include funding for the employer contributions to the respective pension plans. Do you have a recommendation for the number of employer representatives on each board or suggestions on how to ensure that the employer perspective is adequately represented?
4. Are current statutory requirements likely to ensure that members do not have conflicts of interest or, if they do have such conflicts, do the boards have effective policies in place to ensure members do not participate or vote on matters in which they have a personal financial interest? Please provide recommendations on how to address conflicts of interest, especially the conflict that exists for each member who has a public pension benefit, when a board member is asked to consider benefit reductions or modifications?
5. MSRS and PERA boards statutorily requires that one or more members are “public members knowledgeable in pension matters”? How would you assess whether any board member has any expertise in pensions or retirement benefits? Are current disclosure and procedures adequate to ensure that the boards have members with this expertise? Would you recommend a similar position on the board of TRA? In addition to pension expertise, should there be a requirement that members, or at a minimum, one member, have financial or actuarial expertise? Do members receive training on how to read and understand actuarial concepts and reports and is the training effective?
6. Are board members prepared and trained in their fiduciary duties and to whom they are responsible? Minnesota law states that the fiduciary of a covered pension plan owes a fiduciary duty to plan members, taxpayers, and the state of Minnesota. We are not aware of any other state that imposes such potentially conflicting duties on their fiduciaries, nor, we understand, does the federal law known as ERISA, to which all pension and retirement plans in the private sector is subject. Other state and federal law imposes only the duty to members and the plan, generally. Have the plans’ board members been given training on how to act for the benefit of these three stakeholders whenever it makes a fiduciary decision? Is the training effective? How would board members assess whether a particular action is in the best interest of the state or its taxpayers? Do you have any recommendations based on best practices for public pension plan boards?
7. In the corporate world, independence is defined as having no economic or personal relationship with the corporation or its management. The benefits of independence include being able to offer an unbiased, fresh approach to a topic and experience with problem-solving in other contexts. Would there be value in incorporating this concept into the public plans’ governing boards, where independence is defined as not being employed in the public sector by a public employer and not having a pension benefit from one of the public pension plans? Do you have a recommendation based on best practices for public pension plan boards?



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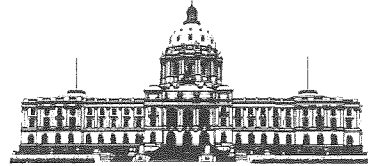
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We have also enclosed, for your information, selected publications and a recent article that may serve as a starting point in your review.

I appreciate your attention to this request. Please provide at least an initial draft of your report by the first day of the 2018 legislative session. I hope to be able to work with the LCPR to prepare legislation for passage during the 2018 session to make any statutory changes needed to implement your recommendations.

If you have any questions regarding this request or need background information or assistance with research on the issues and questions raised, please contact me or LCPR Executive Director Susan Lenczewski.

Best regards,

A handwritten signature in cursive script that reads "Julie Rosen".

Senator Julie A. Rosen

Enclosures: Information sheet, 3 issue briefs, and a journal article

Copy (without copies of articles and issue briefs (available upon request)):

Members of the Legislative Audit Commission:

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Sen. Nick A. Frentz	Rep. Sondra Erickson
Sen. Mary Kiffmeyer	Rep. Rick Hansen
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