



Board of County Commissioners Agenda Request

7A
Agenda Item #

Requested Meeting Date: 8/26/2014

Title of Item: PERA Correctional Plan

<input checked="" type="checkbox"/> REGULAR AGENDA <input type="checkbox"/> CONSENT AGENDA <input type="checkbox"/> INFORMATION ONLY	Action Requested: <input checked="" type="checkbox"/> Approve/Deny Motion <input type="checkbox"/> Adopt Resolution (attach draft)	<input type="checkbox"/> Direction Requested <input type="checkbox"/> Discussion Item <input type="checkbox"/> Hold Public Hearing* <small>*provide copy of hearing notice that was published</small>
Submitted by: Bobbie Danielson		Department: Human Resources Dept.
Presenter (Name and Title): Bobbie Danielson, HR Director		Estimated Time Needed: 5-10 minutes
Summary of Issue: <p>When the Legislature created the PERA Correctional Plan 7/1/99, the first employees were transferred from the Coordinated Plan and their Social Security coverage continued. Afterwards, new participants were also given Social Security coverage. Recently, PERA learned the paperwork done did not go far enough to obtain Social Security coverage for the new participants. The SSA indicated a referendum should have been conducted years ago for those members. This was a technical oversight.</p> <p>A referendum will be conducted in December 2014. PERA is asking employers to decide the voting procedure by choosing between two options. Two options are described on page 2. As of 8/20/2014 about half of the counties have responded to PERA. Most outstate counties have chosen the Majority Vote Approach, a few others have abstained. Some of the Metro counties have also abstained - the fear is lawsuit if a majority vote does not pass, it could affect former employees.</p>		
Alternatives, Options, Effects on Others/Comments:		
Recommended Action/Motion: Motion to abstain.		
Financial Impact: Is there a cost associated with this request? <input type="checkbox"/> Yes <input type="checkbox"/> No What is the total cost, with tax and shipping? \$ n/a Is this budgeted? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Please Explain:</i> n/a		

What are the Two Voting Approaches for the Referendum?

State and federal law provide the following two methods for conducting this Social Security referendum. **Because this will be a retirement system referendum, it must be one approach for all.**

1. Coverage can be on an **all or none** basis as determined through a majority vote of the members of the Correctional Plan who are **eligible to vote** (not a majority of those who actually vote).
 - a) **If a majority vote referendum passes**, then all employees occupying positions covered under the Correctional Plan would be covered under Social Security, including those who voted “no” or who did not vote. In other words, if a majority vote passes, then **everything stays the same** - the current members continue in, and all future enrollees of the retirement plan would be covered by, Social Security.

A successful referendum would also mean that all new hires enrolled in the Correctional Plan must be enrolled in Social Security. There would be no choice for future newly enrolled members of the PERA Plan.
 - b) **If a majority vote referendum fails¹**, then only the Correctional Plan members who were in the Coordinated Plan **before** their positions were moved to the Correctional Plan would keep their Social Security coverage. For all other employees the following would apply:
 - Current Correctional Plan members who had Social Security deductions withheld, but should not have, could get a refund from the IRS. **No refund of Social Security contributions would be retroactive beyond the federal statute of limitations, generally the three previous tax years, nor would any members lose the Social Security credits earned prior to the period covered by the statute of limitations.**
 - Former employees who had become Correctional Plan members after 7/1/1999 and who terminated their employment during the IRS statute of limitations period may be in jeopardy of losing the Social Security coverage for that period. The resulting effect on Social Security benefits would be possible lower benefit amounts, possible loss of insured status, and possible overpayments for the former employee and others receiving benefits on the same Social Security record.

Additionally, an unsuccessful referendum would mean that all new participants enrolled in the Correctional Plan would be exempt from have Social Security coverage. There would be no choice for future newly enrolled members of the PERA Plan.

2. Coverage can be on a **“divided”** basis. Under this procedure, each employee who is eligible to vote would make an *individual choice* as to whether or not he/she personally wishes to have Social Security coverage under Minnesota’s Section 218 Agreement.
 - a) Social Security coverage would continue for each person who votes to have such coverage.
 - b) Social Security participation would stop for each person who votes to not have such coverage. These Correctional Plan members could get a refund from the IRS for the allowable period under the federal statute of limitations period, generally the three previous tax years. **No refund of Social Security contributions would be retroactive beyond the federal statute of limitations, nor would any members lose any Social Security credits earned prior to the period covered by the statute of limitations.**

Once a divided vote is concluded, PERA would execute a Section 218 Agreement so that all new hires enrolled in the Correctional Plan must be enrolled in Social Security. This agreement could also extend Social Security coverage to former members of the Correctional Plan.

¹ The referendum would fail if a majority of the 2900 eligible members vote “NO” and/or do not cast a ballot.
7/31/2014

Why the Majority Vote Approach may be the Better Approach to Take.

The omission of the referendum years ago was an inadvertent technical error that must be corrected through either the majority vote or the divided vote process. Employers may prefer using the majority vote approach for the upcoming referendum for the following reasons:

- The majority vote approach provides the opportunity to retain uniformity in the Social Security coverage of ALL affected employees. If a majority vote referendum passes, the status quo would be maintained; meaning that all current and former members of the Correctional plan would have the Social Security coverage that has been provided through their employment with a local correctional facility.
- This is not a vote about PERA Correctional Plan benefits – it is about *keeping Social Security protection*. Unlike the Basic/Coordinated Plan vote in 1967 – 1968, the Correctional Plan members are NOT deciding if they will take a lesser benefit from PERA and add Social Security protection – the PERA Correctional Plan benefits are the same with or without the Social Security coverage.
- Individual choice could “divide” this retirement plan into two groups of members - those with Social Security coverage and those without it. If any individual takes a short term perspective and chooses to no longer make the 6.2 percent Social Security contribution, rather than seeing the bigger picture of maintaining the three-legged stool support for financial security in retirement (i.e., Social Security, retirement plan benefits, personal savings), that could lead to a push for more generous benefits from PERA Correctional Plan – at a greater cost to ALL employers and employees.
- Passage of a majority vote referendum would reduce the likelihood that a member of the Correctional Plan would see Social Security benefit reductions under the Windfall Elimination Provision (WEP).² The WEP affects how the retirement or disability benefit from Social Security is calculated for persons who draw a government pension from work where Social Security taxes were *not* taken from their pay. A modified formula is used to calculate the Social Security benefit, resulting in a lower benefit amount.
- Social Security benefit coverage for the surviving spouse and dependent children of a younger Correctional Plan member provides more complete protection than the PERA plan alone provides.
- If a divided vote results in some employees choosing not to contribute to Social Security, the employer’s payroll system will have to accommodate the recordkeeping of those individuals; however, that will be a diminishing group because once the referendum is completed and the Agreement is modified, all future enrollees into the Correctional Plan must participate in Social Security.

Once the Decision on the Type of Voting Procedure to use is made, what is next?

Regardless of the voting method, federal provisions require that all employees be given at least 90 days’ notice prior to the referendum date. The actual vote will take place December 1, 2014 through December 31, 2014; therefore, employees must be given a written notice about the referendum no later than September 2, 2014.

PERA will prepare this notice, along with important information about the Social Security program that the employees should consider before they vote, but help will be needed from employers. Once we work with each employer to finalize a list of who is eligible to vote, the involvement of county human resource personnel will be limited to personally distributing the notice to the employees to ensure a timely receipt by each person.

Relating to the actual vote process, the role of the county human resource personnel will be personally distributing the ballots and PERA return envelopes in November to the eligible employees. PERA will be responsible for collecting the ballots and counting the ballots received in the mail.

on calendar ✓

²A person can avoid the WEP by accruing at least 30 years of "substantial earnings" that were taxed by Social Security.
7/31/2014

Public Employees Retirement Association (PERA) – 8/5/2012
Social Security Referendum Procedures for Employers
(that have members of the PERA Correctional Plan who are eligible to vote)

Step	Activity to be done by the County HR Representative	Activity Date(s)
1	<p align="center"><i>Full copy to Dec - Pera contact</i></p> <p>Request from PERA an initial list of the active Correctional Plan members who may be eligible to vote. (You will be assigned a caseworker to work with throughout this process.)</p> <p>PERA will provide two lists as below. (The inclusion of partial SSNs will require sending the data over secure email.)</p> <p>(a) The members who DO NOT APPEAR TO BE ELIGIBLE TO VOTE because their PERA coverage for employment in the correctional institution was certified to move from the Coordinated Plan to the Correctional Plan and there has been no break in service since the Correctional Plan coverage began.</p> <p>(b) The members who APPEAR TO BE ELIGIBLE TO VOTE because their coverage under the Correctional Plan did not stem from a position in the facility that had been previously covered under the Coordinated Plan or, if it did, the members had a break in correctional service and then subsequently returned to the plan.</p>	<p>As soon as possible</p> <p align="right"><i>- Scott McLeod</i> <i>List updated</i></p>
2	<p>Finalize a roster of the eligible referendum participants.</p> <p>Between now and 9/2/2014, modify this list as needed to add employees hired prior to 9/2/2014 and to remove the names of any members who end their employment and cannot participate in the referendum. Send this roster to PERA via secure email by 8/29/2014.</p> <p>Between 9/2/2014 and 12/31/2014, modify this list again to remove the names of members who retire or end their employment before the date of the referendum because they will not be eligible to participate in the vote.</p> <p>Note: To vote, employees must be employed and members of the Correctional Plan on two dates: the date in which they receive the notice of the referendum (which is proposed to be 9/2/2014 and the date of the actual referendum, which is 12/1/2014 through 12/31/2014.</p>	<p>No later than 8/29/2014</p> <p align="right"><i>- Fwd to payroll -</i> <i>Pera updates</i></p>
3	<p>Distribute the Notice of Referendum and informational materials to each eligible employee.</p> <p>The referendum will be held between 12/1/2014 and 12/31/2014. As the employer, you must distribute the Notice of Referendum (provided in template form that can be downloaded from the PERA website) to each eligible employee no later than September 2, 2014. Included with the Notice of Referendum will be an informational document that answers the common questions that your employees might have about this matter.</p> <p>The delivery of the Notice of Referendum is necessary to comply with federal laws which require that each person eligible to vote be given notice of the referendum at least 90 calendar days before the established referendum date. Included with the Notice of Referendum will be an informational document that answers the common questions that your employees might have about this matter.</p> <p>Be sure to give the Notice of Referendum to eligible employees who are on leave of absence or on active military duty. If any doubt arises as to an employee's eligibility to vote in the referendum, a notice should be provided, and the person's status can be resolved later.</p> <p>Preferably, the Notice of Referendum will be hand delivered to the employees or sent via email, but it may also be sent via first class mail. The notice should also be posted on all appropriate bulletin boards within the facility to give notice to all eligible employees.</p>	<p>On or before 9/02/2014</p> <p align="right"><i>- on calendar</i></p>
4	<p>Provide information to the employees who are members of the Correctional Plan but who are NOT eligible to participate in the referendum.</p> <p>PERA will prepare an informational document in template form that you can use for this.</p>	<p>Between 9/2/2014 and</p>

PERA - Draft of the Social Security Referendum Procedures for Employers

		9/19/2014
5	<p>Provide resources to employees who want more information.</p> <p>Representatives from PERA and SSA will participate in a webinar to be hosted by the Association of Counties on a date to be determined.</p> <p>PERA will also be available by telephone or email to answer questions during the 90-day notice period. As requested, representatives from PERA and SSA will be available to come and speak with your employees if you are in the metropolitan area. For outstate employers, arrangements can be made for conference calls.</p>	During the 90 day waiting period
6	<p>Distribute the Ballots to all eligible employees.</p> <p>Print the number of ballots you need from PERA's website – be sure to add the name of your employer unit to the ballot before you print it. Then distribute the paper ballot and a postage-paid PERA return envelope to each employee who is eligible to vote. Preferably, the Ballot will be hand delivered to the employees.</p> <p>Remember, to be eligible to vote the employees must be employed and members of the Correctional Plan on two dates: the date in which the Notice of Referendum was issued by you, and the date of the actual referendum (set at 12/1/2014 through 12/31/2014). Use your roster to know to whom you need to distribute a ballot.</p> <p>If you have an employee who will not be able to participate in the referendum date please contact PERA to determine if the person may complete an absentee ballot.</p>	At the end of November 2014
7	<p>Once the voting period has ended, you must complete a certification form documenting the roster of names of the employees who were eligible to vote and indicating that you provided a Notice of Referendum and Ballot to each eligible employee. PERA will provide the certification form via template that will be available on the PERA website.</p>	Between 1/1/2015 and 1/9/2015

ABOUT THE VOTE AND ITS RESULTS

When completing the ballot, the employee must indicate "YES" if s/he desires Social Security coverage under the Section 218 Agreement, or "NO" if the person desires not to be covered under the Section 218 Agreement. The employee must add his/her name and Social Security Number to the ballot and then date and sign it. Failure to properly execute and return a ballot shall be deemed a "NO" vote.

Under a majority vote process, whether Social Security participation can continue for the affected Correctional Plan members is determined on an "all or none" basis. If a majority vote referendum is held and passes, then everything stays the same – all of the members have the Social Security coverage that has been provided through their public employment, even those employees who voted "no." Additionally, PERA would prepare a modification to Minnesota's Section 218 Agreement to give Social Security coverage to all future Correctional Plan members.

If a majority vote referendum fails, PERA cannot execute a 218 modification. The resulting effect would be refunds of the taxes paid improperly by the current Correctional Plan members who participated in the referendum and for former members who terminated employment in 2011, 2012, or 2013. The loss of Social Security coverage for the former members could also result in lower Social Security benefit amounts, loss of insured status, and overpayments for the former employees and auxiliaries receiving benefits on the same Social Security record.

Under a divided vote referendum, an individual choice about Social Security participation is made. Each employee who votes "YES" would retain Social Security coverage and continue to contribute while employed in a position under the Correctional Plan. Each employee who votes "NO" would stop paying the 6.2% Social Security tax and could apply for a refund subject to the IRS statute of limitations. PERA would execute a 218 modification giving coverage to the employees who voted "yes" and to all new members of the Correctional plan.

Microsoft
Exchange
Hosted Encryption

bobbie.danielson@co.aitkin.mn.us



Sign Out

Reply

Reply to All

Forward

From: scott.mcleod@mnpera.org (Authenticated by encryption.messaging.microsoft.com) Valid Signature ([Help](#))
To: bobbie.danielson@co.aitkin.mn.us
Sent: Wed Aug 6, 2014 4:11 PM (13 days ago)
Subject: FW: [secure] PERA Correctional Plan Social Security Referendum List
Attached: Referendum_Steps_for_Employers_8-05-2014.docx (32k) - [View](#), [Download](#)
Correctional SS Referendum - Aitkin Co.xlsx (14k) - [View](#), [Download](#)

Bobbie,

Attached please find a spreadsheet listing your agency's Correctional Plan members who we show as currently active. It contains two tabs: Those members who we believe can and cannot vote in the December referendum.

- **Those who can't:** Members who transferred from the Coordinated to the Correctional Plan in 1999, or prior to May 15, 2000, who have remained in the plan ever since and are active members when their ballot is cast.
- **Those who can:** The same members above with the exception that their correctional-plan membership terminated at some point after May 2000 and subsequently rehired; members who were directly enrolled in the Correctional Plan at the time of hire. Both groups must be active at the time their ballots are cast.

What we need from your office is to confirm that the lists are accurate and to return the spreadsheet back to me by August 29. Please indicate whether there are members who are no longer active, and add any new employees not listed.

Also attached is the timeline for the various referendum steps. Regarding the "Notice of Referendum" and Q&A document that is to be distributed to members by September 2, it will be sent to you after employers notify PERA whether they prefer the referendum to be conducted under the majority- or divided-vote method. We have asked employers to email their preference no later than August 20.

Please let me know if you have any questions at this time.

Scott D. McLeod
Account Information Management Division
Public Employees Retirement Association
60 Empire Dr., Ste. 200/St. Paul, MN 55103
Ph: 651-355-0059/Toll-free 1-888-892-7372 (option #3)
Fax: 651-296-2493/ Website: www.mnpera.org

The statutes and regulations governing PERA may change at any time. If there is a discrepancy between the law governing PERA and the information contained in this e-mail, the statutes and regulations shall govern. This e-mail and attachments are intended only for the addressee and may contain privileged or not-public data. If you are not the addressee, do not review, forward or use the information in this e-mail. If you received this e-mail in error, contact the sender and delete this e-mail and attachments.

[Public Employees Retirement Association of Minnesota](#)

Exchange Hosted Encryption

First Name Last Name

Can Vote

KEVIN	ANDERSON
NOEL	BAILEY
LANCE	BAUMANN
MADISON	BENZ
MELISSA	BLAZEK
ROBERT	COOPER
WILLIAM	CROWTHER
ELIZABETH	EDDY
THOMAS	FISTERE
MARCIA	HASSKAMP
JON	HEGMAN
SCOTT	MALLOY
KATHERINE	MOORE
STEPHEN	MORELAND
KIM	MORRISSEY
BENJAMIN	MOWERS
KENT	OLESEN
MISTY	PETERSON
COLTER	RIEDEL
DOUGLASS	SACK
PATRICK	SCOLLARD
STACI	SINELL
JEREMY	SWENSON
JENNIFER	TWOMBLY

Dan Moriarty
Philip Martin

First Name Last Name

JEANNIE CROATT
DEBRA HAMILTON
KARLA WHITE

Cannot Vote