

# MEMORANDUM

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**TO:** Joint Budget Committee

**FROM:** Caroline Smith, JBC Staff (303) 866-4963

**DATE:** January 14, 2010

**RE:** Request for One-Time Adjustment to PERA Contributions

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## REQUEST FOR ONE-TIME ADJUSTMENT TO PERA CONTRIBUTIONS REQUIRES LEGISLATION

This memo outlines the Office of State Planning and Budgeting's request for the Joint Budget Committee to sponsor legislation to change the State and employee contribution rates for the Public Employee Retirement Association (PERA). Specifically, the budget balancing proposal requires legislation to change Section 24-51-401 (1.7) (1) (a), C.R.S., which specifies the State employer and employee contribution amounts.

*Note:* JBC staff must figure-set FY 2010-11's budget according to current law. **If the Committee chooses to sponsor this legislation, it would need to be fast-tracked and move quickly** so that JBC staff could incorporate the necessary changes during the figure-setting process (February).

### SUMMARY

The Office of State Planning and Budgeting's (OSPB) November 6, 2009 budget submission included a **request for the Joint Budget Committee to sponsor legislation** for a temporary, one-year adjustment to the State and employee contribution rates to the Public Employees Retirement Association (PERA). Specifically, the request would *decrease* the State's contribution rate by 2.5 percent, and it would *increase* the employee's contribution rate by 2.5 percent. Increasing the employee's contribution to PERA would result in a reduction to his or her take-home pay.

**This request would reduce the State's net General Fund need for FY 2010-11 by \$20.3 million.** Staff notes that due to the American Recovery and Reinvestment Act, any savings resulting from a reduction in the State's PERA contribution rates within institutions of higher education can not be recouped by the State. Instead, these institutions would be able to apply these savings towards other institutional programs.<sup>1</sup>

This legislation was submitted as an alternative to furloughs. However, legislation and furloughs represent independent decisions by two distinct branches of government. They are not inextricably related, and therefore staff did not incorporate furloughs as a part of this analysis.

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<sup>1</sup> Retirement contributions for higher education employees that do not elect PERA retirement benefits remain under the discretion of the governing boards and would not be impacted by this legislation.

**PERSONNEL IMPACT**

*PERA Participants:* **This legislation would impact approximately 55,000 members within the State division, and approximately 300 members within the Judicial division.**<sup>2</sup> Generally, the State division includes all Executive and non-Executive agency employees, employees of institutions of higher education that elect PERA benefits (including certain community colleges), and several other boards and associations under State government oversight. It would apply to participants in both the defined benefit and the defined contribution plans. Please see *Appendix A* for the affiliated employers within the specific divisions.

*Contribution Rates:* The legislation would save General Fund by reducing the State's contributions to PERA by 2.5 percent, and substituting the amount by increasing the employee contribution by 2.5 percent. Although the contribution rates vary between divisions, and have a history of fluctuating to meet actuarial assessments, this legislation would result in the highest ever contribution percentages for all three groups (see *Appendix B*). The following table reflects how the contribution rates would change for both the employer and employee in the different divisions.

<b>Proposed Adjustments to State Employer and Employee PERA Contribution Rates</b>				
	<b>Employer</b>		<b>Employee</b>	
	Current <sup>1/</sup>	Proposed	Current <sup>1/</sup>	Proposed
State Division	10.15	7.65	8.0	10.25
State Division - State Troopers	12.85	10.35	10.0	12.5
Judicial / State Judges	13.66	11.16	13.66	16.16

1/ Pursuant to Section 24-51-401, C.R.S.

**ALTERNATIVE OPTIONS FOR GENERAL FUND SAVINGS**

This section identifies two alternatives if the Committee is interested in sources of General Fund savings other than the requested legislation: (1) to apply a Personal Services base reduction; and (2) to not fund shift differential. These options are included because they don't require legislation and the Committee has the flexibility to later amend its decisions through supplementals or the following year's Long Bill.

**Base Reduction / Vacancy Savings**

The FY 2010-11 budget request did not include a base reduction, which is a percentage applied to Personal Services line items to account for savings due to employee turnover. Turnover generates savings because the new hire typically receives a lower salary than someone with more experience. The following table reflects the base reductions applied to Personal Services line items during recent years.

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<sup>2</sup> Source: PERA's Comprehensive Annual Financial Report, December 31, 2008

Personal Services Base Reductions								
Fiscal Year	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
<b>Base</b>		2.5% >20 FTE						
<b>Reduction</b>	1.5%	1.5% <20 FTE	0.0%	0.2%	0.2%	0.2%	0.5%	1.0%

Staff believes that vacancy savings exist because for FY 2008-09, the average department turnover rate was 7.5 percent. Another important consideration is the rate of retirement, because this indicates a position vacated by an employee who was employed by the State for many years and thus had progressed through the pay range. It also signifies an employee who was most likely with the State for ten or more years and a part of the former compensation system that included anniversary pay / step increases. According to the Department of Personnel and Administration's Director's recommendation letter for FY 2010-11 total compensation (August 4, 2009), "the most tenured employees, those with 10 or more years, are grouped at the top of the range as a result of the historical step system." **Therefore, retirements indicate a greater potential for vacancy savings than other types of turnover. For FY 2008-09, 2.4 percent of the workforce retired.**

Staff reviewed the calculations used to develop the one-time FY 2009-10 savings in order to determine potential base reduction savings for FY 2010-11. This allowed staff to identify more accurate vacancy savings estimates than in prior years, because these calculations already isolate those line items with 20.0 or more FTE. A 0.5 percent vacancy savings reduction would generate approximately \$4.4 million net General Fund savings for FY 2010-11, and a 1.0 percent vacancy savings base reduction will generate approximately \$8.8 million net General Fund savings for FY 2010-11.

FY 2009-10 Personal Services Appropriations for Line Items with Greater Than 20.0 FTE Only					
	Total	General Fund	Cash Funds	Reapprop. Funds	Federal Funds
Base Funds	\$1,460,547,039	\$885,254,868	\$336,451,200	\$147,926,421	\$90,914,550
0.5% Reduction	7,302,735	4,426,274	1,682,256	739,632	454,573
1.0% Reduction	14,605,470	8,852,549	3,364,512	1,479,264	909,146

### Shift Differential

Typically, shift differential pay is used to address staffing problems due to turnover and prolonged vacancies for second and third shift positions. It is pay that is in addition to an employee's base salary. Given the current 6.9 percent unemployment rate, staff questions whether Departments are experiencing the turnover or vacancy issues that may have justified shift differential during prior fiscal years.

- ❑ In December, 2007, there were 1.7 workers competing for every job. As of September, 2009, an average of 6.3 workers were competing for each job opening.<sup>3</sup> Employers are not experiencing the same retention and recruitment challenges as they did prior to the economic downturn.
- ❑ **Shift differential pay is not a federal requirement, and the State is not required to pay it.**<sup>4</sup> The State's only requirements under the Fair Labor Standards Act are to pay a minimum wage and overtime pay for more than 40 hours per week.
- ❑ According to the Culpepper Pay Practices & Policies Surveys, only 26.0 percent of private companies with between 100 and 1,000 employees pay shift differential. The number increases to 31.0 percent for employers with between 1,000 and 5,000 employees. In terms of job type sector, for the healthcare sector (for which shift pay is frequently requested), only 35.0 percent of employers pay shift differential.<sup>5</sup> The State's competitiveness with other employers would not be impacted if it eliminated shift differential pay.
- ❑ The following table reflects potential savings by not funding shift differential for FY 2010-11, based on FY 2009-10 appropriations. Staff notes that this option would not necessarily eliminate shift differential altogether. Departments would continue to retain the administrative flexibility to use personal services dollars for this purpose, if they choose.

<b>FY 2009-10 Shift Differential Appropriations</b>					
<b>Department</b>	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Reapprop. Funds</b>	<b>Federal Funds</b>
Corrections	\$5,944,232	\$5,931,240	\$12,992	\$0	\$0
Dept of Labor	26,301	0	12,053	966	13,282
Human Services	3,536,438	2,257,117	288	1,269,925	9,108
Military Affairs	17,829	0	0	0	17,829
Natural Resources	9,801	2,297	7,504	0	0
Personnel	37,736	0	0	37,736	0
Public Health	9,362	0	0	0	9,362
Public Safety	194,299	35,880	146,840	11,579	0
Revenue	<u>133,215</u>	<u>41,680</u>	<u>91,535</u>	<u>0</u>	<u>0</u>
<b>Grand Total</b>	<b>\$9,909,213</b>	<b>\$8,268,214</b>	<b>\$271,212</b>	<b>\$1,320,206</b>	<b>\$49,581</b>

<sup>3</sup> Source: The U.S. Department of Labor's Job Openings and Turnover Survey. October, 2009. U.S. Department of Labor.

<sup>4</sup> Based on a conversation with the United States Department of Labor on September 29, 2009.

<sup>5</sup> Culpepper Pay Practices & Policies Surveys, June, 2008 www.culpepper.com.

## RECOMMENDATION

- ❑ **Staff does not recommend that the Committee sponsor the requested legislation** because it is a one-time reduction that would require backfilling for FY 2011-12. Additionally, FY 2010-11 will be the second year that staff won't receive a wage increase. A further 2.5 percent reduction in take-home pay could cause hardship for lower-income employees.
  
- ❑ If the Committee chooses to sponsor the requested legislation, staff recommends that be effective for two fiscal years, ***both FY 2010-11 and FY 2011-12***. Given that the budget constraints may continue for FY 2011-12, it will be difficult to identify the General Fund to backfill the one-year reduction.
  
- ❑ If the issue is the need to identify General Fund savings, staff instead recommends that the Committee consider a 0.5 percent base reduction (\$4.4 million General Fund) and not funding shift differential for FY 2010-11 (\$8.3 million General Fund). These actions do not require legislation and in the event that they create undue hardship, the Committee has opportunities to amend its decisions through the typical budget process.

# Appendix A

## SCHEDULE OF AFFILIATED EMPLOYERS

### State Division

#### Agencies and Instrumentalities

CollegeInvest  
College Assist  
Colorado Association of School Boards  
Colorado Association of School Executives  
Colorado Council on the Arts  
Colorado High School Activities Association  
Colorado Public Employees' Retirement Association  
Colorado Water Resources & Power Development Authority  
CoverColorado  
Department of Agriculture  
Department of Corrections  
Department of Education  
Department of Health Care Policy and Financing  
Department of Human Services  
Department of Labor and Employment  
Department of Law  
Department of Local Affairs  
Department of Military and Veterans Affairs  
Department of Natural Resources  
Department of Personnel and Administration  
Department of Public Health and Environment  
Department of Public Safety  
Department of Regulatory Agencies  
Department of Revenue  
Department of State  
Department of the Treasury  
Department of Transportation  
Fire and Police Pension Association  
General Assembly  
Joint Budget Committee  
Judicial Department  
Legislative Council  
Office of the District Attorneys  
Office of the Governor  
Office of Legislative Legal Services  
Office of the Lieutenant Governor  
Office of the State Auditor  
Pinnacle Assurance  
School for the Deaf and the Blind  
Special District Association of Colorado  
State Historical Society

### Institutions of Higher Education

Adams State College  
Aims Community College  
Arapahoe Community College  
Auraria Higher Education Center  
Aurora Community College  
Colorado Mountain College  
Colorado Northwestern Community College  
Colorado School of Mines  
Colorado State University  
Colorado State University at Pueblo  
Commission on Higher Education  
Denver Community College  
Fort Lewis College  
Front Range Community College  
Lamar Community College  
Mesa State College  
Metropolitan State College of Denver  
Morgan Community College  
Northeastern Junior College  
Otero Junior College  
Pikes Peak Community College  
Pueblo Vocational Community College  
Red Rocks Community College  
State Board for Community Colleges and  
Occupational Education  
Trinidad State Junior College  
University of Colorado  
University of Northern Colorado  
Western State College

# Appendix B

## SCHEDULE OF CONTRIBUTION RATE HISTORY

### State Division (Members Other Than State Troopers)<sup>1</sup>

YEARS		PERCENT OF PAYROLL			
		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>2</sup>	AMORTIZATION EQUALIZATION DISBURSEMENT (AED)	SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)
8-1-1931	to 6-30-1938	3.50%	0.00%	—	—
7-1-1938	to 6-30-1949	3.50%	3.50%	—	—
7-1-1949	to 6-30-1958	5.00%	5.00%	—	—
7-1-1958	to 6-30-1969	6.00%	6.00%	—	—
7-1-1969	to 6-30-1970	7.00%	7.00%	—	—
7-1-1970	to 6-30-1971	7.00%	8.00%	—	—
7-1-1971	to 6-30-1973	7.00%	8.50%	—	—
7-1-1973	to 6-30-1974	7.75%	9.50%	—	—
7-1-1974	to 6-30-1975	7.75%	10.50%	—	—
7-1-1975	to 8-31-1980	7.75%	10.64%	—	—
9-1-1980	to 12-31-1981	7.75%	12.20%	—	—
1-1-1982	to 6-30-1987	8.00%	12.20%	—	—
7-1-1987	to 6-30-1988	8.00%	10.20%	—	—
7-1-1988	to 6-30-1991	8.00%	12.20%	—	—
7-1-1991	to 4-30-1992	8.00%	11.60%	—	—
5-1-1992	to 6-30-1992	8.00%	5.60% <sup>3</sup>	—	—
7-1-1992	to 6-30-1993	8.00%	10.60%	—	—
7-1-1993	to 6-30-1997	8.00%	11.60%	—	—
1-1-2006	to 12-31-2006	8.00%	10.15%	0.50%	—
1-1-2007	to 12-31-2007	8.00%	10.15%	1.00%	—
1-1-2008	to 12-31-2008	8.00%	10.15%	1.40%	0.50%

<sup>1</sup> State and School Divisions were merged July 1, 1997, and separated on January 1, 2006.

<sup>2</sup> All employer contribution rates shown for the Divisions between July 1, 1985, to December 31, 2008, include the Health Care Trust Fund allocation.

<sup>3</sup> Legislation created an annual reduction equal to 1 percent of salary retroactive to July 1, 1991, to be taken during May and June of 1992.

## SCHEDULE OF CONTRIBUTION RATE HISTORY

### State Troopers<sup>1</sup>

YEARS		PERCENT OF PAYROLL			
		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>2</sup>	AMORTIZATION EQUALIZATION DISBURSEMENT (AED)	SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)
7-1-1945	to 6-30-1969	7.00%	7.00%	—	—
7-1-1969	to 6-30-1970	8.00%	8.00%	—	—
7-1-1970	to 6-30-1971	8.00%	9.00%	—	—
7-1-1971	to 6-30-1973	8.00%	9.50%	—	—
7-1-1973	to 6-30-1974	8.75%	10.50%	—	—
7-1-1974	to 6-30-1975	8.75%	11.50%	—	—
7-1-1975	to 8-31-1980	8.75%	11.64%	—	—
9-1-1980	to 12-31-1981	8.75%	13.20%	—	—
1-1-1982	to 6-30-1987	9.00%	13.20%	—	—
7-1-1987	to 6-30-1988	9.00%	11.20%	—	—
7-1-1988	to 6-30-1989	9.00%	13.20%	—	—
7-1-1989	to 4-30-1992	12.30%	13.20%	—	—
5-1-1992	to 6-30-1992	12.30%	7.20% <sup>3</sup>	—	—
7-1-1992	to 6-30-1993	11.50%	12.20%	—	—
7-1-1993	to 6-30-1997	11.50%	13.20%	—	—
7-1-1997	to 6-30-1999	11.50%	13.10%	—	—
7-1-1999	to 6-30-2001	10.00%	13.10%	—	—
7-1-2001	to 6-30-2002	10.00%	12.60%	—	—
7-1-2002	to 6-30-2003	10.00%	12.74%	—	—
7-1-2003	to 12-31-2005	10.00%	12.85%	—	—
1-1-2006	to 12-31-2006	10.00%	12.85%	0.50%	—
1-1-2007	to 12-31-2007	10.00%	12.85%	1.00%	—
1-1-2008	to 12-31-2008	10.00%	12.85%	1.40%	0.50%

<sup>1</sup> State and School Divisions were merged July 1, 1997, and separated on January 1, 2006.

<sup>2</sup> All employer contribution rates shown for the Divisions between July 1, 1985, to December 31, 2008, include the Health Care Trust Fund allocation.

<sup>3</sup> Legislation created an annual reduction equal to 1 percent of salary retroactive to July 1, 1991, to be taken during May and June of 1992.

## SCHEDULE OF CONTRIBUTION RATE HISTORY

### School Division<sup>1</sup>

YEARS		PERCENT OF PAYROLL			
		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>2</sup>	AMORTIZATION EQUALIZATION DISBURSEMENT (AED)	SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)
1-1-1944	to 12-31-1949	3.50%	3.50%	—	—
1-1-1950	to 6-30-1958	5.00%	5.00%	—	—
7-1-1958	to 6-30-1969	6.00%	6.00%	—	—
7-1-1969	to 12-31-1969	7.00%	6.00%	—	—
1-1-1970	to 12-31-1970	7.00%	7.50%	—	—
1-1-1971	to 12-31-1971	7.00%	8.50%	—	—
1-1-1972	to 6-30-1973	7.00%	9.25%	—	—
7-1-1973	to 12-31-1973	7.75%	9.25%	—	—
1-1-1974	to 12-31-1974	7.75%	10.25%	—	—
1-1-1975	to 12-31-1975	7.75%	11.25%	—	—
1-1-1976	to 12-31-1980	7.75%	12.10%	—	—
1-1-1981	to 12-31-1981	7.75%	12.50%	—	—
1-1-1982	to 6-30-1987	8.00%	12.50%	—	—
7-1-1987	to 6-30-1988	8.00%	11.50%	—	—
7-1-1988	to 6-30-1991	8.00%	12.50%	—	—
7-1-1991	to 6-30-1992	8.00%	12.20%	—	—
7-1-1992	to 6-30-1997	8.00%	11.60%	—	—
1-1-2006	to 12-31-2006	8.00%	10.15%	0.50%	—
1-1-2007	to 12-31-2007	8.00%	10.15%	1.00%	—
1-1-2008	to 12-31-2008	8.00%	10.15%	1.40%	0.50%

<sup>1</sup> State and School Divisions were merged July 1, 1997, and separated on January 1, 2006.

<sup>2</sup> All employer contribution rates shown for the Divisions between July 1, 1985, to December 31, 2008, include the Health Care Trust Fund allocation.

### State and School Division<sup>1</sup>

YEARS		PERCENT OF PAYROLL	
		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>2</sup>
7-1-1997	to 6-30-1998	8.00%	11.50%
7-1-1998	to 6-30-2000	8.00%	11.40%
7-1-2000	to 6-30-2001	8.00%	10.40%
7-1-2001	to 6-30-2002	8.00%	9.90%
7-1-2002	to 6-30-2003	8.00%	10.04%
7-1-2003	to 12-31-2005	8.00%	10.15%

<sup>1</sup> State and School Divisions were merged July 1, 1997, and separated on January 1, 2006.

<sup>2</sup> All employer contribution rates shown for the Divisions between July 1, 1985, to December 31, 2005, include the Health Care Trust Fund allocation.

## SCHEDULE OF CONTRIBUTION RATE HISTORY

### Local Government Division<sup>1</sup>

		PERCENT OF PAYROLL			
YEARS		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>2</sup>	AMORTIZATION EQUALIZATION DISBURSEMENT (AED)	SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)
1-1-1944	to 12-31-1949	3.50%	3.50%	—	—
1-1-1950	to 6-30-1958	5.00%	5.00%	—	—
7-1-1958	to 6-30-1969	6.00%	6.00%	—	—
7-1-1969	to 12-31-1969	7.00%	6.00%	—	—
1-1-1970	to 12-31-1970	7.00%	7.00%	—	—
1-1-1971	to 6-30-1973	7.00%	7.50%	—	—
7-1-1973	to 12-31-1973	7.75%	7.50%	—	—
1-1-1974	to 12-31-1974	7.75%	8.50%	—	—
1-1-1975	to 12-31-1975	7.75%	9.50%	—	—
1-1-1976	to 12-31-1980	7.75%	9.86%	—	—
1-1-1981	to 12-31-1981	7.75%	10.20%	—	—
1-1-1982	to 6-30-1991	8.00%	10.20%	—	—
7-1-1991	to 12-31-2000	8.00%	10.00%	—	—
1-1-2001	to 12-31-2001	8.00%	9.43%	—	—
1-1-2002	to 12-31-2002	8.00%	9.19%	—	—
1-1-2003	to 12-31-2003	8.00%	9.60%	—	—
1-1-2004	to 12-31-2005	8.00%	10.00%	—	—
1-1-2006	to 12-31-2006	8.00%	10.00%	0.50%	—
1-1-2007	to 12-31-2007	8.00%	10.00%	1.00%	—
1-1-2008	to 12-31-2008	8.00%	10.00%	1.40%	0.50%

<sup>1</sup> The Local Government Division Trust Fund was known as the Municipal Division Trust Fund prior to January 1, 2006.

<sup>2</sup> Employer contribution rates shown between July 1, 1985, to December 31, 2008, include the Health Care Trust Fund allocation.

### Judicial Division

		PERCENT OF PAYROLL			
YEARS		MEMBER CONTRIBUTION RATE	EMPLOYER CONTRIBUTION RATE <sup>1</sup>	AMORTIZATION EQUALIZATION DISBURSEMENT (AED)	SUPPLEMENTAL AMORTIZATION EQUALIZATION DISBURSEMENT (SAED)
7-1-1949	to 6-30-1957	5.00%	5.00%	—	—
7-1-1957	to 6-30-1973	6.00%	12.00%	—	—
7-1-1973	to 6-30-1980	7.00%	12.00%	—	—
7-1-1980	to 8-30-1980	7.00%	13.00%	—	—
9-1-1980	to 12-31-1981	7.00%	15.00%	—	—
1-1-1982	to 6-30-1987	8.00%	15.00%	—	—
7-1-1987	to 6-30-1988	8.00%	13.00%	—	—
7-1-1988	to 6-30-2000	8.00%	15.00%	—	—
7-1-2000	to 6-30-2001	8.00%	14.00%	—	—
7-1-2001	to 6-30-2003	8.00%	11.82%	—	—
7-1-2003	to 6-30-2004	8.00%	12.66%	—	—
7-1-2004	to 12-31-2004	8.00%	13.66%	—	—
1-1-2005	to 12-31-2005	8.00%	13.66%	—	—
1-1-2006	to 12-31-2006	8.00%	13.66%	0.50%	—
1-1-2007	to 12-31-2007	8.00%	13.66%	1.00%	—
1-1-2008	to 12-31-2008	8.00%	13.66%	1.40%	0.50%

<sup>1</sup> Employer contribution rates shown between July 1, 1985, to December 31, 2008, include the Health Care Trust Fund allocation.