MICA 2010 Legislative Recommendations
Pensions & Other Local Governance

Address Both Costs and Revenues in Responding To PERA Funding Deficiency

The MICA Board of Directors urges the 2010 Legislature to look at reducing future costs as well as increasing revenues from employee and employer contributions in addressing the PERA funding deficiency.

Based on the June 30, 2009 market value of investment assets, the PERA General Plan is only 54% funded, a deficiency of (6.45%) of payroll. The PERA Police and Fire Plan is 63.9% funded, a deficiency of (16.6%) of payroll. Employees and employers are just completing a five year phase-in of a contribution rate increase that was over a 17.6% increases for employees and over a 26.6% increase for employers and taxpayers. Current contribution rates for the PERA Police and Fire Plan are 9.4% for the employee and 14.1 % for employers, a combined 23.5% of payroll.

PERA General Plan Contribution Rates	
Employee	Employer
5.1%	5.53%
5.5	6
5.75	6.25
6	6.5
6	6.75
6	7

While some further contribution increases may be inevitable, the 2010 Legislature also needs to look at reining in future costs by suspending or reducing the current, annual 2.5% cost of living increase particularly when little or no inflation is occurring, the 3%-to-age-55 and 5%-thereafter augmentation rate for delayed pensions for members who leave public employment before retiring and collecting their pension and the 6% interest rate on pensions payments suspended and held in escrow due to wages or salary from other public employment in excess of earnings limits. Both the augmentation and interest rates warrant reduction given current, substantially lower returns on safe investments like bank accounts. The current statutory reductions for early retirement should be adjusted, if necessary, to be consistent with actuarial costs.

In future years, the Legislature may have to look at even further cost savings measures. Looking to contribution increases alone to solve the PERA funding deficiency is simply untenable given the contribution increases that have already occurred and the likely taxpayer backlash against any resulting further property tax increases.

Guidance and Clarification on Implementation of Expanded Definition of “Dependent” for Health Insurance Purposes

The MICA Board of Directors urges the 2010 Legislature to clarify the law expanding the definition of “dependent” for health plans to unmarried children ages 19 to 24 who are not full-time students. The board further urges the legislature to work with the National Conference of State Legislators, other affected states and the state’s Congressional delegation to minimize or eliminate payroll administration problems and adverse tax consequences for employees and employers resulting from the expanded definition.

Largely unnoticed, the 2007 Legislature expanded the definition of "dependent" for health plans to include unmarried children ages 19 to 24 who are not full time students. The new law was generally effective January 1, 2008. Under prior law, coverage ended when the child turned age 19 unless he or she was a full-time student in which case coverage could continue until age 25 or when the child was no longer a full-time student, whichever came earlier. As the result of the law change, counties and their employees saw additional premium increases on top of increases already in the pipeline. While the legislature's rationale for enacting the law may have been a well-meaning attempt to reduce the number of uninsured, the Legislature's separate action to exempt the state and its employees from the expanded definition caused other employers to take some umbrage at the change. Local government employers also face a dilemma in that the new, expanded definition is in conflict with MS 471.61, which authorizes group insurance benefits for their employees.

Compounding the premium increases are significant administrative issues. Employers now have to periodically determine eligible employees and dependents, the value of the expanded benefit to affected employees (how this is done is by no means clear), and then pay FUTA and FICA taxes on that value and withhold employee FICA as well as state and federal income taxes from the affected employees' pay. If the Legislature is committed to the expanded definition of "dependents," it should work with other affected states - possibly through the National Conference of State Legislatures - to lobby Congress to exempt the expanded benefit from FICA, FUTA and income taxes, just like employer- provided health insurance for under 19 year old children (under 25 years old for full-time students) is treated currently. Alternatively, the Legislature could amend the current State language defining eligible dependents to add, "provided they are considered qualifying dependents for purposes of a health plan under "IRC 106". This would ensure that the state provisions are in sync with IRS regulations.

Full State Funding for Continued Health Insurance Coverage for Officer or Firefighter Disabled in the Line of Duty

The MICA Board of Directors recommends that the 2010 Legislature fully fund the state reimbursement for local governments' cost for continued health insurance for peace officers or firefighters injured in the line of duty or limit such payments to those instances where the peace officer or firefighter can engage in no gainful employment.

Current law requires state and local government employers to continue to pay the employer share of health insurance costs for peace officers and firefighters injured in the line of duty until they reach age 65. The requirement is conditional on the peace officer qualifying for a "duty-related disability pension." Unlike disability benefits under the PERA coordinated plan, social security or most private disability insurance -- all of which require that a recipient qualify based on inability to engage in any gainful employment, the PERA police and fire plan allows disability benefits to be provided under a less stringent standard -- when the recipient is unable to perform his or her duties as a peace officer or firefighter. The immediate issue is that the state has fallen short of reimbursing local governments for their costs for continued health insurance for these individuals and will not commit to paying 100 percent of these costs in the future. The Legislature that mandates this benefit should unconditionally appropriate sufficient monies to reimburse counties for this expense, as the law requires. Absent such appropriation, the Legislature should relax the mandate such that subsequent employment of the affected peace officers and firefighters where health insurance is provided by the new employer would relieve former local government employers of contributing to the affected peace officers' and firefighters' health insurance costs.

Extend PERA Phased Retirement Option

The MICA Board of Directors recommends the 2010 Legislature extend the expiration of the PERA Phased Retirement Option to 2014

Counties are facing critical labor shortages. A pool of available, qualified labor they must tap to fill job openings are their own, recent retirees. Unfortunately, in the past former local government employees under the age of 65 were penalized if they returned to employment with the county because their earnings in excess of the Social Security earnings limit ($14,160 in 2009) offset their pension $1 for every $2 that their earnings are in excess of that limit. No similar penalty is imposed for reemployment in the private sector putting counties at a competitive disadvantage in competing for these individuals' needed talents.

The 2009 Legislature authorized PERA General Plan members age 62 or older who have worked for a minimum of the five previous years in a PERA covered position on at least a half-time basis to receive their pension while still employed without any offset for earnings in excess of the social security earnings limit if they reduce their hours at least 25 percent from their previously regularly scheduled work hours and to no more than half time. The county board has sole discretion to determine if and the extent to which a postretirement option position under this section is available.

This useful option for retention of experienced, older employees expires on June 30, 2011. The expiration was intended to allow a review of the provision's impact. Many counties are still in the process of assessing how to implement the option so a longer trial period would allow a better assessment of the provision's impact on retention and the impacts on PERA.

Oppose Allowing Sick Leave to Care for a Relative Other than a Child

The MICA Board of Directors recommends the 2010 Legislature support the collective bargaining process and oppose any efforts to expand paid sick leave to include care of a relative other than a child.

Legislation passed during the 2008 Legislative Session would have expanded the list of relatives for which an employee could take paid sick leave to care for those individuals so as to include an adult son or daughter, spouse, sibling, parent, grandparent, or stepparent. The legislation was vetoed by the governor.

The federal Family Medical Leave Act already requires most employers to grant up to 12 weeks unpaid leave to an employee for the care of a spouse, child, or parent with a serious illness. State law requires that paid sick leave may be taken to care for a sick child **when paid sick leave is provided by the employer**. The only effect of the vetoed legislation was to expand the qualifying use of paid sick leave. Nowhere in state law is paid sick leave required. Thus, particularly small employers reluctant to incur the expense or inconvenience of employee absences would be even less likely to provide the optional benefit of paid sick leave if its qualifying use was expanded under the vetoed legislation. The vetoed bill would also increase expenses for employers who do offer paid sick leave and potentially create major staffing problems, particularly for programs or facilities that must be staffed 24/7. Finally, state-mandated expansion of paid sick leave undermines the collective bargaining process. Right now expanded use of sick leave can be negotiated in the collective bargaining process. Many exclusive bargaining agents and employers have in fact negotiated combined sick and vacation leave policies known under such terms as “flex leave.” Employees of employers with “flex leave” policies may take leave for any purpose knowing that use of the “flex leave” for personal illnesses or care of a sick relative will reduce leave available for vacation. But it is available for time off taken to care for sick relatives or even friends if that is necessary.

Remove the Age Limitation on the Intern Exemption for PELRA

The MICA Board of Directors urges the 2010 Legislature to remove the age cap on the current intern exemption for the Public Employee Labor Relations Act.

Current law provides that interns under age 22 who work for less than 100 days in a year and are currently enrolled as a student or have an intention of returning to school during or after employment are exempt from the Public Employee Labor Relations Act's provisions. The law unfairly discriminates against older students, including veterans whose entry to college was delayed while they served our country, those unemployed and other individuals who have delayed their education or are returning to school. This is unfortunate for these individuals who are seeking to improve their lives and career prospects. Removing the age limit will remedy this inequity. The 100-day-in-any-year limit will still subject longer term employees to the provisions of PELRA without regard to age.

Allow County Employees to Participate in the State's Long-Term Care Insurance Program

The MICA Board of Directors recommends that the 2010 Legislature expand voluntary participation in the state's long-term care insurance program to county employees and retirees.

State employees and retirees may purchase long-term care insurance at group rates through the state. While authority exists for local governments to offer similar policies or benefits to their employees and retirees, the size of their groups are usually too small to allow savings similar to the state plan to be achieved in the premiums for their participating employees and retirees. Allowing county and other local government employees and retirees to participate in the state program would fix this shortcoming and achieve the broader intent of getting employees to plan for these costs and not end up on medical assistance at state taxpayers' expense.