



**PUBLIC EMPLOYEES  
RETIREMENT ASSOCIATION**

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Date: March 8, 2023  
To: Nick Stumos-Lager  
From: Amy Streng, Policy Coordinator  
Subject: HF 1234 A3- PERA Process

The A3 amendment requires PERA to administer a new process for PERA Police & Fire Plan members who seek treatment for a psychological condition through a special fund established in the amendment and funded via the general fund. PERA would be responsible for approving the applications for 24 weeks of treatment. PERA would also be charged with confirming whether the conditions of the treatment have been satisfied and determining whether the treatment should continue or whether the employee is able to return to their position or a similar position. These determinations would not be part of the PERA disability application process but would precede it. Under federal law, PERA may only expend plan assets for the exclusive benefit of its members. If the psychological condition treatment program is disconnected from PERA's disability benefits, using fund assets to administer the program could jeopardize the Police & Fire Plan's status as a qualified retirement plan.

The A3 amendment does the following:

- Modifies the eligibility for a duty disability based on a psychological condition by requiring completion of the psychological condition treatment.
- Modifies the current occupational standard for a duty disability benefit, which is that a member is unable to perform their job (as a police officer or firefighter, for example). The new standard would be that the member is unable to perform their own job or another position with the employer that provides salary and benefits that are equal or greater than their current position.
- Requires an employee who applies for treatment of a psychological condition that was the result of the performance of duties related to the occupation to receive approval from PERA for psychological treatment. Adds the following process:
  - The employee must submit an application along with a report by a medical professional which states that the employee is currently unable to perform the normal duties of the position held by the employee on the date of injury, event, or onset of the mental illness.
  - The employer must provide documentation certifying the dates the employee was on duty in a position covered under the Police and Fire Plan.
  - PERA is required to provide notice to the employer and employee, the employer is required to certify the dates of employment.
  - Treatment is not conditioned on PERA's notice to the employer or employee.

- Once an employee has completed up to 24 weeks of treatment, the medical professional must assess the employee's progress in treatment monthly, and at the end of the period, the medical professional shall opine on the any change to the employee's ability to return to the position or a similar position with the employer. The medical professional may opine if an additional 8 weeks may provide more improvement.
  - For PERA's purposes, the treatment is between the employer and employee and is not part of the PERA disability application process.
- After completion of the 24 weeks of treatment, PERA will confirm the treatment requirements have been satisfied and make one of the following determinations:
  - Continue the approval for an additional 8 weeks based on the medical professional's report.
  - Terminate the psychological condition treatment because the employee is able to return to the position or similar position with equal pay and benefits.
- Confirm that the employee has met the psychological condition treatment, after which the employee may apply for disability benefits. PERA's disability application process begins only after the approval and confirmation of treatment for members applying for a duty disability benefit with a psychological condition. The employee must then apply for a PERA disability benefit. PERA will approve the employee's application for disability benefits if the employee is eligible under 353.031 (PERA's disability process and eligibility)
  - PERA requires 2 medical reports that demonstrate the member is unable to perform the duties of the occupation (or a similar position if a duty disability related to a psychological condition) for a period of 12 months or more (this is the new standard).
  - Disability benefits will begin on the date the employer ceases to continue salary and benefits and the last day paid. Under PERA's current statute, the employee must also exhaust available sick and vacation leave for disability benefits to be paid.
- Establishes the psychological condition treatment account, a special revenue fund, for the purposes to appropriate the money necessary for PERA to administer the new process.
- The requirement of treatment and the modified occupational standard for duty disability applications based on a psychological condition does not apply to current duty disability benefit recipients. The new requirements only apply after the effective date for members seeking a duty disability benefit based on a psychological condition.