

**TESTIMONY
OF
SPARB COLLINS
CONCERNING RULES OF THE
NORTH DAKOTA PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Good morning Mr. Chairman and members of the Committee, my name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). Today I would like to discuss with you the rules adopted by NDPERS. Some of the rules before you today are the result of new state legislation, however, most are administrative revisions, or “housekeeping” items. Specifically, the legislation implemented in these rules is HB 1059 and SB 2060. These rules relate to the PERS Defined Benefit Hybrid retirement plan, the Highway Patrol retirement plan, the PERS defined contribution retirement plan, the Deferred Compensation Plan and the Group Insurance programs.

The NDPERS Board follows a standard procedure in its rule making process, which includes:

- 1) Preparation of draft rules
- 2) Initial presentation of proposed rules by staff to the Board.
- 3) After Board review and comments, a second draft is prepared for public hearing;
- 4) A date and location of the public hearing is determined and notifications are filed with newspapers across the state;
- 5) Draft rules are posted to the NDPERS website and distributed to employer groups, employee groups and others upon request;
- 6) Notice is sent to legislators who sponsored legislation pertaining to proposed rules along with a copy of the draft rules when applicable. It was not applicable this year.

- 7) The hearing is held at the date and time specified in the notice, with a staff member present to receive comments, and all comments are recorded.
- 8) The results of the hearing and comment period are reviewed by the Board; and
- 9) Following Board review and approval, the final draft rules are forwarded to the Attorney General's office and, following the Attorney General's review, they are filed with the Legislative Council.

This process was followed with the rules before you today. A public hearing on the rules was held on Wednesday, November 6, 2013 at 11 a.m. in the conference room at the NDPERS office, here in Bismarck. The hearing record was held open for written comments until the close of business on November 18, 2013. No comments were provided relating to the proposed rules, as no one attended the hearing and no written comments were received. A copy of the rules as proposed was provided to the PERS Board and it was informed that there were no comments received. At its November meeting, the NDPERS Board reviewed and adopted the proposed rules before you. The cost of giving notice was approximately \$2952.90 + legal fees were \$1638.00. We estimate that staff spent approximately 40 hours on the rule making process.

Relating to the requirements of Chapter 28-32 we have done the following:

- Concerning NDCC 28-32-08 it was determined these rules would not have an economic impact on the regulated community and there were no written requests received for a regulatory analysis.
- Concerning NDCC 28-32-02.5 it was determined that there are no constitutional takings implications applicable to the proposed rules.
- Concerning NDCC 28-32-08.1 we determined there was generally no effect on small entities and a copy of that analysis is included for your convenience.

- There is no anticipated fiscal effect anticipated by these rules and no fiscal note was submitted.

The following is an explanation of the proposed rules relating to general administrative activities of PERS and the applicable PERS Benefits Plans.

Section	Description	Page
71-01-02-04. Election notification.	An administrative revision that updates rule to reflect current language in the statute regarding deferred vested retirement benefits.	p. 327
71-01-02-13. Election voting.	New section adds administrative option for electronic ballots.	p. 328
71-02-01-01(27) Definitions.	Administrative revision that clarifies definition of termination of employment for purposes of establishing when a refund may be applied for, relating to a re-employed employee.	p. 332
71-02-04-01. Retirement benefits – Application	Administrative revision providing an alternative, if a birth certificate is not available for purposes of applying for retirement benefits.	p. 333
71-02-04-04.1. Benefit modifications.	Removes reference to legislatively repealed retirement benefit option, Level Social Security Option (repealed by SB2060.)	p.333
71-02-04-09. Dual membership - Receipt of retirement benefits while contributing to the teachers’ fund for retirement, the highway patrolmen’s retirement system, or the teachers’ insurance and annuity association of America - college retirement equities fund.	Administrative provision that formalizes existing procedure for dual service participants.	p. 334

71-02-10-02. Qualified domestic relations orders procedures.	Administrative provision that provides processing guidelines for NDPERS relating to when a refund is being requested from the defined benefit hybrid plan and a QDRO is pending.	p. 335
71-03-03-08. Continuation of life insurance after retirement.	Administrative provision that clarifies that supplemental life for retirees can continue until 65 to be consistent with existing board policy.	p.337
71-03-04-02. Information to employee	Administrative revision that removes reference to paper forms because electronic forms are now available and in use.	p.338
71-03-05-10. Determining amount of premium overpayments and underpayments.	Administrative revision that establishes a time period for determining amount of premium over or under payments to make all NDPERS insurance plan procedures consistent.	p.339
71-03-07-07. Minimum requirements for political subdivisions.	Language added pursuant to law change under NDCC 54-52.1-03.1 (HB1059) relating to the withdrawal of a political subdivision from the uniform group insurance program.	p.340
71-04-03-01. Enrollment.	Administrative revision that removes reference to paper forms because electronic forms are now available and in use.	p.341
71-04-05-02. Payroll deductions.	Administrative revision that removes reference to paper forms because electronic forms are now available and in use.	p.342
71-05-05-01. Normal and early retirement benefits - Application.	Administrative revision providing an alternative, if a birth certificate is not available for purposes of applying for retirement benefits under the Highway Patrol Retirement System.	p. 343

71-05-08-02 Qualified domestic relations orders procedures	Administrative provision that provides processing guidelines for NDPERS relating to when a refund is being requested and a QDRO is pending for a member of the Highway Patrol.	p. 344
71-07-01-01. Plan document.	Revises schedule for reviewing the plan document from annual to as needed due to changes in federal law.	P.346
71-08-04-02	Administrative provision that provides processing guidelines for NDPERS relating to when a refund is being requested and a QDRO is pending for a member of the Defined Contribution Retirement Plan.	p.347

Small Entity Regulatory Analysis

1. **Was establishment of less stringent compliance or reporting requirements for small entities considered? Yes. To what result?** It was determined that the only proposed administrative rule change implicated by this question was an amendment to 71-03-07-07 that grants small entities more flexibility by expanding the circumstances under which they may discontinue participation in group insurance plans without additional payment. This proposed rule change reflects the amendment made to N.D.C.C. § 54-52.1-03.1 by H.B. 1059 (2013).
2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities?** This question is not applicable to the amendment to 71-03-07-07. **To what result?**
3. **Was consolidation or simplification of compliance or reporting requirements for small entities considered?** This question is not applicable to the amendment to 71-03-07-07. **To what result?**
4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule?** This question is not applicable to the amendment to 71-03-07-07. **To what result?**
5. **Was exemption of small entities from all or any part of the requirements in the proposed rule considered?** This question is not applicable to the amendment to 71-03-07-07. **To what result?**