HB 1203

LEGISLATIVE EMPLOYEE BENEFITS PROGRAMS COMMITTEE
January 30, 2013

Fay Kopp, Interim Executive Director - Chief Retirement Officer
ND Retirement and Investment Office - ND Teachers' Fund for Retirement

Thank you for the opportunity to describe how HB 1203 would impact the TFFR trust fund, and to review the analysis conducted by TFFR's actuarial consultant. On behalf of the TFFR Board, I am testifying in opposition to this bill.

BILL SUMMARY

HB 1203 would eliminate the current statutory requirement that TFFR member contributions be paid on the salary earned by re-employed retirees.

> Section 1: NDCC 15-39.1-19.1 Retired teachers return to active service - Annuities discontinued on resumption of teaching over annual hour limit.
>
> Section 2: NDCC 15-39.1-19.2 Retired teachers return to active service – Critical shortage areas and disciplines.

RETIREE-REEMPLOYMENT BACKGROUND INFORMATION

Current law allows public school teachers and administrators, after a minimum 30-day break in service, to return to TFFR covered employment after retirement and continue receiving their TFFR benefits under certain employment limitations. The limits apply to TFFR covered employment, but do not apply to non-contracted substitute teaching, teaching in a public college, university, or private school, employment outside of education, or employment outside of ND.

The maximum annual hour limit under the **General Rule (Section 1)** is based on length of re-employed retiree's contract: 9 month contract = 700 hours; 10 month contract = 800 hours; 11 month contract = 900 hours; 12 month contract = 1,000 hours.

- If the retiree stays under the General Rule annual hour limit, they continue receiving their monthly TFFR pension benefit and earn salary (and possibly benefits) from the school district. About 94% of re-employed retirees stay under the annual hour limit.

- If the retiree exceeds the annual hour limit (about 2% of retirees), their monthly TFFR benefit is suspended and they are then treated like an active employee with their benefit possibly recalculated upon subsequent retirement if they meet certain other conditions outlined in state law. For example, if retirees returned to covered employment, had their monthly benefit suspended, and earned less than 2 years of additional service credit, they would receive their discontinued benefit, plus a refund of member contributions paid after the benefit suspension plus interest. If they earn 2 – 5 years of additional service credit, they would receive the greater of the discontinued annuity plus additional years/salaries at the current multiplier, OR all years recalculated at the current multiplier, less an actuarial offset for the amount of benefits already paid. If they earn 5 or more years of additional service credit, they would receive the greater of the above calculation, OR the retirement benefit recalculated using all the years/salaries at the current multiplier with no actuarial offset.

Under the **Critical Shortage Area exemption (Section 2),** retirees can return to TFFR covered employment in an approved critical shortage area and exceed the annual hour limitation (work full time) and continue receiving their monthly TFFR pension benefit. About 4% of retirees work under this option. A one-year waiting period is required. Critical shortage areas are determined each year by the Education Standards and Practices Board (ESPB). For the 2012-13 school year, ESPB has designated all areas except for elementary education and physical education as critical shortage areas.

Prior to 7/1/12, the employer paid employer contributions on the salary earned by reemployed retirees both under the general rule and critical shortage areas. No member contributions were paid. However, with the passage of HB1134 in the 2011 legislative session, beginning 7/1/12, member contributions are also required to be paid on the salary earned by re-employed retirees. Depending on the negotiated agreement between the school districts and the teachers, the member contributions are either paid by the retiree through a salary reduction or paid (all or a portion) by the school districts/employer.

The re-employed retiree's pension benefit does not increase as a result of the additional contributions being paid (unless their benefit was suspended because they exceeded the annual hour limit). However, the member contributions are included in the retiree's guaranteed account value.

Here is an example to help clarify the general rule – annual hour limit, which is the method under which most retirees (about 94%) return to covered employment:

> ***Example**: John Jones is age 58, has 30 years of TFFR service, and receives average annual salary of $50,000 as an active teacher. John is eligible for retirement, so he resigns from his position and retires from the school district. His TFFR benefit would be calculated as follows ($50,000 final average salary X 30 years X 2.0% multiplier = $30,000 annual TFFR benefit). After John retires, if he waits at least 30 days, he may return to covered employment on a limited basis*

and continue receiving his $30,000 annual benefit from TFFR. As a 9-month teacher, John is allowed to work up to 700 hours (part time), earn salary/benefits from the school district, and continue receiving TFFR benefit. If John earns $25,000 pay from the school district plus $30,000 pay from TFFR, he would be receiving $55,000 total between TFFR and school (working part time). Under current law, retiree/member contributions are required to be paid (25,000 X 9.75% = $2,438). Employer contributions are also required to be paid (25,000 X 10.75% = $2,688). John's benefit does not increase as a result of returning to teach, however he is able to continue receiving the TFFR benefit while employed half time at the school.

During the 2011-12 fiscal year, there were 318 re-employed retirees. Average age was 62, and average salary earned was $24,500. 132 school districts/employers employed the 318 TFFR retirees, with 4 retirees working in 2 school districts.

Of the total 318 re-employed retirees, 298 (94%) worked part time under the annual hour limit, 13 (4%) worked full time under critical shortage area exemption, and 7 (2%) worked full time under the benefit suspension and recalculation option.

Of the 318 re-employed retirees in 2011-12, 248 (78%) were teachers/special teachers, 44 (14%) were principals or other administrators, and 26 (8%) were superintendents.

So far in the 2012-13 school year, there are 252 re-employed retirees. However, by the end of the fiscal year, we anticipate there will be a similar number of re-employed retirees as there have been the last few years (over 300).

See attached charts for additional information on re-employed retirees.

2011 LEGISLATION

The TFFR Board submitted a comprehensive package of benefit and contribution changes which were studied during the 2010 interim and approved by the 2011 Legislature (HB1134). These changes were designed to improve TFFR funding levels over the long term, and reduce the unfunded liability of the plan.

One of the core principles upon which the TFFR proposal was based was that funding improvement responsibilities should be shared. For example, increases in both member and employer contributions; benefit reductions for both new and current employees who are more than 10 years away from retirement; no benefit increases for current retirees; and the requirement that member contributions be paid for those retirees who return to covered employment and continue to receive their pension benefits. No member (active or retired) wants to pay more contributions for the same or reduced benefit structure. Employers also do not want to pay more contributions. However, it was determined to be in the best interests of the plan as a whole for all parties to share in these funding improvement actions which are expected to improve TFFR's financial soundness for current and future retirees.

This is the first year TFFR has collected member contributions on re-employed retirees. In order to implement this legislation, both TFFR and the participating employers/school districts made the necessary software changes by the effective date of July 1, 2012.

In addition, it is our understanding that in some cases, employers gave retirees salary increases large enough to cover all or a portion of their retirement contribution. In other cases, if the employer pays the member contributions for active employees, the employer also began paying the member contribution for re-employed retired employees. Each school district makes their own decisions regarding employee pay and benefits, but in many cases it appears that re-employed retirees may not have received a pay cut as a result of this new provision.

ACTUARIAL ANALYSIS

TFFR's actuarial consultant, Segal Company, reviewed this bill. A copy of their January 21, 2013, letter is attached. According to Segal's actuarial analysis:

The impact of eliminating member contributions on re-employed retirees would be a reduction in contributions to the system of approximately $780,000 based on estimated re-employed retiree salary of $8,000,000 (using the current 9.75% member rate), or 0.15% of total estimated fiscal 2013 payroll of $535,900,000.

Beginning in fiscal 2015 and each year thereafter, the impact would be about $1,002,000 in lost contributions based on estimated re-employed retiree salary of $8,528,000, or a reduction of approximately 0.18% of total pay in contributions to the system (based on the 11.75% member rate that will be effective July 1, 2014).

The impact on TFFR for each year will depend on the number of re-employed retirees that fall under the General Rule and Critical Shortage Area exemption and their payroll.

According to the actuary, the impact on TFFR's unfunded liability would be the amount of contributions that would no longer be collected (approximately $1,000,000 per year less than under current law), and there would be a small negative impact on the funding ratio of the plan going forward. Eliminating the provision associated with collection of member contributions for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

FISCAL NOTE

The fiscal note for HB 1203 is based on Segal's actuarial review of the bill (January 21, 2013 letter).

	2011-13	2013-15	2015-17
School districts	-	$(624,000)	$(802,000)

On its face, one would expect that passage of HB 1203 would only affect re-employed retirees. However, passage of the bill may also affect employers/school districts who pay the member/retiree contribution into the TFFR. Currently, about 40% of TFFR employers/school districts who employ retirees have agreed through the negotiations process to pay all or a portion of member contributions. Therefore $780,000 X 40% = $312,000 is expected to be paid by employers for TFFR re-employed retirees in FY13. If HB 1203 is approved, effective 7/1/13, TFFR employers/school districts will save about $624,000 in the 2013-15 biennium (312,000 X 2), and about $802,000 (401,000 X 2) in the 2015-17 biennium, and will continue to increase each biennium depending on the number of re-employed retirees and their salaries.

In addition, if any state educational institution (School for Blind, School for Deaf, Center for Distance Education, Youth Correctional Center) employs TFFR retirees, a reduction in expenditures would be realized, since the State pays 4% of the member/retiree TFFR contribution.

SUMMARY

HB 1203 removes one of the TFFR related funding improvement provisions just approved in the 2011 legislative session. As a result, TFFR will receive approximately $1,000,000 less each year in member contributions on re-employed retirees.

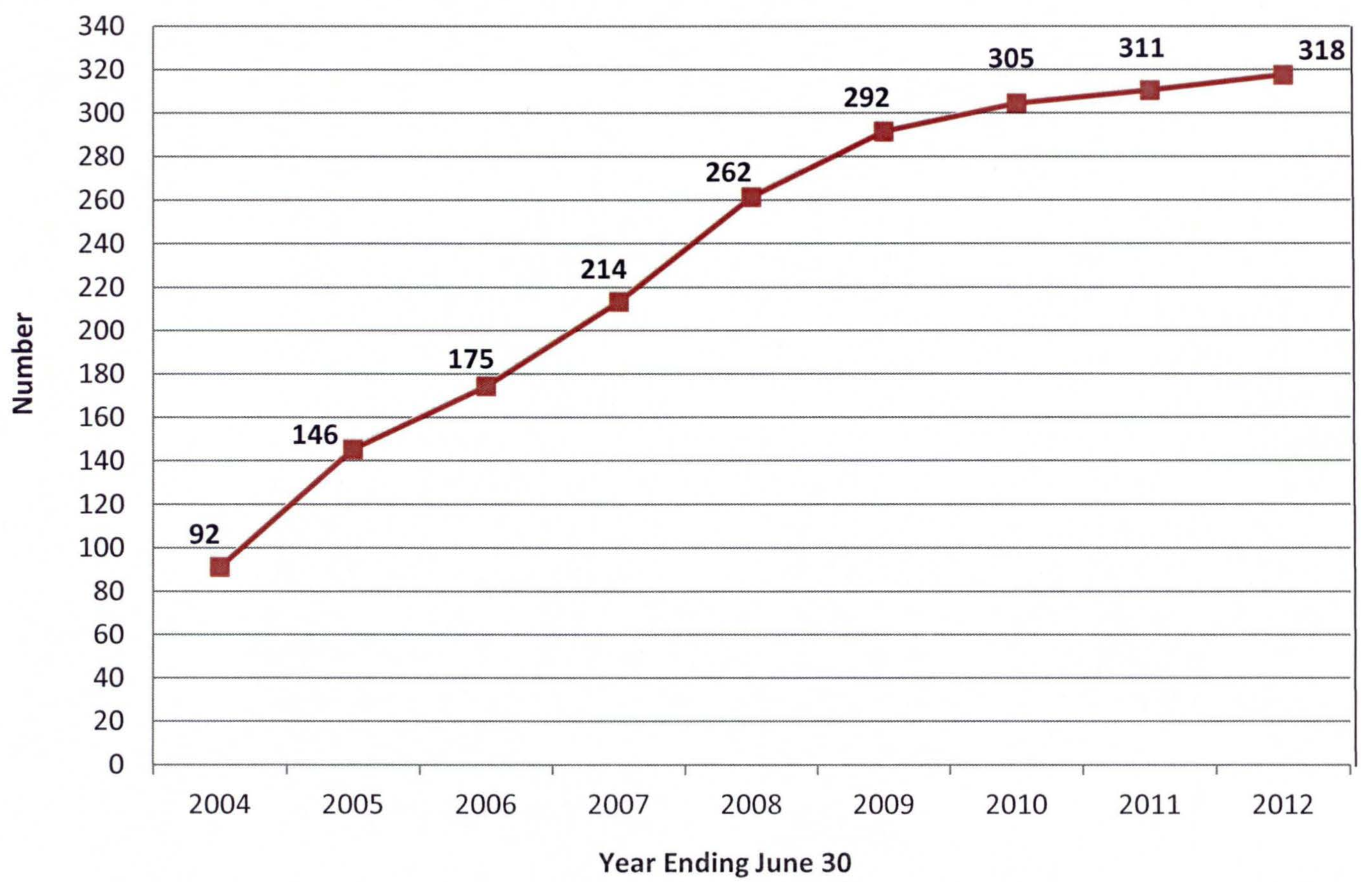
Because HB 1203 has a negative impact on TFFR funding and is expected to result in it taking longer for TFFR to reach its long term funding goals and to reduce member and employer contribution rates, the TFFR Board opposes this bill. The Board continues to believe that all members (both active and retired) and employers should share the responsibility for TFFR's long term funding improvement.

Mr. Chairman and members of the Committee, this concludes my testimony on HB 1203. I would be happy to respond to your questions. Thank you.

2011-12 RETIREE RE-EMPLOYMENT SUMMARY STATISTICS

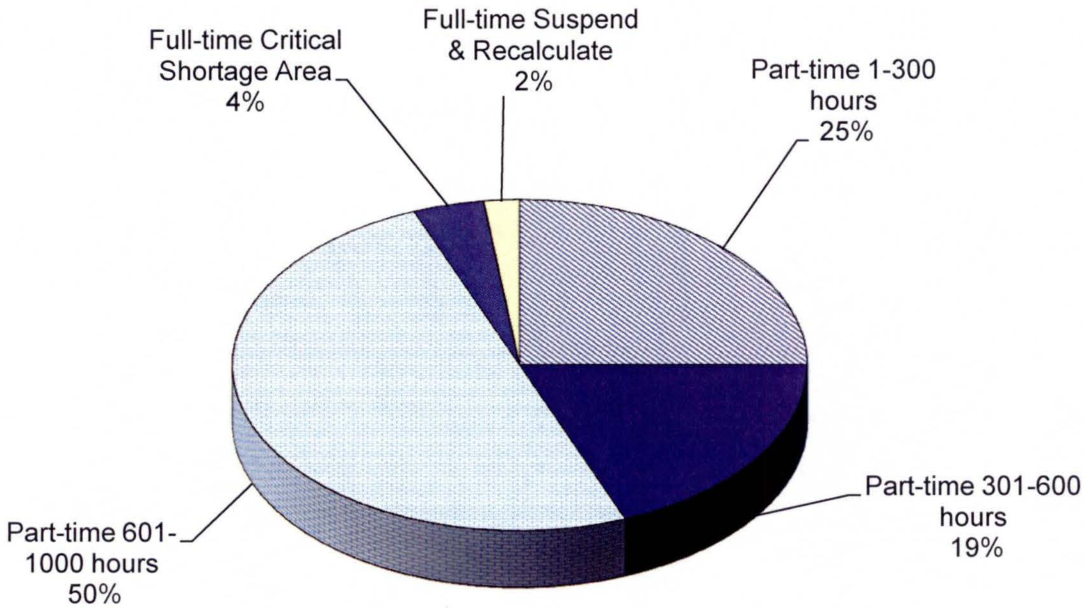
Total number of Re-employed Retirees		**318**
Superintendents	26	
Administrators	44	
Teachers	248	
General Rule	298	
Critical Shortage Area	13	
Suspend and Recalculate	7	
Average Age	62	
Average Salary	$24,500	
Employers of Retirees	132	

TFFR RE-EMPLOYED RETIREES
2004-2012



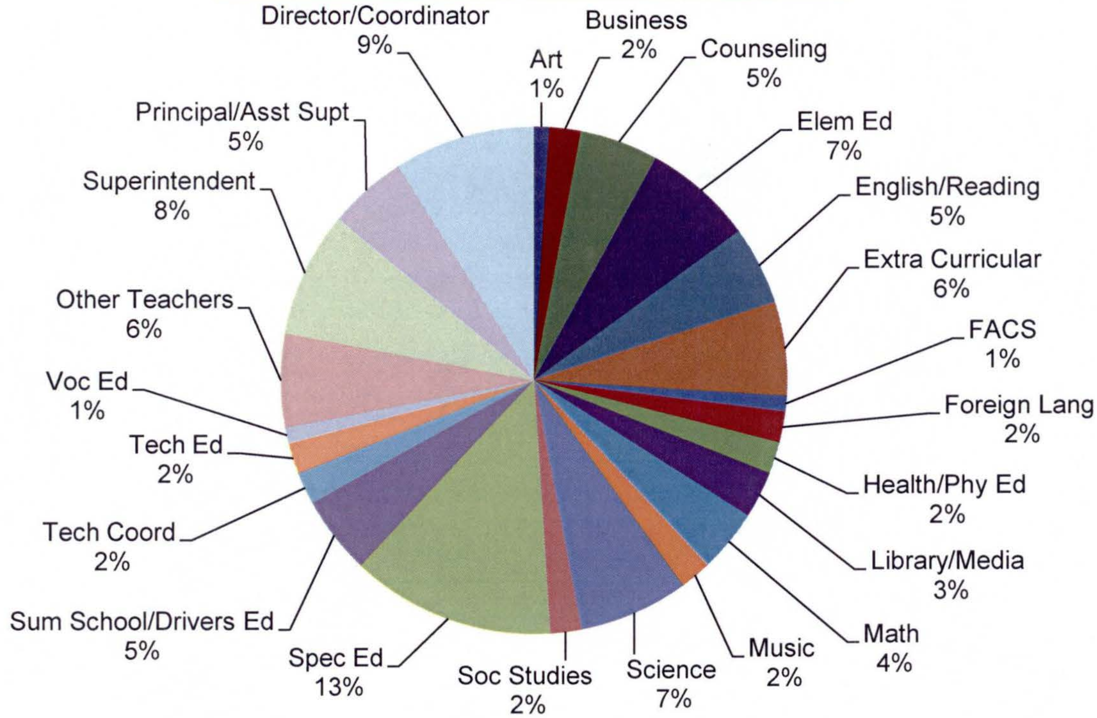
TFFR RE-EMPLOYED RETIREES

By Hours Contracted



Hours Contracted	Re-employed Retirees	
Part Time – General Rule	**Number**	**Percent**
1 – 300 hours	78	25
301 – 600 hours	61	19
601 – 1000 hours	159	50
Full Time		
Critical Shortage Area	13	4
Suspend & Recalculate	7	2
Total Re-employed Retirees	**318**	**100%**
(4 teaching in 2 districts)		

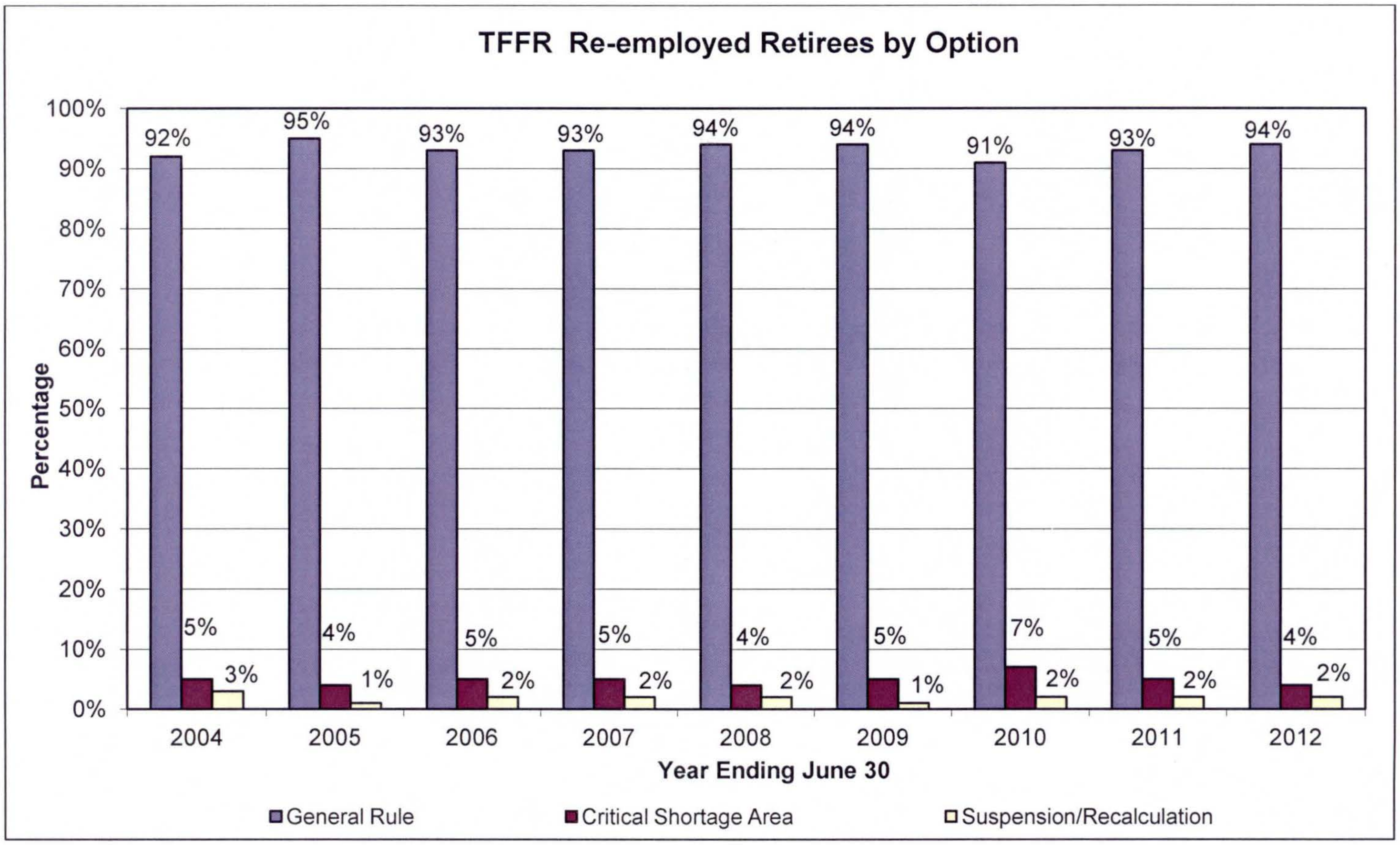
TFFR RE-EMPLOYED RETIREES BY SUBJECT/POSITION

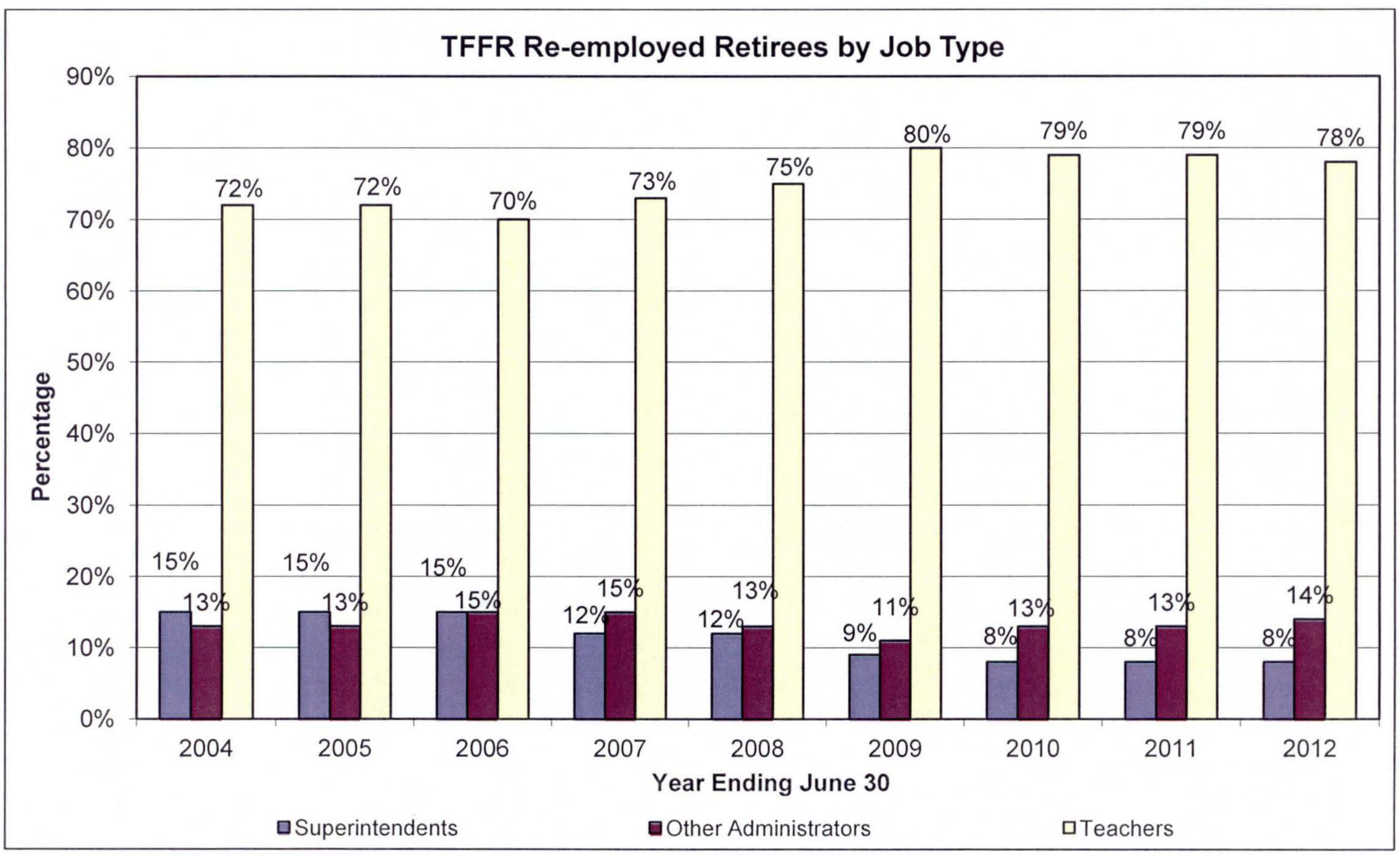


Subject or Position	Re-employed Retirees Number	Re-employed Retirees Percent
Art	4	1
Business	7	2
Counseling	16	5
Elementary Ed	21	7
English/Reading	16	5
Extra Curricular	20	6
FACS	4	1
Foreign Language	7	2
Health/Phy Ed	5	2
Library/Media	10	3
Math	13	4
Music	6	2
Science	21	7
Social Studies/History	6	2
*Special Ed/Title/LD/Speech	41	13
Summer School/Driver's Ed	17	5
Tech Coordination	5	2
Tech Ed	8	2
Voc Ed	2	1
Other Teachers	19	6
Total Retired Teachers	248	78
Superintendent	26	8
Principal/Asst Supt	15	5
Director/Coordinator	29	9
Total Retired Admin	70	22
Total Re-Employed Retirees	**318**	**100%**

(4 teaching in 2 school districts)

*Special Ed:	
ESL	1
LD	3
Speech Path/Ther	7
Spec Ed	13
Title	15
Hearing Impair	1
Vision Impair	1


TFFR Re-employed Retirees by Option
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Percentage
92%
95%
93%
93%
94%
94%
91%
93%
94%
5%
4%
5%
5%
4%
5%
7%
5%
4%
3%
1%
2%
2%
2%
1%
2%
2%
2%
2004
2005
2006
2007
2008
2009
2010
2011
2012
Year Ending June 30
General Rule
Critical Shortage Area
Suspension/Recalculation


TFFR Re-employed Retirees by Job Type
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Percentage
15%
13%
72%
15%
13%
72%
15%
15%
70%
12%
15%
73%
12%
13%
75%
9%
11%
80%
8%
13%
79%
8%
13%
79%
8%
14%
78%
2004
2005
2006
2007
2008
2009
2010
2011
2012
Year Ending June 30
Superintendents
Other Administrators
Teachers

SEGAL

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January 21, 2013

Via E-mail

Ms. Fay Kopp
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ND Retirement & Investment Office
P.O. Box 7100
Bismarck, ND 58507-7100

Re: Full Actuarial Analysis and Technical Comments on House Bill 1203

Dear Fay:

The following presents our analysis of the proposed changes found in House Bill 1203 (Bill 13.0312.01000) that would eliminate member contributions for re-employed retirees under the Teachers' Fund for Retirement (TFFR).

Summary

The contribution rates (percentage per annum of the teacher's salary) required for TFFR members are shown below:

Period	Member Rate
July 1, 2012 through June 30, 2014	9.75%
Beginning July 1, 2014	11.75%

Prior to July 1, 2012, re-employed retirees were not required to pay TFFR member contributions (or have member contributions paid on their behalf) as a condition of their re-employment. However, with the enactment of legislation approved in 2011 (HB 1134), effective July 1, 2012, member contributions are required on salary earned by re-employed retirees as shown in the table above, and re-employed retirees continue to receive their retirement benefits while employed. The proposed legislation would revert to prior law and eliminate the requirement that TFFR member contributions be paid on behalf of re-employed retirees who stay under the General Rule (GR) annual hour limit, or return full time in Critical Shortage Areas (CSA). However, participating employers would still be required to pay employer contributions for these re-employed retirees.

Actuarial Analysis

Using an estimated salary of $8,000,000 for the 2012-2013 fiscal year for approximately 310 re-employed retirees that fall under the GR and CSA, the impact of eliminating member contributions would be a reduction of approximately $780,000 in contributions to the system (based on the current 9.75% member rate), or 0.15% of total estimated fiscal 2013 payroll of $535,900,000. Beginning in fiscal 2015 and each year thereafter, the impact would be a reduction of approximately 0.18% of total pay in contributions to the system (based on the 11.75% member rate that will be effective July 1, 2014). For fiscal 2015, this equates to $1,002,000 based on estimated re-employed retiree salary of $8,528,000. The impact for each year will depend on the number of re-employed retirees that fall under the GR and CSA and their payroll. In addition, the impact on TFFR's unfunded liability would be the amount of contributions that would no longer be collected and there woud be a small negative impact on the funding ratio of the plan going forward.

Technical Comments

In 2011, HB 1134 was enacted with the intention of improving the funded position of the system. Eliminating the provision associated with collection of member contributions for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

Administrative Costs

This bill will require the Retirement and Investment Office to revise member and employer communications materials. In addition, there will be programming costs for TFFR and employers associated with modifying software to revert to pre- July 1, 2012 provisions.

General Comments

Calculations presented in this analysis were made using generally accepted actuarial practices and are based on demographic data as of July 1, 2012, asset returns through July 1, 2012, and use assumptions and methods in place for the July 1, 2012 valuation.

Please do not hesitate to contact us with any questions or comments.

Sincerely,

Kim Nicholl

Kim Nicholl, FSA, MAAA, EA
Senior Vice President and Actuary

Matthew A. Strom

Matthew A. Strom, FSA, MAAA, EA
Consulting Actuary

kn/ms/bmi

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