SB 2331

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 SB 2331 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

SB 2331 would provide an actuarial adjustment to increase benefits based on the total amount of retired member contributions paid to the fund during the period of reemployment. The benefit adjustment would be done after the retiree re-retires, at the completion of the member's re-employment with a covered employer. The benefit adjustment would be paid effective the first day of the month following the retired member's re-retirement.

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 SB 2331. A copy of their January 29, 2013, letter is attached. In their letter they noted they had also conducted an actuarial analysis on HB 1203 (letter dated January 21, 2013) which is a bill that would also impact re-employed retirees under TFFR. While HB 1203 and SB 2331 both impact retired member contributions, they are contradictory to each other. HB 1203 would eliminate retired member contributions during reemployment while SB 2331 returns the member contributions over time by actuarially increasing retired members' benefits upon subsequent retirement.

According to Segal, the impact of actuarially adjusting the benefits for re-employed retirees under SB 2331 would result in an increase in actuarial accrued liability of approximately $780,000 (based on the current 9.75% member rate). In fiscal 2015, the impact would be an increase in actuarial accrued liability of approximately $1,002,000 (based on the 11.75% member rate that will be effective July 1, 2014). These calculations were made using an estimated re-employed retiree salary of $8,000,000 for the 2012-2013 fiscal year and $8,528,000 in 2015 for approximately 310 re-employed retirees that fall under the GR and CSA.

The impact for each year will depend on the number of re-employed retirees that fall under the GR and CSA and their payroll. To the extent that re-employed retirees live longer or shorter than expected, the actual impact to the Fund will be more or less than the additional actuarial liability, and will be recognized as a gain or loss. If SB 2331 were enacted, there would be a small negative impact on the funding ratio of the plan going forward and it will take longer for TFFR to achieve its funding goals.

According to the actuary, the financial impact to TFFR of SB 2331 is similar to the financial impact of HB 1203. Both bills address the retired member contributions collected during the reemployment period. HB 1203 eliminates these contributions and SB 2331 refunds these contributions over time by an increase in the service benefit upon subsequent retirement. Consideration should be given as to whether the additional administrative costs associated with SB 2331 would warrant passage of HB 1203, which eliminates these member contributions as opposed to increasing the member's service benefit upon subsequent retirement as required under SB 2331.

Another consideration is whether the provisions of SB 2331 will result in active members retiring earlier than they ordinarily would have in order to become re-employed retirees who will be eligible for an increase in service benefit upon subsequent retirement, particularly in school districts where their employers pay the member contributions. If this were the case, the increase in actuarial accrued liability would be greater than described above.

The following chart shows examples of the increase in a re-employed retiree's service benefit based upon various member contribution totals and subsequent retirement ages of 60 and 65.

Re-employed Retiree Member Contribution Totals	Additional Monthly Benefit Assuming Re-retirement Age 60	Additional Monthly Benefit Assuming Re-retirement Age 65
$50	$0.38	$0.40
$500	$3.76	$4.01
$5,000	$37.56	$40.05
$10,000	$75.12	$80.10
$15,000	$112.67	$120.15
$50,000	$375.58	$400.51

The actuary states that it will take 10 to 11 years for a re-employed retiree to recoup the member contributions that were collected during the reemployment period.

Segal notes that this bill will require staff to revise member and employer communications materials. In addition, there will be programming costs for TFFR in order to determine the additional monthly benefit upon each re-employed retiree's subsequent retirement. SB 2331 increases the complexities surrounding re-employed retirees, as there will be added administrative costs associated with educating members on how the provisions work and providing estimates of service benefits under alternative scenarios. As described earlier, if the intent of SB 2331 is to refund member contributions made during reemployment, it would be administratively easier to eliminate these contributions. As shown in the chart above, the increase in monthly benefit is minimal for member contribution totals that are low.

ADMINISTRATIVE ISSUES

To implement SB 2331, a number of administrative issues will need to be addressed.

1) TFFR would need to determine when the retiree is considered to be re-retired. For example, the retiree would need to resign from the position, and apply for re-retirement with TFFR. The retiree and employer would need to indicate that the retiree is not under contract for the upcoming school year, and does not intend to return to covered employment.

2) TFFR would need to work closely with employers regarding accurate and timely reporting of retired member contributions.

3) Once all payments are received and reconciled, then TFFR would begin the process of determining total retired member account values (including member contributions collected beginning July 1, 2012), reviewing applications and documentation from retirees and employers, confirming that retirees have not returned to covered employment the following school year, and finally calculating the necessary benefit adjustments. This process could likely take 3 – 6 months. The benefit adjustment would be paid retroactively to August 1, 2013, or the first day of the month following the retiree's re-retirement after the effective date of the bill.

4) Administrative rules will need to be promulgated, actuarial calculations will need to be determined, business system software changes will need to be made, and new forms and procedures will need to be developed. This will result in increased administrative and consulting costs which are difficult to estimate at this time.

5) TFFR retiree re-employment is already a very complicated process, and requires a considerable amount of counseling and ongoing communications with the retirees and the employers. This bill increases the complexity. A combination of manual, business system, and actuarial updates will be necessary to properly administer and monitor the retiree re-employment program.

FISCAL NOTE

Because SB 2331 maintains current member and employer contribution rates for re-employed retirees, there is no direct fiscal impact to the State, school districts, or political subdivisions compared to the current law.

However, there is a small negative actuarial impact on the TFFR trust fund since the member contributions collected on behalf of re-employed retirees will no longer help to pay down TFFR's actuarial liability, but will instead be returned to the re-employed retirees in the form of increased benefits which will in effect increase the plan's actuarial liability.

SUMMARY

SB 2331 modifies one of the TFFR related funding improvement provisions just approved in the 2011 legislative session. As a result, TFFR's actuarial liability is expected to increase by about $1,000,000 per year.

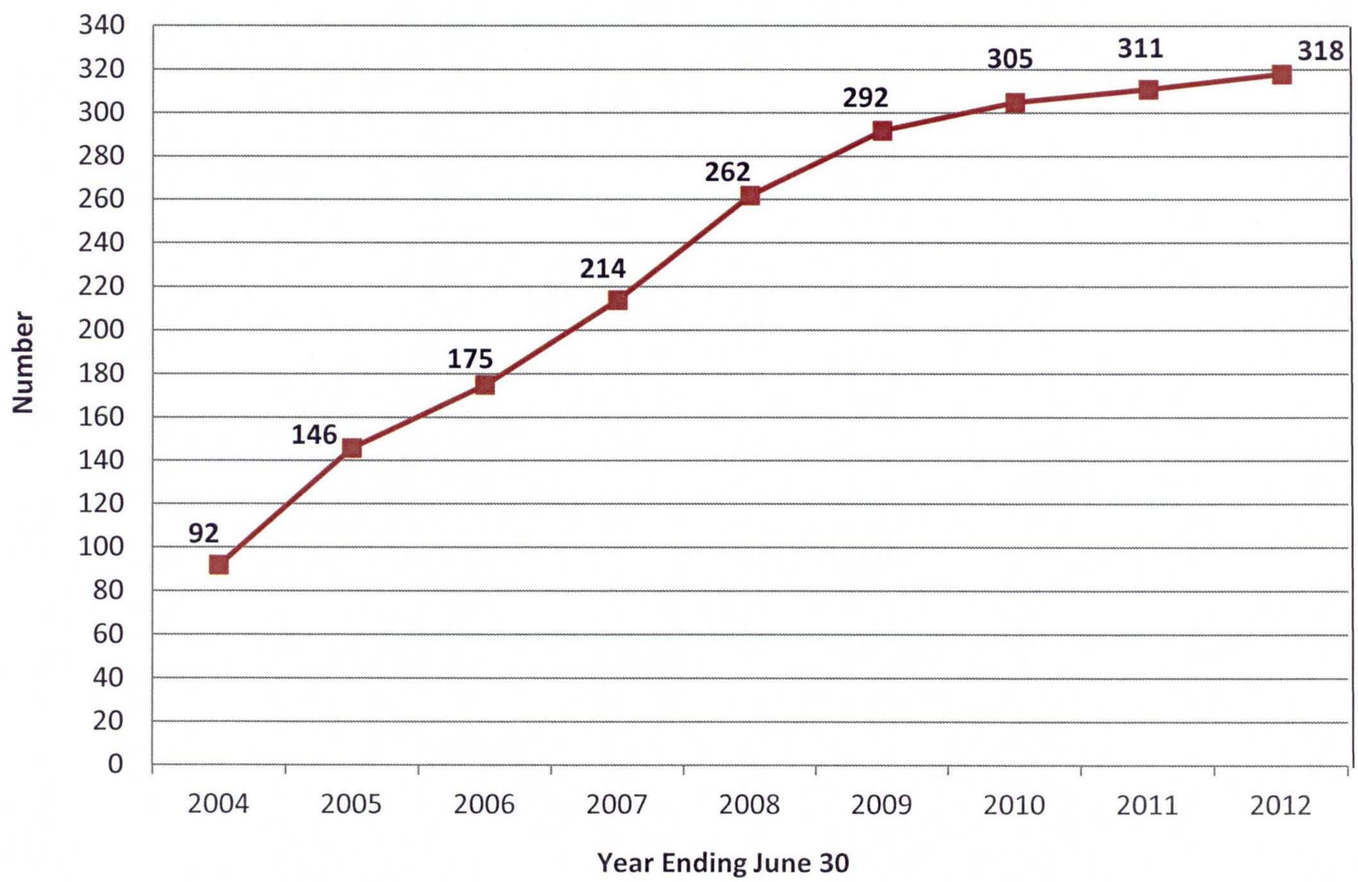
Because SB 2331 increases TFFR's actuarial liability and is expected to result in it taking longer for TFFR to reach its long term funding goals, the TFFR Board opposes this bill. In addition, the administrative complexity of collecting retired member contributions in order to return them in the form of increased retiree benefits using a new actuarial calculation does not appear to justify the increased costs.

Mr. Chairman and members of the Committee, this concludes my testimony on SB 2331. I would be happy to respond to your questions. Thank you.

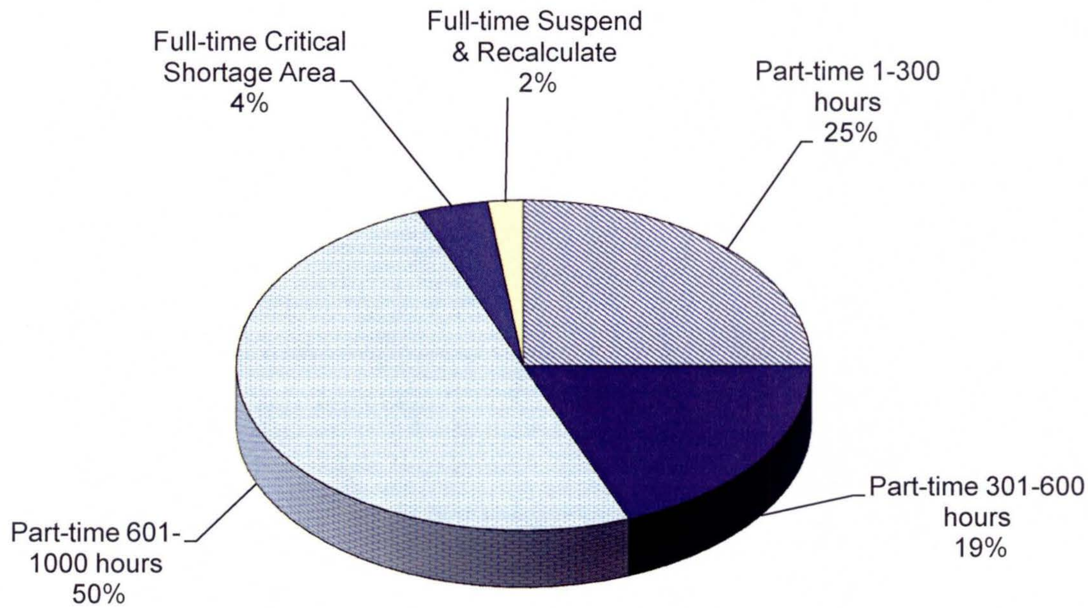
2011-12 RETIREE RE-EMPLOYMENT SUMMARY STATISTICS

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

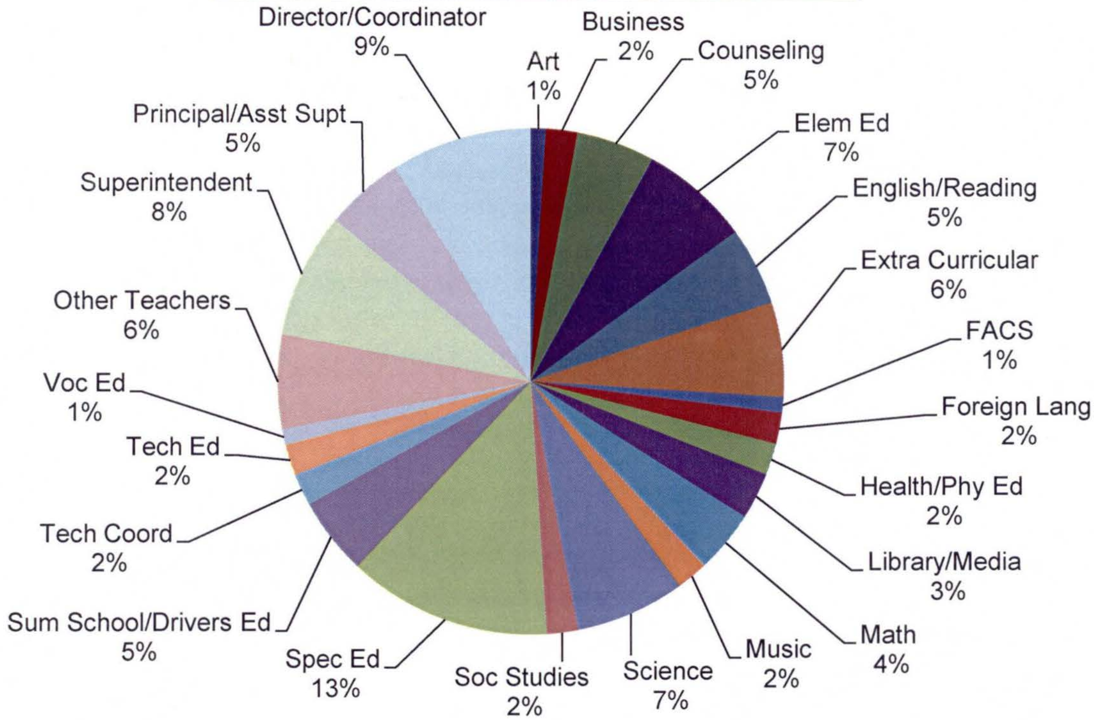


TFFR RE-EMPLOYED RETIREES
By Hours Contracted



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)		

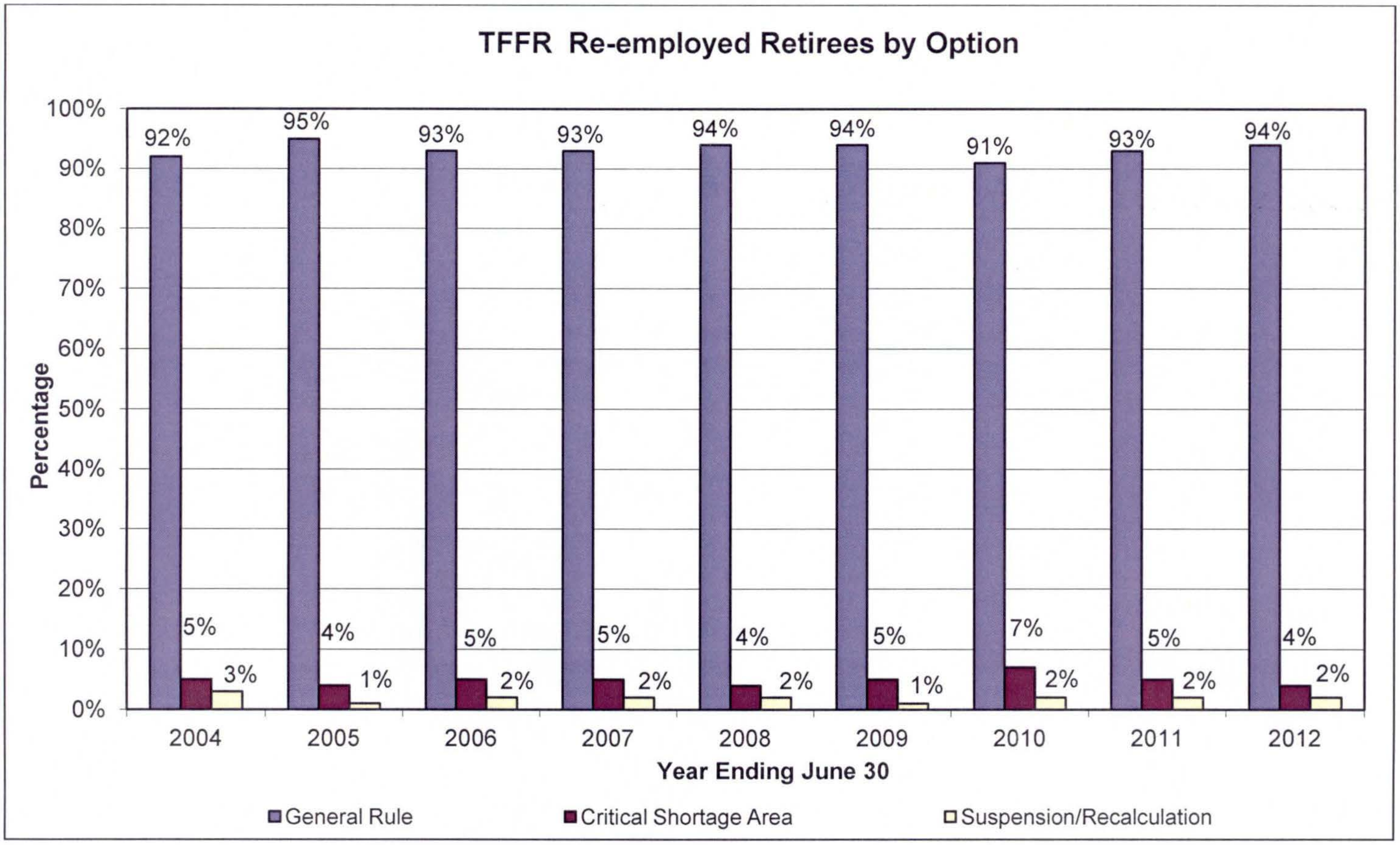
TFFR RE-EMPLOYED RETIREES BY SUBJECT/POSITION

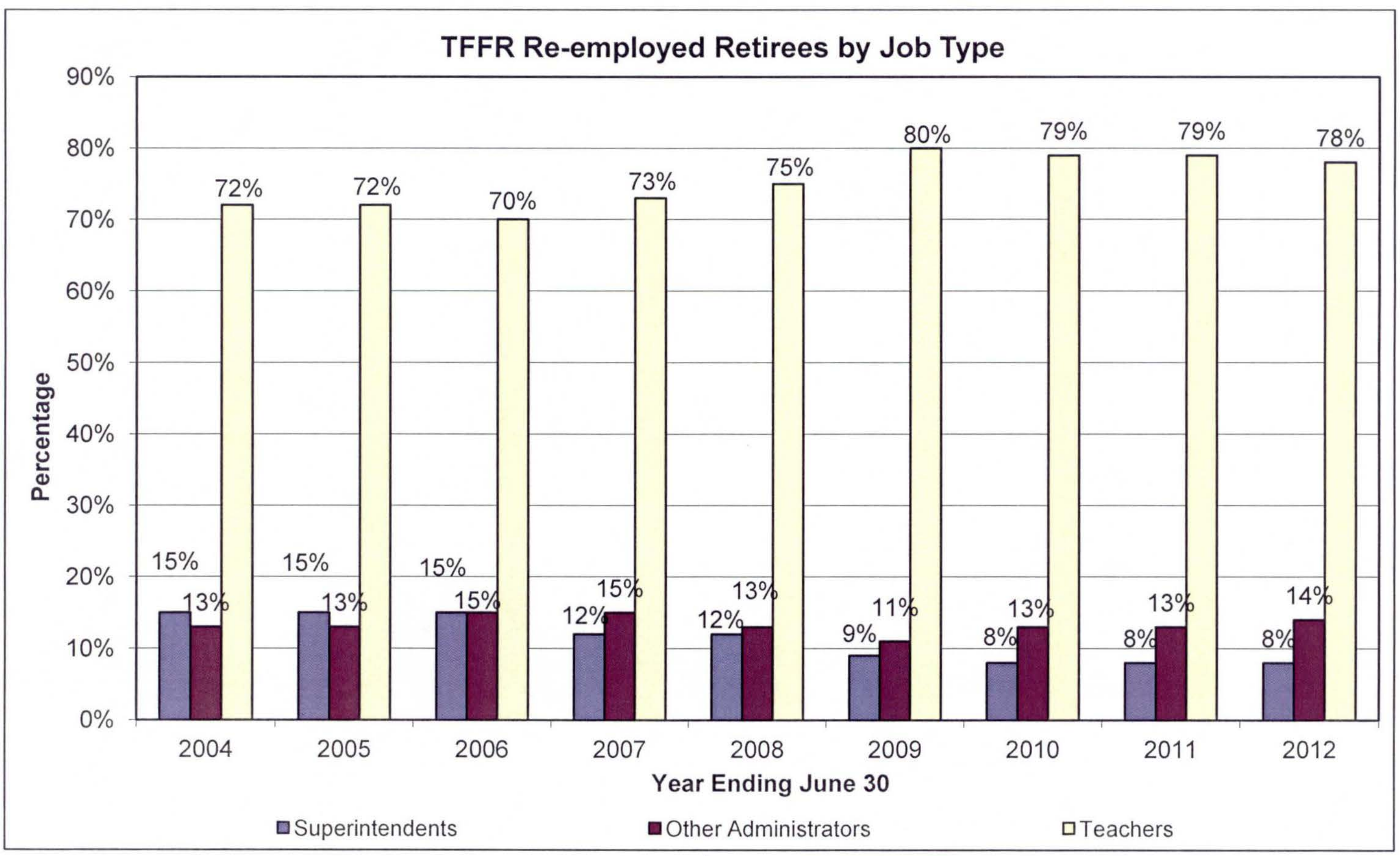


Subject or Position	Re-employed Retirees Number	Percent
Art	4	1
Business	7	2
Counseling	16	5
Elementary Ed	21	7
English/Reading	16	5
Extra Curricular	20	6
FACS	4	1
Foreign Language	7	2
Health/Phy Ed	5	2
Library/Media	10	3
Math	13	4
Music	6	2
Science	21	7
Social Studies/History	6	2
*Special Ed/Title/LD/Speech	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%
3%
4%
1%
5%
2%
5%
2%
4%
2%
5%
1%
7%
2%
5%
2%
4%
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 29, 2013

Via E-mail

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

Re: Full Actuarial Analysis and Technical Comments on Senate Bill 2331

Dear Fay:

The following presents our analysis of the proposed changes found in Senate Bill 2331 (Bill 13.0832.01000) that would provide for actuarially adjusting the service benefit upon subsequent retirement of retired teachers and administrators who return to active duty (i.e., re-employed retirees) under the Teachers' Fund for Retirement (TFFR). The actuarial adjustment would be based upon the total amount of member contributions received during a re-employed retiree's period of reemployment. The adjusted benefit must be paid effective the first day of the month following the re-employed retiree's subsequent retirement.

We provided a letter with the actuarial analysis of House Bill 1203 on January 21, 2013, which is a bill that would also impact re-employed retirees under TFFR. While House Bill 1203 and Senate Bill 2331 both impact member contributions, they are contradictory to each other. House Bill 1203 would eliminate member contributions during reemployment while Senate Bill 2331 refunds the member contributions over time by actuarially increasing members' benefits upon subsequent retirement. Further commentary on this is included in this letter.

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 provide for an actuarial increase in benefit upon a re-employed retiree's subsequent retirement based upon the member contributions received during a re-employed retiree's period of reemployment. Under current law, TFFR member contributions are 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) and are used to improve the funded status of TFFR. Participating employers would continue to 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 actuarially adjusting the service benefits for re-employed retirees would result in an increase in actuarial accrued liability of approximately $780,000 (based on the current 9.75% member rate). In fiscal 2015, the impact would be an increase in actuarial accrued liability of approximately $1,002,000 (based on the 11.75% member rate that will be effective July 1, 2014 and 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. To the extent that re-employed retirees live longer or shorter than expected, the actual impact to the Fund will be more or less than the additional actuarial liability, and will be recognized as a gain or loss. If Senate Bill 2331 were enacted, there would be a small negative impact on the funding ratio of the plan going forward.

The financial impact on TFFR of Senate Bill 2331 is similar to the financial impact of House Bill 1203. Both bills address the member contributions collected during the reemployment period. House Bill 1203 eliminates these contributions and Senate Bill 2331 refunds these contributions over time by an increase in the service benefit upon subsequent retirement. Consideration should be given as to whether the additional administrative costs associated with Senate Bill 2331 would warrant passage of House Bill 1203, which eliminates these member contributions as opposed to increasing the member's service benefit upon subsequent retirement as required under Senate Bill 2331.

Another consideration is whether the provisions of Senate Bill 2331 will result in active members retiring earlier than they ordinarily would have in order to become re-employed retirees who will be eligible for an increase in service benefit upon subsequent retirement, particularly in school districts where their employers pay the member contributions. If this were the case, the increase in actuarial accrued liability would be greater than described above.

Technical Comments

In 2011, HB 1134 was enacted with the intention of improving the funded position of the system. Increasing the retiree benefits based on total member contributions paid for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

The following chart shows examples of the increase in a re-employed retiree's service benefit based upon various member contribution totals and subsequent retirement ages of 60 and 65.

Re-employed Retiree Member Contribution Totals	Additional Monthly Benefit Assuming Re-retirement Age 60	Additional Monthly Benefit Assuming Re-retirement Age 65
$50	$0.38	$0.40
$500	$3.76	$4.01
$5,000	$37.56	$40.05
$10,000	$75.12	$80.10
$15,000	$112.67	$120.15
$50,000	$375.58	$400.51

The actuarial adjustments are based upon TFFR's post-retirement mortality tables, a unisex basis of 25% male and 75% female, and 8% interest.

As an observation, it will take 10 to 11 years for a re-employed retiree to recoup the member contributions that were collected during the reemployment period.

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 in order to determine the additional monthly benefit upon each re-employed retiree's subsequent retirement. Senate Bill 2331 increases the complexities surrounding re-employed retirees, as there will be added administrative costs associated with educating members on how the provisions work and providing estimates of service benefits under alternative scenarios. As described earlier, if the intent of Senate Bill 2331 is to refund member contributions made during reemployment, it would be administratively easier to eliminate these contributions. As shown in the chart above, the increase in monthly benefit is minimal for member contribution totals that are low.

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/ns

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