

# SPECIAL COMMITTEE ON THE RESOLUTION OF SENATE BILL NO. 2022 - FINAL REPORT

Pursuant to a directive by the Chairman of the Legislative Management, the Special Committee on the Resolution of Senate Bill No. 2022 was assigned the responsibility to review and reconcile differences between the Senate and House versions of 2015 Senate Bill No. 2022.

Committee members were Senators Rich Wardner (Chairman), Joan Heckaman, and Gary A. Lee and Representatives Al Carlson, Kathy Hogan, and Don Vigasaa.

## BACKGROUND

Senate Bill No. 2022 (2015) is the appropriations bill for the Public Employees Retirement System (PERS) and Retirement and Investment Office. The bill was introduced by the Senate Appropriations Committee at the request of the Governor. The Legislative Assembly tentatively adjourned on April 29, 2015, without passing the bill.

## SUMMARY OF BUDGET DIFFERENCES BETWEEN THE HOUSE AND SENATE

The committee received information regarding the differences between the House and Senate versions of Senate Bill No. 2022. The committee learned both agency budgets are comprised entirely of special funds. The committee learned the Conference Committee on Senate Bill No. 2022 had reached a tentative agreement on the budget differences during the regular session. The following is a summary of the major budget differences between the House and Senate versions of Senate Bill No. 2022, as well as the tentative Conference Committee version.

### Retirement and Investment Office

The only difference between the House and Senate versions was the health insurance premium increase, which was adjusted in the House and tentative Conference Committee versions to the revised amount similarly to all other agency budgets.

### Public Employees Retirement System

The major differences between the House and Senate versions included the following:

	Senate Version	House Version	Tentative Conference Committee Version
Chief financial officer position	Added 1 FTE and \$216,069 for a chief financial officer position.	Did not include funding for a chief financial officer position.	Added 1 FTE and \$216,069 for a chief financial officer position.
Benefits support position	Added a 0.50 FTE benefits support position and \$51,346.	Did not include funding for a benefits support position.	Added a 0.50 FTE benefits support position and \$51,346.
Temporary salaries and retiree health credit portability costs	Added \$302,352 for temporary salaries.	Added \$102,352 for temporary salaries.	Added 222,352 of temporary salaries funding, of which \$100,000 is considered one-time funding, and added \$43,052 for costs associated with the new portability provision of the retiree health credit.

Other differences in the PERS budget included funding for salary and health insurance adjustments, which was adjusted in the House and Conference Committee versions to revised amounts similar to all other agency budgets.

## SUMMARY OF HEALTH INSURANCE-RELATED DIFFERENCES BETWEEN THE HOUSE AND SENATE

The committee learned that Senate Bill No. 2022, as amended by the House included changes relating to the uniform group health insurance plan. The House version of the bill:

- Changed the membership of the PERS Board (Sections 3 and 4);
- Provided for regulation of the PERS health insurance benefits coverage of prescription drug coverage (Section 5); and
- Changed the law relating to the PERS uniform group health insurance policies and contracts (Sections 6 through 10).

The committee received the following summary of the sections included in the House version of the bill relating to provisions of the PERS uniform group health insurance plan:

## **Membership of the PERS Board**

**SECTION 3** - Amended subsection 17 of North Dakota Century Code Section 54-52-01, which is the definition of "retirement board" as used in Chapter 54-52. The amendment reflected the change to the PERS Board in Section 4.

**SECTION 4** - Amended Section 54-52-03 to change the membership of the PERS Board and increase the number of board members from seven to nine.

The amendment added to the board:

- The Majority Leader of the House of Representatives or a designee;
- The Majority Leader of the Senate or a designee; and
- Two members of the Legislative Assembly appointed by the Chairman of the Legislative Management. The members appointed by the Chairman of the Legislative Management must consist of one member from the majority party and one member from the minority party.

The amendment removed from the board:

- The member appointed by the Attorney General from the Attorney General's legal staff; and
- The State Health Officer.

## **Regulation of Prescription Drug Coverage**

**SECTION 5** - Created a new section of law specific to PERS uniform group health insurance for prescription drug coverage, addressing transparency and accessibility of pharmacy benefits.

Subsection 1 - Required the PERS Board, once every two years, to direct the State Auditor to select a firm to complete a financial and health care analysis of the prescription drug coverage under the health benefits coverage. Subdivisions a through e set out specific elements that must be included in the analysis, including brand name drug and generic drug cost information, specialty drug pharmacy drug costs, third-party financial benefits, evaluation of program effectiveness, and evaluation and recommendations regarding refill practices.

Subsection 2 - Provided that upon request of the PERS Board, the health benefits coverage carrier or pharmacy benefits manager must provide the items specified in subdivisions a and b, including a copy of the prescription drug coverage contract and information regarding drug programs.

Subsection 3 - Directed the PERS Board to present this analysis report to the Legislative Audit and Fiscal Review Committee.

## **PERS Uniform Group Health Insurance Policies and Contracts**

**SECTION 6** - Amended Section 54-52.1-05, which sets out the requirements of a uniform group insurance contract.

Subsection 2 - Limitations on the terms of a contract for hospital benefits coverage, medical benefits coverage, or prescription drug coverage are established, providing:

- The term of the contract may not exceed two years; and
- The contract may not be renewed without solicitation of a bid.

**SECTION 7** - Created a new section of law, specific to PERS Board contracts for health insurance benefits coverage.

Subsection 1 - Addressed insured and provider privacy, providing a contract for health insurance benefits coverage must provide that except as necessary for treatment, payment, and operations, the health insurance carrier may not disclose identifiable or unidentifiable insured or provider data or information with a related or an unrelated health care delivery entity.

Subsection 2 - Addressed the situation if the PERS Board enters a contract for health insurance benefits coverage with a carrier that has common ownership with a health care delivery entity. If this occurs, this provision would set requirements for the carrier's negotiated provider discount rates.

- For in-state providers that are critical access hospitals that do not have common ownership with the carrier, the rates may not be less than the rates the carrier has with a related health care delivery entity that is a critical access hospital.
- For in-state providers, other than critical access hospitals, the rates for providers that do not have common ownership with the carrier may not be less than the rates the carrier has with a related health care delivery entity that is not a critical access hospital.

**SECTION 8** - This section would not be codified in Century Code and would apply through the end of the 2013-15 biennium. If the PERS Board determines it is necessary to rebid the health insurance benefits contract, the carrier providing coverage at the time of that determination may continue under the existing contract until a new contract is finalized, but not to exceed nine months beyond the date the PERS Board makes that determination.

**SECTION 9** - This section would not be codified in Century Code and would apply through the end of the 2015-17 biennium. This section provides the PERS Board may not spend any money in the health insurance reserve fund created under Section 54-52.1-06 or any other accumulated reserves under the uniform group insurance program for the purpose of reducing any increase in uniform group insurance premium amounts beyond the rates used by the 64<sup>th</sup> Legislative Assembly for developing 2015-17 state agency budgets.

**SECTION 10** - Provided Sections 7, 8, and 9 of this bill are declared to be an emergency measure and are effective upon filing of the bill with the Secretary of State.

### **COMMITTEE FINDINGS AND CONSIDERATIONS**

The committee reviewed and discussed information regarding the differences between the House and Senate versions of Senate Bill No. 2022. As part of the committee discussion, the committee received comments and information from representatives of the following entities:

- Employee Benefits Programs Committee
- Insurance Department
- Public Employees Retirement System
- Sanford Health

The committee reviewed and discussed several amendments to the bill. Areas of discussion included membership of the PERS Board, health insurance contract provisions, insured and provider privacy, and the use of the health insurance reserve fund.

### **COMMITTEE RECOMMENDATIONS**

The committee reached a consensus on the following amendments to the House version of Senate Bill No. 2022:

- Incorporate the amendments to the budget items in Sections 1 and 2, as previously approved in the tentative Conference Committee amendments, to provide 2015-17 biennium appropriations and FTE position authorization to PERS and the Retirement and Investment Office as follows:

	<b>Public Employees Retirement System</b>	<b>Retirement and Investment Office</b>
Other funds appropriation	\$9,343,423	\$5,413,425
FTE positions	34.50	19.00

- Revise Sections 3 and 4 to adjust the membership of the PERS board as follows:
  - Add two members of the Legislative Assembly, one from each political faction, appointed by the Chairman of Legislative Management, to the board.
  - Continue the membership of the Attorney General's designee and State Health Officer on the board; however, clarify that the State Health Officer may designate an individual to serve on behalf of the State Health Officer.
- Remove Section 5 relating to the requirement of a financial and health care analysis of the prescription drug coverage provided under the health insurance plan.
- Replace Section 6 relating to the uniform group insurance contract with a section identifying the process used to rebid health insurance contracts.
- Revise subsection 1 of Section 7 relating to insurance and provider privacy to allow the disclosure of health information for certain identifiable reasons.

- Remove subsection 2 of Section 7 relating to requirements for health carrier negotiated provider discount rates.
- Remove Section 8 relating to requirements if PERS rebids the health insurance contract prior to the end of the 2013-15 biennium.
- Revise Section 9 to clarify that the PERS board may not use money in the health insurance fund, or any other source, to reduce increases in uniform group health insurance premium amounts beyond the rates used by the 64<sup>th</sup> Legislative Assembly in developing agency budgets.
- Remove Section 10 which provides an emergency clause for certain sections of the bill.

The committee recommends the Legislative Management reconvene the Legislative Assembly pursuant to Section 54-35-16.