

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Monday, December 6, 2004
Peace Garden Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 10:00 a.m.

Members present: Senators Karen K. Krebsbach, Richard L. Brown, Ralph L. Kilzer; Representatives Bill Amerman, Jim Kasper, Francis J. Wald

Members absent: Senator Carolyn Nelson; Representative Al Carlson

Others present: See Appendix A

It was moved by Senator Brown, seconded by Representative Wald, and carried on a voice vote that the minutes of the October 26, 2004, meeting be approved as distributed.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILL NO. 201 - RETURNING TO EMPLOYMENT AFTER RETIREMENT UNDER THE PUBLIC EMPLOYEES RETIREMENT SYSTEM - SENATOR O'CONNELL

Chairman Krebsbach called on Senator David O'Connell who reviewed Employee Benefits Programs Committee Bill No. 201 [50201.0100]. He said the bill draft relates to returning to employment after retirement under the Public Employees Retirement System and provides that an employee who is eligible for normal retirement who accepts a retirement benefit under North Dakota Century Code Chapter 54-52 and subsequently becomes employed with a participating employer under that chapter may elect to permanently waive future participation in the retirement plan and maintain that employee's retirement status. He said employees making this election would not be required to make any future contributions to the Public Employees Retirement System. He said the committee should consider adding an emergency clause so that the provisions could go into effect immediately and benefit affected retirees as soon as possible. He said he has spoken with Representative RaeAnn G. Kelsch and she has agreed to be the prime sponsor of this proposal as the constituent requesting the bill draft is a resident of her district.

Chairman Krebsbach called on Mr. Roger Roehl, Mandan, who addressed the committee. A copy of his written comments concerning the bill draft is attached as Appendix B.

In response to a question from Representative Wald, Mr. Roehl said he and similarly situated employees are not asking to be allowed to participate in the Public Employees Retirement System through their subsequent employer but merely asking to be able to continue to participate and to receive benefits from their second employer if that employer is a member of the Public Employees Retirement System.

Chairman Krebsbach called on Ms. Deb Igoe who addressed the committee. Ms. Igoe said she is a 31-year Department of Transportation employee. She said approximately five years ago she began pursuing a master's degree in library science in anticipation of retiring and pursuing a different career. She said most opportunities are closed to her because she would not be able to take a position with a city or county library that participated in the Public Employees Retirement System.

Chairman Krebsbach called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System, who reviewed the actuarial and technical comments for Employee Benefits Programs Committee Bill No. 201 [50201.0100]. A copy of the actuarial report is attached as Appendix C. He said the bill draft will have an actuarial impact on the Public Employees Retirement System but the impact would be negligible. He said there are several administrative issues that should be addressed. He said the bill draft will require development of a waiver form for retirees at or over normal retirement age who elect not to participate in the Public Employees Retirement System upon being rehired. Also, he said, an employee could terminate employment with an employer, begin receiving retirement benefits, then return to employment for the same employer and waive future participation in the defined benefit plan. He said this means that such an employee could potentially maintain the same employment position, salary, and benefits and collect both a full-time salary and a monthly retirement benefit. Under this scenario, he said, the employer would experience savings in payroll costs by not having to pay retirement contributions for that employee. He said this situation provides a strong incentive for employees to retire under the Rule of 85 and immediately return to employment with the same employer in the same position.

In response to a question from Representative Kasper regarding compliance with the Age Discrimination in Employment Act, Mr. Collins said the Act was amended by the Older Workers Benefit Protection Act to provide that an employee may waive his or her rights under the Act so long as certain conditions are met, including that the waiver is provided in exchange for valuable consideration over and above what the employee is already entitled to and that the employee is allowed at least 21 days to consider the waiver and at least 7 days to revoke the waiver. Therefore, he said, it appears that the bill draft should be amended to address Age Discrimination in Employment Act issues by either permitting a rehired retiree to accrue benefits or requiring the rehired retiree who waives participation in the defined benefit plan to also complete a waiver that meets all legal requirements under the Older Workers Benefit Protection Act.

In response to a question from Senator Krebsbach, Mr. Collins said noncertified employees of the Mandan Public School District are members of the Public Employees Retirement System while certified teachers are members of the Teachers' Fund for Retirement.

In response to a question from Representative Wald, Mr. Collins agreed that if the bill draft were amended to allow a retiree to be reemployed by another employer, it would solve the problem of state employees who are reemployed by political subdivisions but would not address the issue of employees moving from agencies within the state.

Chairman Krebsbach called on Ms. Jennifer Moore, Mandan Public School District, who addressed the committee. She said it is very beneficial for the Mandan Public School District to take advantage of an employee with Mr. Roehl's experience, professionalism, and willingness to bring that experience and professionalism to the district. She said the state should do everything it can to remove any barriers from allowing public employees who retire and who would like to contribute to another public entity by working for that entity while maintaining their retired status to do so.

**EMPLOYEE BENEFITS PROGRAMS
COMMITTEE BILL NO. 248 - USE OF
THE RETIREE HEALTH BENEFITS
FUND CREDIT TO PURCHASE
HEALTH INSURANCE -
REPRESENTATIVE DEKREY**

Chairman Krebsbach called on Representative Duane DeKrey who reviewed Employee Benefits Programs Committee Bill No. 248 [50248.0100]. He said the bill draft permits the retiree health insurance

credit payment to be applied to premium payments for any health insurance coverage selected by the retiree, rather than just to the uniform group health insurance coverage program for retirees governed by the Public Employees Retirement System Board.

Chairman Krebsbach called on Mr. Collins who reviewed the technical comments and actuarial report for the bill draft, a copy of which is attached as Appendix D. He said the cost of the proposal to the retiree health insurance credit fund is .12 percent of payroll. He said the current margin of the retiree health benefits fund is .01 percent and thus if this proposal is enacted, the fund would have a negative margin.

In response to a question from Representative Kasper, Mr. Collins said the .12 percent of payroll cost to the proposal equates to approximately \$1 million per biennium.

Mr. Collins said The Segal Company, the actuarial consultant for the Public Employees Retirement System, has also identified several administrative costs to the proposal. He said the cost of programming changes required by the proposal is approximately \$40,000 and the Retirement Board would need to add additional staff in order to accomplish the administrative review and authorization required by the bill draft and is projecting the need for a one-half, full-time equivalent account tech to do this work. He said the cost of this additional position is approximately \$50,000.

It was moved by Senator Brown, seconded by Representative Kasper, and carried on a voice vote that the Employee Benefits Programs Committee assume jurisdiction over Employee Benefits Programs Committee Bill Nos. 201 [50201.0100] and 248 [50248.0100].

It was moved by Representative Wald and failed for lack of a second that Employee Benefits Programs Committee Bill No. 248 [50248.0100] be given an unfavorable recommendation.

Senator Krebsbach said the actuarial information for each bill draft would be reported to each sponsor and that the committee would meet during the first week of the 59th Legislative Assembly to reconsider the two proposals and make a recommendation on each of them at that time.

No further business appearing, Chairman Krebsbach adjourned the meeting at 11:35 a.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:4