

# NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

### EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, April 27, 2010  
Harvest Room, State Capitol  
Bismarck, North Dakota

Representative Bette B. Grande, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Representatives Bette B. Grande, Ralph Metcalf, Francis J. Wald, Lisa Wolf; Senators Ralph L. Kilzer, Karen K. Krebsbach, Carolyn Nelson

**Members absent:** Representative David Drovdal; Senator Ray Holmberg

**Others present:** Representative Al Carlson and Senator David O'Connell, members of the Legislative Management, were also in attendance.

See [Appendix A](#) for additional persons present.

**It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a voice vote that the minutes of the October 26, 2009, meeting be approved as distributed.**

Chairman Grande expressed the sympathy and condolences of the Employee Benefits Programs Committee members and members of the Legislative Assembly to the staff of the Retirement and Investment Office and the family of Mr. Steve Cochrane, former Executive Director/Investment Director, Retirement and Investment Office, on Mr. Cochrane's passing.

Chairman Grande recognized Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office. Ms. Kopp said the staff of the Retirement and Investment Office were deeply saddened by the passing of Mr. Cochrane who served as state investment officer for the past 13 years and executive director of the Retirement and Investment Office for the past 11 years. She said the State Investment Board has a long-term strategic investment program in place. She said the Retirement and Investment Office has an experienced staff, outside money managers, and an external consultant that will ensure that the Retirement and Investment Office operations will continue without interruption. She said the State Investment Board has met and established a committee to search for an interim chief executive officer, to look for a permanent chief investment officer and executive director, and to conduct a special audit of the State Investment Board. She said the State Investment Board has named her as acting executive director of the Retirement and Investment Office.

### TEACHERS' FUND FOR RETIREMENT Employee Benefits Programs Committee Bill No. 54

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 54 [[10054.0100](#)] and presented written testimony ([Appendix B](#)) concerning the bill draft. To address declining Teachers' Fund for Retirement funding levels resulting from the 2008-09 financial market downturn, she said, the Teachers' Fund for Retirement Board of Trustees, with input from member and employer interest group representatives, has developed legislative proposals to improve the fund's funded status. She said the proposals are based on the core principles of restoring the financial health of the Teachers' Fund for Retirement plan for past, present, and future North Dakota educators; maintaining adequate retirement security; sharing responsibility for funding improvement with employees, employers, and the state; phasing changes in over time; and protecting benefits of those employees closest to retirement. She said Employee Benefits Programs Committee Bill No. 54 increases teacher contributions 4 percent over two bienniums, increases school district contributions 4 percent over two bienniums, requires reemployed retirees to pay employee contributions beginning July 1, 2012, modifies disability benefits, and modifies eligibility for unreduced retirement benefits and reduction factors for reduced retirement benefits for certain employees.

In response to a question from Senator Kilzer, Ms. Kopp said the contribution increases are delayed until July 1, 2012, and July 1, 2014, to provide time for teachers and school districts to prepare and conclude negotiations based upon the new contribution levels. However, she noted, the 4 percent increase over two bienniums is quite aggressive.

In response to a question from Senator Kilzer concerning Teachers' Fund for Retirement plan changes and changes in retirement eligibility requirements, Ms. Kopp distributed a history of retirement plan changes ([Appendix C](#)) and a summary of Teachers' Fund for Retirement eligibility requirements since 1969 ([Appendix D](#)).

In response to a question from Representative Wolf, Ms. Kopp said the July 1, 2007, valuation of the Teachers' Fund for Retirement showed market value of a little over \$2 billion. The market value based on the July 1, 2009, valuation, she said, was

approximately \$1.3 billion. She said the fund has recovered to approximately \$1.5 billion to date.

### **Employee Benefits Programs Committee Bill No. 55**

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 55 [[10055.0100](#)] and presented written comments ([Appendix E](#)) concerning the bill draft. In addition to the provisions included in Employee Benefits Programs Committee Bill No. 54, she said, Bill No. 55 includes a one-time \$75 million general fund appropriation to be transferred from the Office of Management and Budget to the Teachers' Fund for Retirement on June 30, 2012, to reduce the unfunded actuarial accrued liability of the Teachers' Fund for Retirement.

### **Employee Benefits Programs Committee Bill No. 56**

Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 56 [[10056.0100](#)] and presented written comments ([Appendix F](#)) concerning the bill draft. She said the proposal makes technical and administrative changes to the Teachers' Fund for Retirement plan, including clarification of the definition of beneficiary; clarification of the definition of eligible retirement salary; modification of outdated death payment provisions to clearly describe to whom, under what conditions, and what amount of death benefits should be paid to a beneficiary, spouse, or estate; and incorporates federal law tax changes as they relate to qualified governmental plans.

### **Employee Benefits Programs Committee Bill No. 2**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 2 [[10002.0100](#)] relating to a defined contribution retirement plan for teachers. Committee counsel said the bill draft was submitted to the committee by Representative Wald and provides that the Teachers' Fund for Retirement plan established under North Dakota Century Code Chapter 15-39.1 would close to new members after July 31, 2011, and teachers first employed after June 30, 2011, would become members of a new defined contribution retirement plan.

Chairman Grande recognized Representative Wald. Representative Wald said almost every state is facing a public pension crisis. He said in today's economy, defined benefit plans are obsolete and new employees should have a defined contribution retirement plan, similar to those prevalent in the private sector. He said it is an issue of fairness because one sector of the workforce--public employees--should not have their retirement benefit guaranteed while nongovernmental employees do not.

Chairman Grande recognized Representative Wolf. Representative Wolf said the Teachers' Fund for Retirement pension is used by school administrators

to recruit teachers. She said a good pension makes up for low salaries and inclement weather to allow school administrators to recruit and retain teachers. She said if the defined benefit plan is closed and new teachers are required to be members of a defined contribution plan, it will hurt teacher recruitment in North Dakota.

### **Employee Benefits Programs Committee Bill No. 39**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 39 [[10039.0100](#)]. Committee counsel said the bill draft was submitted to the committee by Representative Drovdal. He said the bill draft establishes a new tier for new employees under the Teachers' Fund for Retirement. He said normal retirement for these new employees would be age 65 with early retirement available at age 62 with reduction factors the same as those applicable to the federal Social Security system.

### **Employee Benefits Programs Committee Bill No. 40**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 40 [[10040.0100](#)]. Committee counsel said the bill draft was submitted to the committee by Representative Drovdal. He said the bill draft reduces the multiplier for new employees under the Teachers' Fund for Retirement to that in effect before the most recent increase--1.88 percent--compared to 2 percent for retirees under the Teachers' Fund for Retirement.

## **PUBLIC EMPLOYEES RETIREMENT SYSTEM Employee Benefits Programs Committee Bill No. 51**

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, reviewed Employee Benefits Programs Committee Bill No. 51 [[10051.0100](#)] and presented written comments ([Appendix G](#)) concerning the bill draft. He said the bill draft increases employee contributions for members of the Public Employees Retirement System main system 8 percent, increases employee contributions for members of the judges' retirement system 8 percent, increases employee contributions for members of the Highway Patrolmen's retirement system 8 percent, increases employee contributions for the members of law enforcement without prior service and law enforcement with prior service by 4 percent, and increases employee contributions for members of the defined contribution plan by 8 percent. He said the increases would be phased in over four years beginning in January 2012 and ending in January 2015.

### **Employee Benefits Programs Committee Bill No. 52**

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 52 [[10052.0100](#)] and presented written comments ([Appendix G](#)) concerning the bill draft. He said the bill draft provides an 8 percent increase in employer contributions under the main system, judges' retirement system, Highway Patrolmen's retirement system, and for members of the defined contribution retirement plan.

### **Employee Benefits Programs Committee Bill No. 53**

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 53 [[10053.0100](#)] and presented written comments ([Appendix G](#)) concerning the bill draft. He said the bill draft increases employee and employer contributions equally. For the main system, he said, the bill draft increases employee contributions 4 percent and employer contributions 4 percent. He said the bill draft also increases employee contributions 4 percent and employer contributions 4 percent for the judges' retirement plan, Highway Patrolmen's retirement plan, and the defined contribution retirement plan. He said the bill draft also includes a .5 percent employee increase for members of law enforcement without prior service and law enforcement with prior service systems.

In response to a question from Representative Wolf, Mr. Collins said there is an employee contribution as well as an employer contribution for each of the retirement systems administered by the Public Employees Retirement System. However, he said, for some employees, the state "picks up" the employee contribution in lieu of a salary increase.

### **Employee Benefits Programs Committee Bill No. 59**

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 59 [[10059.0100](#)] and presented written comments ([Appendix H](#)) concerning the bill draft. He said the bill draft makes various administrative and technical changes to the statutes governing the Public Employees Retirement System. He said Section 1 relates to the defined benefit plan provision that allows members who leave covered employment with the Public Employees Retirement System and move to covered employment in the TIAA-CREF system the opportunity to elect to transfer their funds from the Public Employees Retirement System to TIAA-CREF applicable to the defined contribution plan as well as the defined benefit plan. Section 2, he said, removes the five-year preretirement death benefit applicable to the Highway Patrolmen's retirement system. Sections 3 and 8, he said, update federal compliance provisions for the Highway Patrolmen's retirement plan and the Public Employees Retirement System. Section 5, he said, removes deferred vested members as eligible to run for the Public Employees Retirement System Board

because they are no longer active participants. Section 6, he said, removes the language "immediately preceding retirement" from the provision that provides normal retirement date is when an employee "attains the age of fifty-five years and has completed at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement" for members of the system. He said this section also revises the language to specify the method for distributing funds when a member passes away and one of the beneficiaries also passes away prior to the Public Employees Retirement System distributing the funds. Section 7, he said, relates to the purchase of sick leave credit and deletes the requirement that conversion payments must be made within 60 days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board. Section 9, he said, relates to the uniform group insurance program and allows spouses to stay on the plan after the member passes away. Section 10, he said, revises language governing election timeframes for the defined contribution retirement plan.

### **Employee Benefits Programs Committee Bill No. 2**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 2 [[10002.0100](#)]. Committee counsel said Employee Benefits Programs Committee Bill No. 2 also affects state employees in that the bill requires new employees first employed after July 31, 2011, to become members of a defined contribution retirement plan. He said the bill will be forwarded to the consultants of both the Teachers' Fund for Retirement and the Public Employees Retirement System as the bill affects both systems.

At the request of Chairman Grande, Mr. Collins presented an update ([Appendix I](#)) of the Public Employees Retirement System retirement plan.

### **UNIFORM GROUP INSURANCE PROGRAM Employee Benefits Programs Committee Bill No. 60**

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 60 [[10060.0100](#)] and presented written comments ([Appendix J](#)) concerning the bill draft. He said the bill draft relates to subgroups under the uniform group insurance program and would allow the Public Employees Retirement System to establish an additional health insurance option for pre-Medicare retirees. He said the purpose of the bill draft is to provide a lower cost plan that would also be eligible for the health credit.

### **Employee Benefits Programs Committee Bill No. 1**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 1 [[10001.0200](#)]. He said the bill draft relates to retiree health benefits for members of the Legislative Assembly. He said the bill draft would allow former members, or the surviving spouse of a former member, of the Legislative Assembly who served at least four years as a member of the Legislative Assembly to participate in the retiree health benefits fund. He said the credit would be equal to 50 percent of the allowable monthly credit for state employees.

### **Employee Benefits Programs Committee Bill No. 9**

Chairman Grande recognized Senator Nelson. Senator Nelson said she and Senator Rich Wardner are sponsoring Employee Benefits Programs Committee Bill No. 9 [[10009.0100](#)]. She said the bill draft would require health insurance coverage for autism spectrum disorders.

Chairman Grande recognized Mr. Nicholas Gates, Dickinson. Mr. Gates said he is the father of a seven-year-old son with autism. He said he had moved to Dickinson from Minnesota and learned that North Dakota does not provide the same insurance-covered services for autism as Minnesota. He said services for autism should be covered by insurance in North Dakota.

### **Employee Benefits Programs Committee Bill No. 36**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 36 [[10036.0200](#)]. Committee counsel said the bill draft was submitted by Senator Tim Mathern and would expand the uniform group insurance program to allow participation by certain permanent employees of private sector employers and certain temporary employees of private sector employers as well as certain private citizens. He said those employees who are at least age 50 but have not reached age 65, subject to minimum requirements established by the retirement board and a minimum period of participation of 60 months, would be allowed to join the uniform group insurance program.

### **Employee Benefits Programs Committee Bill No. 38**

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 38 [[10038.0100](#)]. Committee counsel said the bill draft was submitted by Senator Mathern and would authorize the Department of Human Services to negotiate with state and federal entities to purchase Public Employees Retirement System health insurance coverage for each Medicaid-eligible person in lieu of Medicaid coverage.

### **PUBLIC EMPLOYEES RETIREMENT SYSTEM HEALTH PLAN UPDATE**

Vice Chairman Kilzer recognized Mr. Collins. Mr. Collins presented an update concerning the Public Employees Retirement System health plan ([Appendix K](#)).

In response to a question from Senator Kilzer, Mr. Collins said the exclusive provider organization option is no longer available under the uniform group insurance program.

In response to a question from Representative Carlson, Mr. Collins said it appears that Blue Cross Blue Shield of North Dakota will absorb a loss on this year's health insurance contract and thus will not be returning any money to the Public Employees Retirement System.

In response to a question from Representative Carlson, Mr. Collins said the state has tried the self-insurance option and it proved to be unsuccessful during the 1980s. At that time, he said, the state had a self-insured plan and was unable to pay claims and agencies were forced to bill premiums six months in advance in order to pay claims. Under a self-insurance system, he said, the employer absorbs the risk while under a traditional insurance program, the risk is shifted to the insurance provider. Under the current system, he noted, the state enjoys the benefits of a self-insurance system and a traditional plan by participating in any profit that Blue Cross Blue Shield of North Dakota realizes.

Vice Chairman Kilzer recognized Representative Carlson. Representative Carlson said several states have adopted successful health savings account programs and the committee should explore this option further.

In response to a question from Representative Carlson, Mr. Collins cautioned that under the Patient Protection and Affordable Care Act of 2010, changes in the state's health care plan may jeopardize its "grandfather" status.

At the request of Vice Chairman Kilzer, Mr. Collins reviewed the impact of the Patient Protection and Affordable Care Act of 2010 and the Health Care and Education Reconciliation Act of 2010 on the uniform group health insurance program ([Appendix L](#)).

**It was moved by Senator Nelson, seconded by Representative Wolf, and carried on a voice vote that the committee assume jurisdiction over the bill drafts submitted to the committee and that the Teachers' Fund for Retirement Board of Trustees and Public Employees Retirement System Board, as appropriate, be requested to obtain an actuarial analysis of each bill draft submitted to the committee or, if a bill draft does not have an actuarial effect on a fund, to provide any other information that would assist the committee in making a recommendation concerning the bill draft.**

Chairman Grande announced that the tentative meeting dates for the remainder of the interim are

Thursday, July 15; Tuesday, September 21; and Tuesday, October 26, 2010.

No further business appearing, Chairman Grande adjourned the meeting at 2:00 p.m.

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Jeffrey N. Nelson  
Committee Counsel

ATTACH:12