

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE**

Thursday, June 5, 2014  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Senator Dick Dever, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dick Dever, Ralph Kilzer, Karen K. Krebsbach, David O'Connell, Connie Triplett; Representatives Roger Brabandt, Jason Dockter, Jessica Haak, Scott Louser

**Members absent:** Senator Spencer Berry; Representatives Randy Boehning, Kenton Onstad, Don Vigasaa

**Others present:** See [Appendix A](#)

**It was moved by Senator O'Connell, seconded by Representative Dockter, and carried on a voice vote that the minutes of the November 6, 2013, meeting be approved as distributed.**

Chairman Dever briefly explained how due to the statutory creation of the Employee Benefits Programs Committee, the committee's duties differ in some ways from the duties of a typical interim committee.

**PUBLIC EMPLOYEES RETIREMENT SYSTEM STATUS REPORTS**

Chairman Dever called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System, for a presentation regarding Segal Consulting's cashflow projections relating to the Public Employees Retirement System (PERS) retirement funds and a presentation regarding the federal Affordable Care Act (ACA) grandfathered status of the PERS uniform group insurance plan.

Mr. Collins gave a computer presentation ([Appendix B](#)) and provided written material from Segal Consulting ([Appendix C](#)) and Deloitte Consulting LLP ([Appendix D](#)).

In response to a question from Chairman Dever, Mr. Collins said he does not know whether the Legislative Management's interim Government Finance Committee study of the defined benefit and defined contribution plans will address both state and political subdivision employees. He said the committee has secured the services of an independent consultant to review the defined benefit and defined contribution options.

In response to a question from Representative Louser, Mr. Darren Schulz, Deputy Chief Investment Officer, Public Employees Retirement System, stated the data in the computer presentation is based on a projected rate of return of 8 percent, and the data is current through May 2014, which reflects the end of the fiscal year. He said for the 2013-14 fiscal year, PERS recognized a total return of 14.5 percent.

In response to a question from Senator Krebsbach, Mr. Collins said although the PERS funds have had a good return this year, he is comfortable using the 8 percent projected return for long-term projections. He said if the funds have several years of high returns, he would expect the PERS funds to become fully funded sooner than currently projected.

In response to a question from Senator Kilzer, Mr. Collins said the data he is presenting is based on market value of the funds, not on actuarial value.

In response to a question from Chairman Dever, Mr. Collins said a fund is not required to be 100 percent funded to be considered healthy. He said that more important than whether the fund is fully funded, the health of a fund is in large part based on the trend--for example, an upward slope is a sign of health.

In response to a question from Representative Haak, Mr. Collins said when the PERS plan was established in 1966, the plan was a defined contribution plan; however, in 1977 the plan was changed to a defined benefit plan. Additionally, he said, the plan has been 100 percent funded several times over the years.

In response to a question from Representative Louser, Mr. Collins said it appears the interim Government Finance Committee is considering recommending a bill draft that would close the defined benefit plan to new hires and require new hires to participate in the defined contribution plan.

Senator Krebsbach questioned whether the Employee Benefits Programs Committee's statutory charge will apply to bill drafts recommended by the Government Finance Committee which impact the PERS retirement plans. Chairman Dever said he believes the Employee Benefits Programs Committee has the authority to exercise jurisdiction over interim committee bills that impact the PERS retirement system. Senator Krebsbach and Representative Louser said they agree with Chairman Dever's position that the Employee Benefits Programs Committee will have jurisdiction.

In response to a question from Senator O'Connell, Committee Counsel stated North Dakota Century Code Section 54-35-02.4(1) states in part: "[t]he employee benefits programs committee shall consider and report on those legislative measures and proposals over which it takes jurisdiction and which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision, and health and retiree health plans of state employees or employees of any political subdivision." She said it appears under this law, the committee members have the authority to determine whether a proposed legislative measure will affect the retirement programs. Additionally, she said, she will email a copy of this law to committee members.

Chairman Dever said he will prepare a letter to Representative Jeff Delzer, Chairman of the Government Finance Committee, to remind him of the statutory charge of the Employee Benefits Programs Committee.

Senator Triplett said if the committee receives additional bill drafts after this committee meeting which affect the PERS retirement or health plan programs, perhaps the committee could consider recommending a delayed effective date for the proposed legislative measure in order to give the committee and the stakeholders adequate time to consider the impact of the proposed legislation.

## **BILL DRAFTS**

### **Public Employees Retirement System**

#### **Bill Draft No. 136**

Chairman Dever recognized Mr. Collins. Mr. Collins distributed a written summary ([Appendix E](#)) and reviewed Employee Benefits Programs Committee bill draft No. 136 [[15.0136.01000](#)], which was prepared for PERS. He described the bill draft as a housekeeping measure that primarily makes technical corrections and updates and which should not have any actuarial impact. As part of the review of the bill drafts impacting PERS, he referenced [Appendix B](#).

In response to a question from Senator O'Connell, Mr. Collins said there are a few reasons the Highway Patrol has a retirement system separate from the traditional PERS system, including recognition that the Highway Patrol does not participate in the Social Security system and, therefore, required a higher benefit structure and higher contribution and recognition that due to the nature of the job, the officers have an earlier retirement age than the traditional PERS population.

In response to a question from Representative Brabandt, Mr. Collins said he does not know the history of why the Highway Patrol does not participate in the Social Security system. He said in North Dakota, the Highway Patrol is the only state group that does not participate in the Social Security system; however, in some states, all state employees do not participate in the Social Security system.

In response to a question from Senator O'Connell, Mr. Collins said he does not have data regarding the number of employees who would be impacted by the statutory changes regarding temporary employment status which are being made in Section 10 of the bill draft.

In response to a question from Chairman Dever, Mr. Collins said the ACA definition of full-time employee is broader than the state's definition. He said the state has some flexibility in determining how the state will define full-time employee and what formula it will use to establish which employees are full time and which are temporary.

In response to a question from Representative Haak, Mr. Collins said he does not have data regarding the number of temporary state employees.

#### **Bill Draft No. 137**

Chairman Dever recognized Mr. Collins. Mr. Collins distributed a written summary ([Appendix F](#)) and reviewed Employee Benefits Programs Committee bill draft No. 137 [[15.0137.01000](#)], which was prepared for PERS. He described the substance of the bill draft as:

- Increasing the contribution rate for temporary employees by 2 percent for participation in the main retirement plan January 2016;
- Increasing the contribution rate for active employees by 1 percent for participation in the main retirement plan of 2016;
- Increasing the employer contribution rate 1 percent for participation in the main retirement plan beginning January 2016;
- Decreasing the employee contribution rate by .5 percent for Bureau of Criminal Investigation members;
- For new hires, changing the final average salary from the highest of 36 months in the last 180 months to the five highest 12 consecutive month periods;
- For new hires, replacing the highest 36 months with a 60-month period of the highest five 12-month periods;
- For new hires, changing the Rule of 85 to the Rule of 90 with a minimum age of 60;
- For new hires, increasing the early retirement reduction factor from 6 to 8 percent for each year;
- Increasing by 2 percent the defined contribution for temporary employees; and
- Increasing by 1 percent the active member contribution rate in the defined contribution plan and the employer contribution rate in the defined contribution plan.

In response to a question from Representative Haak, Mr. Collins said there are approximately 200 employees in the defined contribution plan. He said most of the employees in the defined contribution plan joined during the period 1999-2001, and very few new hires are opting to participate in the defined contribution plan.

#### **Bill Draft No. 79**

Chairman Dever recognized Committee Counsel to review Employee Benefits Programs Committee bill draft No. 79 [[15.0079.02000](#)], which was prepared for the interim Health Care Reform Review Committee, which Committee Counsel also staffs. She said the bill draft provides the PERS uniform group insurance coverage provides parity in its coverage of services provided by telemedicine and services provided face to face. She said the Health Care Reform Review Committee reviewed Version 1 of this bill draft at its June 2014 meeting, at which time the committee requested the bill draft be revised to comply with Section 54-03-28--the law that addresses introduction of bills that provide for health insurance mandates. She clarified the Health Care Reform Review Committee has not taken final action to recommend this bill draft, and she expects the committee will continue to receive testimony from stakeholders; however, in recognition of the timelines related to the charges of the Employee Benefits Programs Committee, the bill draft is being presented today.

#### **Bill Draft No. 117**

Chairman Dever recognized Committee Counsel to review Employee Benefits Programs Committee bill draft No. 117 [[15.0117.02000](#)], which was prepared for Representative Andrew G. Maragos. Committee Counsel said this bill draft is a health insurance mandate that provides that the PERS uniform group insurance coverage provide parity in its coverage of inpatient cancer treatment medications and patient-administered cancer treatment medications.

#### **Bill Draft No. 43**

Chairman Dever recognized Representative Haak to review bill draft No. 43 [[15.0043.01000](#)], which Representative Haak had prepared. She said this bill draft provides a three-month opportunity for employees in the defined contribution plan to opt to participate in the defined benefit plan.

In response to a question from Senator Kilzer, Mr. Collins said Segal Consulting--the consultant that prepares the actuarial report on bill drafts for this committee--charges PERS \$280 per hour; however, because Segal Consulting prepared a similar review in 2013, he expects some of this material will still be relevant and the cost of the review will be less than starting from scratch.

Chairman Dever called on Mr. Stuart Savelkoul, Assistant Executive Director of Political Advocacy, North Dakota United, for comments regarding the bill draft. He said not only will this bill draft please public employees, but it will have the effect of enhancing the benefits for up to 200 employees while at the same time having a positive effect on the PERS fund. He said this bill draft is a win-win.

### State Investment Board

#### Bill Draft No. 135

Chairman Dever recognized Ms. Connie Flanagan, Fiscal and Investment Operations Manager, Retirement and Investment Office/State Investment Board. Ms. Flanagan distributed written testimony ([Appendix G](#)) and reviewed Employee Benefits Programs Committee bill draft No. 135 [[15.0135.01000](#)], which was prepared for the State Investment Board. She said the bill draft addresses technical corrections to bring the language more inline with current operational practices of the State Investment Board and to correctly depict the funds under the direction of the State Investment Board.

In response to a question from Senator Triplett, Ms. Flanagan said the changes made in Section 2 of the bill draft recognize that the funds under contract with the State Investment Board come and go, so it does not seem appropriate to codify those particular funds.

### Teachers' Fund for Retirement

#### Bill Draft No. 140

Chairman Dever recognized Ms. Fay Kopp, Deputy Executive Director, Chief Retirement Officer, Teachers' Fund for Retirement. Ms. Kopp distributed written testimony ([Appendix H](#)) and reviewed Employee Benefits Programs Committee bill draft No. 140 [[15.0140.01000](#)], which was prepared for the Teachers' Fund for Retirement (TFFR). She said the bill draft addresses several technical updates, which are not expected to have an actuarial effect on the plan.

### Adjutant General

#### Bill Draft No. 139

Chairman Dever recognized Brigadier General Alan S. Dohrmann, Deputy Adjutant General. Brigadier General Dohrmann distributed written testimony ([Appendix I](#)) and reviewed Employee Benefits Programs Committee bill draft No. 139 [[15.0139.01000](#)], which was prepared for the Adjutant General. He said the bill draft eliminates the National Guard security officer and firefighter retirement programs and transfers the remaining members to the Bureau of Criminal Investigation retirement program.

In response to a question from Chairman Dever, Brigadier General Dohrmann said the health of the National Guard retirement plan is a bit healthier than the Bureau of Criminal Investigation retirement plan, but the health of the plans and the retirement provisions of both plans are very similar to each other.

### COMMITTEE DISCUSSION AND DIRECTIVES

Senator Krebsbach questioned whether it might make sense for the committee to hold on to bill draft No. 79 until the Health Care Reform Review Committee has time to take a position on the bill draft.

In response to a question from Senator Kilzer, Committee Counsel said bill draft No. 79 does not change or otherwise address the laws relating to professional licensure. However, she said, she expects this is an issue that will be addressed as the Health Care Reform Review Committee receives public comment on the bill draft.

**It was moved by Senator Triplett, seconded by Senator Krebsbach, and carried on a roll call vote that the committee assume jurisdiction over the bill drafts submitted to the committee and that the TFFR Board of Trustees and PERS Board, as appropriate, be requested to obtain an actuarial analysis of each bill draft submitted to the committee or, if the 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.** Senators Dever, Kilzer, Krebsbach, O'Connell, and Triplett and Representatives Brabandt, Dockter, Haak, and Louser voted "aye." No negative votes were cast.

No further business appearing, Chairman Dever adjourned the meeting at 11:30 a.m.

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Jennifer S. N. Clark  
Committee Counsel

ATTACH:9