

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE**

Tuesday, January 6, 2015  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Dick Dever, Chairman, called the meeting to order at 10:00 a.m.

**Members present:** Senators Dick Dever, Ralph Kilzer, David O'Connell, Nicole Poolman, Connie Triplett; Representatives Randy Boehning, Roger Brabandt, Jason Dockter, Jessica Haak, Scott Louser, Don Vigasaa

**Members absent:** Senator Karen K. Krebsbach; Representative Kenton Onstad

**Others present:** Jim Kasper, State Representative, Fargo  
See [Appendix A](#) for additional persons present.

**It was moved by Senator O'Connell, seconded by Representative Dockter, and carried on a voice vote that the minutes of the December 2, 2014, meeting be approved as distributed.**

Chairman Dever called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System, to comment regarding Bill Draft No. 403 [[15.0403.01000](#)], which would authorize the Public Employees Retirement System (PERS) Board to develop a provider network for the PERS uniform group insurance program. Mr. Collins distributed technical comments ([Appendix B](#)) on the bill draft prepared by PERS consultant, Deloitte Consulting, LLP.

Mr. Collins said under the current system, the PERS uniform group insurance program recognizes a 5 percent discount on noninstitutional medical services, but these discounts are attached to the current carrier--Blue Cross Blue Shield of North Dakota. He said the bill draft would allow the PERS Board to establish a preferred provider organization (PPO) network to apply to all carriers.

Mr. Collins said under current law, during the bidding process, some carriers have expressed to him that they did not submit a bid because the carriers did not have an adequate provider network in the state. He reported the PERS Board has reviewed the bill draft and does support the bill draft.

In response to a question from Senator Kilzer, Mr. Collins said although the 5 percent discount is unique to North Dakota, the discount concept for PPOs is not unique. He distinguished the difference between an out-of-network provider and an out-of-PPO network provider.

In response to a question from Chairman Dever, Mr. Collins said if the PERS Board establishes its own provider network, he would expect there would be a positive fiscal impact on the plan,.

**It was moved by Senator Triplett, seconded by Representative Louser, and carried on a roll call vote that the committee give Representative Kasper's Bill Draft No. 403 [[15.0403.01000](#)] a favorable recommendation.** Senators Dever, Kilzer, O'Connell, Poolman, and Triplett and Representatives Boehning, Brabandt, Dockter, Haak, Louser, and Vigasaa voted "aye." No negative votes were cast.

Chairman Dever reviewed the committee's duties under North Dakota Century Code Section 54-35-02.4. He discussed the procedural challenges during the legislative session of continuing to follow the process the committee follows during the interim. During the interim, he said, the committee holds one meeting to determine whether to take jurisdiction over a bill draft and to request an actuarial report and holds a second meeting to receive the actuarial report and make a recommendation. During the legislative session, he said, if he becomes aware of a bill or amendment over which the committee may exercise jurisdiction, he would like the ability to be proactive and request an actuarial report be prepared for a meeting at which the committee determines whether to take jurisdiction, receives the actuarial report, and makes a recommendation. He said this expedited process should allow the committee to do its work as well as allow bills to continue to move through the legislative process.

**It was moved by Representative Boehning and seconded by Senator Poolman that the Chairman of the Employee Benefits Programs Committee be authorized to request actuarial reports before the committee meets to officially take jurisdiction over a bill or amendment.**

Senator Triplett expressed concern the proposed procedure could indirectly allow the Chairman to issue a "pocket veto" for proposed amendments in standing committee by failing to request an actuarial report and effectively stopping further consideration of the proposed amendment by the standing committee. She said she views the Chairman as being fair and does not think he would intentionally stop further consideration of a standing committee amendment, but the possibility does exist.

Chairman Dever said as a practical matter, in standing committees, it is common to discuss several possible amendments, but some proposals do not gain the necessary traction to move forward. Senator Triplett said some minority issues may gain more traction and support if accompanied by an actuarial report.

Representative Boehning said perhaps the Chairman could request a recommendation from the chairman of the applicable standing committee regarding what proposed amendments should receive actuarial reports.

Chairman Dever said although Section 54-35-02.4 says an amendment that impacts public employee health or retirement programs may not "be considered" by a standing committee unless it is accompanied by a report from the Employee Benefits Programs Committee, he thinks as a practical matter this means the standing committees may not "take action" on the amendment unless accompanied by a report from the committee.

**The motion carried on a roll call vote.** Senators Dever, Kilzer, Poolman, and Triplett and Representatives Boehning, Brabandt, Dockter, Haak, Louser, and Vigesaa voted "aye." Senator O'Connell voted "nay."

No further business appearing, Chairman Dever adjourned the meeting at 10:25 a.m.

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Jennifer S. N. Clark  
Counsel

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