

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Thursday, February 16, 2017
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 8:00 a.m.

Members present: Senators Karen K. Krebsbach, Dick Dever, Ralph Kilzer, Carolyn C. Nelson, Erin Oban, Nicole Poolman; Representatives Pamela Anderson, Randy Boehning, Jason Dockter, Ron Guggisberg, Vernon Laning, Mary Schneider

Members absent: Representative Gary Kreidt

Others present: Jennifer S. N. Clark, Legislative Council, Bismarck
See [Appendix A](#) for additional persons present.

It was moved by Senator Nelson, seconded by Senator Dever, and carried on a voice vote that the minutes of the January 26 and 30, 2017, meeting be approved as distributed.

Chairman Krebsbach explained to the committee that as she became aware of the amendments to 2017 House Bill Nos. 1023 and 1434 adopted by the House Appropriations Committee and House Human Services Committee, which appear to impact the public employees retirement and health insurance programs. She asked the Public Employees Retirement System (PERS) to request preparation of the actuarial reports. She said under North Dakota Century Code Section 54-35-02.4, she called a meeting of the Employee Benefits Programs Committee so the committee can take jurisdiction over the amended bills and receive actuarial reports, related technical comments, and comments by interested persons.

The Legislative Council staff distributed a memorandum entitled [Summary - Amendments to House Bill No. 1023](#) to the committee. The memorandum summarizes the amendments to House Bill No. 1023 adopted by the Government Operations Division of the House Appropriations Committee.

Chairman Krebsbach called on Mr. Sparb Collins, Executive Director, PERS, to comment regarding House Bill No. 1023 [[17.0508.01006](#)], as amended, and distribute an analysis ([Appendix B](#)) prepared by the PERS consultant, Gabriel, Roeder, Smith & Company Holdings, Inc. He explained House Bill No. 1023, as amended, converts the PERS Board into an advisory board, changes the membership of the board, and restricts PERS use of reserve funds to buy down monthly health insurance premiums. He said the amendment does not have an actuarial impact on the PERS retirement plans; however, the health insurance premiums paid by each state agency would increase if PERS is unable to buy down the premiums using reserve funds. He said if plan design changes are made instead of increasing monthly premiums, the grandfathered status of the health insurance plan could be lost.

Mr. Collins said the House Appropriations Committee approved a second amendment [[17.0508.01007](#)] to require the PERS Office to provide quarterly reports to the Employee Benefits Programs Committee.

In response to a question from Senator Dever, Mr. Collins said the amendment transfers investment allocation responsibility from the PERS Board to the PERS office Executive Director. He said placing fiduciary responsibility with the Executive Director may place the Director at risk of lawsuit by plan members.

In response to a question from Senator Nelson, Mr. Collins said he did not testify on the amendments before they were approved by the House Appropriations Committee. He said the restrictions on the use of health plan reserves could result in reduced benefits, increased premiums, and loss of grandfathered status.

In response to a question from Senator Kilzer, Mr. Collins said House Bill No. 1023 is the PERS budget bill. He said there are no general fund appropriations in the PERS budget; however, general fund money does flow through other agencies to PERS as special funds. He said the amendments were not proposed by an interim legislative committee.

In response to a question from Representative Anderson, Representative Boehning said the amendments were proposed to the Government Operations Division of the House Appropriations Committee by Representative Al Carlson.

In response to a question from Representative Guggisberg, Representative Boehning said public testimony regarding the amendment was not requested by the committee.

It was moved by Senator Kilzer, seconded by Senator Oban, and carried on a roll call vote that the committee take jurisdiction over the amendments to House Bill No. 1023 for purposes of Section 54-35-02.4. Senators Krebsbach, Dever, Kilzer, Nelson, Oban, and Poolman and Representatives Anderson, Guggisberg, Laning, and Schneider voted "aye." Representatives Boehning and Dockter voted "nay."

In response to a question from Senator Dever, the Legislative Council staff said Section 54-35-02.4(7) states any legislation enacted in contravention of Section 54-35-02.4 is invalid and of no force and effect. Ms. Clark said in practice, the Legislative Assembly is, in effect, overruling Section 54-35-02.4 when it passes law in contravention of the section.

It was moved by Senator Oban, seconded by Senator Nelson, and carried on a roll call vote that the committee give the amendments to House Bill No. 1023 an unfavorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, Oban, and Poolman and Representatives Anderson, Guggisberg, Laning, and Schneider voted "aye." Representatives Boehning and Dockter voted "nay."

Chairman Krebsbach called on Mr. Collins to comment on the amendments to House Bill No. 1434 [[17.0261.01001](#)]. He distributed the updated fiscal note ([Appendix C](#)) associated with the bill and said two areas of the bill have been amended, which resulted in changes to the fiscal note associated with the bill. He said the amendment reduced the cost associated with the autism mandate to \$1.25 per contract. He said the mandate would result in a general fund appropriation impact of \$265,117 in the 2017-19 biennium.

It was moved by Senator Nelson, seconded by Senator Oban, and carried on a roll call vote that the committee take jurisdiction over the amendments to House Bill No. 1434 for purposes of Section 54-35-02.4. Senators Krebsbach, Dever, Kilzer, Nelson, Oban, and Poolman and Representatives Anderson, Boehning, Dockter, Guggisberg, Laning, and Schneider voted "aye." No negative votes were cast.

In response to a question from Senator Dever, Ms. Clark said Section 2 of House Bill No. 1434, which provided for the PERS health plan coverage of autism services, was removed in the amendment because the mandate in Section 1 of the bill would apply to all insurance plans, including the PERS plan.

It was moved by Senator Poolman, seconded by Representative Dockter, and carried on a roll call vote that the committee give the amendments to House Bill No. 1434 an unfavorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Dockter and Laning voted "aye." Senator Oban and Representatives Anderson, Boehning, Guggisberg, and Schneider voted "nay."

Chairman Krebsbach expressed disappointment that bills and amendments are being approved by standing committees prior to being considered by the Employee Benefits Programs Committee as required by Section 54-35-02.4.

No further business appearing, Chairman Krebsbach adjourned the meeting at 9:00 a.m.

Alex J. Cronquist
Fiscal Analyst

ATTACH:3