

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Thursday, March 23, 2017
Harvest Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Chairman, called the meeting to order at 4:05 p.m.

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

Members absent: Senator Erin Oban

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 February 16, 2017, meeting be approved as distributed.

Chairman Krebsbach explained to the committee that as she became aware of House Bill No. 1436 and the proposed amendments to Senate Bill No. 2053 and House Bill No. 1403, which appear to impact the public employees retirement and health insurance programs, she asked the Public Employees Retirement System (PERS) to request preparation of actuarial reports and technical comments. 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 bills and proposed amendments and receive actuarial reports, related technical comments, and comments by interested persons.

Chairman Krebsbach called on Mr. Sparb Collins, Executive Director, PERS, to comment regarding House Bill No. 1436 [[17.1008.03000](#)], as approved by the Delayed Bills Committee, and distribute an analysis ([Appendix B](#)) prepared by the PERS consultant, Deloitte Consulting, LLP. He said House Bill No. 1436 requires PERS to transition to a self-insured health plan and restricts the use of money in the health insurance reserve fund. He stated PERS would need 2 additional FTE positions to administer the self-insurance plan. He said PERS is concerned about the bill requiring the self-insurance plan to be instituted by January 2018. He said he is also concerned because he is not sure Sanford or any other insurance provider will bid to provide PERS health insurance for the 6 months from July 1, 2017, through December 31, 2017. He said the Legislative Assembly could exempt PERS from bidding guidelines to improve the likelihood of securing a 6-month insurance plan.

In response to a question from Representative Kreidt, Mr. Collins said current law requires a self-insurance plan to maintain 1.5 months to 3 months of average claims in reserve. He said the current plan pays approximately \$24 million per month in claims, so the required reserve would be \$36 million to \$72 million for a self-insured plan.

In response to a question from Representative Dockter, Mr. Collins said the PERS health plan reserve fund has approximately \$35 million in available reserves. He said the current budget provides for about \$16 million of that amount to be spent to buy down monthly premiums.

In response to a question from Chairman Krebsbach, Mr. Collins said PERS has received a firm offer from Sanford Health for insurance for the next 2 years, but the contract has not yet been signed. He said the firm offer is for a 2-year plan and may not be valid for a 6-month plan.

In response to a question from Representative Dockter, Mr. Collins said the state currently has a hybrid health insurance plan which provides many of the benefits of self-insurance plans, including passthrough of plan gains.

In response to a question from Chairman Krebsbach regarding political subdivisions participating in the plan, Mr. Collins said the state would be taking on the risk for the political subdivisions and retiree participants in the self-insurance plan. He said the state would be responsible for any excess costs.

In response to a question from Senator Dever, Mr. Collins said amendments to House Bill No. 1436 were proposed to the House Industry, Business and Labor Committee by Representative Al Carlson. The Legislative Council staff distributed copies of the amendment proposed by Representative Carlson [[17.1008.03001](#)] and a document ([Appendix C](#)) summarizing the amendment.

In response to a question from Chairman Krebsbach, Ms. Clark said the proposed amendment primarily affects the duties of the Employee Benefits Programs Committee.

In response to a question from Representative Anderson, Mr. Collins said PERS did express its concerns regarding potential difficulties in securing a 6-month insurance contract beginning July 1, 2017, to the House Industry, Business and Labor Committee.

Senator Nelson expressed disappointment in the proposal to change the duties of the Employee Benefits Programs Committee.

Mr. Dan Hannaher, Senior Legislative Affairs Specialist, Sanford Health, presented testimony ([Appendix D](#)) in opposition to House Bill No. 1436.

In response to a question from Senator Kilzer, Mr. Hannaher said Sanford Health does have experience administering self-insurance health plans.

In response to a question from Senator Poolman regarding the contract between PERS and Sanford Health, Mr. Hannaher said a 6-year agreement is currently in place, with 2-year renewal periods, contingent upon Sanford meeting certain standards.

In response to a question from Representative Anderson, Ms. Clark explained the duties of the Employee Benefits Programs Committee and the process for how bills affecting employee benefits are brought before the committee.

It was moved by Senator Poolman, seconded by Senator Dever, and carried on a roll call vote that the committee take jurisdiction over House Bill No. 1436 and the proposed amendments for purposes of Section 54-35-02.4. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Boehning, Dockter, Guggisberg, Kreidt, Laning, and Schneider voted "aye." No negative votes were cast.

Senator Dever said he is not opposed to self-insurance, but he does not believe a mandated self-insurance plan can be done properly with the time remaining in the 2017 legislative session. He said he supports a study of self-insurance, which is currently provided for in House Bill No. 1023, as amended by the Senate Appropriations Committee.

It was moved by Senator Nelson, seconded by Senator Kilzer, and carried on a roll call vote that the committee give House Bill No. 1436 and the proposed amendments an unfavorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Guggisberg, Kreidt, Laning, and Schneider voted "aye." Representatives Boehning and Dockter voted "nay."

Chairman Krebsbach called on Mr. Collins to comment regarding the amendments to Senate Bill No. 2053 [[17.0118.03001](#)] adopted by the House Government and Veterans Affairs Committee, and distribute an analysis ([Appendix E](#)) prepared by Deloitte Consulting, LLP and Gabriel, Roeder, Smith & Company Holdings, Inc. He said Senate Bill No. 2053 is the PERS technical corrections bill. He stated amendments to Senate Bill No. 2053 were proposed to the House Government and Veterans Affairs Committee by PERS to address potential changes to the federal Affordable Care Act. He said the House amendments also keep Bureau of Criminal Investigation employees at 6 percent employee contributions, instead of reducing their employee retirement plan contributions to 5.5 percent. He said PERS had proposed reducing the Bureau of Criminal Investigation employee contributions to 5.5 percent to match other employees in the law enforcement system.

It was moved by Senator Nelson, seconded by Senator Poolman, and carried on a roll call vote that the committee take jurisdiction over Senate Bill No. 2053, as amended, for purposes of Section 54-35-02.4. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Guggisberg, Laning, and Schneider voted "aye." Representatives Boehning, Dockter, and Kreidt voted "nay."

It was moved by Representative Laning, seconded by Representative Boehning, and carried on a roll call vote that the committee give Senate Bill No. 2053, as amended, a favorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Boehning, Dockter, Guggisberg, Kreidt, Laning, and Schneider voted "aye." No negative votes were cast.

Chairman Krebsbach called on Mr. Collins to comment regarding the amendment ([Appendix F](#)) to House Bill No. 1403 [[17.0720.02000](#)] proposed by PERS, and distribute an analysis ([Appendix G](#)) prepared by Deloitte Consulting, LLP. He said House Bill No. 1403 relates to public employee health benefits transparency. He said the amendment proposed by PERS eliminates certain requirements for pharmacy benefits managers, establishes preference criteria for insurance contract bids with certain pharmacy benefits manager requirements, establishes the audit process for pharmacy benefits managers, and makes other technical changes.

It was moved by Representative Dockter, seconded by Representative Kreidt, and carried on a roll call vote that the committee take jurisdiction over House Bill No. 1403 and the proposed amendments for purposes of Section 54-35-02.4. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Boehning, Dockter, Guggisberg, Kreidt, Laning, and Schneider voted "aye." No negative votes were cast.

It was moved by Senator Poolman, seconded by Representative Anderson, and carried on a roll call vote that the committee give House Bill No. 1403, as engrossed by the House, an unfavorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Guggisberg, and Schneider voted "aye." Representatives Boehning, Dockter, Kreidt, and Laning voted "nay."

In response to a question from Representative Boehning, Mr. Collins said the primary sponsor of House Bill No. 1403 is not in favor of the amendments proposed by PERS.

It was moved by Representative Anderson, seconded by Senator Nelson, and carried on a roll call vote that the committee give the amendments to House Bill No. 1403 proposed by PERS a favorable recommendation. Senators Krebsbach, Dever, Kilzer, Nelson, and Poolman and Representatives Anderson, Guggisberg, and Schneider voted "aye." Representatives Boehning, Dockter, Kreidt, and Laning voted "nay."

No further business appearing, Chairman Krebsbach adjourned the meeting at 5:25 p.m.

Alex J. Cronquist
Fiscal Analyst

ATTACH:7