

# NORTH DAKOTA LEGISLATIVE COUNCIL

## Minutes of the

### EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Thursday, August 15, 2002  
Prairie Meadow Conference Room  
Country Inn and Suites by Carlson  
3316 13th Avenue SW  
Fargo, North Dakota

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

**Members present:** Representatives Bette Grande, Joe Kroeber, Wayne W. Tieman; Senators Ralph L. Kilzer, Stanley W. Lyson, Tim Mathern

**Members absent:** Representatives Glen Froseth, Francis J. Wald; Senator Karen K. Krebsbach

**Others present:** See Appendix A

**It was moved by Senator Mathern, seconded by Senator Lyson, and carried on a voice vote that the minutes of the May 6, 2002, meeting be approved as distributed.**

At the request of Chairman Grande, committee counsel distributed a letter from Mr. Robert Frantsvog, Finance Director, and Ms. Bobbie Ripplinger, Human Resource Director, City of Minot, and an e-mail from Mr. Jeff White, Chief Agent, Bureau of Criminal Investigation, concerning the law enforcement and correctional officer retirement program study, and a memorandum prepared by The Segal Company containing the actuarial review and technical comments for the legislation expanding membership in the National Guard plan and a memorandum prepared by the Public Employees Retirement System detailing the Public Employees Retirement System main system members who would be eligible to participate in the law enforcement and correctional officer retirement program. A copy of the letter is attached as Appendix B, a copy of the e-mail is attached as Appendix C, and a copy of the actuarial review and technical comments is attached as Appendix D. Committee counsel also reviewed a bill draft relating to participation by peace officers and correctional officers in the defined benefit retirement plan and the defined contribution retirement plan [30017.0100].

In response to a question from Senator Mathern, committee counsel said the bill draft is mandatory for peace officers and correctional officers employed by state agencies but is optional for political subdivisions. He said the election would be made by the political subdivision and not by the individual political subdivision employee.

In response to a question from Senator Lyson, committee counsel said state employees who transfer to the law enforcement and correctional officer

retirement system would retain all their current benefits such as health insurance, retiree health insurance, and life insurance.

In response to a question from Senator Lyson, Mr. Sparb Collins, Executive Director, Public Employees Retirement System, said if a political subdivision participates in the Public Employees Retirement System, it is required to contribute 1 percent of payroll for the retiree health insurance program and thus if a political subdivision elected to participate in the law enforcement and correctional officer retirement system, its employees would be eligible for the retiree health insurance credit.

Chairman Grande called on Mr. Collins to address the committee. A copy of the outline used in his presentation is attached as Appendix E. One issue that should be addressed by the committee, he said, is whether the employer contribution rate for the law enforcement and correctional officer retirement program should be blended with the National Guard employer contribution rate or whether a separate rate should be established. If a separate rate is established, he said, two additional issues are whether the assets should be transferred based upon the accrued liability for the member or whether the assets should be transferred based upon the accrued liability for the member plus any gains. One reason not to blend the contribution rate with the National Guard rate is because National Guard employer contributions are paid by the federal government and if the contribution rates were blended, the issue of whether the federal government is subsidizing the state employees in the system would be raised, he said. If the National Guard and law enforcement rates are blended and only accrued liability is transferred, he said, the employer contribution rate would be 7.32 percent. He said if accrued liability plus gains based upon last year's actuarial report are transferred, the employer contribution rate would be 6.35 percent as compared to 4.12 percent for the main system under current law. If a separate rate is established and accrued liability only is transferred, he said, the contribution rate would be 8.54 percent using a 10-year amortization period, 7.52 percent using a 20-year amortization period, and 7.20 percent using a 30-year amortization

period. If accrued liability and gain is transferred, he said, the contribution rate would be 6.80 percent using a 10-year amortization period, 6.51 percent using a 20-year amortization period, and 6.42 percent using a 30-year amortization period. The cost increase for the state, he said, would be \$1,066,000 if the employer contribution rate is 8.33 percent, \$861,100 if the employer contribution rate is 7.52 percent, \$810,400 if the employer contribution rate is 7.32 percent, \$678,700 if the employer contribution rate is 6.8 percent, and \$582,500 if the employer contribution rate is 6.42 percent.

Chairman Grande called on Mr. Warren R. Emmer, Director, Field Services Division, Department of Corrections and Rehabilitation, to address the committee. A copy of his written comments is attached as Appendix F. He said the Field Services Division recommends that a law enforcement retirement benefit plan be developed and implemented that will allow law enforcement and correctional officers to retire at age 55, that the law enforcement retirement benefit plan not adversely impact law enforcement and correctional officers who are currently eligible to retire at age 55 or the Rule of 85, that the retirement multiplier for participants in the law enforcement benefit plan be increased to 2.20 percent, that participants in the law enforcement benefit plan with at least 25 years of service in law enforcement or corrections be allowed to retire similarly to those who have achieved the age of 55 or Rule of 85 when those officers have reached the age of 50, that the committee consider enhancing the health insurance benefit for retired law enforcement and correctional officers who retire from the law enforcement benefit plan, and that the law enforcement retirement benefit plan permit employees with at least 20 years of Public Employees Retirement System vested service to decline to participate in the law enforcement benefit plan.

Chairman Grande called on Mr. Tim Schuetzle, Warden and Director, Prisons Division, Department of Corrections and Rehabilitation, who addressed the committee, and a copy of his written comments is attached as Appendix G. He said the Prisons Division supports the implementation of a new law enforcement retirement benefit system that would assist North Dakota peace officers and correctional officers to retire at the age of 55. However, he said, the division does not support any additional employee contributions and the definition of correctional officer should be changed to delete "as a correctional officer" on line 16 of page 1 of the bill draft.

Chairman Grande called on Ms. Sandi Tabor, Deputy Attorney General, Attorney General's office. Ms. Tabor said the Attorney General's office applauds the efforts of the committee to develop a bill draft that would allow political subdivisions the option of providing a retirement plan for their peace and correctional officers.

Chairman Grande called on Mr. Jerry Hjelmstad, Deputy Director, North Dakota League of Cities, who addressed the committee, and a copy of his written comments is attached as Appendix H. He said the committee must consider that if one group of employees receives an improved benefit, other employee groups will also want it, that improved benefits will result in increased cost, that cities should not be given an unfunded mandate, that cities are attempting to provide necessary services while holding the line on local taxes, that the financial capacities of North Dakota cities vary greatly, and that city officials are in the best position to determine the type of employee benefits that can be provided within that city's budget limitations.

In response to a question from Senator Mathern, Mr. Hjelmstad said the North Dakota League of Cities would support the creation of a law enforcement and correctional officer retirement plan provided the bill draft does not require cities to participate in the plan.

Chairman Grande called on Mr. Paul Hendrickson, Griggs County Sheriff, Cooperstown, who said the bill, as drafted, contains a normal retirement date of age 55 with at least three consecutive years of employment as a peace officer or correctional officer immediately preceding retirement. He said many law enforcement and correctional officers are eligible to retire under the Rule of 85 under the current retirement system before they reach age 55 and thus if this system becomes law, members may actually have to work longer than they would under current law. He suggested the committee include a Rule of 85 and a normal retirement date of age 50 with 20 years of service in the bill draft. He said North Dakota law enforcement agencies are losing employees to states and cities that have better salaries and benefits and this bill draft will help in recruiting and retaining law enforcement officers in North Dakota.

Chairman Grande called on Mr. Robert Roggenbuck, Chief, Medora Police Department, and President, North Dakota Police Chiefs Association. Mr. Roggenbuck said the bill draft is a good effort to improve the compensation package for law enforcement and correctional officers in North Dakota.

Chairman Grande called on Mr. Richard Bendish, Chairman, Peace Officer Standards and Training Board, Mandan, who said that as peace officer training standards increase, it is becoming more difficult to recruit and then to retain law enforcement officers in North Dakota. He said the bill draft will give North Dakota law enforcement agencies an additional tool to assist them in recruiting and retaining employees.

Chairman Grande called on Mr. E. F. Dump, who said he was a special agent for the Bureau of Criminal Investigation for 18 years but had to leave the agency after a series of heart attacks. He said the bill draft will reward law enforcement and correctional officers who missed spending holidays and evenings with

their families for their service to the people of North Dakota.

Chairman Grande called on Mr. Jerry Kemmet, Director, Bureau of Criminal Investigation, who said several Bureau of Criminal Investigation employees will reach the Rule of 85 before age 55 and thus if this bill draft is enacted with a normal retirement age of age 55, these employees will have to work longer than they would under the existing system to receive a normal retirement benefit. He proposed the committee include a Rule of 85 along with the normal retirement age of 55 to solve this problem. Another concern of the Bureau of Criminal Investigation, he said, is the multiplier of 2.0. He said the multiplier should be increased to 2.2 or 2.5 to increase the percentage of salary that the retirement benefit is replacing.

Chairman Grande called on Mr. Scott Busching, Sheriff, Williams County, and President, North Dakota Sheriffs and Deputies Association, who said the North Dakota Sheriffs and Deputies Association supports a bill of this type. As an administrator, he said, it is difficult to recruit and retain young law enforcement officers and he has lost several promising young officers to the United States Customs Service and the sky marshal's program in the wake of September 11.

Chairman Grande noted that The Segal Company is recommending an amendment to the bill draft in its technical comments submitted to the committee. She said The Segal Company is recommending that subsection 3 of North Dakota Century Code Section 54-52-02.1 as amended by Section 3 of the bill draft be replaced with the following language "Notwithstanding any other provision of this chapter, a political subdivision of this state not currently participating in the public employees retirement system may not become a participant in the retirement system until an

actuarial study is performed, under the direction of the board, to calculate the required employer contribution. The required employer contribution will be an amount determined as sufficient to fund the normal cost and amortize any past service liability over a period not in excess of thirty years as determined by the board. Any fees incurred in performing the actuarial study will be paid for by the political subdivision in a manner determined by the board."

**It was moved by Senator Mathern, seconded by Representative Tieman, and carried on a voice vote that the language proposed by The Segal Company be incorporated into the bill draft.**

Chairman Grande requested that the Public Employees Retirement System Board request its actuarial consultants to prepare a revised actuarial review for the bill draft and include a normal retirement date of the Rule of 85, a normal retirement date of age 50 with 20 years of service, a multiplier of 2.20 percent, and a multiplier of 2.50 percent. She requested the retirement board also calculate the required appropriation for each of these changes.

Following committee discussion, Chairman Grande asked the Legislative Council staff to remove the language "as a correctional officer" in the definition of correctional officer on line 16 of page 1 of the bill draft.

No further business appearing, Chairman Grande adjourned the meeting at 12:15 p.m.

---

Jeffrey N. Nelson  
Committee Counsel

ATTACH:8