

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2048

2007 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2048

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2048

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/12/07

Recorder Job Number: 1000

Committee Clerk Signature

*Therese Spaulding*

Minutes:

Roll was taken and all members were present.

Sen. Dever, Chairman, opened the hearing on SB 2048.

Sparb Collins, Executive Director of the Public Employees' Retirement Systems, introduced the bill. See attachment #1.

Sen. Lee asked why section 15 is dropping it from \$5000 to \$1000.

Sparb said the change was made to parallel the federal statute.

Sen. Lee expressed concern for small amounts being left in accounts. It seems decreasing the amount from 5000 to 1000 will cause more "small amounts" to be left in accounts. She also asked for clarification about getting money out.

There was discussion about the ease of record keeping and the concern of flexibility to access monies.

Kathy Allen with Public Employees Retirement Systems said the change was made because if they left it as it was PERS would be required to set up a separate IRA account to move those monies into. Rather than having to do that they opted to drop it from 5000 to 1000, whereby they do not have to do that. She clarified that an individual can still opt to keep their money in at 1000. That option is available. If they don't respond in a certain period of time, it will have to

be distributed. This is all concerning only terminated employees. Once an employee is terminated they receive a letter. They have a certain amount of time to respond if they do not want that action (automatic refund) to take place. They can respond and keep the money in the fund.

Sen. Oehlke mentioned that an individual can at any time set up an IRA on their own.

Bob Evans with ND Department of Transportation speaking on behalf of Francis Zeigler, Director of NDDOT, spoke in favor of the bill. He spoke in favor of equity for all members whether they are in the Defined Benefit program or the Defined Contribution program or not.

Opposition:-

Neutral: -

Chairman Dever closed the hearing on SB 2048.

Chairman Dever opened discussion on SB 2048

Sen. Horne made a motion to pass SB 2048.

Sen. Nelson seconded it.

Sen. Lee asked whether her questions on this bill could be addressed in SB 2047 or should this one be held over also.

There was discussion about the different investment plans in Higher Ed, the exit fees for taking money out of an investment, and rolling money into a different investment.

Roll Call Vote: Yes 6 No 0 Absent 0

Carrier: Sen. Oehlke

**FISCAL NOTE**  
 Requested by Legislative Council  
 12/26/2006

Bill/Resolution No.: SB 2048

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

|                | 2005-2007 Biennium |             | 2007-2009 Biennium |             | 2009-2011 Biennium |             |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
|                | General Fund       | Other Funds | General Fund       | Other Funds | General Fund       | Other Funds |
| Revenues       |                    |             |                    |             |                    |             |
| Expenditures   |                    |             |                    |             |                    |             |
| Appropriations |                    |             |                    |             |                    |             |

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium |        |                  | 2007-2009 Biennium |        |                  | 2009-2011 Biennium |        |                  |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties           | Cities | School Districts | Counties           | Cities | School Districts | Counties           | Cities | School Districts |
|                    |        |                  |                    |        |                  |                    |        |                  |

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation makes technical changes to the PERS retirement statutes and the Highway Patrol retirement statute. The changes have no fiscal effect on the state or political subdivisions participating in PERS.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill is not expected to have any effect on revenues, expenditures or appropriations.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

|                      |               |                       |            |
|----------------------|---------------|-----------------------|------------|
| <b>Name:</b>         | Sparb Collins | <b>Agency:</b>        | NDPERS     |
| <b>Phone Number:</b> | 328-3901      | <b>Date Prepared:</b> | 12/29/2006 |

Date : 1-12-07  
 Roll Call Vote # : 1

**2007 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. 2048**

Senate Government and Veteran Affairs Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do pass

Motion Made By Horne Seconded By Nelson

| Senators                      | Yes | No | Senators                   | Yes | No |
|-------------------------------|-----|----|----------------------------|-----|----|
| Senator Dick Dever - Chairman | ✓   |    | Senator Robert Horne       | ✓   |    |
|                               |     |    |                            |     |    |
| Senator Dave Oehlke - VC      | ✓   |    | Senator Richard Marcellais | ✓   |    |
|                               |     |    |                            |     |    |
| Senator Judy Lee              | ✓   |    | Senator Carolyn Nelson     | ✓   |    |
|                               |     |    |                            |     |    |
|                               |     |    |                            |     |    |
|                               |     |    |                            |     |    |
|                               |     |    |                            |     |    |
|                               |     |    |                            |     |    |
|                               |     |    |                            |     |    |

Total (Yes) 6 No 0

Absent 0

Floor Assignment Oehlke

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE (410)**  
January 12, 2007 12:08 p.m.

**Module No: SR-08-0507**  
**Carrier: Oehlke**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2048: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2048  
was placed on the Eleventh order on the calendar.

2007 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2048



## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2048

House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4228

Committee Clerk Signature

*Morgan Reilly*

Minutes:

**Sparb Collins:** Testimony attached.

**Rep. Grande:** Section 4, what are we making public.

**Sparb Collins:** Under existing statute today, an employer is part of an early retirement program. They can say that they are going to offer this program. This includes that if you take it we will purchase some additional retirement plans or put some contributions into your plan. You can put it together as an incentive package. This has been done not a lot, but it has been done in the past four years. Some questions have come up relating to getting information on whom did they purchase for, how much was the purchase, how much did it cost, etc. Right now because of our confidentiality statute, if you came to us and said that you heard PERS had an early retirement program, how much did PERS spend? We would have to say it is confidential. It is in the broadness of the confidentiality statute. Now what this would do is say we would be able to give you that information. It is just allowing everyone access to that information as it relates to an extra option.

**Rep. Haas:** When you give out that information as it was requested, would it be employee specific?

**Sparb Collins:** Yes. Just in the limited case.

**Rep. Grande:** When we are talking about some of the contribution things here, I know we have highway patrolmen that are off for about 15-18 months to Iraq and various places. How are we handling their retirement plan while they are gone?

**Sparb Collins:** There are specific federal law requirements about that. They are allowed options when they come back to get their retirement.

**Rep. Grande:** I'm just curious, does the state allow them to stay on while they are gone? If I was going to be gone could I keep paying up all of my retirement so it was done while I'm gone instead of having to deal with it?

**Sparb Collins:** The employer makes the payments.

**Rebecca Fricke:** We did change the state statute last session to allow when the individual returns from their active duty, as long as they return to covered employment, which is a requirement that they have to. The law was changed to allow the employer to make the contribution on the employee's behalf in the same manner that they would have had the individual not been activated. There is a difference between the highway patrol, which does still require the employee contribution into the plan as compared to the PERS plan, which the employer picks up those contributions. Based upon when the individual comes back, there is not a methodology that requires them to pay those contributions while they are gone. It is their return from active service to covered employment that allows them to make up the contributions.

**Rep. Grande:** When during that time period, if something was to happen and they don't return, then they have already put into place that is going to take it and receive all those benefits and stuff?

**Rebecca Fricke:** If something were to happen to them while they were gone, we would look at

it for any member of PERS. If they just never returned to PERS covered employment, then they would have the same options to the individual that terminates their employment.

**Rep. Grande:** If I'm leaving and I have hours from sick, vacation, etc, can I utilize them and stay in my retirement plan?

**Rebecca Fricke:** That is not something that we would determine or administer. There are certain laws that impact people that are activated, and how many days of paid leave they can receive before they have to go to unpaid. I think every year that they are on active duty they will get so many days of paid days. As far as annually that will fall back to what policy is in place with their employer. If the employer keeps them and pays them as if they were employed, we would continue to receive contributions until they basically ran out of leave if that was something that was worked out.

**Rep. Amerman:** What is the difference between the Hibred and the define contributions?

**Sparb Collins:** It's just another name. Between the Hibred and the define contribution. The Hibred plan is basically the define benefit plan. The define contribution plan is an accumulation plan. So how do they differ is that the define benefit plan gives you a benefit based upon on your years established, your final average salary, and the multipliers. The define contribution plan is a cash accumulation plan, it puts so much money into the plan and you decide how to invest it.

**Rep. Amerman:** Where I work we have a define benefit plan. That is solely employer contribution. Is that what the hybrid plan is?

**Sparb Collins:** The Hybrid plan, the contribution is 4.12% employer and 4% employee. That is available in the state and a lot of political subdivisions. Underneath federal law, the employee contribution can be paid by the employer and the state of ND. There are employees elected to do that in the 1980's. Right now it is still classified as employee contribution, but the employer

pays for it. Some of our other participating employers, they have different arrangements. They tell us what to do and we set them.

**Rep. Kasper:** On page 4 section 7 line 19, the members who terminate employment on or after August 2010, final average salary is the highest of the 36 months during the last 180 months. I know that is current law. 180 months is 15 years. We are saying that an employee when they retire, you can go back and find the highest of 3 years in the last 15 years. The scenario occurred to me let's say an employee was a state employee for 20 years. They had an average salary of \$40,000. Then for 3 years he was moved into a position where an employee was paid \$80,000 for those 3 years. For whatever reason he moved back out of that position and went back to where he was at \$40,000 and then retired. This \$80,000 payment was the first, second, and third year of the last 15 years. We have a possibility under these definitions that an employee can work 3 years and make a lot of money, and work 30 years and make half that amount and retire on the highest average salary of those 3 years.

**Sparb Collins:** We had that possibility even in the 120. Yes it can happen. We do kind of watch that. One of the things that affect things like that is overtime. We don't count overtime as part of the retirement benefit. That is because it puts the typical salary into the system. There was a bill to count overtime. We also monitor things like bonuses. We have a provision in our bill where we see an atypical payment like that, we go in and divide it by 12 and normalize it over the period. We try to monitor it so you can get some of those atypical ones. That is not to say that if it is something as straight forward as that, it would happen to go up or down. That is called pension spiking. You hear about this when you read articles around the country where somebody might take a look at trying to put in atypical payments. We have a report that we will kick out on atypical payments. What we do is follow up with the employer and say well is this correct?

**Rep. Meier:** In sections 13-15, could you explain the contributions that you are using with the employees that have been working for 25 years or more.

**Sparb Collins:** Now they are jumping the gun to four. The define contribution plan, when it was drafted the employers for example could make those payments or do these things to the employees. They purchased it strictly for the employees. It was put in the define benefit bills and put in the define contribution bills. The way it was put in the define benefit plan, for sick leave you can do it for someone who has 3 years or more. We noticed that it was applied and the way it was written, the define contribution plan would end up being 25 years. It ended up being this big difference between the two. That is the goal to keep the two plans in similar. The other plan is at age 65 with 100% vested.

**Rep. Potter:** I would like for you to talk about exactly what service credit is.

**Sparb Collins:** That is kind of a generic term we use that isn't very obvious. Service credit is based upon some variables such as your final average salary. We calculate that today from the high of 36 months out of 120 months. It is taken times a multiplier that is set in statute. Then it is taken under a year's service. You get one month of service credit for each month that you get paid. So we monitor that and get payment from the employer that says here is a payment. Service credit becomes the other variable in terms of determining your benefit. You can get that as part of the normal payments that comes in through a month to month contribution by the employer. There are also other opportunities that are talked about here and there. The other way they can do it is combine credit and sick leave. So say that I have one year of sick leave that I would have had to work for about 25 years to receive. That can be purchased at a rate of 8.2%. That would be 12 months of service. So service credit is the months of service to determine benefit. To get the 2% multiplier, if I have 25 years of service credit, my retirement benefits would be 50% of my final average salary. If I have 24 years of

service it would be 48%. That is how those variables come together. If I've got 20 years I would have 40% of what my final average salary was. If my final average salary was \$1,000 40% of that would be \$400.

**Rep. Haas:** Is there any more testimony on SB 2048? If not we will close the hearing on SB 2048.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2048

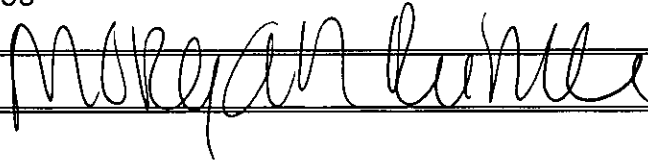
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: March 1, 2007

Recorder Job Number: 4233

Committee Clerk Signature



Minutes:

**Rep. Haas:** It deals with the Highway Patrolmen's retirement plan and benefit payment options. It also dealt with that confidentiality issue where they made some information public. If Public Employee's are given incentives for retirement then the public should be able to have access to that information. In other words if I retire and I'm a public employee, and they buy two years of credit for me then someone should be able to have access to that information. Is there any pre motion discussion or comments? I will entertain a motion.

**Rep. Grande:** I move a do pass.

**Rep. Wolf:** I Second that.

**Rep. Haas:** Is there any discussion?

**Rep. Amerman:** Presently they can get a lump sum payment? Now this changes and says it is broken down into increments. Instead of a lump sum they can choose to get it into monthly payments? I'm looking at Sparb's testimony, it's on the 2<sup>nd</sup> page line 26.

**Rep. Haas:** That is only for those who have delayed their benefits or inadvertently failed to apply for the retirement benefits. It sounds to me like someone who has worked as a Public Employee for a length of time then was vested and forgot they had a benefit. They then find out they have a benefit and they can come back and take it as a lump sum benefit.

**Rep. Haas:** Is there any other comments or discussion? If not we will take a roll call vote on a do pass motion for SB 2048. The do pass motion passes with a vote of 13-0-0. Is there a volunteer to carry this?

**Rep. Schneider:** I will.





**REPORT OF STANDING COMMITTEE (410)**  
March 2, 2007 7:34 a.m.

**Module No: HR-40-4258**  
**Carrier: Schneider**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2048: Government and Veterans Affairs Committee (Rep. Haas, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2048  
was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2048

TESTIMONY OF  
SPARB COLLINS  
ON  
SENATE BILL 2048

*Same to  
House and Senate*

Mr. Chairman, members of the committee, good morning. My name is Sparb Collins and I am Executive Director of the North Dakota Public Employees Retirement System or PERS. I appear before you today on behalf of the PERS Board and in support of this bill.

SB 2048 relates to the Highway Patrol retirement plan (Sections 1,2,3,4 &5), the PERS hybrid or defined benefit plan (Sections 6, 7, 8,9,10, 11 & 12) and the PERS Defined Contribution plan (Sections 13, 14 & 15). This bill proposes to make technical/administrative to the PERS statutes including changes in benefit payment options for several of our systems; update provisions relating to members returning to employment from active duty, update our federal compliance provisions and change the confidentiality status of employer purchases.

**Highway Patrol retirement plan (Sections 1,2,3,4 &5)**

**Section 1** of the bill is to clarify that only active members can purchase service.

**Section 2** of the bill, line 5 is to correct an error we made last session in proposing this change when we said it would be effective in 2009, it should have been 2010. This change related to the calculation of final average salary for retirement and the number of months used in making that determination. Present law provides that it is the average of the highest 36 months out of the last 120 months. The change approved last session extended it to the average of the highest 36 out of 180 months beginning in 2009, however, it should have been 2010. Lines 7 through 12 clarify the procedure for members who terminate but do not draw benefits until after 2010.

Lines 22-26 of page 2, Section 2 offer members who do not take their retirement benefit when eligible a new option. Presently we would make a lump sum payment to those members. This change would allow them to amortize that lump sum payment over their projected payment period.

**Section 3** of the bill updates our federal compliance provisions for the Highway Patrol Retirement plan.

**Section 4** of the bill allows information regarding employer purchase programs to be considered public information, not confidential.

**Section 5** of the bill brings the sick leave conversion policy into compliance with federal law regarding the timeframe in which a purchase can be paid.

**PERS defined benefit or hybrid plan (Sections 6, 7, 8,9,10, 11 & 12)**

**Section 6** of the bill provides clarification that temporary employees can not purchase any type of service credit, including previously refunded NDPERS service credit.

**Section 7** of the bill makes the same technical and benefit options changes for the PERS retirement as were made the Highway Patrol Retirement Plan in Section 2 of this bill.

**Section 8** of the bill is to clarify that only active members can purchase service.

**Section 9** of the bill is the same change for PERS as is proposed in section 4 of the bill for the Highway Patrol plan which allows information regarding employer purchase programs to be considered public information, not confidential.

**Section 10** of the bill is also the same change for PERS as is proposed for in section 5 of the bill for the Highway Patrol plan which brings the sick leave conversion policy into compliance with federal law regarding the timeframe in which a purchase can be paid.

**Section 11** of the bill updates our federal compliance provisions for the PERS plan.

**Section 12** of the bill clarifies that a purchase of service calculation for a member will include the actuarial cost for both the retirement benefit portion and the retiree health credit portion.

**PERS Defined Contribution plan (Sections 13, 14 & 15)**

**Section 13** of the bill relates to additional employer contributions being made into the defined contribution plan. Currently, employers are able to submit additional contributions to the plan for employees with 25 or more years of service. This change would expand this provision to allow employers to submit additional contributions to the plan for employees with 4 years or more of service. The amount of additional contributions permitted for these employees would be based on an amount equal to the cost to convert the employee's unused sick leave. This change is to make the DC plan provision similar to the DB plan as it relates to the ability for employers to submit payment to NDPERS for an employee's conversion of unused sick leave.

**Section 14** of the bill adds to the defined contribution plan the same provision as in the defined benefit plan which is a member is 100% vested at age 65. When the defined contribution plan was established the goal was to have uniformity in plan provisions with the defined benefit plan. Over the years as we discover provisions that are different we have been addressing them in legislative proposals. This is such a provision.

**Section 15** brings the state statute into compliance with federal law change reducing the threshold from five to one thousand dollars for automatic refunds in the defined contribution plan.

This bill has been reviewed by the Legislative Employee Benefits Committee and given a favorable recommendation. You will also note the bill has no fiscal impact. Mr. Chairman and members of the committee thank you for your consideration of this bill and this concludes my testimony.