

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2153

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2153

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/16/09

Recorder Job Number: 7159

Committee Clerk Signature *Katze Diver*

Minutes:

Meeting was called to order by Senator Dick Dever.

Role was taken by the Clerk.

**Sparb Collins:** See attached testimony #1

**Senator Dever:** I thought the PERS fund was one fund. It seems to me agencies contribute at different levels.

**Sparb Collins:** There are 10 defined benefit plans 2 defined contribution plans under the PERS umbrella.

**Senator Dever:** You have age 65 in the highway patrolman plan, but in actuality their retirement age is earlier than that.

**Sparb Collins:** The graduated benefit is re spreading the existing benefit in a different manner than a fix lifetime annuity.

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2153

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/16/09

Recorder Job Number: 7559

Committee Clerk Signature

Minutes:

**Senator Nelson:** I motion a Do Pass on SB2153.

**Senator Cook:** Second.

**Senator Dever:** Is there any discussion?

**Senator Cook:** Section 13, allows an employer to pay the insurance premium for an employee on a leave of absence, I assume that is not allowed today? I would think that would have some cost, I should have asked him, is there a limit to how long someone can take a leave of absence? I am looking at Sparb's explanation of the bill and Section 13.

**Senator Nelson:** That is on page 2, in section 39.03.1, #3 that is deleted, it looks to me like it is moved over to section 13.

**Senator Dever:** But it is stated a little differently.

**Senator Nelson:** But it is also stated as 'may' so maybe we should take that into consideration. So if they are getting coverage from some other source then you wouldn't pay it.

**Senator Cook:** But it's 'purchase credit in the past' is being deleted.

**Senator Nelson:** Oh, that is for additional services. I supposed this could be like if I were still a state employee that my employer could pay for me.

**Senator Ohelke:** I think it's of the nature that if they know the employee is coming back, it

occasionally happens in law enforcement. Someone might be on unpaid leave and it is sort of a penalty but you don't want to not want to have their health insurance enforce while they are absent because when they came back you would have to reapply for it again and they might be in a situation where they can't get it because it would not be automatically reinstated. I don't know if there are other situations where someone might have an unpaid leave.

**Senator Dever:** We have policy in place that is consistent with the Family & Medical Leave Act if someone has a child or an illness that they can take 3 or 6 months of unpaid leave.

**Senator Cook:** The question I had first is if this is a change in policy then why the bill doesn't reflect any potential cost. Then the only other question that I have about this is there any policy out there about how long you can have a leave of absence?

**Senator Nelson:** Then why don't we withdraw our motion?

**Senator Dever:** Would Sparb be the best person to ask that?

# 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2153

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 1/16/09

Recorder Job Number: 7560

Committee Clerk Signature

Minutes:

**Senator Dever:** Let's take a look at SB2153. This is a PERS bill, do we need additional information on that or do we need to review it again?

**Senator Nelson:** It is basically the same thing twice.

**Senator Dever:** It doesn't, as I understand it, the overall PERS fund but it affects the benefits differently.

**Senator Nelson:** Some of it is just IRS compliance, which is going to affect the highway patrol fund.

**Senator Dever:** As I understand part of it is to improve their benefit by designated how it is distributed through the IRS. Are there any points in here that need a closer look?

**Senator Nelson:** I motion a do pass.

**Senator Horne:** I second.

Roll was taken with 5 yea's, 0 nay's, and 0 absent and not voting.

Date: \_\_\_\_\_  
Roll Call Vote #: \_\_\_\_\_

**2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.**

2153  
Carrie  
Committee

Senate Government and Veterans Affairs \_\_\_\_\_

Check here for Conference Committee

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

Action Taken Do Pass \_\_\_\_\_

Motion Made By Nelson \_\_\_\_\_ Seconded By Horne \_\_\_\_\_

Senators	Yes	No	Senators	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**REPORT OF STANDING COMMITTEE (410)**  
January 22, 2009 12:51 p.m.

**Module No: SR-13-0721**  
**Carrier: Nelson**  
**Insert LC: . Title: .**

**REPORT OF STANDING COMMITTEE**

**SB 2153: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2153  
was placed on the Eleventh order on the calendar.

2009 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2153



## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Senate Bill 2153

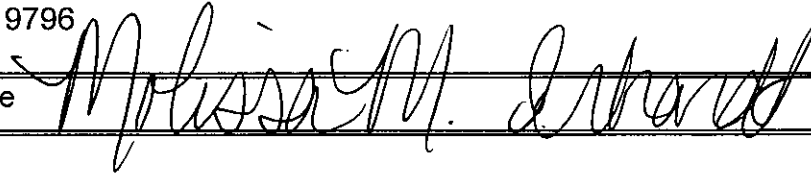
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 2/26/2009

Recorder Job Number: 9796

Committee Clerk Signature



Minutes:

**Chairman Grande:** Open the hearing on SB 2153.

**Deb Knudsen, Manager, Benefit Planning and Research for ND PERS.**

Testimony. See Attachment # 1.

**Chairman Grande:** Questions from the committee?

**Rep. Wolf:** I am curious in Section 3 and 8, it talks about the employer, it says if the employee contributions are not otherwise paid, they must be paid by the State in rural contributions by a member. Wouldn't there be a fiscal note if we are going to start paying part of this? I am missing something somewhere, can you clarify this?

**Deb Knudsen:** The State currently does pay the four percent. We are not proposing to change anything there. What we are proposing is that the remaining employee contribution can be done on a pre-tax basis. Right now it is being done on an after tax basis. So, therefore, it would be the employee paying it. There is no fiscal impact because the contributions are coming from the same

source and it is the same amounts, it is just going to be dispersed differently. So there is not a difference in the amount.

**Rep. Wolf:** That is how I understood it, but the wording makes it sound like something different. It was just kind of weird.

**Chairman Grande:** Any other questions from the committee? Seeing none, Favor of, Favor of, Opposition, Opposition, Neutral, Close.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. Committee Work One SB 2153

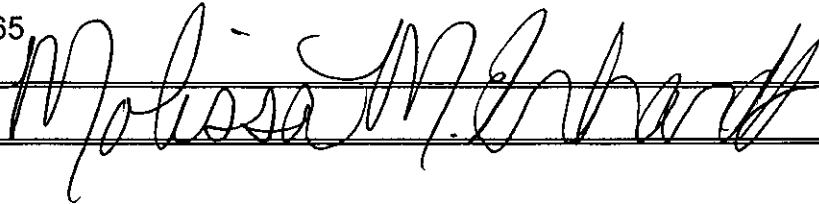
House Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/12/2009

Recorder Job Number: 10865

Committee Clerk Signature



Minutes:

### COMMITTEE WORK ONE:

**Chairman Grande:** We will discuss SB 2153. That is the explanation on the PERS. We have a change on the numbers of the FFE boards. If one member of the public employees Public Employees Retirement Board System will be selected by the board and adjustments on purchase credits of contributions including the purchase credits prior to service. It goes to the actuarial, how to decide how much (can't understand words) and that takes us on to clearing up some of the benefits and a lot of that has to do with Federal IRS code with this little one here. Just dealing with the compliance, when they make changes on the Federal level there are things we have to adjust.

**Rep. Meier:** Move for a Do Pass Motion.

**Rep. Wolf:** 2<sup>nd</sup>.

**Chairman Grande:** We have a Do Pass Motion by Rep. Meier and a 2<sup>nd</sup> by Rep. Wolf. Any discussion? Clerk will call the roll?

**Clerk Erhardt:** Roll Call. Yes: 13. No: 0. Absent: 0. Carrier: Chairman Grande.

Date: 3/12/19

Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2153

House Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended

Motion Made By Meier Seconded By Wolf

Representatives	Yes	No	Representatives	Yes	No
Chairman Grande	✓		Rep. Amerman	✓	
Vice Chairman Boehning	✓		Rep. Conklin	✓	
Rep. Dahl	✓		Rep. Schneider	✓	
Rep. Froseth	✓		Rep. Winrich	✓	
Rep. Karls	✓		Rep. Wolf	✓	
Rep. Kasper	✓				
Rep. Meier	✓				
Rep. Nathe	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Chairman Grande

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

**REPORT OF STANDING COMMITTEE**

**SB 2153: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee**  
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2153 was rereferred to the  
**Appropriations Committee.**

2009 TESTIMONY

SB 2153

**Testimony of  
Sparb Collins  
On  
Senate Bill 2153**

Mr. Chairman, members of the committee my name is Sparb Collins and I am Executive Director of the North Dakota Public Employees Retirement System. I appear before you today on behalf of the PERS Board and in support of this bill. This bill provides various changes to the PERS statutes. I will highlight in the testimony the changes and I have also provided a table summary as well that is attached to my testimony.

**Section 1** of the bill relates to the PERS boards representation on the State Investment Board. The PERS Board is presently authorized to appoint 3 of its 4 elected members to the State Investment Board (SIB). This change would allow the Board to appoint as one of its 3 members a non-elected PERS Board member such as the Board Chair who is appointed by the Governor, the Attorney General's appointment, or the Health Officer or designee. The purpose of this change is to allow the board more discretion in selecting from its membership who should serve on the State Investment Board. This bill does not change the membership if the Investment Board.

**Section 2** of the bill standardizes the purchase provisions of the Highway Patrol so they are the same as the PERS Plan.

**Section 3** of the bill authorizes payment of employee contributions on a pre-tax basis, instead of on an after-tax basis, for the Highway Patrol Retirement System



via employer pick-up under Internal Revenue Code rules, for compensation earned after August 1, 2009. Currently, the Highway Patrol members pay 6.3% out of pocket on an after tax basis for their retirement benefit. This change will enhance the take home pay for members of this system. The following table is an estimate of the benefit of this change:

Highway Patrol									
Contributions Post-tax (Current)									
Monthly Salary	Taxable Salary	Federal Tax (8.48%)	State Tax (1.39%)	Social Security (0.00%)	Medicare Tax (1.45%)	Retirement Contribution (6.30%*)	Total Paycheck	Paycheck Increase	Paycheck Increase Percent
2,000.00	2,000.00	169.60	27.80	0.00	29.00	126.00	1,647.60		
3,000.00	3,000.00	254.40	41.70	0.00	43.50	189.00	2,471.40		
4,000.00	4,000.00	339.20	55.60	0.00	58.00	252.00	3,295.20		
5,000.00	5,000.00	424.00	69.50	0.00	72.50	315.00	4,119.00		
Contributions Pre-tax (Proposed)									
2,000.00	1,874.00	158.92	26.05	0.00	29.00	126.00	1,660.03	12.43	0.75%
3,000.00	2,811.00	238.37	39.07	0.00	43.50	189.00	2,490.06	18.66	0.76%
4,000.00	3,748.00	317.83	52.10	0.00	58.00	252.00	3,320.07	24.87	0.75%
5,000.00	4,685.00	397.29	65.12	0.00	72.50	315.00	4,150.09	31.09	0.75%

**Section 4** changes the automatic distribution rules for the Highway Patrol plan to conform with federal requirements relating to automatic distributions. Specifically only accounts less than \$1,000 would be automatically distributed to the member unless they are directed otherwise.

**Section 5** of the bill allows members of the Highway Patrol Retirement System to elect a new optional form of monthly retirement benefit that provides a graduated increase of 1% or 2%. The monthly retirement benefit would be actuarially adjusted to provide for the post-retirement increases. An example of the payments under this option for a member with a normal retirement monthly benefit of \$1,000 retiring at age 65 is as follows:

Retiree Age	Monthly Single Life Benefit	Monthly Graduated Benefit with 1% Annual Increases	Monthly Graduated Benefit with 2% Annual Increases
65	\$1,000.00	\$925.67	\$853.93
66	\$1,000.00	\$934.93	\$871.00
67	\$1,000.00	\$944.28	\$888.42
68	\$1,000.00	\$953.72	\$906.19
69	\$1,000.00	\$963.26	\$924.32
70	\$1,000.00	\$972.89	\$942.80
71	\$1,000.00	\$982.62	\$961.66
72	\$1,000.00	\$992.45	\$980.89
73	\$1,000.00	\$1,002.37	\$1,000.51
74	\$1,000.00	\$1,012.39	\$1,020.52
75	\$1,000.00	\$1,022.52	\$1,040.93
76	\$1,000.00	\$1,032.74	\$1,061.75
77	\$1,000.00	\$1,043.07	\$1,082.98
78	\$1,000.00	\$1,053.50	\$1,104.64
79	\$1,000.00	\$1,064.04	\$1,126.74
80	\$1,000.00	\$1,074.68	\$1,149.27
81	\$1,000.00	\$1,085.42	\$1,172.26
82	\$1,000.00	\$1,096.28	\$1,195.70
83	\$1,000.00	\$1,107.24	\$1,219.62
84	\$1,000.00	\$1,118.31	\$1,244.01
85	\$1,000.00	\$1,129.50	\$1,268.89

**Section 6** of the bill updates federal compliance provisions for the Highway Patrol Retirement System, including additional language to comply with Internal Revenue Code section 415(b) and related regulations.

**Section 7** of the bill expands the eligibility for PERS Board membership to members of retirement systems administered by the Board other than PERS. This includes the Job Service Plan, the Highway Patrol Retirement System and the Defined Contribution Plan. This change is reflective of the scope of the Board's responsibility and enhances the equity and integrity of PERS by allowing all members the opportunity to serve on the Board.

**Section 8** of the bill is similar to section 3 of the bill except it authorizes payment of employee contributions on a pre-tax basis for the judges instead of on an after-tax basis via employer pick-up under Internal Revenue Code rules, for compensation earned after August 1, 2009. Currently Judges pay 1% out of pocket on an after tax basis for their retirement benefit. This change will enhance the take home pay for members of this system.

**Section 9** of the bill is similar to section 4 except it changes the automatic distribution rules for the PERS plan whereas section 4 does this for the Highway Patrol plan. This change is to conform with federal requirements relating to automatic distributions. Specifically only accounts less than \$1,000 would be automatically distributed to the member unless they directed otherwise. Section 9 also eliminates the 60-month certain option as a form of payment for surviving spouses in the Hybrid Plan. This is eliminated since it is an option that is no longer used.

**Section 10** of the bill adds the graduated benefit option to the PERS plan as Section 5 did for the Highway Patrol plan.

**Section 11** of the bill updates the federal compliance provisions for the PERS plan as Section 6 did for the Highway Patrol plan.

**Section 12** of the bill relates to the health insurance plan and clarifies that "faculty member" instead of "teachers" who are teaching from one year to the next should be set up on an annual health contract. This is current practice and the purpose of this change is to clarify the terminology.

**Section 13** of the bill also relates to the health insurance plan and provides for the following:

- a. Eliminates the provision allowing an employee of a political subdivision not participating in PERS to participate.
- b. Allows an employer to pay the insurance premium for an employee on leave absence.

**Section 14** of the bill establishes the effective date for Sections 2, 5 & 10 as March 1 of 2011. PERS is in the process of replacing its existing business system with a new one that is scheduled to go live at the end of 2010. Delaying the implementation of these provisions by 18 months means that we will not have to incur expenses to change our existing system while also incorporating these same provisions in our business rules for our new our system.

This bill was reviewed by the by the interim Legislative Employee Benefits Committee and given a favorable recommendation. The bill as written will not have an actuarial impact on the PERS retirement plans and has no fiscal effect.

Mr. Chairman, members of the committee this concludes my testimony.

# Senate Bill 2153

This bill proposes numerous administrative and technical changes as well as additional options for the PERS and HP retirement plans.

*Same handover given to House*

Proposals	Section
1. The PERS board is presently authorized to appoint 3 of its 4 elected members to the state investment board. This change would allow the board to appoint as one of its 3 members a nonelected PERS Board members such as the Board Chair who is appointed by the Governor, the Attorney General's appointment or the Health Officer or designee.	Section 1
2. Standardizing the language relating to purchase or prior service and years of service for the Highway Patrol with the PERS plan	Section 2
3. Authorize the pretax payment of employee contributions made by the HP members and Judges (6.3% for HP & 1% for Judges)	Section 3 for HP Section 8 for Judges
4. Modifies the automatic distribution provision so it is consistent with Federal requirements (Less then \$1,000)	Section 4
5. Adds a graduated benefit option to the plan in addition to the existing options (J&S 50% and 100%, 10 year term certain & level SS benefit). Pursuant to this option a member could take an actuarial reduced benefit initially (like they do with the J&S benefit) so their benefit would increase at 1% or 2% over time. The benefit would be reduced actuarially to reduce the initial payments by an amount to pay for the 1% or 2% option	Section 5 for HP Section 10 for PERS
6. Update the federal compliance provisions and add federally required	Section 6 for HP

Proposals	Section
language relating to the treatment of members in dual plans	Section 11 for PERS
7. Present law provides that any member of the PERS retirement plan can run for the PERS Board. The board is proposing broadening eligibility to include members of the HP plan, Job Service Plan and DC plan. These are plans also administered by the Board.	Section 7
8. Relates to the group insurance program and clarifies that "faculty member" instead of teachers who are teaching from one year to the next should be set up on an annual health contract.	Section 12
9. This change also relates to the group insurance program and does two things: <ul style="list-style-type: none"> <li>a. Eliminates the provision allowing an employee of a political subdivision not participating in PERS to participate.</li> <li>b. Allows an employer to pay the insurance premium for an employee on leave absence</li> </ul>	Section 13
10. Establishes the effective date for section 2, 5 & 10 as March 1 of 2011	Section 14

Attachment  
#1

**Testimony of  
Sparb Collins  
On  
Senate Bill 2153**

Madam Chair, members of the committee my name is Deb Knudsen and I am Manager of Benefits Planning and Research for the North Dakota Public Employees Retirement System. I appear before you today on behalf of the PERS Board and in support of this bill. This bill provides various changes to the PERS statutes. I will highlight in the testimony the changes and I have also provided a table summary as well that is attached to my testimony.

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69	\$1,000.00	\$963.26	\$924.32
70	\$1,000.00	\$972.89	\$942.80
71	\$1,000.00	\$982.62	\$961.66
72	\$1,000.00	\$992.45	\$980.89
73	\$1,000.00	\$1,002.37	\$1,000.51
74	\$1,000.00	\$1,012.39	\$1,020.52
75	\$1,000.00	\$1,022.52	\$1,040.93
76	\$1,000.00	\$1,032.74	\$1,061.75
77	\$1,000.00	\$1,043.07	\$1,082.98
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This bill was reviewed by the by the interim Legislative Employee Benefits Committee and given a favorable recommendation. The bill as written will not have an actuarial impact on the PERS retirement plans and has no fiscal effect. Madam Chairman, members of the committee this concludes my testimony.