2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1044

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Fort Union, State Capitol

HB 1044
1/4/2019
30429

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Carmen Hart

Explanation or reason for introduction of bill/resolution:

Relating to Internal Revenue Code compliance

Minutes: Attachments 1, 2, 3

Chairman Kasper opened the hearing on HB 1044.

Fay Kopp, Chief Retirement Officer, ND Teachers' Fund for Retirement appeared in support. Attachment 1 (1:11-3:37)

Rep. C. Johnson: Do all teachers in the state participate in this plan?

Fay Kopp: Yes, all public school teachers that are licensed by ESPB and have a contract with the school district are required by statue to be a member of the TFFR plan.

Rep. C. Johnson: This language refers to rollovers. What happens if the teacher moves to another state?

Fay Kopp: If a teacher would terminate employment with their school district and not continue working in another public school district in the state like going into private business, move to another profession, or teach out of state, they would have the opportunity under Internal Revenue Code requirements to rollover their cash value of their retirement into another qualified plan or an IRA.

Chairman Kasper: Is a teacher that is currently working eligible to do a rollover, or can they do that only when they retire or leave?

Fay Kopp: A teacher is not allowed if they are currently employed to do an in kind rollover. That is not a provision that is allowed in the plan.

Chairman Kasper: Could you give us a little discussion on the difference in tax treatment on an employer or an employee rollover.

Fay Kopp: Member contributions are currently 11.75%. School district contributions are 12.75%. The employer may choose to pay all or a portion of those employee contributions on a tax-deferred basis. If that teacher chooses to terminate employment, the amount that is refundable or eligible for rollover distribution is only the amount that was put in on the employee's behalf. It is the amount of the 11.75% plus a statutory rate of 6% which is the amount that could be paid to that employee that could be rolled into an eligible plan. If that employer chose to do so on a pretax basis prior to 1986, there might be some after tax contributions that are in that employee's plan and are treated just a little bit differently.

Chairman Kasper: 6% goes with the employee? The rest stays in the fund?

Fay Kopp: The employee portion is what is refunded out plus 6%, not the employer portion.

Chairman Kasper: None of the employer portion goes with the employee except that part of the employee contribution which is required?

Fay Kopp: Correct.

Chairman Kasper: Are these school boards eligible to determine what amount of the 12.5% or of the employee's share they pay?

Fay Kopp: The 12.75% is the employer rate that all school districts must pay. That 11.75% which is the employee rate in the plan is what the school district and the teacher can make a determination through negotiation how much of that the employer will pick up.

Chairman Kasper: Is there a vesting schedule in this retirement plan?

Fay Kopp: Yes, vesting for all new employees is five years. For those who entered the plan prior to 2008, their vesting was three years. I have a handout that provides some of this basic information. Attachment 2.

Chairman Kasper: Rep. Steiner talked about unfunded liability a little earlier. Where is TFFR as far as your funding percentage?

Fay Kopp: Referring to the handout, as of July 1, 2018, our funding level was 65%. 65% of benefits have already been prefunded.

Chairman Kasper: Is the board concerned about this level and talking about doing something to make up this 35% difference?

Fay Kopp: Shortly after the financial crisis in 2008 and 2009, the TFFR Board underwent a funding improvement study at that time. We submitted a study to the 2010 legislature interim and a bill to the 2011 legislature that included our funding improvement plan. That plan increased contribution 4% on the member side, 4% on the employer side, and also made a number of member deductions for new hires and non-grandfathered employees. At that time we projected that over the next 30 years our funded level would reach about 80%. She then went over the chart on the bottom right corner of Page 1 of Attachment 2.

Chairman Kasper: On your projected annual return, are you using a 5-year rolling average?

Fay Kopp: It is correct in that for actuarial funding purposes we assume over the long term we will achieve a 7.75 investment return. When we actually recognize each year's investment return, we take only 20% of each year's gains and losses.

Chairman Kasper: Do you have some simple charts that give us data for the last 5 or 10 years on those numbers?

Fay Kopp: Yes, I can provide the committee on what the funding level is on both an actuarial and market basis for the last 10 years.

Rep. B. Koppelman: Have you looked at a cap for school administrators?

Fay Kopp: When we calculate benefits for any of our members, teachers or administrators, they are all calculated the same way. We take 2% x the final average monthly salary over 5 years for our newer members x the years of service credit. While there certainly is an impact on that one individual's retirement, as it relates to the plan as a whole, the actuary did not determine there was any significant or _ actuarial impact as a result of that happening.

Rep. Steiner: Is the actuary using the 2000 life and death tables?

Fay Kopp: Those things are examined every 5 years. They have updated their mortality tables as needed. We also do some sensitivity analysis on, for example, that investment return assumption.

No opposition.

Chairman Kasper closed the hearing.

Rep. B. Koppelman made a motion for a DO PASS .

Rep. Laning seconded the motion.

A roll call vote was taken. 14-0, 0 absent.

Rep. Hoverson will carry the bill.

Note: Attachment 3 was emailed on 1/8/19 to Chairman Kasper and the committee clerk which was then forwarded on to all committee members. This attachment was the information requested during the hearing.

Date: 1-4-19
Roll Call Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1044

House Government and Veterans Affairs Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation:
☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐

Motion Made By Rep Koppelman Seconded By Rep Laning

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson	X	
Vice Chair Vicky Steiner	X		Rep. Mary Schneider	X	
Rep. Jeff Hoverson	X				
Rep. Craig Johnson	X				
Rep. Daniel Johnston	X				
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Rep Hoverson

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

REPORT OF STANDING COMMITTEE

HB 1044: Government and Veterans Affairs Committee (Rep. Kasper, Chairman) recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1044 was placed on the Eleventh order on the calendar.

2019 TESTIMONY

HB 1044

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HB 1044

House Government and Veterans Affairs Committee
January 4, 2019

Fay Kopp, Chief Retirement Officer – ND Teachers' Fund for Retirement
Deputy Executive Director – ND Retirement and Investment Office

HB 1044 was submitted by the Teachers' Fund for Retirement (TFFR) Board. The bill includes specific statutory language which is required by federal tax law in order for TFFR to maintain its status as a qualified governmental pension plan. The bill generally clarifies existing statutory provisions to more accurately reflect actual operations of the TFFR.

On March 17, 2017, the IRS made a favorable determination on the NDTFFR plan on the condition that certain proposed amendments are adopted in the 2019 legislative session. HB 1044 contains these amendments and reflects specific language required by the IRS.

TFFR is currently operating in compliance with all IRS requirements, so there will be no change in administrative processes. Tax implications regarding refunds, lump sum payments, and certain death benefits are detailed in a Special Tax Notice which is provided to all members considering taking a distribution from TFFR.

HB 1044 does not make any benefit, contribution, or plan design changes. The changes do not have an actuarial impact on the plan, and are not being submitted for funding improvement purposes.

Section 1. NDCC 15-39.1-34. Internal Revenue Code compliance.

- Provides clarification and additional detail on direct rollover provisions that apply to the NDTFFR plan, namely the limitations on direct rollovers that apply to after-tax employee contributions, definitions for eligible rollover distributions, eligible retirement plan, and distributee.

TFFR's actuarial consultant, Segal, reviewed the bill draft and indicated it would have no actuarial cost impact. Since the IRS approved the language, the bill does not present any IRS compliance issues (Segal letter dated September 4, 2018).

The Legislative Employee Benefits Programs Committee gave HB 1044 a favorable recommendation. On behalf of the TFFR Board, I respectfully request that your Committee give the bill a "do pass" recommendation.

Thank you.

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SEGAL

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September 4, 2018

Via E-mail

Ms. Fay Kopp
NDRIO Deputy Executive Director / NDTFFR Chief Retirement Officer
ND Retirement & Investment Office | ND Teachers' Fund for Retirement
3442 East Century Avenue | P.O. Box 7100
Bismarck, ND 58505-7100

Re: **Technical Comments on Draft Bill 126 (IRS compliance changes)**

Dear Fay:

As requested, we reviewed draft Bill 126 (Bill No. 19.0126.01000), which proposes technical changes to the North Dakota Teachers' Fund for Retirement (TFFR) that are required to be made under the terms of the Fund's determination letter from the Internal Revenue Service (IRS) on the tax-qualified status of the plan. The following presents our analysis of such proposed changes found in draft Bill 126.

Summary: The proposed legislation adds new paragraph 2 to North Dakota Century Code §15-39.1-34, which describes the detailed rules for direct rollovers under Internal Revenue Code sections 401(a)(31) and 402. The language in this paragraph 2 was approved by the IRS as satisfying qualification rules for governmental pension plans under these sections of the Internal Revenue Code. The IRS provided the TFFR a favorable determination letter on the tax-qualified status of the plan, which is contingent upon adopting the approved language.

Actuarial Cost Analysis: This bill would have no actuarial cost impact on the TFFR.

Technical Comments: Our comments on the bill are as follows:

General Comments

The bill generally clarifies existing statutory provisions to more accurately reflect actual operations of the TFFR. The provisions of this bill do not appear to directly or significantly impact the benefits payable from the TFFR.

Compliance Issues

The bill amends North Dakota Century Code §15-39.1-34 by adding paragraph 2 to describe the direct rollover rules under the plan in a manner that complies with Internal Revenue Code section 401(a)(31). Since the IRS approved the language in paragraph 2 for this purpose, the bill does not present any compliance issues.

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Administrative Issues

The language of the bill accurately reflects the actual operations of the rollover rules under the plan and helps the plan maintain compliance with applicable federal requirements for tax-qualified pension plans.

The information contained in this letter is provided within our role as the plan's actuary and benefits consultant and is not intended to provide tax or legal advice. We recommend that you address all issues described herein with your legal counsel.

Please contact us if you have any questions or comments.

Sincerely yours,

Kim Nicholl

Kim Nicholl, FSA, EA, FCA
Senior Vice President and Consulting Actuary

Melanie Walker

Melanie Walker, JD
Senior Vice President

cc: Matthew Strom

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ND TFFR Fast Facts

FY End 6/30/2018

The ND Teachers' Fund for Retirement plan (ND TFFR) provides ND educators with a financial foundation for the future that includes a secure and stable retirement. This is possible due to TFFR's plan design, professional plan management, strong investment performance, and outstanding customer service.

MEMBERS

WE SERVE

10,881 ACTIVE MEMBERS

8,743 RETIRED MEMBERS

214 EMPLOYERS

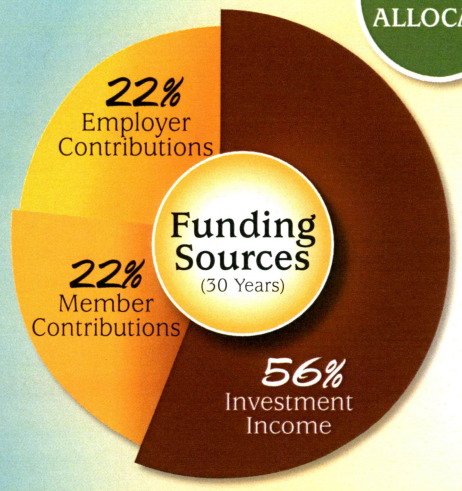
Member Stats	Actives	Retirees
Avg. Annual Salary/Benefit	$60,055	$24,180
Avg. Service Credit	11.8 yrs	27.4 yrs
Avg. Current Age	41.9 yrs	71.8 yrs

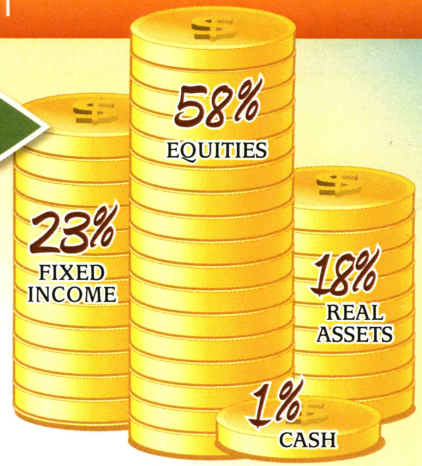
MEMBER/EMPLOYER SATISFACTION: 3.8 (4.0 Scale)

84% of benefits are paid to ND residents.

To positively impact the state's economy, **$202 million** was distributed to retirees in FY 2018.

Market value of TFFR assets $2.5 billion

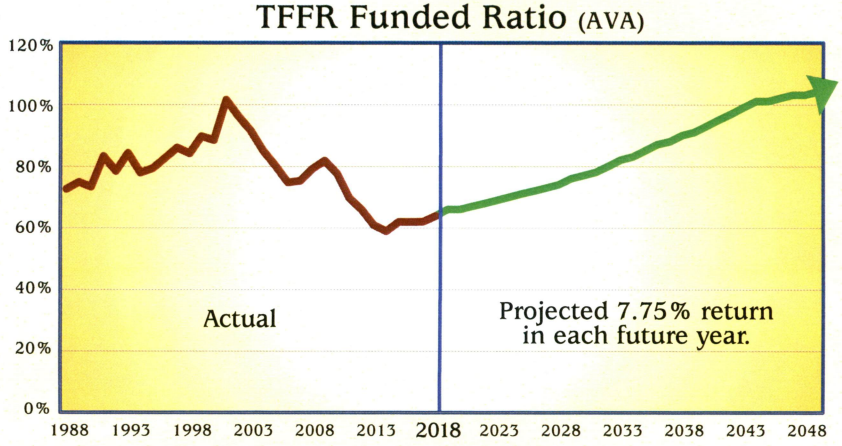




Investment Returns

1 year	9.1%
5 year	8.3%
30 year	8.0%

65% of BENEFITS are PREFUNDED



TFFR's long-term funding outlook is positive, and benefits are secure for past, present, and future ND educators.

ND Teachers' Fund for Retirement, 3442 E. Century Avenue, P.O. Box 7100, Bismarck, ND 58507
1-800-952-2970 or 701-328-9885 | Email: rio@nd.gov | Website: www.nd.gov/rio/tffr

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ND TFFR PLAN SUMMARY

	Tier 1 Grandfathered Member	Tier 1 Non-Grandfathered Member	Tier 2 Member
Employee Contribution Rates (active and re-employed retirees)			
7/1/10 – 6/30/12	7.75%	7.75%	7.75%
7/1/12 – 6/30/14	9.75%	9.75%	9.75%
*7/1/14 ongoing	11.75%	11.75%	11.75%
Employer Contribution Rates			
7/1/10 – 6/30/12	8.75%	8.75%	8.75%
7/1/12 – 6/30/14	10.75%	10.75%	10.75%
*7/1/14 ongoing	12.75%	12.75%	12.75%
Vesting Period	3 yrs	3 yrs	5 yrs
Unreduced Retirement Eligibility			
Minimum Age	No	60	60
AND Rule	Rule 85	Rule 90	Rule 90
OR Normal Retirement Age	65	65	65
Reduced Retirement Eligibility			
Minimum Age	55	55	55
Reduction Factor	6%	8%	8%
Retirement Formula Multiplier	2%	2%	2%
X Final Average Salary	3 yr FAS	3 yr FAS	5 yr FAS
X Service Credit	Total years	Total years	Total years
Disability Retirement	Yes	Yes	Yes
Retirement Formula Multiplier (2%) X Final Average Salary (FAS) X Total Service Credit			
Death/Survivor Benefits	Yes	Yes	Yes
Refund of account value or Life Annuity to survivor based on member's vesting status.			

Tier 1 is a member who had service credit in the TFFR plan prior to 7/1/08.

- Tier 1 Grandfathered member was less than 10 years away from retirement eligibility as of 6/30/13. Grandfathered member was vested, and either age 55 or had a combined total of service credit and age equal to or greater than 65 on 6/30/13.
- Tier 1 Non-Grandfathered member was more than 10 years away from retirement eligibility as of 6/30/13. Non-grandfathered member was less than age 55 and had a combined total of service credit and age which was less than 65 on 6/30/13.

Tier 2 is a member who began participation in the TFFR plan on 7/1/08 or after.

**Contribution rates are in effect until TFFR reaches 100% funded level, then rates reduce to 7.75% each.*

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NDLA, H GVA - Hart, Carmen

From: Kopp, Fay L.
Sent: Tuesday, January 08, 2019 1:56 PM
To: Kasper, Jim M.; NDLA, H GVA - Hart, Carmen
Subject: TFFR Funding Information
Attachments: HGVA TFFR funding info request.pptx

Rep. Kasper, Chairman House GVA Committee:

As you requested at the House GVA meeting on Friday, January 4, attached are a few slides from TFFR's July 1, 2018 annual actuarial valuation prepared by Segal Consulting. TFFR's funded level at that date was 65.4%.

Slide 1 provides TFFR's funded ratio over the past 10 years on both a smoothed actuarial value of assets (AVA blue line) and market value of assets (MVA red line). This chart also shows funded ratio projections for the next 30 years assuming all actuarial assumptions, including 7.75% investment return, being realized as expected. As you can see, TFFR is expected to reach full funding in about 2043.

Slides 2 and 3 show TFFR's projected funded ratio should average investment returns be + or – 1% (6.75%, 7.75%, or 8.75%). You will notice that even if long term investment returns average 6.75%, TFFR funding is not expected to decline, although funding improvement will be much slower.

Please contact me if there is any additional information I can provide to you and the House GVA Committee. Thank you.

Fay Kopp

Fay Kopp | NDRIO Deputy Executive Director | NDTFFR Chief Retirement Officer
ND Retirement & Investment Office | ND Teachers' Fund for Retirement
3442 East Century Avenue | PO Box 7100 | Bismarck ND 58507-7100
Phone 701.328.9895 or 800.952.2970 | fax 701.328.9897
www.nd.gov/rio | email fkopp@nd.gov

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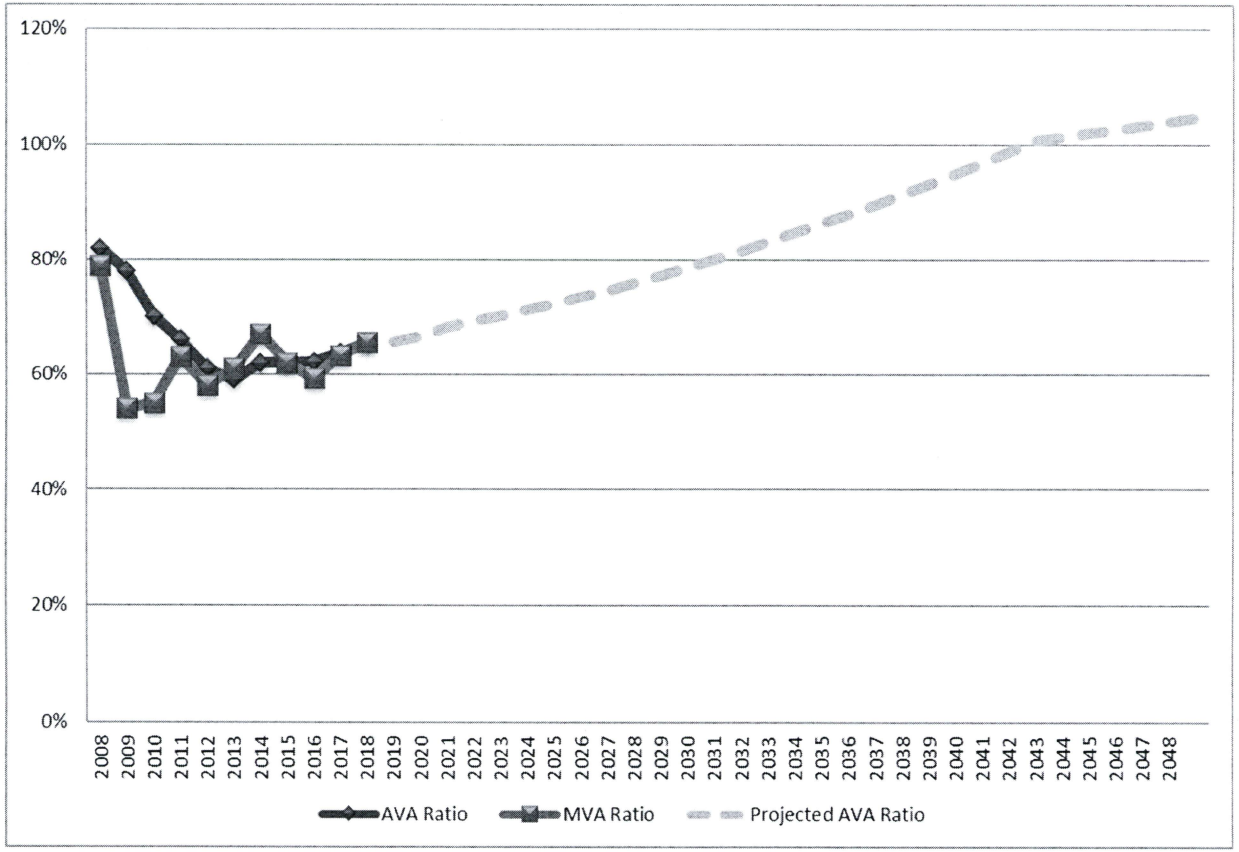
Funded Ratio



Projection based on all assumptions, including 7.75% investment return, realized as expected

Segal Consulting

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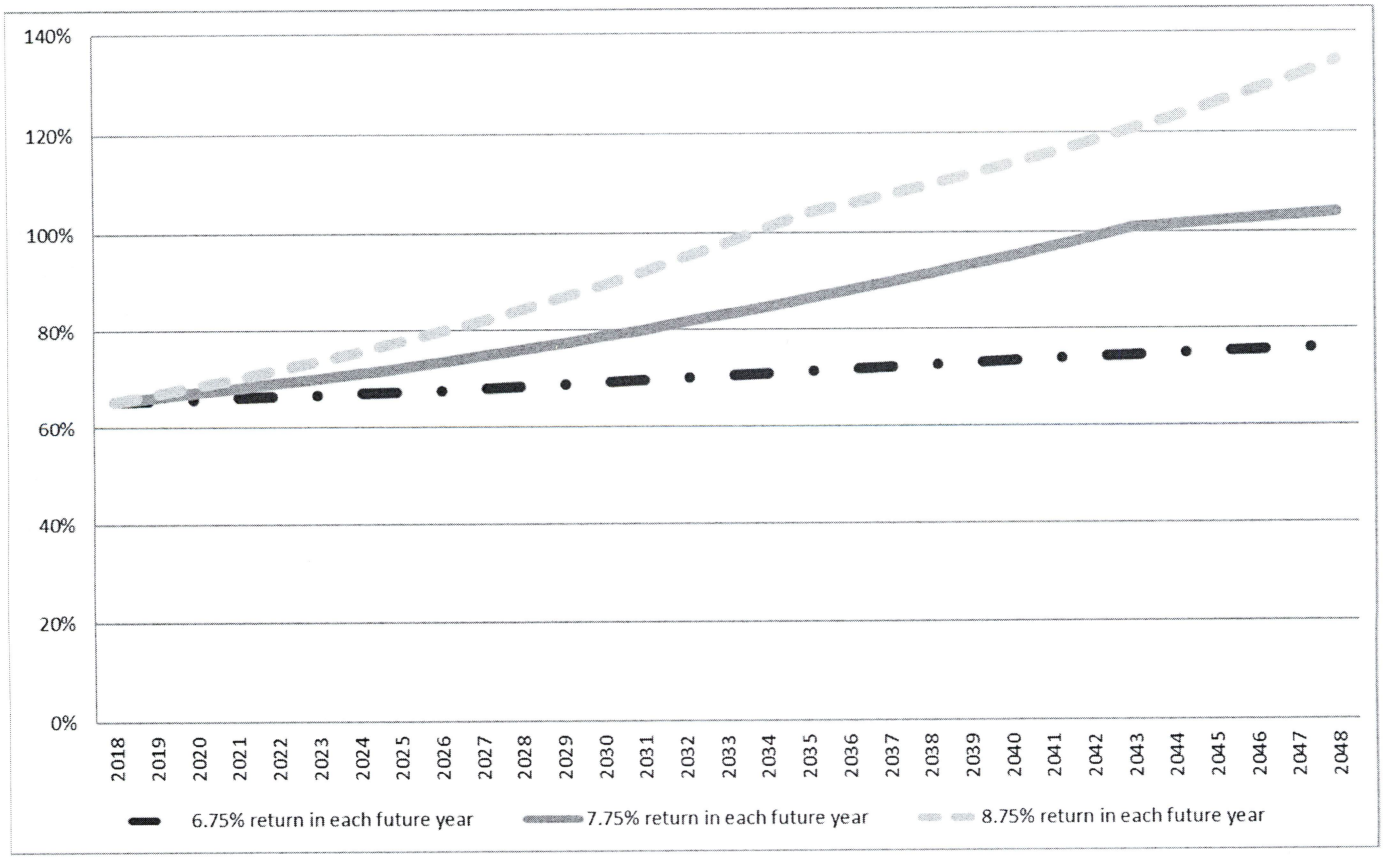
Projected Funded Ratios (MVA Basis)
Actual Returns +1% or -1% of Assumed



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Projected Funded Ratios (MVA Basis)
Actual Returns +1% or -1% of Assumed

Valuation Year	6.75% Return in Each Future Year	7.75% Return in Each Future Year	8.75% Return in Each Future Year
2018	66%	66%	66%
2019	66%	66%	67%
2020	66%	67%	69%
2021	66%	68%	70%
2022	67%	69%	72%
2023	67%	70%	74%
2028	67%	76%	84%
2033	71%	83%	98%
2038	73%	91%	110%
2043	75%	101%	121%
2048	76%	104%	134%

Segal Consulting