



ADMINISTRATIVE RULES COMMITTEE

Thursday, June 13, 2024
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Brandy Pyle, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Brandy Pyle, Donna Henderson, Andrew Marschall, Carrie McLeod, Dan Ruby, Matthew Ruby, Vicky Steiner, Bill Tveit, Steve Vetter; Senators Sean Cleary, Jerry Klein, Diane Larson, Janne Myrdal, Bob Paulson

Members absent: Representatives Scott Louser, Brandon Prichard, Mike Schatz, Nathan Toman, Robin Weisz

Others present: Abby Ebach, Department of Water Resources; Molly Herrington, Office of Management and Budget; Adam Miller, Department of Agriculture; and James Schmidt, State Electrical Board
See [Appendix A](#) for additional persons present.

It was moved by Senator Klein, seconded by Senator Myrdal, and carried on a voice vote that the minutes of the March 5, 2024, meeting be approved as distributed.

RETIREMENT BOARD

Ms. Rebecca Fricke, Executive Director, Public Employees Retirement System, provided testimony ([Appendix B](#)) regarding proposed rules to be adopted for publication in January 2025. She noted:

- She will present the proposed rules today and additional testimony in September to address potential concerns of the committee before the December committee meeting.
- The January 1, 2025, effective date is crucial to a successful transition to the new defined contribution (DC) plan.
- The Retirement Board gave notice of the rules to interested parties, including all employers participating in the plan, and did not receive public comment at the public hearing or during the comment period, and approved the proposed rules on March 12, 2024.
- North Dakota Administrative Code Section 71-08-10-02 clarifies employees, within the first 30 days of employment, may elect to contribute 3 percent of the employee's monthly salary or wage to the DC plan in addition to the mandatory 4 percent contribution, as authorized by North Dakota Century Code Section 54-52.6-09.
- The Internal Revenue Service limits the one-time election period to the first 30 days of employment.
- North Dakota Administrative Code Section 71-08-11-07 implements North Dakota Century Code Section 54-52.6-02.2, which permits an eligible employee who elects to participate in the DC plan before March 31, 2025, to receive an incentive payment of \$3,333 per year for 3 years.

In response to questions from committee members, Ms. Fricke noted:

- Political subdivisions have asked questions and requested education regarding the new DC plan, particularly regarding payroll.
- The Retirement Board will encourage employers to emphasize to new employees the opportunity to contribute additional funds is a one-time opportunity.
- Employees may enroll in the deferred compensation plan, which also includes an employer match, at any time.

- The Legislative Assembly added two of the four legislators on the 11-member Retirement Board during the October 2023 special legislative session.

DEPARTMENT OF WATER RESOURCES

Ms. Abby Ebach, Director of Public Policy, Department of Water Resources, provided testimony ([Appendix C](#)) regarding the July 2024 rules of the department.

In response to questions from committee members, Ms. Ebach noted:

- The Legislative Assembly has not defined "farmstead" in the North Dakota Century Code. The department will revise definitions to align with the Century Code as needed.
- The department amended "township roads" to "public roads" to align with the Department of Transportation's use of the term.

DEPARTMENT OF PUBLIC INSTRUCTION

Mr. Jim Upgren, Assistant Director, Office of School Approval and Opportunity, Department of Public Instruction, provided testimony ([Appendix D](#)) in support of the department's request for an extension to adopt rules.

It was moved by Senator Klein, seconded by Representative M. Ruby, and carried on a voice vote that the Department of Public Instruction be granted an extension to October 2024 to adopt rules to implement Senate Bill No. 2013 (2023).

Mr. Upgren provided testimony ([Appendix E](#)) regarding the July 2024 rules of the department.

DEPARTMENT OF AGRICULTURE AND STATE BOARD OF ANIMAL HEALTH

Mr. Adam Miller, Policy and Research Analyst, Department of Agriculture, provided testimony ([Appendix F](#)) regarding the July 2024 rules of the department and the State Board of Animal Health.

In response to a question from a committee member, Mr. Miller noted:

- The department received 157 public comments, many of which related to allowing the use of tetrahydrocannabinol and marijuana, which was not contemplated by the proposed rules.
- The department adopted the hemp rules to prevent full spectrum cannabidiol from containing too much tetrahydrocannabinol relative to cannabidiol.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Mr. Duane Sandvick, Program Manager, Petroleum Tank Release Compensation Fund, Department of Environmental Quality, provided testimony ([Appendix G](#)) regarding the July 2024 rules of the Department of Environmental Quality.

In response to a question from a committee member, Mr. Sandvick noted the department used the term "substantial compliance" to align with statutory language without exceeding its rulemaking authority.

STATE ELECTRICAL BOARD

Mr. James Schmidt, Executive Director, State Electrical Board, provided testimony ([Appendix H](#)) regarding the July 2024 rules of the board.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Ms. Beth Jacobson, Director, Division of Accounting, Department of Environmental Quality, provided testimony ([Appendix I](#)) regarding the July 2024 rules of the department.

OFFICE OF MANAGEMENT AND BUDGET

Ms. Molly Herrington, Chief People Officer, Human Resource Management Services, Office of Management and Budget, provided testimony ([Appendix J](#)) regarding the July 2024 rules of the agency.

In response to a question from a committee member, Ms. Herrington noted the agency used the term "medically necessary" to align with the Family and Medical Leave Act. She noted an employee can demonstrate leave is "medically necessary" by producing a doctor's note.

No further business appearing, Chairman Pyle adjourned the meeting at 1:27 p.m.

Liz Fordahl
Counsel

ATTACH:10