NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, April 22, 2008
Harvest Room, State Capitol
Bismarck, North Dakota

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

Members present: Representatives Bette Grande, Eliot Glassheim, Matthew M. Klein, Joe Kroeber; Senators Ralph L. Kilzer, Karen K. Krebsbach, Curtis Olafson

Members absent: Representative Jim Kasper; Senator Harvey D. Tallackson

Others present: See Appendix A

It was moved by Representative Klein, seconded by Representative Glassheim, and carried on a voice vote that the minutes of the November 14, 2007, meeting be approved as distributed.

TEACHERS' FUND FOR RETIREMENT

At the request of Chairman Grande, committee counsel distributed a memorandum (Appendix B) from Gabriel Roeder Smith & Company, the consultants and actuaries for the Teachers' Fund for Retirement, discussing census projections of school-age children and a memorandum (Appendix C) discussing experience study changes for the Teachers' Fund for Retirement.

Employee Benefits Programs Committee Bill No. 100

Chairman Grande recognized Ms. Fay Kopp, Deputy Director and Chief Retirement Officer, Retirement and Investment Office. Ms. Kopp reviewed Employee Benefits Programs Committee Bill No. 100 [90100.0100] and presented written comments (Appendix D) concerning the bill draft. She said the bill draft includes technical and administrative changes to the Teachers' Fund for Retirement program relating to incorporation of federal law changes, procedure relating to benefit limitations, annual hour limit for retiree reemployment, and disclosure of confidential records. She said the proposed changes have no financial impact on the fund.

Employee Benefits Programs Committee Bill No. 109

At the request of Chairman Grande, committee counsel reviewed a bill draft [90109.0100] relating to supplemental retiree benefit payments under the Teachers' Fund for Retirement. Committee counsel said the bill draft was submitted to the committee by Senator David O'Connell and would provide that an individual who on June 30, 2009, is receiving monthly benefits from the fund on an account paid under North Dakota Century Code Chapter 15-39.1 or under former Chapter 15-39 is entitled to receive an additional payment equal to an amount determined by taking $4 multiplied by the member's number of years of service credit plus $3 multiplied by the number of years since the member's retirement multiplied by 12. Under the bill draft, committee counsel said, the board would make the payment in December 2009 and could only make one payment to each member. Committee counsel said the bill draft contains an appropriation of $11 million from the general fund to fund the supplemental retiree benefit payment.

Chairman Grande recognized Mr. Ken Tupa, North Dakota Retired Teachers Association. Mr. Tupa said there are approximately 6,100 retired educators receiving an annuity from the Teachers' Fund for Retirement. He said the impetus for the proposal is the fact that retired educators have not received an annuity increase since 2002. He said the cost of living has increased unabated since that time. He said retiree groups, employee groups, and Teachers' Fund for Retirement representatives had met and determined that the fund was not able to provide a retiree increase at this time and thus that is why the proposal contains funding from the general fund. Unlike the Public Employees Retirement System, he said, many retirees retired under a lower multiplier and thus the supplemental retiree benefit is designed to reward individuals who have been retired longer and are receiving a smaller annuity than more recent retirees.

In response to a question from Representative Klein, Mr. Tupa said the Retired Teachers Association did not consider increasing the employee contribution to fund the supplemental retiree benefit. He said that active employees would probably oppose an effort to increase the employee contribution to fund a supplemental retiree benefit for retirees.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Employee Benefits Programs Committee Bill No. 111

Chairman Grande recognized Mr. Sparb Collins, Executive Director, Public Employees Retirement System. Mr. Collins reviewed Employee Benefits

Programs Committee Bill No. 111 [90111.0100] and presented written comments (Appendix E) concerning the bill draft. He said the Public Employees Retirement System Board or Retirement Board presently is authorized to appoint three of its four elected members to the State Investment Board. He said the change contained in Section 1 of the bill draft would allow the board to appoint as one of its three members a nonelected Public Employees Retirement System Board member such as the board chairman who is appointed by the Governor, the Attorney General's appointee, or the health officer or the health officer's designee. He said Section 2 of the bill draft standardizes the language relating to purchase of prior service and years of service for the Highway Patrolmen's retirement system and the Public Employees Retirement System plans.

Mr. Collins said Sections 2 and 9 of the bill draft allow members of the Highway Patrolmen's retirement system and Public Employees Retirement System to purchase an additional five years of service credit in addition to the five years presently authorized. However, he said, this purchase of service credit would not apply toward eligibility for the Rule of 85. He said Sections 3 and 7 of the bill draft authorize the pretax payment of employee contributions made by the members of the Highway Patrolmen's retirement plan and the judges' retirement plan. He said Sections 4 and 8 of the bill draft allow a member to designate someone other than the member's spouse as the beneficiary with the consent of the spouse. Under present law, he said, a member may only authorize the member's spouse as an alternate beneficiary if the member dies. He said Sections 4 and 8 of the bill draft allow a member to choose a new joint and survivor beneficiary if the existing beneficiary passes away. He said present law allows a member to take a joint and survivor benefit. He said Sections 4 and 8 of the bill draft add a graduated benefit option to the plan in addition to the existing options, joint and survivor 50 percent and 100 percent, 10-year term certain, and level Social Security benefit. Pursuant to this option, he said, a member could take an actuarially reduced benefit initially so the member's benefit would increase at 1 percent or 2 percent over time. He said this benefit would be reduced actuarially to reduce the initial payments by an amount to pay for the 1 percent or 2 percent option. He said Sections 5 and 10 of the bill draft update federal compliance provisions and add federally required language relating to the treatment of members in dual plans. He said present law provides that any member of the Public Employees Retirement System plan can run for the Retirement Board. He said Section 8 of the bill draft broadens this provision to include members of the Highway Patrolmen's retirement plan, Job Service North Dakota retirement plan, and the defined contribution plan which are also administered by the Retirement Board.

Employee Benefits Programs Committee Bill No. 112

Chairman Grande recognized Mr. Collins. Mr. Collins Reviewed Employee Benefits Programs Committee Bill No. 112 [90112.0100] and presented written comments (Appendix F) concerning the bill draft. He said the bill draft proposes to increase the employer contributions to the Public Employees Retirement System and Highway Patrolmen's retirement plan to fund a 2 percent increase for retirees. He said the proposed increase is a one-time two year only increase that would pay the increase in that time period instead of amortizing the increase over 20 years. He said the increase amount necessary has not been actuarially determined so the bill draft includes a 1.15 percent increase for the Public Employees Retirement System and a 5.3 percent increase for the Highway Patrolmen's retirement plan which will be adjusted based upon the actuarial review. Also, he said, employer contributions for the defined contribution plan members are proposed to increase as well to maintain equity between the two plans. He said the Highway Patrolmen's retirement plan presently includes an automatic 50 percent joint and survivor benefit as part of the plan's normal retirement benefit. He said the bill draft would increase the joint and survivor benefit to 100 percent. He said the bill draft proposes a 13th check for members of the Public Employees Retirement System and Highway Patrolmen's retirement plan in January 2010 if certain conditions are met.

Mr. Collins said the bill authorizes a 2 percent increase for Public Employees Retirement System and Highway Patrolmen's retirement plan retirees in January 2011. For the judges' plan, he said, the increase is based on available margin and not increased contributions. He said the bill draft also expands the incentive provision for Public Employees Retirement System members to engage in supplemental retirement savings in the 457 deferred compensation plan to allow a member to buy up to two years of service credit in the Public Employees Retirement System at termination of employment at 9.12 percent instead of actuarial costs. Finally, he said, the bill draft allows participating political subdivisions to elect if the political subdivision wants to provide the 2 percent retiree increase to its retirees.

Employee Benefits Programs Committee Bill No. 118

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 118 [90118.0100]. Committee counsel said the bill draft provides for participation by state correctional and peace officers in a separate law enforcement retirement plan. Under the law enforcement retirement plan, committee counsel said, normal retirement dates for participants is age 55 with three years of service or the Rule of 85. He said the proposal also contains an early retirement date of age 50 with three years of eligible employment. He said the proposal was submitted to the committee by Senator Lyson.

In response to a question from Senator Krebsbach, Mr. Collins said there are 138 participants with prior service in the law enforcement plan and 28 participants without prior service in the law enforcement plan. He said the employee contribution is the same as that for the main system or 4.12 percent. However, he said, the employer contribution is set by the Retirement Board and is currently 8 percent.

UNIFORM GROUP INSURANCE PROGRAM

Employee Benefits Programs Committee Bill No. 113

Chairman Grande recognized Mr. Collins who reviewed Employee Benefits Programs Committee Bill No. 113 [90113.0100] and presented written comments (Appendix G) concerning the bill draft. He said the bill draft proposes to change the pre-Medicare calculation method to reduce the cost for those retirees and members, Public Employees Retirement System, Teachers' Fund for Retirement, TIAA-CREF, Highway Patrol, Job Service North Dakota, and former legislators.

Employee Benefits Programs Committee Bill No. 114

Chairman Grande recognized Mr. Collins who reviewed Employee Benefits Programs Committee Bill No. 114 [90114.0100] and presented written comments (Appendix H) concerning the bill draft. He said the bill draft would increase the retiree health credit from $4.50 to $5 and fund it with an increase in employer contributions from 1 percent to 1.15 percent.

Employee Benefits Programs Committee Bill No. 33

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 33 [90033.0300]. He said the bill draft was submitted to the committee by Senator Tim Mathern and provides for establishment of the Healthy North Dakota health insurance plan.

Chairman Grande requested that the Legislative Council staff request representatives of the Tax Commissioner's office, Insurance Commissioner's office, and Treasurer's office address the impact of the bill draft on their offices at the next committee meeting. Chairman Grande also requested that the Legislative Council staff contact the National Conference of State Legislatures and Council of State Governments regarding information on universal health care plans.

Employee Benefits Programs Committee Bill No. 84

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 84 [90084.0100]. Committee counsel said the bill draft was submitted by Senator O'Connell and relates to parity for health insurance coverage of prosthetics and provides that insurers must provide coverage for prosthetics which at a minimum equals the coverage provided for under the federal Medicare program.

Chairman Grande recognized Mr. Rod St. Aubyn, Blue Cross Blue Shield of North Dakota, Fargo. Mr. St. Aubyn said the bill draft raises several issues, among which is the cost of prosthetics and whether an individual dissatisfied with a prosthetic device may request and have an insurer pay for another prosthetic device.

Employee Benefits Programs Committee Bill No. 124

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 124 [90124.0100]. Committee counsel said the bill draft was submitted to the committee by Representative Louise Potter and relates to Public Employees Retirement System health insurance coverage of colorectal cancer screening. He said the bill draft provides that for all contracts or plans for health insurance which become effective after June 30, 2009, and which do not extend past June 30, 2011, the Retirement Board is required to provide medical benefits coverage for colorectal cancer screening examinations and laboratory tests of asymptomatic individuals in accordance with generally accepted standards of medical practice for colorectal cancer screening.

Employee Benefits Programs Committee Bill No. 125

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 125 [90125.0100]. Committee counsel said the bill draft was submitted to the committee by Senator Mathern and would provide for expansion of the uniform group insurance program to allow participation by permanent and temporary employees of private sector employers and by any other individual who is otherwise without health insurance coverage.

It was moved by Senator Krebsbach, seconded by Representative Kroeber, and carried on a voice vote that the Employee Benefits Programs Committee assume jurisdiction over the Employee Benefits Programs Committee bill drafts submitted to the committee and that the Teachers' Fund for Retirement Board and Public Employees Retirement System Board, as appropriate, be requested to obtain an actuarial analysis of each bill draft submitted to the committee or, if a bill

draft does not have an actuarial effect on a fund, to provide any other information that would assist the committee in making a recommendation concerning the bill draft.

MISCELLANEOUS ITEMS

At the request of Chairman Grande, Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, presented an update (Appendix I) of the State Investment Board investment program. For the quarter just ended, he said, stocks were down approximately 18 percent to 20 percent. He said the United States dollar is at a record low versus the Euro and the housing market is the worst since the Great Depression. He noted that the economy is also affected by soaring commodity prices and a meltdown in the credit market. Also, he noted, the Federal Reserve recently intervened to rescue a major Wall Street broker from bankruptcy. He compared the allocation of the two major pension trusts--the Teachers' Fund for Retirement and the Public Employees Retirement System. He said the allocation is set by the two systems and implemented by the State Investment Board. He said the allocation of the Teachers' Fund for Retirement results in a slightly higher return over a short period but the fund is more volatile than the Public Employees Retirement System. He said the Standard & Poor's Index is down a little over 10 percent as of the end of February 2008 for fiscal year 2008. During this same period, he said, the Teachers' Fund for Retirement is down approximately 6 percent and the Public Employees Retirement System is down a little over 4 percent. On a positive note, he said, there have been no margin calls, no "blowups," no underlying credit defaults, and no investment manager firings. He said the investment markets have recovered somewhat since the end of the quarter and at the close of business on April 21, 2008, the Teachers' Fund for Retirement was down approximately 3.4 percent and the Public Employees Retirement System was down approximately 2 percent.

At the request of Chairman Grande, Dr. Gary W. Gronberg, Assistant Superintendent, Education Improvement, Department of Public Instruction, addressed the committee. He addressed the issue of teacher shortages and distance-learning initiatives being utilized or developed to address this issue. He said the federal government has made approximately $13 million available to North Dakota schools under the federal "No Child Left Behind Act" which school districts may use for recruitment and retention of teachers. However, he said, school districts are only utilizing approximately $77,000 of these funds for teacher recruitment and retention.

In response to a question from Senator Krebsbach, Dr. Gronberg said school districts are not forfeiting the remaining "No Child Left Behind" funds but are using them for other purposes.

In response to a question from Representative Klein relating to merit-based pay increases, Dr. Gronberg said school districts are limited by negotiated salary schedules and cannot base compensation outside the negotiated salary schedule.

At the request of Chairman Grande, Mr. Josh Askvig, UniServ Director, Northwest Region, North Dakota Education Association, addressed the committee. He said school districts do have some options to pay off the negotiated salary schedule. He said school districts may utilize the hard-to-fill position procedure and signing bonuses.

At the request of Chairman Grande, Mr. Larry Brooks, Blue Cross Blue Shield of North Dakota, Fargo, presented a PowerPoint presentation (Appendix J) concerning workplace wellness programs. Mr. Brooks said Blue Cross Blue Shield is concerned about the rising cost of health care and research proves that wellness programs work and can ultimately reduce health care costs. He said the North Dakota Public Employees Retirement System does not receive these benefits because these programs were implemented after the 2007-09 biennium began and changes cannot be made that affect premiums during the current biennium. He said these changes could be considered as a benefit "buy-up" during the upcoming 2009-11 renewal.

Mr. Brooks distributed brochures concerning health club credit programs, Blue Cross Blue Shield of North Dakota wellness programs, and My Health Center, which are on file in the Legislative Council office.

Representative Grande requested that the Public Employees Retirement System provide information on the number and types of wellness programs available through the uniform group insurance program.

At the request of Chairman Grande, Mr. Collins presented a PowerPoint presentation (Appendix K) concerning the retiree health credit, retiree rates, and plan expenses, such as deductibles, copayments, and coinsurance. He said the benefit formula for the retiree health credit program is $4.50 for each year of credited service and is funded from an employer contribution of 1 percent of payroll. He said 61 percent of Public Employees Retirement System retirees take advantage of the retiree health credit. He said the program is actuarially designed based upon the assumption that 70 percent of eligible individuals will utilize the credit.

Concerning the non-Medicare rate, Mr. Collins said North Dakota Century Code Section 54-52.1-02 provides that in determining premiums for coverage for retired employees not eligible for Medicare, the rate for a non-Medicare retiree single plan is 150 percent of the active member single plan rate, the rate for a non-Medicare retiree family plan of two people is twice the non-Medicare retiree single plan rate, and the rate for a non-Medicare retiree family plan of three or more persons is two and one-half times the non-Medicare retiree single plan rate. For 2007-09, he said, the single non-Medicare premium is $475 and the family non-Medicare premium is $946.

Concerning utilization for 2006, Mr. Collins said 20 percent of members account for 84 percent of health plan medical expenses and 80 percent of members account for 16 percent of health plan medical expenses. He said 10 percent of members account for 71 percent of health plan medical expenses and 90 percent of members account for 29 percent of health plan medical expenses.

In response to a question from Representative Kroeber, Mr. Collins said eligible retirees may not use the retiree health credit for a number of reasons. He said an eligible individual may have coverage through a spouse, may have a small credit that does not provide a sufficient incentive to participate in the Public Employees Retirement System uniform group health insurance program, or may be able to obtain a better plan based upon that person's specific needs.

At the request of Chairman Grande, Ms. Laurie Sterioti Hammeren, Director, Human Resource Management Services, Office of Management and Budget, addressed the committee concerning flexible programs to retain older workers in the state system. She distributed a survey (Appendix L) of selected state agencies concerning programs they have implemented to retain older workers. She said these programs include flexible schedules, reduced schedules, mentoring, leadership, rehiring of former employees, and retiree health insurance. She referred to an e-mail (Appendix M) from Mr. Robert P. Evans, Human Resources Director, Department of Transportation, in which he listed programs the department has implemented concerning retention of older workers. She said Mr. Evans recommends that agencies have flexibility to purchase and offer incentives and rewards for participation in employee wellness and training events. She said Mr. Evans recommended that agencies be allowed to provide snacks and meals at training and meeting events and to pay for meals for applicant information services. She said Mr. Evans recommended that the laws governing moving expenses be reviewed and updated to remove constraints on reimbursable items and to increase the overall reimbursable amount. She said Mr. Evans recommended that the state adopt a market-based salary philosophy in order to ensure ongoing talent necessary to fulfill the department's mission. She said Mr. Evans has noted that the current market environment has resulted in difficulty in attracting and retaining quality talent in several career groups. She said Mr. Evans recommended that the performance bonus and state employees suggestion programs be reviewed in order to develop a more comprehensive variable pay program. Also, she said, Mr. Evans recommended that agencies be able to recruit former employees back to their organizations by allowing these employees to return at the same annual accrual rate they received when they left the organization. She said Mr. Evans reported that although the department is very pleased with the flexibility allowed and is generally pleased with the results of programs and being able to recruit and retain a quality workforce overall, the department continues to feel restricted in its ability to compete with private sector firms and even some public sector partners, such as cities and counties.

In response to a question from Representative Klein, Ms. Sterioti Hammeren said the state has approximately an 8 percent turnover rate although the rate is higher in some job categories.

In response to a question from Representative Klein, Ms. Sterioti Hammeren said the recruitment program utilized by several agencies has been very successful.

In response to a question from Representative Grande, Mr. Kenneth I. Purdy, Classification and Compensation Manager, Human Resource Management Services, Office of Management and Budget, said the bonuses recently granted in the Department of Mineral Resources were retention bonuses. He said retention bonuses are generally limited to 25 percent of the employees and $1,000 per employee per biennium. He said some agencies have indicated that the percentage and dollar amount should be increased in order to enhance the program.

EMPLOYEE BENEFITS STUDY

At the request of Chairman Grande, Ms. Sterioti Hammeren distributed proposed Human Resource Management Services rules (Appendix N) relating to state employee benefits. She said the proposed rules create a new chapter to North Dakota Administrative Code Article 4-07 relating to training and tuition reimbursement. She said the new chapter applies to all state and local government agencies, departments, institutions, boards, and commissions that employ individuals in positions classified by Human Resource Management Services. She said proposed Section 4-07-36-02 concerns the payment of training and tuition and provides that an appointing authority may adopt policies to provide training and educational opportunities to its employees to learn new required skills or to enhance their current skills, to increase the opportunity for advancement within the agency or state service, to increase proficiency and productivity, and to improve work performance. She said within budgetary constraints, the cost of training or educational courses, including tuition and fees, may be paid for by the agency or reimbursed to the employee in accordance with agency policy.

No further business appearing, Chairman Grande adjourned the meeting at 3:15 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:14