

## NORTH DAKOTA LEGISLATIVE MANAGEMENT

## Minutes of the

**EMPLOYEE BENEFITS PROGRAMS COMMITTEE**

Thursday, September 18, 2014  
Harvest Room, State Capitol  
Bismarck, North Dakota

Senator Dick Dever, Chairman, called the meeting to order at 9:00 a.m.

**Members present:** Senators Dick Dever, Ralph Kilzer, David O'Connell, Connie Triplett; Representatives Randy Boehning, Roger Brabandt, Jason Dockter, Scott Louser, Kenton Onstad, Don Vigesaa

**Members absent:** Senators Spencer Berry, Karen K. Krebsbach; Representative Jessica Haak

**Others present:** See [Appendix A](#)

**It was moved by Senator O'Connell, seconded by Senator Kilzer, and carried on a voice vote that the minutes of the June 5, 2014, meeting be approved as distributed.**

Chairman Dever reviewed the meeting agenda. He said there are two legislative committees dealing with retirement issues—the Government Finance Committee and the Employee Benefits Programs Committee. He explained that the Government Finance Committee is an interim committee that will be completing its committee charges before the November meeting of the Legislative Management, whereas the Employee Benefits Programs Committee is a statutory committee that is not limited to meeting during the interim. He reviewed the duties of the Employee Benefits Programs Committee under North Dakota Century Code Section 54-35-02.4 and said if any interim committees recommend bill drafts that fall within the jurisdiction of the Employee Benefits Programs Committee, those bill drafts will be brought before the committee to review and attach a report. The tentative date for the next committee meeting is Wednesday, October 29, 2014.

**RECRUITMENT AND RETENTION BONUS REPORT**

Chairman Dever called on Mr. Ken Purdy, Classification and Compensation Manager, Human Resource Management Services, Office of Management and Budget, to give a report under Section 54-06-31 on the implementation, progress, and bonuses provided by state agency programs to provide bonuses to recruit or retain employees in hard-to-fill positions. Mr. Purdy provided written testimony ([Appendix B](#)).

In response to a question from Representative Onstad, Mr. Purdy said recruitment bonuses do not seem to cause any rift for state agency employees, as existing employees want the open spots to be filled and the recruitment bonuses do not impact base salary.

In response to a question from Representative Vigesaa, Mr. Purdy said his office does try to advise agencies to have an established policy on how the bonuses are awarded.

In response to a question from Chairman Dever, Mr. Purdy said the amount of a bonus awarded varies from agency to agency, based in large part on the salary funds each agency has available.

In response to a question from Senator Triplett, Mr. Purdy said he can provide Committee Counsel with a copy of the bonus policy for each agency.

**PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Chairman Dever called on Mr. Doug Anderson, Area Senior Vice President of Actuarial and Retirement Services, Arthur J. Gallagher & Co., to provide an actuarial audit of the Public Employees Retirement System (PERS) plan design study summary of findings. Mr. Anderson gave a computer presentation ([Appendix C](#)) and distributed a copy ([Appendix D](#)) of the August 14, 2014, report he gave to the Government Finance Committee on the independent study of actuarial costs to close the PERS retirement fund. He explained the Legislative Management contracted with his company to review The Segal Company costs to close the defined benefit portion of the PERS retirement fund.

In response to a question from Chairman Dever, Mr. Anderson said in considering the data regarding the amount of money it would cost to close the PERS defined benefit retirement fund, the numbers reflect the amount of money that would be required now to adequately fund the plan.

In response to a question from Representative Onstad, Mr. Anderson said the 8 percent return on investment figure used is based on the expected risk level of investment of the fund. He said the Segal process is based on 10 different categories of investments and allocations, and then a forecast is made for each asset class and a weighted average of each asset class is used. Additionally, he said, Segal factored in a volatility component. He said the cost is based on an expectation that the fund be 100 percent funded. However, he said, very few retirement funds are actually 100 percent funded and are more commonly 80 to 90 percent funded with a goal of 100 percent funding. In reality, he said, it is common to periodically reset the retirement plan's amortization schedule.

In response to a question from Senator Triplett, Mr. Anderson said when looking at assumptions, it is all based on the funds investment allocation. He said one question may be whether North Dakota's fund is allocated any differently from other state's funds. Chairman Dever said fund allocation will be a good issue for the State Investment Board to address at the committee's next meeting.

In response to a question from Chairman Dever, Mr. Anderson said one element included in the Segal study was what would happen if the defined benefit plan was not closed. He said under this scenario, it is favorable and the fund is expected to reach fully funded status.

In response to a question from Senator Triplett, Mr. Anderson said the economic assumptions are related to investment returns and are a very significant assumption, whereas the demographic assumptions relate to mortality rates, which is also a very significant assumption.

## BILL DRAFTS

The committee reviewed the bill drafts over which the committee has taken jurisdiction, receiving technical comments and public input.

### Public Employees Retirement System

Chairman Dever called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System, to comment regarding the bill drafts relating to PERS.

#### Bill Draft No. 136

The committee reviewed Bill Draft No. 136 [[15.0136.01000](#)], which updates references to the Internal Revenue Code and modifies the Highway Patrolmen's retirement fund and the PERS retirement benefits, health insurance plans, life insurance benefits, and employee assistance benefits coverage.

Mr. Collins provided the committee with a copy ([Appendix E](#)) of the actuarial report provided by Segal, an actuarial report prepared by Deloitte Consulting, and the PERS revisions to the bill draft.

Chairman Dever called on Ms. Jan Murtha, Assistant Attorney General, for comments regarding the bill draft. She said PERS and the Teachers' Fund for Retirement (TFFR) contracted with a tax specialist that identified three areas that need to be addressed to remain in compliance with the Internal Revenue Code and the changes to the code based on the United States Supreme Court decision in *United States v. Windsor*.

#### Bill Draft No. 137

The committee reviewed Bill Draft No. 137 [[15.0137.01000](#)], which increases employer and employee contributions under the PERS defined benefit and defined contribution plans, decreases employee contributions under PERS for peace officers employed by the Bureau of Criminal Investigation, and provides benefit changes for employees first enrolled after December 31, 2015.

Mr. Collins provided the committee with a copy ([Appendix F](#)) of the actuarial report provided by Segal and the PERS revisions to the bill draft.

In response to a question from Senator Triplett, Mr. Collins said one option could be instead of increasing employee contributions the employer contribution could be increased; however, there are several employers and this would be very complex.

Senator Triplett said she is concerned that in the current employment environment, when it is difficult for the state to fill its open positions, the bill draft proposes changing the law to provide that new hires will be getting less in the way of benefits than existing employees are getting.

**Bill Draft No. 79**

The committee reviewed Bill Draft No. 79 [[15.0079.02000](#)], which provides a health insurance mandate to provide parity in reimbursement for telemedicine services and provides for a cost-benefit analysis report.

Mr. Collins provided the committee with a copy ([Appendix G](#)) of the actuarial report provided by Deloitte.

Committee Counsel reported the Health Care Reform Review Committee did recommend the bill draft to the Legislative Management; however, the committee has not adjourned sine die so could still take up this matter at a future meeting.

Chairman Dever called on Ms. Megan Houn, Blue Cross Blue Shield of North Dakota, for comments regarding the bill draft. She said Blue Cross Blue Shield of North Dakota (BCBSND) is concerned that with technical innovations, such as smart phone applications, use of the term "parity" may not be the appropriate approach. She said the bill draft could be revised to address the concerns of BCBSND, and BCBSND does appreciate that the bill draft may improve access to care, and this is a good thing.

**Bill Draft No. 117**

The committee reviewed Bill Draft No. 117 [[15.0117.02000](#)], which provides a health insurance mandate to provide parity in coverage of cancer treatment medications.

Mr. Collins provided the committee with a copy ([Appendix H](#)) of the actuarial report provided by Deloitte.

In response to a question from Chairman Dever, Mr. Collins said the anticipated cost of \$300,000 would be split among approximately 20,000 contracts, for an impact of slightly less than \$1 per contract per month. However, he said, if the cost was also spread across the Medicare policies, the additional cost per policy would be even less.

Chairman Dever called on Mr. Ken Tupa, representing the American Cancer Society, to comment on the bill draft. Mr. Tupa testified in support of the bill draft, pointing out the language of the bill draft may not even be found to be a health insurance mandate. He reported that 34 other states have adopted similar parity laws, and some of these states report there has been no increase or only a slight or negligible increase in the cost to insure with this parity provision.

In response to a question from Representative Boehning, Mr. Tupa said although he is not certain, he expects the other 34 states have not limited the parity provision to the states' public employee health plans. He said he does not think this bill draft qualifies as a health mandate under Section 54-03-28, and that the federal government has not considered the parity language to be a health insurance mandate under the federal Affordable Care Act.

Chairman Dever said the purpose of Section 54-03-28 is to get data on the cost of a health insurance mandate before extending it to the private market. However, he said, in the case of this bill draft, it may be appropriate to extend the parity provision to the private market without the two-year delay of going to PERS first.

Chairman Dever called on Ms. Houn to testify regarding the bill draft. She said BCBSND supports the concept of this bill draft, but again takes issue with the use of the term "parity." She discussed the evolution of oral drugs, explaining how they start out as brand name drugs and over time become available as generic drugs. She said the short-term costs may be insignificant; however, as the drugs become available as generics, the cost to insurers may go up significantly. She said BCBSND would prefer to put a cap on out-of-pocket expenses for oral cancer drugs.

**Bill Draft No. 43**

The committee reviewed Bill Draft No. 43 [[15.0043.01000](#)], which provides a three-month opportunity for employees in the defined contribution plan to opt to participate in the defined benefit plan.

Mr. Collins provided the committee with a copy ([Appendix I](#)) of the actuarial report provided by Segal and the suggested PERS revisions to the bill drafts. He said this report is preliminary, as the fund numbers will be updated based on the end-of-year fund balances.

Chairman Dever called on Ms. Rebecca Fricke, Public Employees Retirement System, to review the compliance issues and the suggested amendment.

Chairman Dever called on Mr. Stuart Savelkoul, Assistant Executive Director of Political Advocacy, North Dakota United, to comment regarding the bill draft. He testified in support of the bill draft, explaining how the bill draft is driven in large part by the situation of the employees of Workforce Safety and Insurance. He said the employees that opted to participate in the defined contribution plan did not fully understand the consequences of the decision. He said this bill draft offers a unique opportunity with possible actuarial gains to the defined benefit fund. He said this bill draft is a win-win for the employees and the health of the defined contribution fund.

### **Teachers' Fund for Retirement**

Chairman Dever called on Ms. Fay Kopp, Chief Retirement Officer, Teachers' Fund for Retirement, to comment regarding the bill draft relating to TFFR.

#### **Bill Draft No. 140**

The committee reviewed Bill Draft No. 140 [[15.0140.01000](#)], which updates references to the Internal Revenue Code.

Ms. Kopp provided the committee with a copy ([Appendix J](#)) of an actuarial report provided by Segal, written testimony regarding the bill draft, and the TFFR revision to the bill draft.

### **State Investment Board**

Chairman Dever called on Mr. David J. Hunter, Chief Investment Officer, State Investment Board, to comment regarding the bill draft relating to the State Investment Board.

#### **Bill Draft No. 135**

The committee reviewed Bill Draft No. 135 [[15.0135.01000](#)], which modifies investment policies for and funds under the management of the State Investment Board.

Mr. Hunter provided the committee with a copy ([Appendix K](#)) of an actuarial report provided by Segal.

In response to a question from Representative Vigesaa, Mr. Hunter said the bill draft does not change the asset allocation for any of the State Investment Board's funds, but provides that a fund's existing asset allocation will remain in place until affirmative steps are taken to change the allocation. He said the State Investment Board issues fund reviews on a quarterly basis.

### **Adjutant General**

Chairman Dever called on Mr. Collins to comment regarding the bill draft relating to the Adjutant General.

#### **Bill Draft No. 139**

The committee reviewed Bill Draft No. 139 [[15.0139.01000](#)], which revises the retirement contribution law for National Guard security officers and repeals the law relating to National Guard firefighters.

Mr. Collins provided the committee with a copy ([Appendix L](#)) of an actuarial report provided by Segal and the PERS and Adjutant General revisions to the bill draft.

Brigadier General Alan Dohrmann, Deputy Adjutant General, stated that under the bill draft, there may be a short period of time for which there is a discount in contribution rate, but the National Guard would budget for that brief period of time. He said he expects there will be a one-half of 1 percent discount for six months.

In response to a question from Senator Triplett, Brigadier General Dohrmann said if in the future the National Guard gets a new manned mission, the chance of that mission needing firefighters is slight.

**It was moved by Representative Brabandt, seconded by Representative Boehning, and carried on a roll call vote that the committee take jurisdiction over the revisions of Bill Draft Nos. 136, 137, 140, and 139 and over Bill Draft No. 43 if the sponsor seeks to adopt the suggested revisions.** Senators Dever, Kilzer, O'Connell, and Triplett and Representatives Boehning, Brabandt, Dockter, Louser, Onstad, and Vigesaa voted "aye." No negative votes were cast.

## **PUBLIC EMPLOYEES RETIREMENT SYSTEM UNIFORM GROUP HEALTH INSURANCE PLAN**

Chairman Dever called on Mr. Collins to provide an overview of the status of the PERS uniform group health insurance plan. Mr. Collins gave a computer presentation ([Appendix M](#)).

No further business appearing, Chairman Dever adjourned the meeting at 12:15 p.m.

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Jennifer S. N. Clark  
Counsel

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