



RETIREMENT COMMITTEE

Monday, October 24, 2022
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Mike Lefor, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Mike Lefor, Joshua A. Boschee*, Jason Dockter*, Scott Louser*, Austen Schauer*, Vicky Steiner*, Greg Stemen*; Senators Howard C. Anderson, Jr.*, Karen K. Krebsbach*, Tim Mathern*, Kristin Roers*, Shawn Vedaa*

Members absent: Representative Rick Becker and Senator Doug Larsen

Others present: See [Appendix A](#)

**Attended remotely*

It was moved by by Senator Anderson, seconded by Senator Mathern, and carried on a voice vote that the minutes of the September 23, 2022, meeting be approved as distributed.

Ms. Jennifer S. N. Clark, Code Revisor and Senior Legal Counsel, reviewed bill drafts [\[23.0196.03000\]](#) and [\[23.0280.01000\]](#) that provide for \$70 million of legacy fund earnings to be transferred to the Public Employees Retirement System (PERS) each biennium for administrative expenses and for the unfunded liability of the PERS main plan and provide for closure of the PERS main system defined benefit (DB) plan to new hires and route these new hires into the PERS defined contribution (DC) retirement plan. She provided a section-by-section explanation of the first bill draft [\[23.0196.03000\]](#) noting:

- Sections 1, 2, 29, and 30 provide for the legacy fund funding of PERS of \$70 million each biennium, effective July 1, 2023.
- Section 3 provides for a definition of "deferred member" and amends the definition of "eligible employee" to distinguish between pre-January 2024 employees and post-2023 employees.
- Section 4 provides for post-2023 elected and appointed state officials to join the DC retirement plan and clarifies if an official is a participating member or deferred member in the DB retirement plan at the time of appointment, the official will continue in the DB retirement plan.
- Sections 5, 16, and 23 provide a temporary employee may elect to participate in the DC retirement plan; clarifies a temporary employee who is a participating member of the DB retirement plan who becomes a permanent employee will continue in the DB retirement plan, and provides for a 1 percent contribution increase.
- Sections 6 and 16 provide newly elected county officials may elect to participate in the DC retirement plan.
- Sections 7 and 16 provide political subdivision appointed officials may elect to participate in the DC retirement plan.
- Section 8 provides for closure of the PERS main system DB retirement plan for new hires; clarifies once an employee participates in the DB retirement plan, even if rehired at a later date, remains in the DB retirement plan; provides all new hires are required to participate in the DC retirement plan; and clarifies if a DC retirement plan member joins one of the enumerated DB retirement plans, the member is eligible to participate in that enumerated DB retirement plan.
- Section 9 is a housekeeping change.

- Section 10 provides the employer contribution rates for the DB retirement plan are increased 1 percent for political subdivision employers, and are changed to an actuarially determined rate for state employers. The actuarial rate is amortized over 20 years and is based on the PERS fund valuation from the previous even-numbered year.
- Section 11 provides the July 1, 2013, reversion of contribution rates upon 100 percent funding remains for temporary employees, political subdivision and state employees, the judges' plan, and the public safety plan.
- Section 12 clarifies how funds paid into the PERS retirement plans may be used by PERS.
- Section 13 clarifies Section 8 applies to dual eligible language relating to the higher education alternative plan, Highway Patrol retirement plan, and Teachers' Fund for Retirement (TFFR) plan.
- Section 14 defines the terms "governmental unit," "normal retirement age," and "temporary employee" and revises the definitions for the terms "deferred member," "eligible employee," "employee," "employer," and "participating member." These definitions recognize political subdivisions and temporary employees will be participating in the DC retirement plan.
- Sections 15, 17, 20, and 24 close the opportunity for nonclassified state employees to elect to participate in the DC retirement plan.
- Section 16 provides except for those employees who already have participated in the DB retirement plan, all new main plan hires will be routed to participate in the DC retirement plan.
- Section 18 clarifies PERS shall follow federal guidelines regarding qualified default investment alternatives and directs PERS to provide an investment menu of investment options and in doing so meet certain requirements.
- Section 19 directs PERS to select one or more annuity providers to provide annuity options under the DC retirement plan and provides guidelines for PERS to consider in selecting annuity providers to ensure the financial health and stability of the annuity provider.
- Section 21 provides for the employer and employee contribution rates for the DC retirement plan, requiring an employee contribute at least 4 percent of wages and allowing an optional contribution of up to an additional 3 percent. The employer required contribution is 4.12 percent of wages, and matching contributions for any additional contribution made by the employee.
- Section 22 provides a state employer is required to pay an additional contribution based on the actuarially determined employer contribution (ADEC) less the amount of the employer contribution under Section 21. Additionally, if a state employer uses federal funds to pay any or all of an employee's wages, the employer shall use state funds to pay this additional contribution.
- Section 25 is a housekeeping change.
- Section 26 directs PERS or its vendor to educate participating members regarding the DC retirement plan.
- Section 27 directs PERS to make an annual report to the Employee Benefits Programs Committee on the status of the DC retirement plan.
- Section 28 is an application clause that provides the ADEC funding begins January 2024 and is based on the July 1, 2022, PERS fund valuation.
- Section 29 is an effective date clause providing the legacy funding becomes effective July 1, 2023, and the remainder of the bill becomes effective January 1, 2024.
- Section 30 is an emergency clause to allow Sections 1 and 2 to become effective July 1, 2023.

Ms. Clark noted the second bill draft [[23.0280.01000](#)] is identical to the first except the PERS retirement provisions are effective January 1, 2025, rather than January 1, 2024.

The committee received written testimony ([Appendix B](#)) from Mr. Nick Archuleta, President, North Dakota United, regarding the committee bill drafts.

Ms. Rebecca A. Sielman, Principal and Consulting Actuary, Milliman, Inc., suggested the bill drafts be amended to clarify the contribution rate is calculated based on both the DC and DB retirement plans.

Mr. Scott Miller, Executive Director, Public Employees Retirement System, indicated the preference for the bill draft with the January 1, 2025, effective date is based in part on the need to adopt administrative rules, hire four additional employees, and to contract for the annuity provider of the DC retirement plan. He suggested additional revisions to the bill drafts.

Ms. Zeny Agullana, Senior Director, State Government Relations, TIAA, noted including an annuity in the qualified default investment alternative should not be a problem under federal guidelines.

Ms. Janilyn Murtha, Executive Director, Retirement and Investment Office, noted she will work with the TFFR actuary to determine whether it is necessary to address dual eligible employees in the law relating to TFFR.

It was moved by Senator Mathern, seconded by Senator Krebsbach, and failed on a roll call vote that the bill draft [23.0196.03000] closing the PERS DB retirement plan effective January 2024 be amended to remove all sections except Sections 1, 2, 29, and 30. Representatives Lefor, Dockter, Louser, Steiner, and Stemen and Senators Anderson, Roers, and Vedaa voted "nay." Senators Krebsbach and Mathern voted "aye."

Chairman Lefor requested the Legislative Council staff to work with PERS and TFFR to amend the bill draft to reflect the suggested changes by Mr. Miller and Ms. Murtha. He noted the committee will hold its final meeting Monday, October 31, 2022.

No further business appearing, Chairman Lefor adjourned the meeting at 11:23 a.m.

Jennifer S. N. Clark
Senior Counsel and Code Revisor

Levi Kinnischtzke
Senior Fiscal Analyst

ATTACH:2