

TESTIMONY OF DERRICK HOHBEIN

House Bill 1146 – Main Defined Benefit Plan Cleanup

Good Morning, Mr. Chairman and members of the committee. My name is Derrick Hohbein and I am the Chief Operating/Financial Officer of the North Dakota Public Employees Retirement System, or NDPERS. I appreciate the committee taking the time to analyze House Bill 1146, which addresses some of the observations that were discovered with the closure of the Main Defined Benefit Plan. I am here today on behalf of the NDPERS Board to provide information in a neutral capacity so the policy makers are able to make an informed decision regarding the bill.

Section 1 and Section 3 are allowing political subdivision employers that are currently not participating in NDPERS the opportunity to join the NDPERS Defined Contribution plan, if they wish. Currently there is not an avenue for a political subdivision not already part of NDPERS to join the NDPERS Defined Contribution Plan, only those who were in the Main Defined Benefit Plan were transitioned into the Defined Contribution Plan.

Section 2, Section 4, and Section 6 are being proposed to address the 21 entities who meet the definition of a “state employer” and “state governmental unit”, but do not receive their appropriation authority through the Legislative process. These terms were used in House Bill 1040 but are not defined terms. It is our understanding these entities are funded through membership fees (as an example) of their participants. Our office had an observation that the Actuarially Determined Employer Contributions, “Spillover” contributions, and incentive payments may create budgetary hardships these entities may not be able to overcome. The following is a list of the employers that would be impacted by this clarification:

Org Code ID	Org Name	Org Type	Employer Type	# of Total Employees	# of employees Eligible for Incentive
020200	Education Standards & Practice	Employer	State	7	0
026100	ND Board of Nursing	Employer	State	12	4
042600	State Board Of Law Examiners	Employer	State	3	0
042700	ND State Board Of Cosmetology	Employer	State	4	4
042800	ND State Plumbing Board	Employer	State	6	0
060300	Dairy Promotion Commission	Employer	State	0	0
060700	Milk Marketing Board	Employer	State	3	1
060800	ND Oilseed Council	Employer	State	1	0
061400	ND Corn Utilization Council	Employer	State	2	0
061600	State Seed Department	Employer	State	23	9
062400	Beef Commission	Employer	State	4	3
062500	ND Wheat Commission	Employer	State	5	0
062600	ND Barley Council	Employer	State	1	0
066500	State Fair Association	Employer	State	10	9
071000	Soil Conservation Committee	Employer	State	0	0
090000	ND State Board Of Accountancy	Employer	State	2	0
090100	ND Board of Medicine	Employer	State	9	0
090200	ND Board Of Pharmacy	Employer	State	3	3
090600	Real Estate Commission	Employer	State	4	1
090900	Electrical Board	Employer	State	20	9
099503	North Dakota State Board of Dental Examiners	Employer	State	1	0
				120	43

Section 6 of the bill is reducing the employers that are responsible for paying the Actuarially Determined Employer Contribution (ADEC) and "spillover" contributions. Because the state employer payroll is reduced, our actuary calculates the remaining payroll needs to be charged an additional 0.1% of pay to make up the difference, effective January 1, 2026. This impact has been analyzed and is included in the Fiscal Note that is attached to the bill.

Section 5 clarifies that the Defined Contribution Plan must include both in-plan and out-of-plan annuities. There are some observations with this section our Board would like highlighted to help the committee understand how these updates may impact our Defined Contribution Plan.

The Board added in-plan annuity options to our Defined Contribution plan, as that was an original requirement of HB 1040. Our Board has fiduciary oversight of these funds. Through the education on annuity options, interest was expressed in an annuity shopping service or out-of-plan annuity option. As the plan sits today, there is nothing that would prevent someone from taking their account balance and annuitizing their portfolio with any provider they choose as they end their employment and move into retirement. The Board has no fiduciary oversight of these selections.

Retirement plans frequently utilize an annuity shopping service to offer participants out-of-plan annuity choice. These solutions are tied to the plan and enable participants to receive income quotes from multiple, pre-approved insurers and to select the best option for them. There are two main avenues to accomplish this kind of offering:

- 1) A custom solution, where the Board selects the insurance providers and can hire/terminate relationships at their discretion. The Board acts as a fiduciary over each insurer.
- 2) An off-the-shelf solution where a third party selects the insurance providers. The Board could make a selection in the solution offered, if it is supported by the recordkeeper, but does not have discretion over the insurers. The monitoring requirements of HB 1040 may make the lack of flexibility in selecting insurers problematic. The Board acts as a fiduciary over the selection of the program.

Our Board has spent a lot of time over the last six months becoming more educated on annuity offerings and what these offerings may look like in the future as participant behavior becomes more clear. While a custom solution might be the most appealing to meet the Board's fiduciary requirements and oversight responsibilities in HB 1040 (outlined in Attachment 1), it may not be feasible given the plan's current asset level and lack of data on participant annuity utilization.

Therefore, likely the best option for our Board today to implement a requirement to offer out-of-plan annuities would be to select one of the off-the-shelf solutions compatible with the recordkeeper. As noted, this may present challenges due to the lack of flexibility in making changes to the insurers.

As a result of these concerns, we are proposing an amendment to update the "must" on page 8 line 17 to "may." Having the "must" amended to say "may" would still give our Board the flexibility of moving forward with this initiative, but not be hamstrung by the limited options that may (or may not) exist given the criteria our Board needs to meet in order to provide an annuity under our DC Plan.

Section 7 is being proposed as an emergency clause with a retroactive effective date of January 1, 2025 for Section 4, since these participants technically today could submit an application to move from the Defined Benefit Plan to the Defined Contribution Plan.

Mr. Chairman, I appreciate the committee taking the time to learn more about the impact this bill will have to our state. This concludes my testimony, and I'd be happy to answer any questions the committee may have.

54-52.6-05.1. Annuity provider - Qualifications.

1. The board shall select one or more annuity providers to provide the annuity options under this chapter.
2. In selecting an annuity provider under this section, the board shall:
 - a. Determine whether the annuity provider and the provider's subsidiaries and affiliates have appropriate financial strength and stability at the time of selection and during the term of contract with the board.
 - (1) The board may require the provider to provide the board with written representation:
 - (a) The provider is in compliance with title 26.1.
 - (b) The provider at the time of selection is and for each of the preceding seven years was in compliance and good standing with the insurance commissioner of the provider's domiciliary state and the provider is not operating under an order of rehabilitation or liquidation.
 - (c) The provider maintains and has maintained reserves that satisfy the statutory requirements of each state in which the provider does business.
 - (2) The board may require a provider selected by the board to provide annuities under this chapter to notify the board of a change of circumstances resulting in the provider failing to meet any of the requirements under paragraph 1.
 - (3) The board must have determined the provider has a claims paying ability rating that meets standards adopted by the board.
 - b. Determine whether the annuity provider is able to provide contracted rights and benefits to a participating member.
 - c. Determine whether the costs, including fees and commissions, of the annuity options in relation to the benefits and product features of the annuity options are reasonable.
 - d. Determine whether the administrative services to be provided under the annuity option are appropriate. At a minimum the administrative services must include periodic reports to the board.
 - e. Determine whether the annuity provider is experienced in paying lifetime retirement income through annuities offered to public employee defined contribution retirement plans.
 - f. Determine whether the annuity provider offers a menu of annuity options that meet the following conditions:
 - (1) The annuity options are suitable for participating members and beneficiaries.
 - (2) The contract terms and income benefits are clearly stated, based on reasonable assumptions.
 - (3) The menu of annuity options offers a range of lifetime income options.
 - (4) If an annuity is a variable annuity, the annuity offers a fixed account option along with a variable option.
 - g. Determine whether the annuity provider offers objective and participant-specific education and tools to help a participating member understand the appropriate use of annuities as a long-term retirement savings vehicle.



January 10, 2025

Representative Austen Schauer, Chair
Legislative Employee Benefits Programs Committee
North Dakota State Government

Re: North Dakota Public Employees Retirement System Legislative Studies – Provisions from Bill No. 25.0743.01000

Dear Representative Schauer:

In accordance with your request, we have analyzed the impact of Bill No. 25.0743.01000 on the North Dakota Public Employees Retirement System (NDPERS). Our review is actuarial in nature; we are not attorneys and cannot provide legal advice.

Systems Affected

North Dakota Public Employees Retirement System (Main System and Defined Contribution Plan)

Summary

Bill No. 25.0743.01000:

- Allows political subdivisions not enrolled in NDPERS retirement to join the Defined Contribution Plan and offer it to their employees.
- Clarifies that participating employers who do not receive budgetary approval from the legislative assembly are not subject to the following "state governmental unit" provisions:
 - Actuarially Determined Employer Contributions (ADEC)
 - "Spillover" contributions to the Main System
 - Eligibility for the special DC transfer in the first quarter of 2025
- For purposes of implementing HB 1040, the employers who do not receive budgetary approval from the legislative assembly are to be treated the same as political subdivision employers.
- Adds out-of-plan options to the lifetime annuity options in the defined contribution plan.

Actuarial Impact of Bill 743

The cost impact calculated in this letter is based on the data for the Main System as of the July 1, 2024 actuarial valuation. The actuarial valuation data as of June 30, 2024 shows 121 employees in the 21 employer codes provided by NDPERS. Of the 121 employees, 119 employees were indicated to be State employees with pay of \$9,521,103.

Bill 743 is expected to have an impact on the actuarial accrued liability as of July 1, 2024 due to a change in the members that are expected to be eligible for the special DC transfer election window. We estimate this change will be immaterial and have not incorporated it into the expected impact of the bill.

The results under Bill 743 increase the expected 2026 payroll for the Political Subdivision employers and subsequently the expected employer contribution under the fixed contribution rate. When the fixed rate amount expected to be paid by political subdivision employers increases, the expected remaining obligation for State Employers decreases. However, because the state employer payroll is also reduced, the state employer contribution rate as a percent of pay increases slightly, from 14.46% of pay to 14.56% of pay.

The table below shows the development of the additional state contribution requirement expected to be needed based on the July 1, 2024 actuarial valuation. The additional state contribution requirement under the baseline scenario is 5.92 percent of total state payroll. Bill 743 increases the additional state contribution requirement to 6.02 percent of total state payroll.

	Baseline	Bill 743
Employer Contribution by Employer Type		
Political Subdivisions (Fixed Rate)	8.49%	8.49%
State Employers (Remaining Obligation)	14.46%	14.56%
Political Subdivisions (Fixed Rate) \$ Amount	\$ 56,075,328	\$ 56,887,471
State Employers (Remaining Obligation) \$ Amount	\$ 107,539,811	\$ 106,727,668
Total \$ Amount	\$ 163,615,139	\$ 163,615,139
Contributions to be Made By State Employers		
State Employer Contribution Rate	14.46%	14.56%
Projected Blended Fixed Rate	8.54%	8.54%
Additional State Contribution Requirement	5.92%	6.02%
Additional State Contribution Requirement \$ Amount	\$ 44,015,783	\$ 44,104,055



Policy Issue Analysis

Benefits Policy Issues

- Adequacy of Retirement Benefits

No impact.

- Competitiveness

Adding out-of-plan options to the lifetime annuity options under the defined contribution plan increases the number of annuity options available and the competitiveness of the plan.

- Benefits Equity and Group Integrity

No impact.

- Purchasing Power

No impact.

- Preservation of Benefits

No impact.

- Portability

Employees of employers who do not receive budgetary approval from the legislative assembly will no longer be eligible for the special DC transfer election window. Defined contribution plan benefits are generally more portable than defined benefit pension plan benefits.

- Ancillary Benefits

No impact.

- Social Security

No impact.

Funding Policy Issues

- Actuarial Impacts

As previously noted, the additional state contribution requirement will need to be increased slightly to cover the reduction in payroll for state employers contributing the ADEC. The bill will also reduce potential "spillover" contributions to the Main System.

- Investment Impacts

No impact.

Administration Issues

- Implementation Issues

No impact.

- Administrative Costs

The only administrative costs are related to the increase in employer contributions.

- Needed Authority

The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

- Integration

None.

- Employee Communications

No impact.

- Miscellaneous and Drafting Issues

No impact.

Disclosures and Additional Information

We have reviewed the bill and provided a policy issue analysis from our perspective as actuaries. However, the policy issue analysis should not be considered to be comprehensive and there may be additional benefits policy, administration issues or legal issues that are not discussed in this letter.

The signing actuary is independent of the plan sponsor.

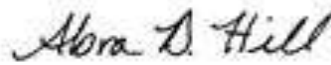
Bonita J. Wurst and Abra D. Hill are Members of the American Academy of Actuaries (MAAA) and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Please let us know if you have any questions.

Sincerely,



Bonita J. Wurst, ASA, EA, MAAA, FCA
Senior Consultant



Abra D. Hill, ASA, MAAA, FCA
Consultant

cc: Rebecca Fricke, NDPERS
Joshua Murner, GRS

