

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Monday, May 6, 2002
Roughrider Room, State Capitol
Bismarck, North Dakota

Senator Karen K. Krebsbach, Acting Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Bette Grande, Glen Froseth, Joe Kroeber, Wayne W. Tieman, Francis J. Wald; Senators Ralph L. Kilzer, Karen K. Krebsbach, Stanley W. Lyson, Tim Mathern

Others present: See Appendix A

It was moved by Senator Mathern, seconded by Representative Tieman, and carried on a voice vote that the minutes of the February 11, 2002, meeting be approved as distributed.

EMPLOYEE BENEFITS PROGRAMS COMMITTEE BILLS

At the request of Acting Chairman Krebsbach, committee counsel presented a memorandum describing the statutory responsibilities of the committee and summarizing the bill drafts that had been submitted to the committee for review entitled *Employee Benefits Programs Committee Bills*.

TEACHERS' FUND FOR RETIREMENT

Acting Chairman Krebsbach called on Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, who reviewed Employee Benefits Programs Committee Bill No. 52. A copy of her written comments concerning the bill draft is attached as Appendix B. She said the bill draft contains administrative changes proposed by the Teachers' Fund for Retirement Board of Trustees that are being suggested to administer the Teachers' Fund for Retirement plan more efficiently, add benefit payment options, and incorporate various federal tax law changes to increase contribution limits and expand portability as authorized by the Economic Growth and Tax Relief Reconciliation Act of 2001.

In response to a question from Representative Wald concerning the partial lump sum option, Ms. Kopp said it adds another option to the menu of options available to members eligible for an unreduced retirement annuity and provides a lump sum cash payment in exchange for a permanent monthly benefit reduction. She said the option is a one-time election to receive a lump sum payment equal to 12 times the amount of the single life annuity. She said this option is the only partial lump sum option

available and the eligible member may not alter the amount of the lump sum. Also, she said, the election must be made at retirement and cannot be altered later.

In response to a question from Representative Kroeber, Ms. Kopp said the system experiences approximately 10 to 15 disability retirements per year, which is almost actuarially insignificant.

In response to a question from Representative Wald concerning the return-to-work provisions, Ms. Kopp said if a teacher returns to work, the teacher's benefits are not adjusted to reflect changes in age or final average monthly salary at the end of the period of reemployment. However, she said, the teacher is still eligible to receive postretirement ad hoc adjustments.

In response to a question from Representative Grande, Ms. Kopp said critical geographical and subject shortage areas are determined by the Education Standards and Practices Board. Currently, she said, the board has determined that all subject areas except elementary education, physical education, and social sciences are critical shortage areas.

In response to a question from Representative Froseth, Ms. Kopp said the Education Standards and Practices Board makes the critical shortage areas determination annually.

In response to a question from Representative Wald, Ms. Kopp said the Teachers' Fund for Retirement fund was down approximately 1.5 percent for the period ending March 31, 2002. For the period ending June 30, 2001, she said, the Teachers' Fund for Retirement fund was down approximately 7.3 percent, 10.5 percent on September 30, 2001, 3 percent on December 31, 2001, and 1.5 percent on March 31, 2002.

In response to a further question from Representative Wald, Ms. Kopp said the Teachers' Fund for Retirement Board of Trustees has not altered its asset allocation but did make several changes approximately a year and a half ago based upon the recommendations of its investment consultants.

Representative Grande assumed the chairmanship.

**PUBLIC EMPLOYEES
RETIREMENT SYSTEM**
**Public Employees Retirement
System Main System**

Chairman Grande called on Mr. Sparb Collins, Executive Director, Public Employees Retirement System, who reviewed Employee Benefits Programs Committee Bill No. 53. A copy of his written comments concerning the bill draft is attached as Appendix C. He said the bill draft contains proposed administrative changes for the Public Employees Retirement System hybrid retirement plan, the deferred compensation plan, and the retiree health plan.

In response to a question from Representative Kroeber, Mr. Collins said the Public Employees Retirement System has experienced an increase in the purchasing of credit toward retirement, but he said it is very expensive to do so and that is probably the reason why more employees do not make use of this provision.

In response to a question from Representative Wald, Mr. Collins said Section 457 deferred compensation plans are available to governmental and certain nonprofit organization employees.

In response to a question from Representative Wald, Mr. Collins said the retiree health benefits program costs 1 percent of payroll and thus is funded by a 1 percent contribution.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 54. A copy of his written comments concerning the bill draft is attached as Appendix D. He said the bill draft provides a 2 percent increase to Public Employees Retirement System retirees on August 1, 2003, and again on August 1, 2004, and a 2 percent increase to prior service retirees on August 1, 2003, and again on August 1, 2004.

In response to a question from Representative Grande, Mr. Collins said it will not be known whether the Public Employees Retirement System fund has a sufficient margin to fund the ad hoc retiree increase until the July 1 actuarial valuations are complete and the cost of the bill draft is determined. He said if it is determined that there are not sufficient funds to fund the adjustment, the Public Employees Retirement System Board will request that the bill draft be withdrawn.

In response to a question from Representative Wald, Mr. Collins said the Public Employees Retirement System fund return for the year to date is zero, while the return for the year ending June 30, 2001, was a negative 4.5 percent.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 55. A copy of his written comments concerning the bill draft is attached as Appendix E. He said the bill draft provides a 2 percent increase for retired judges on December 31, 2003, and again on December 31, 2004.

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 56. A copy of his written comments concerning the bill draft is attached as Appendix F. He said the bill draft provides an automatic and unreduced level Social Security distribution option for members of the National Guard retirement plan.

Chairman Grande called on Mr. Wayne Kindem, Director, Administrative Services, Job Service North Dakota, who reviewed Employee Benefits Programs Committee Bill No. 60. A copy of his written comments concerning the bill draft is attached as Appendix G. He said the bill draft transfers administration of the retirement plan established in 1961 and frozen to new entrants in 1980 for employees of Job Service North Dakota under North Dakota Century Code Chapter 52-11 from Job Service North Dakota to the Public Employees Retirement System Board.

In response to a question from Representative Froseth, Mr. Collins said the Public Employees Retirement System Board would be able to accept responsibility to administer the Job Service retirement program. He said the board currently provides services to Job Service North Dakota on an administrative services only basis and would also assume record-keeping and compliance responsibilities for the program. In fact, he said, acquisition of the program may provide an opportunity for additional diversification and lower the Public Employees Retirement System's cost per member as a result of acquiring the new members.

In response to a question from Senator Kilzer, Mr. Collins said Job Service North Dakota is the only state agency with a separate retirement plan and thus there are no other agencies in a similar situation.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 28. He said the bill draft provides that payments for overtime earned by employees of the Mill and Elevator Association must be included as wages and salaries for purposes of calculating benefits under the Public Employees Retirement System. He said the overtime would be annualized pursuant to rules adopted by the Public Employees Retirement System Board.

In response to a question from Representative Wald, Mr. Collins said one problem with overtime being included as wages and salaries for purposes of calculating retirement benefits is the spiking effect it has on the calculation of final average salary which distorts the final average salary. He said the bill draft solves this problem by enabling the board to annualize the overtime payments.

In response to a further question from Representative Wald, Mr. Collins said an earlier version of the bill draft considered in a previous Legislative Assembly would have allowed overtime earned by any member of the Public Employees Retirement System to be

included as wages and salaries. However, he said, the bill draft was opposed by certain employers because it would increase the contributions paid by employers on behalf of their employees.

Highway Patrolmen's Retirement System

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 57. A copy of his written comments concerning the bill draft is attached as Appendix H. He said the bill draft contains the administrative changes for the Highway Patrolmen's retirement system and would allow members of the Highway Patrol to retire after 25 years of service at any age as opposed to the rule of 80 and provides a 2 percent increase in retirement benefits for Highway Patrol retirees on August 1, 2003, and again on August 1, 2004.

Defined Contribution Retirement Plan

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 58. A copy of his written comments concerning the bill draft is attached as Appendix I. He said the bill draft contains the administrative changes recommended by the Public Employees Retirement System Board for the defined contribution retirement plan as well as a provision providing that the surviving spouse of a member of the defined contribution retirement plan who is receiving benefits from the defined contribution retirement plan is eligible to receive the retiree health credit in the same manner as a surviving spouse of the Public Employees Retirement System hybrid plan.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 18. He said the bill draft provides that all state employees except Supreme or district court judges or employees of the State Board of Higher Education and state institutions under the jurisdiction of the board who are eligible to participate in TIAA-CREF are eligible to participate in the defined contribution retirement plan.

Chairman Grande recognized Ms. Maren Daley, Executive Director, Job Service North Dakota. Ms. Daley said younger employees and those entering the workforce like the added flexibility a defined contribution retirement plan provides, especially in terms of investment flexibility. However, she noted, a defined contribution option also increases the responsibility of employers to provide adequate investment education for their employees.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 26. He said the bill draft provides that members of the Legislative Assembly are entitled to participate in the defined contribution retirement plan.

OLD-AGE AND SURVIVOR INSURANCE SYSTEM

Chairman Grande called on Mr. Ray Gudajtes, Job Service North Dakota, who reviewed Employee Benefits Programs Committee Bill No. 61. A copy of his written comments concerning the bill draft is attached as Appendix J. He said the bill draft provides the six remaining beneficiaries of the Old-Age and Survivor Insurance System with a \$20 per month increase in benefits on both August 1, 2003, and August 1, 2004. He said the bill draft also contains an appropriation of \$3,800 from the general fund to fund the benefit payments.

In response to a question from Representative Grande, Mr. Gudajtes said Job Service North Dakota would support transferring responsibility for administration of the Old-Age and Survivor Insurance System to the Public Employees Retirement System.

In response to a further question from Representative Grande, Mr. Collins said the Public Employees Retirement System is not familiar with the administration of the Old-Age and Survivor Insurance System and the issue has never come before the board and thus the board has not taken a position on transferring administration of the Old-Age and Survivor Insurance System to the Public Employees Retirement System.

In response to a question from Senator Krebsbach, Mr. Gudajtes said four of the beneficiaries are in nursing homes, one resides in that person's home, and he was unsure of the residence status of the sixth beneficiary.

In response to a question from Senator Krebsbach, Mr. Gudajtes said there is no provision in the statutes governing the Old-Age and Survivor Insurance System that benefits need to be increased but noted that the fund will require an appropriation even if no increases are provided in 2003 or 2004.

UNIFORM GROUP INSURANCE PROGRAM

Mr. Collins reviewed Employee Benefits Programs Committee Bill No. 59. A copy of his written comments concerning the bill draft is attached as Appendix K. He said the bill draft addresses changes proposed by the Public Employees Retirement System Board to the uniform group insurance program. He noted the five-month provision in the definition of eligible employee should be changed to 20 weeks to correspond with the change being recommended by the Public Employees Retirement System Board for the definition of permanent employee for the defined benefit retirement plan.

In response to a question from Representative Grande, Mr. Collins said the Public Employees Retirement System staff will gather information on health insurance premium amounts in August, present them to the board in September, and forward them to the executive budget office in September. He said he

would make this information available to the committee at a future meeting.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 25. He said the bill draft allows retirees who have accepted a retirement allowance from a political subdivision's retirement plan to elect to participate in the uniform group insurance program without meeting minimum requirements at age 65, when the employee's spouse reaches age 65, upon the receipt of a benefit, or when the spouse terminates employment.

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 69. He said the bill draft allows any person who is without health insurance coverage to participate in the uniform group insurance program subject to minimum requirements established by the Public Employees Retirement System Board.

Representative Grande recognized Senator Mathern. Senator Mathern said the bill draft contains a number of safeguards to ensure that the bill draft will in no way jeopardize the soundness of the Public Employees Retirement System uniform group insurance program but allows the program to benefit the people of North Dakota by providing a vehicle to provide health insurance to those who are unable to obtain health insurance coverage elsewhere. Also, he said, as the costs of health insurance continue to increase, adding people to the pool and spreading the risk over more people will slow this increase.

It was moved by Representative Wald, seconded by Senator Krebsbach, and carried on a roll call 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, Public Employees Retirement System Board, and Job Service North Dakota, 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. Representatives Grande, Froseth, Kroeber, Tieman, and Wald and Senators Kilzer, Krebsbach, Lyson, and Mathern voted "aye." No negative votes were cast.

LAW ENFORCEMENT AND CORRECTIONAL OFFICER RETIREMENT PROGRAM STUDY

Mr. Collins addressed the committee. A copy of the actuarial review and technical comments for the bill draft relating to a law enforcement and correctional officer retirement program is attached as Appendix L. He said The Segal Company calculated

the contribution required for employers of transferring participants under two asset transfer calculation methods with varying amortization periods. He said the current board-mandated employer contribution rate of 8.33 percent would be sufficient to meet the funding requirements under all variations except that variation using the first asset transfer calculation method with a 10-year amortization of the resulting unfunded liability. However, he said, if the transfer occurs without regard to the difference in normal costs and accrued liabilities of the current and transferring groups, the resulting employer-required contribution rate determined using the current funding policy would be 7.32 percent of payroll under the first asset transfer calculation method and 6.35 percent of payroll under the second asset transfer calculation method. He said the Public Employees Retirement System staff determined that 411 main system members would be eligible for the proposed shift to the National Guard system. He said the board staff estimates that the required contribution increase for employers, using the current 8.33 percent contribution rate, would be \$533,088 per year or approximately \$1.07 million for a biennium.

Chairman Grande recognized Senator Mathern. Senator Mathern presented proposed amendments to the bill draft relating to a law enforcement and correctional officer retirement program. He said the proposed amendments would essentially rename the National Guard retirement program the security officer retirement program recognizing the fact that the plan would encompass security police employees of the National Guard, firefighter employees of the National Guard, correctional officers, and peace officers.

It was moved by Senator Mathern and seconded by Senator Lyson that the committee adopt the amendments.

In response to a question from Representative Wald, committee counsel said the amendments do not increase or decrease the number of potential members and do not increase or decrease the cost of the plan but merely renames the plan to reflect the fact that the National Guard members would be a small minority of the members of the plan and security personnel would comprise the majority of the members.

In response to a question from Senator Lyson, committee counsel said the bill draft before the committee was prepared as a part of the committee's study and the committee has continuing jurisdiction over the bill draft and can revise the bill draft at any time based upon committee discussion or testimony received on the proposal.

Senator Lyson withdrew his second and Senator Mathern withdrew his motion to approve the amendments to the bill draft relating to a law enforcement and correctional officer retirement program.

Chairman Grande recognized Mr. Jerry Hjelmstad, North Dakota League of Cities. Mr. Hjelmstad said many cities will wait to see the final proposal and assess its costs and then determine whether they can afford to provide this type of benefit for their security personnel.

Representative Wald said he had received a request from a member of the Truck Regulatory Division that the three employees of the Highway Patrol who are members of the Truck Regulatory Division and thus members of the main system and not the Highway Patrolmen's retirement system be allowed to join the Highway Patrolmen's retirement system.

In response to Representative Wald's comments, Mr. Collins said participants of the Highway Patrolmen's retirement system do not receive Social Security and thus their contribution and applicable multiplier are much higher than those for the main system. If the members of the Truck Regulatory Division would like to retire at age 55 with normal retirement benefits, he suggested, a more appropriate vehicle may be the National Guard retirement system whose members receive Social Security and have a normal retirement age of 55. He said he would provide additional information on this issue at the committee's next meeting.

STAFF DIRECTIVES

Senator Mathern requested that the Legislative Council staff arrange for representatives of the Insurance Department to appear at the committee's next meeting and address the issue of health care access in North Dakota.

Representative Froseth requested that the Legislative Council staff and the Public Employees Retirement System staff prepare a letter enclosing the bill draft relating to a law enforcement and correctional officer retirement program with the actuarial information prepared by The Segal Company and send it to state employers with eligible employees as well as the Association of Counties and the League of Cities for their comments.

No further business appearing, Chairman Grande adjourned the meeting at 3:00 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:12