

2013 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1203

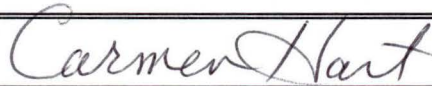
2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1203
January 25, 2013
17773

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to discontinuance of member contributions for retired teachers returning to active service under the TFFR; and to declare an emergency

Minutes:

You may make reference to "attached testimony."

Chairman Jim Kasper opened the hearing on HB 1203.

Rep. Drovdal appeared in support of this bill. If a retiree teacher decides to go back to work, your benefits are not recalculated even though you are paying in contributions. One solution is to configure those additional contributions into benefits and the other solution is to not require the teachers to pay in if there is no additional benefits. The one that would be the simplest and easiest for TFFR which is the one you have before you which would just require the teacher share of the contribution not to be paid in.

Rep. Scott Louser In that event where the teacher does not pay into TFFR and in 2014 that is going to be over 11%, what happens to that 11%? Are we suggesting that their salary would be increased by a similar amount?

Rep. Drovdal I am not suggesting an increase, but there would be less deduction from the salary he is already getting. It would only be his share of the payment to TFFR. The school share would still be submitted.

Rep. Vernon Laning The bill mentions an annual hourly limit. Do you know what that annual hourly limit is? He was told the next speaker could answer that question.

John O'Connor, semiretired teacher from Watford City, appeared in support. He was a science teacher and did go back to teaching half time at Watford City after retiring full time. Then he switched half time to Alexander with his former student who had been teaching at Alexander going full time in Watford City. When the oil play started picking up, Alexander became short of teachers and so he ended up teaching longer there. If I work 700 hours or less a year, I can collect my benefits and teach. As of July 1 of this year, 10.75% of my salary would go towards TFFR. The school would match that so that is a little over 21% of my salary would be going into TFFR. The basic premise here is we should not be tapped twice without any increase in benefit. The simplest solution for TFFR would be to remove

the teachers' portion of that. He talked about all the strain for the schools because of the oil boom. He brought some testimony from a fellow teacher. **Attachment 1.** (12:50-16:17)

Rep. Bill Amerman If this passes, the school district doesn't have to pay that portion of it anymore?

John O'Connor On my contract this year the school is adding to my salary, not to me directly but to be paid to TFFR, an extra \$4,354. If this bill passes, that \$4,354 simply would not be included. I would not get that.

Rep. Gail Mooney The school then when they pay that, they have to factor that into their budget as an added expense back to the school district?

John O'Connor Correct.

Rep. Vernon Laning You can work up to the annual hour limit without any contribution to the retirement fund? After the hourly limit, though, the contribution would resume to the fund?

John O'Connor It would. If I went over 700 hours a year for half time, then my benefits would cease.

Rep. Vernon Laning Then the contributions to the fund would also resume at that point?

John O'Connor Yes.

Rep. Marie Strinden There are retired teachers who are working in positions that are usually held by teachers who haven't retired and then come back. You would assume that non retired teachers would be paying into this fund, but if guys aren't paying into the fund, I am curious whether that is going to hurt the retirement fund overall?

John O'Connor It would certainly reduce the amount of money going into the fund, the teacher's half and the school's half. The teacher's half would no longer be going to the fund.

Rep. Marie Strinden Is anyone's funds going down because you are not paying into the fund?

John O'Connor I do not believe so.

Rep. Gail Mooney It only affects your retirement, not your fellow teachers' retirement?

John O'Connor Correct. When this first came up, Mark and I considered stepping aside, but they couldn't find replacements for us. The school looked into the cost of hiring new teachers but that would be for half-time positions. Taking into consideration the lack of housing--Mark and I both have housing--that was a very large factor in the school district agreeing to pay our portion.

Chairman Jim Kasper How many hours per day are you teaching right now?

John O'Connor I teach three class periods and then I have a half prep period. It turned out to be 690 and some odd hours.

Chairman Jim Kasper On a daily basis it would be about 3 ½ hours a day? Are you teaching five days a week?

John O'Connor Yes.

Chairman Jim Kasper You are being credited with roughly 20 hours per week?

John O'Connor I don't teach all those hours. I teach three class periods.

Chairman Jim Kasper How do you calculate the hours to stay under the 700 hour gap? You are not being charged more hours than what you should be on the 700 hours?

John O'Connor We calculate the in classroom time.

Chairman Jim Kasper If you choose to stay there between classes for an hour, you don't have to charge the school district that hour because you are not actually in the classroom?

John O'Connor No.

Chairman Jim Kasper Is there pressure on school boards to increase the starting wages? Do you have an idea on that starting salary in order to entice someone to come and live there with the circumstances we have?

John O'Connor I don't know what the starting salary is Alexander is. I know that it was increased the year before last by \$1,400 and last year it was increased by \$5,000.

Chairman Jim Kasper Are you seeing your property taxes on your home increase substantially? Mr. O'Connor said they had. He shared the assessed valuation three or four years ago on his home compared to what it is today at the request of Chairman Jim Kasper.

Chairman Jim Kasper Property tax pressure is also escalating. If you haven't gone back to work, you would be on a fixed income.

John O'Connor I am of an age I can collect social security. I can live on my TFFR and social security comfortably. It isn't a necessity that I teach. I still enjoy teaching.

Chairman Jim Kasper What percentage are we away from really having to meet what the problems are out in your area? Are we half way there?

John O'Connor It depends upon the pipelines. The multiwall pads have cut down on a lot of the trucking. I would estimate 3-5 years.

Chairman Jim Kasper I appreciate your opinion.

Rep. Marie Strinden Has anyone attacked this from the other angle which would be instead of having you pay in and get no benefits, having you pay in and get increased benefits?

John O'Connor That would be possible. I understand that would be a little bit more cumbersome.

Rep. Gail Mooney Even after the western part of the state is stabilized, doesn't it open it up so that retirees could come into school districts and lend hand when that is needed regardless if it is eastern or western side of the state?

John O'Connor Certainly.

Rep. Gail Mooney I am from the eastern part of the state. I am thinking of various specific instances when I know of educators who have gone back in either through teaching or administratively to help out during interim periods of time.

Rep. Marie Strinden Since you brought this plan to us, that this is the way you would like to go instead of what I had suggested?

John O'Connor This is the only bill that I have seen.

Rep. Steven Zaiser Have you talked to other retired instructors from around the state that feel it might be to their benefit and they would like to have contributions go into the fund?

John O'Connor I have not. Mark talked to friends in the Bismarck school system and they are not happy.

Opposition

Fay Kopp, Interim Executive Director-Chief Retirement Officer, ND Retirement and Investment Office-ND Teachers' Fund for Retirement appeared in opposition. She presented the attached testimony. **Attachment 2** (35:36-44:02)

Chairman Jim Kasper Your line of testimony is talking about this retired employee coming back to work. If the employee had never been rehired and never came back to work, how does that affect the fund?

Fay Kopp The implication there is that position would have been taken supposedly by an active contributing member. Therefore, there would have been funds by both the employer and the employee being paid into the plan so it would have put the plan in a more neutral position.

Chairman Jim Kasper What your calculations are assuming by your actuaries is that this job was filled by someone who is not contributing but could have been filled by someone who is contributing and, therefore, we are theoretically losing the money that would have

been contributed to the fund by the new hire that wasn't hired because we couldn't find them?

Fay Kopp There are a number of different examples out there. We don't know with any certainty. There are some basic assumptions made and that is that we will have a certain number of contributing members. As people leave and retire, they will continue to be filled.

Chairman Jim Kasper What about the benefit of this phantom employee that was never hired because obviously if this un hired employee that you think would have been hired that wasn't would have been hired, that employee theoretically would be drawing benefits from the fund down the road? Therefore, you have a liability that is never really realized by the fund because the employee was never hired in the first place. Doesn't the liability that you don't have to book in your calculation, isn't that offset by the fact that the employee never existed?

Fay Kopp It all comes back to whether or not that position was filled or not.

Chairman Jim Kasper Assuming for a moment that there was no need in that position, that the position was eliminated, therefore the fund does not have any additional liability because that employee is never there. I see your calculations. Well, we are going to take the other side, though. What if that employee had been hired and he or she wasn't, we are missing all this money and, therefore, we are going to say it is a negative impact to the fund, but the employee never would have hired in the first place? How do your actuaries get to that point where they make these assumptions when we never know what would have happened anyway? We only know the current circumstances today as they exist.

Fay Kopp That certainly is a dilemma. Anything that we provide is an estimate based on a certain level of assumptions. This group can make another set of assumptions, but based on the actuarial calculations that are done and are pretty standard in the industry, that is a type of assumption. Whatever potential loss is reflective of the number of people that would be reemployed. We recognize that there are factors. We are not in charge of the hiring decisions. We do not know if that position would be filled. In some cases it is possible that position could be filled. Maybe not in the case in Alexander and Watford City, but possibly in the case of Fargo or Bismarck, that position may be filled. We certainly don't want you to recognize the fact that there is a potential for a liability but it is an estimate. (Continuing testimony 48:31- 55:02) She then went over the charts on Pages 1-4 of the attachments to the testimony. (End 58:21)

Rep. Karen Karls When you are discussing part time, re hired, retired teachers, does this cover substitute teachers also?

Fay Kopp If substitute teachers are not under contract, this does not affect.

Rep. Bill Amerman All these bills that affect the retirement fund should be before the employee benefits committee, and that committee has the ability to meet at any time. Do you believe it should be rereferred to employee benefits and then come back here?

Chairman Jim Kasper That is what I understand. If we take action to move this bill forward, we are going to have to rerefer it to the employee benefits committee. Is that correct, Fay?

Fay Kopp Yes, that is my understanding as well.

Rep. Jason Dockter Would you be in favor of the bill if you put a provision in there to recalculate the rehired retirees' benefits?

Fay Kopp No, I don't believe our board would be in favor of it. In fact, it could likely have more of a negative financial impact on the plan or be even more administratively cumbersome. It would be difficult to identify at what point you are going to recalculate that employee's benefit.

Chairman Jim Kasper Let me tell you what the core of the problem is. HB 1134 passed last session. What that bill said is we are going to assume that we are going to rehire these teachers and administrators in the future and we are going to assume that we are going to make the teacher and the employer pay into the fund but we are going to assume we are never going to pay them anymore benefits. That is the way we are going to be able to get to helping get to our unfunded liability shortfall. Is that what happened, Fay?

Fay Kopp HB 1134 was certainly designed with addressing TFFR's unfunded liability. Part of that provision said that all of our 17,000 members may be impacted one way or another as a result of that. Active employees would have to pay higher contribution rates. In effect, their benefit is not getting higher, but they are helping to address the long term financial sustainability of the plan. Employer contributions were raised. If reemployed retirees made the election to return to work, and yes, it is true in some cases, school districts certainly were contacting them trying to draw them out of retirement, but in those cases it was part of the bill that if an employee elected to return to work, they would also need to pay in to help address TFFR's unfunded liability.

Rep. Scott Louser What is the dollar amount unfunded liability in TFFR is?

Fay Kopp As of the July 1, 2012 actuarial report, TFFR's unfunded liability was about \$1.1 billion.

Chairman Jim Kasper Could you provide us a summary of that report.

Fay Kopp I will provide you with the executive summary.

Rep. Jason Dockter With the unfunded liability, are we about 70% funded?

Fay Kopp We were at about 61% funded. As we continued incorporating the losses from 2008 and 2009, we smoothed that in over a five year period, we should almost be hitting about the bottom. As these contribution increases start coming in, we should start to see funding levels increase.

Chairman Jim Kasper Right now we are having the full negative effect of 2008 and 2009 and we are not having any effect of 2012 and 2013 where we are actually at the highest level the Dow has ever been. The fact that the numbers now show a huge negative, we are actually as far as the fund is concerned if we looked at today's values probably not underfunded.

Fay Kopp Even if we would be using market value and incorporating in these last years, we would still show a significant unfunded liability. Of course, that doesn't recognize the last six months.

Rep. Marie Strinden Could you give me the dummy's version of the unfunded money you are talking about?

Fay Kopp TFFR's actuaries each year look to estimate the amount of money that it is going to take to fund the benefits for our current retirees as well as our future retirees. They do that by making many assumptions upon which to estimate the total liability of the plan. When they measure that each year, they mark against that the value of assets that we have against that. The difference between those two is the unfunded liability.

Vice Chair Randy Boehning The amount of revenue coming into the fund versus the expenditures, what is the difference in that?

Fay Kopp Last year coming into the plan we drew in about \$85 million from member and employer contributions. We paid out benefits of about \$130 million. I will confirm that when I send that information.

Doug Johnson, Executive Director of the ND Council of Educational Leaders appeared in opposition. When we had the real tremendous shortfalls to the fund in 2008 and 2009, we teacher related associations were called together by the TFFR to sit down and look at what we had to do to fund this retirement plan and not come back to legislature to ask for that funding to help us to pay for it. We took on that responsibility to find the best way that we could generate the dollars to make that fund actuarially sound. It is not actuarially sound at this point in time, but the plan that was put forward would have a funding ratio at 90% within about 28-30 years.

Chairman Jim Kasper You said some schools could use distance teaching. If they did that, there would not be a person hired. Is that correct?

Doug Johnson It depends on how that is set up. If it is distance learning, they contract with that individual and there would not be a person hired for that position.

Chairman Jim Kasper There would be no contribution to that fund under that scenario?

Doug Johnson If it is through the distance learning through the state of North Dakota, usually that is a contributing member to the state plan.

Chairman Jim Kasper There is no additional funding going into the fund because you are already using someone over here that is contributing so you are not sort of double dipping.

Doug Johnson That would be correct.

Chairman Jim Kasper Theoretically, that distance teacher is taking away from the position that should have been hired over here under this scenario to pay into the fund, but it is not going there.

Doug Johnson That is correct, but do realize we have unique situations when you are only going to have one period available for that to be taught and those are difficult to find so those are the alternatives that are available for solving that problem.

Rep. Gail Mooney You mentioned that in 28 to 30 years the fund could become 90% funded?

Doug Johnson Once the 90% level is reached, these contributions would drop back to the current level prior to when we went up 7 ½% each side.

Rep. Gail Mooney Approximately how many teachers do we have in the state of ND?

Doug Johnson About 9,000 teachers.

Rep. Gail Mooney Out of that we have 318 are retired teachers coming back in and working under contract. That 318 is going to throw us off that far?

Doug Johnson About \$850,000 a year is lost.

Rep. Gail Mooney That is only granted that it would be a hired position. If some of those positions were never rehired at all, then it actually is a mute point, correct?

Doug Johnson That would be correct.

Rep. Karen Karls Do you have any idea if Bismarck pays both sides?

Doug Johnson I am not aware what they do at this time.

Rep. Jason Dockter No, it comes out of my wife's check each month, so the employee pays part.

Kayla Pulvermacher from North Dakota Education Association, appeared in opposition. NDEA's primary goal is to protect the integrity of TFFR. Our concerns are that this bill would have a negative impact on the fund.

Rep. Gail Mooney If we were to look at a situation where the retirees' compensation was refactored, does that not actually penalize the retiree as well?

Chairman Jim Kasper The retired employee that is coming back to work retired at an average salary of \$50,000. Let's say they come back to \$10,000. Is there a protection feature in the law that could help protect that or could it negatively impact because of the reduced salary average?

Fay Kopp How the salary or benefit would be recalculated would have to be determined. What is currently in law relates to those retirees who have had their benefits suspended and we may recalculate their benefits. If they work under two years, their benefit is not recalculated, but there is a return of their contributions. She read the following: two to five years, the greater of the discontinued annuity plus additional years at the current multiplier plus benefit increases granted or all years. We will do one or the other.

Chairman Jim Kasper asked Fay to provide the committee with that brochure.

The hearing was closed on HB 1203.

2013 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee

Fort Union Room, State Capitol

HB 1203
February 8, 2013
Job 18631

☐ Conference Committee

Committee Clerk Signature

Explanation or reason for introduction of bill/resolution:

Relating to discontinuance of member contributions for retired teachers returning to active service under the TFFR; and to declare an emergency

Minutes:

You may make reference to "attached testimony."

Chairman Kasper: Reviews concept of HB 1203. Summarized both sides of testimony given during the hearing.

1:40 Representative Rohr: (audio faint) Summarized bill in its current form.

Chairman Kasper: Representative Louser, you were on the interim committee. What was the action?

2:22 **Representative Louser:** There were three bills that came before the interim employee benefits committee. Two would address this very situation. One was this bill. The interim committee voted Do Not Pass on this as well as on another that came out of the Senate. This one would change the amount paid in; the mirror bill in the Senate would change the benefit paid out. Both were given a Do Not Pass by the interim committee. A note on this particular situation: With the person who testified, the employer is paying both sides of the retirement. If this bill were to pass, it would not affect that person anyway because he wouldn't have an increase in his salary based on what was negotiated.

3:18 **Chairman Kasper:** Please refer to the testimony from Fay Kopp, the summary on page 5, for information about member contributions. If the bill is passed, the contributions will no longer have to be made.

3:55 **Representative Rohr:** I move a Do Pass.

Representative Mooney: Second.

Unidentified speaker: Representative Louser just indicated that the interim committee recommended a Do Not Pass.

Chairman Kasper: I understand. They are many times erroneous because they get all the actuarial information in front of them and they cave to the idea that the fund will lose money.

Representative Louser: As I understand this bill, the person brought before us would not be impacted by the passage of this bill because his employer is paying both sides of the retirement benefits. The purpose of this bill was for that person to receive the benefit that he is perceived to be paying in, and he would not receive that benefit under this bill.

Chairman Kasper: The crux of this bill is on page 3, line 29. This is dealing only with the individual's side. I think the employer might still have to pay.

6:14 **Representative Mooney:** There is still a cost to the school district on his behalf.

6:35 **Representative Louser:** His point was to say that he should receive the benefit; he did not talk about the cost to the school district.

6:50 **Representative Amerman:** Reflect back to the last session regarding the economic struggles of TFFR. It needs time to build. We will revisit this many times in the future to see how the fund is doing. I will resist the Do Pass motion.

7:32 **Representative Boehning:** I am also going resist the Do Pass. Last session, NDEA came in in favor of the bill. This session, they come in to oppose this bill.

8:00 **Representative Steiner:** I am also going to resist. I am going to respect the recommendation of the interim committee. The fund has a large amount of money in it.

Chairman Kasper confirms with motioner and seconder about allowing the motion to include a rereferral to appropriations.

8:53 **Roll call vote on the motion for a Do Pass, with a rereferral to appropriations. Motion fails.**

Yes = 4

No = 10

Absent = 0

Representative Zaiser: Motion for a Do Not Pass.

Representative B. Koppelman: Seconds.

Representative Paur: Called for question.

10:39 **Roll call vote on the motion for a Do Not Pass. Motion carries.**

Yes = 11

No = 3

Absent = 0

Carrier: Representative Rahr

FISCAL NOTE
Requested by Legislative Council
01/14/2013

Bill/Resolution No.: HB 1203

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts		\$(624,000)	\$(802,000)
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB1203 eliminates the requirement that TFFR member contributions be paid on behalf of re-employed retirees .

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Sections 1 and 2 relate to eliminating the requirement that TFFR member contributions be paid on behalf of re-employed retirees who stay under the general rule annual hour limit, or return full time in critical shortage areas. Using estimated salary of \$8,000,000 for FY13 and \$8,528,000 for FY15 for approximately 310 re-employed retirees that fall under the GR and CSA, the impact of eliminating member contributions would be an annual reduction of approximately \$780,000 in member contributions to TFFR (based on current 9.75% member rate) or annual reduction of approximately \$1,002,000 in member contributions (based on 11.75% member rate that will be in effect on 7/1/14). Negative impact on TFFR for each year will depend on the number of re-employed retirees that fall under the GR and CSA and their salaries. Currently, about 40% of TFFR employers/school districts who employ retirees have agreed through the negotiations process to pay all or a portion of member contributions. Therefore \$312,000 (780,000 X 40%) is expected to be paid annually by employers for TFFR re-employed retirees. IF HB 1203 is approved, effective 7/1/13, TFFR employers/school districts will save about \$624,000 in the 2013-15 biennium (312,000 X 2), and about \$802,000 (401,000 X 2) in the 2015-17 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

If any state educational institution (School for Blind, School for Deaf, Center for Distance Education, Youth Correctional Center) employs TFFR retirees in the future, a reduction in expenditures would be realized, since the State pays 4% of the employee/reemployed retiree TFFR contribution. The amount would be based on number of re-employed retirees that fall under the GR and CSA and their salaries.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

If any state educational institution (School for Blind, School for Deaf, Center for Distance Education, Youth Correctional Center) employs TFFR retirees in the future, a reduction in expenditures would be realized, since the State pays 4% of the employee/reemployed retiree TFFR contribution. The amount would be based on number of re-employed retirees that fall under the GR and CSA and their salaries.

Name: Fay Kopp

Agency: ND Retirement & Investment Office

Telephone: 328-9895

Date Prepared: 01/22/2013

Date: 2-8-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1203

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☒ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rohr Seconded By Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chairman Randy Boehning		X	Rep. Gail Mooney	X	
Rep. Jason Dockter		X	Rep. Marie Strinden	X	
Rep. Karen Karls		X	Rep. Steven Zaiser		X
Rep. Ben Koppelman		X			
Rep. Vernon Laning	X				
Rep. Scott Louser		X			
Rep. Gary Paur		X			
Rep. Karen Rohr		X			
Rep. Vicky Steiner		X			

Total (Yes) 4 No 10

Absent _____

Floor Assignment Rohr

If the vote is on an amendment, briefly indicate intent:

Date: 2-8-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1203

House Government and Veterans Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Zimmer Seconded By B Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper		X	Rep. Bill Amerman	X	
Vice Chairman Randy Boehning	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Marie Strinden		X
Rep. Karen Karls	X		Rep. Steven Zaiser	X	
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Gary Paur	X				
Rep. Karen Rohr	X				
Rep. Vicky Steiner	X				

Total (Yes) 11 No 3

Absent _____

Floor Assignment Rohr

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1203: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING).
HB 1203 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1203

Attachment 1
1203

January 21, 2013

Members of the Government and Veterans Affairs Committee,

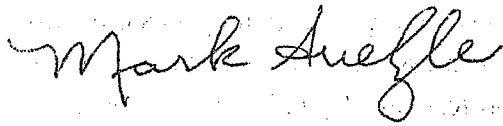
Hello. My name is Mark Suelzle. I am an educator and wish to give you my perspective on how current law is affecting the retired teacher sector of my profession in North Dakota. My premise is that teaching is a fundamental profession; all other professions depend upon it. As an educator my job is to train the next generation for the journey through life; be it doctors, lawyers, farmers, musicians, cooks or legislators.

I am 58 years old and have been educating students for 36 years. The first 32 were dedicated to teaching Music to students in the Mott Public Schools. Every one of those years I and my school district paid into TFFR. After retiring from Mott, I received a phone call from the President of the Alexander, ND School Board. Alexander needed a music instructor. This was ten days before school was slated to begin. It was a half-time position, small school, K-12, in the middle of oil country. I made a quick career decision and said yes. Had I not taken the job, Alexander School would not have had a music teacher. As we all know, teachers for critical areas are hard to find, especially part-time instructors and even more especially in oil country where wages outside the education profession are high and accommodations are scarce.

I have enjoyed my career in Education. It has been very rewarding. Money was never a driving factor ... until now. Beginning last July, 21% of my salary has been paid to the Teachers Fund for Retirement. Half is paid by the Alexander School District and the other half is my responsibility. Next year it will increase to 23% and the year after that it will be 25%. The Alexander School Board elected to pay my portion, about \$5,000. Most returning retired teachers (there are about 300 of us) were not that fortunate however. Yes, in 2 years one quarter of my salary will be going to the Teachers Fund for Retirement without increasing my benefits. I have never heard of anyone who pays into a retirement fund that does not receive a benefit. I have paid my retirement and now am being asked to pay again with no compensation. I feel like I, and the other 300 part-time retired teachers in this state, are being cheated and that TFFR is penalizing the retired teachers, when we are simply coming out of retirement to help ease the teacher shortage in our state.

How are schools like Alexander to survive without people like us who are willing to help out during these short-fall years? We retired teachers are not part of the problem; we are part of the solution! This law, as it is currently written, is counterproductive to the educational mission of the State of North Dakota. I urge you to rectify this situation by sending House Bill No. 1203 from committee with a DO PASS recommendation. Thank you for your consideration of this matter.

Respectfully,



Mark Suelzle,
Music Instructor
Alexander Public School
Alexander, ND

Attachment 2
1203

HB 1203

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

January 25, 2013

**Fay Kopp, Interim Executive Director - Chief Retirement Officer
ND Retirement and Investment Office - ND Teachers' Fund for Retirement**

Thank you for the opportunity to describe how HB 1203 would impact the TFFR trust fund, and to review the analysis conducted by TFFR's actuarial consultant. On behalf of the TFFR Board, I am testifying in opposition to this bill.

BILL SUMMARY

HB 1203 would eliminate the current statutory requirement that TFFR member contributions be paid on the salary earned by re-employed retirees.

Section 1: NDCC 15-39.1-19.1 Retired teachers return to active service -
Annuities discontinued on resumption of teaching over annual hour limit.

Section 2: NDCC 15-39.1-19.2 Retired teachers return to active service –
Critical shortage areas and disciplines.

RETIREE-REEMPLOYMENT BACKGROUND INFORMATION

Current law allows public school teachers and administrators, after a minimum 30-day break in service, to return to TFFR covered employment after retirement and continue receiving their TFFR benefits under certain employment limitations. The limits apply to TFFR covered employment, but do not apply to non-contracted substitute teaching, teaching in a public college, university, or private school, employment outside of education, or employment outside of ND.

The maximum annual hour limit under the General Rule (Section 1) is based on length of re-employed retiree's contract: 9 month contract = 700 hours; 10 month contract = 800 hours; 11 month contract = 900 hours; 12 month contract = 1,000 hours. If the retiree stays under the annual hour limit, they continue receiving their monthly TFFR pension benefit. If the retiree exceeds the annual hour limit, their monthly TFFR benefit is suspended and they are then treated like an active employee with their benefit possibly recalculated upon subsequent retirement if they meet certain other conditions outlined in state law.

Under the Critical Shortage Area exemption (Section 2), retirees can return to TFFR covered employment in an approved critical shortage area and exceed the annual hour limitation (work full time) and continue receiving their monthly TFFR pension benefit. A one-year waiting period is required. Critical shortage areas are determined each year by the Education Standards and Practices Board (ESPB). For the 2012-13 school year, ESPB has designated all areas except for elementary education and physical education as critical shortage areas.

Prior to 7/1/12, the employer paid employer contributions on the salary earned by reemployed retirees both under the general rule or critical shortage areas. No member contributions were paid. However, with the passage of HB1134 in the 2011 legislative session, beginning 7/1/12, member contributions are also required to be paid on the salary earned by re-employed retirees. The re-employed retiree's pension benefit does not increase as a result of the additional contributions being paid (unless their benefit was suspended because they exceeded the annual hour limit). However, the employee contributions are included in the retiree's guaranteed account value. This is the first year TFFR has collected member contributions on re-employed retirees.

Here is an example to help clarify the general rule, which is the method under which most retirees return to covered employment:

Example: John Jones is age 58, has 30 years of TFFR service, and receives average annual salary of \$50,000 as an active teacher. John is eligible for retirement, so he resigns from his position and retires from the school district. His TFFR benefit would be calculated as follows ($\$50,000$ final average salary \times 30 years \times 2.0% multiplier = $\$30,000$ annual TFFR benefit). After John retires, if he waits at least 30 days, he may return to covered employment on a limited basis and continue receiving his $\$30,000$ annual benefit from TFFR. As a 9-month teacher, John is allowed to work up to 700 hours (part time), earn salary/benefits from the school district, and continue receiving TFFR benefit. If John earns $\$25,000$ pay from the school district plus $\$30,000$ pay from TFFR, he would be receiving $\$55,000$ total between TFFR and school (working part time). Under current law, retiree/employee contributions are required to be paid ($25,000 \times 9.75\% = \$2,438$). Employer contributions are also required to be paid ($25,000 \times 10.75\% = \$2,688$). John's benefit does not increase as a result of returning to teach, however he is able to continue receiving the TFFR benefit while employed half time at the school.

During the 2011-12 fiscal year, there were 318 re-employed retirees. Average age was 62, and average salary earned was $\$24,500$. 132 school districts/employers employed the 318 TFFR retirees, with 4 retirees working in 2 school districts.

Of the total 318 re-employed retirees, 298 (94%) worked part time under the annual hour limit, 13 (4%) worked full time under critical shortage area exemption, and 7 (2%) worked full time under the benefit suspension and recalculation option.

Of the 318 re-employed retirees in 2011-12, 248 (78%) were teachers/special teachers, 44 (14%) were principals or other administrators, and 26 (8%) were superintendents.

So far in the 2012-13 school year, there are 252 re-employed retirees. However, by the end of the fiscal year, we anticipate there will be a similar number of re-employed retirees as there have been the last few years (over 300).

See attached charts for additional information on re-employed retirees.

2011 LEGISLATION

The TFFR Board submitted a comprehensive package of benefit and contribution changes which were studied during the 2010 interim and approved by the 2011 Legislature (HB1134). These changes were designed to improve TFFR funding levels over the long term, and reduce the unfunded liability of the plan.

One of the core principles upon which the TFFR proposal was based was that funding improvement responsibilities should be shared. For example, increases in both member and employer contributions; benefit reductions for both new and current employees who are more than 10 years away from retirement; no benefit increases for current retirees; and the requirement that member contributions be paid for those retirees who elect to return to covered employment.

In order to implement this legislation, both TFFR and the participating employers/school districts made the necessary software changes by the effective date of July 1, 2012. In addition, it is our understanding that in some cases, employers gave retirees salary increases large enough to cover all or a portion of their retirement contribution. In other cases, if the employer pays the member contributions for active employees, the employer also began paying the member contribution for re-employed retired employees. Each school district makes their own decisions regarding employee pay and benefits.

ACTUARIAL ANALYSIS

TFFR's actuarial consultant, Segal Company, reviewed this bill. A copy of their January 21, 2013, letter is attached. According to Segal's actuarial analysis:

The impact of eliminating member contributions on re-employed retirees would be a reduction in contributions to the system of approximately \$780,000 based on estimated re-employed retiree salary of \$8,000,000 (using the current 9.75% member rate), or 0.15% of total estimated fiscal 2013 payroll of \$535,900,000.

Beginning in fiscal 2015 and each year thereafter, the impact would be a reduction of approximately 0.18% of total pay in contributions to the system (based on the 11.75% member rate that will be effective July 1, 2014). For fiscal 2015, this equates to \$1,002,000 in lost contributions based on estimated re-employed retiree salary of \$8,528,000.

The impact for each year will depend on the number of re-employed retirees that fall under the General Rule and Critical Shortage Area exemption and their payroll.

According to the actuary, the impact on TFFR's unfunded liability would be the amount of contributions that would no longer be collected (approximately \$1,000,000 per year less than under current law), and there would be a small negative impact on the funding ratio of the plan going forward. Eliminating the provision associated with collection of member contributions for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

FISCAL NOTE

The fiscal note for HB 1203 is based on Segal's actuarial review of the bill (January 21, 2013 letter).

	<u>2011-13</u>	<u>2013-15</u>	<u>2015-17</u>
School districts	-	\$(624,000)	\$(802,000)

On its face, one would expect that passage of HB 1203 would only affect re-employed retirees. However, passage of the bill may also affect employers/school districts who pay the employee/retiree contribution into the TFFR. Currently, about 40% of TFFR employers/school districts who employ retirees have agreed through the negotiations process to pay all or a portion of member contributions. Therefore $\$780,000 \times 40\% = \$312,000$ is expected to be paid by employers for TFFR re-employed retirees in FY13. If HB 1203 is approved, effective 7/1/13, TFFR employers/school districts will save about \$624,000 in the 2013-15 biennium ($312,000 \times 2$), and about \$802,000 ($401,000 \times 2$) in the 2015-17 biennium, and will continue to increase each biennium depending on the number of re-employed retirees and their salaries.

In addition, if any state educational institution (School for Blind, School for Deaf, Center for Distance Education, Youth Correctional Center) employs TFFR retirees, a reduction in expenditures would be realized, since the State pays 4% of the employee/reemployed retiree TFFR contribution.

INTERIM STUDY

State statutes require all bills that affect the state's retirement plans to be reviewed by the interim Legislative Employee Benefits Programs Committee. To date, this has not been done, therefore there is no interim committee recommendation on HB 1203 at this time.

SUMMARY

HB 1203 removes one of the TFFR related funding improvement provisions just approved in the 2011 legislative session. As a result, TFFR will receive approximately \$1,000,000 less each year in member contributions on re-employed retirees. Because HB 1203 has a negative impact on TFFR funding and is expected to result in it taking longer for TFFR to reach its long term funding goals and to reduce member and employer contribution rates, the TFFR Board opposes this bill. The Board continues to believe that all members (both active and retired) and employers should share the responsibility for TFFR's long term funding improvement.

Mr. Chairman and members of the Committee, this concludes my testimony on HB 1203. I would be happy to respond to the Committee's questions. Thank you.



THE SEGAL COMPANY
101 North Wacker Drive Suite 500 Chicago, IL 60606-1724
T 312.984.8500 F 312.984.8590 www.segalco.com

January 21, 2013

Via E-mail

Ms. Fay Kopp
Interim Executive Director
ND Retirement & Investment Office
P.O. Box 7100
Bismarck, ND 58507-7100

Re: Full Actuarial Analysis and Technical Comments on House Bill 1203

Dear Fay:

The following presents our analysis of the proposed changes found in House Bill 1203 (Bill 13.0312.01000) that would eliminate member contributions for re-employed retirees under the Teachers' Fund for Retirement (TFFR).

Summary

The contribution rates (percentage per annum of the teacher's salary) required for TFFR members are shown below:

Period	Member Rate
July 1, 2012 through June 30, 2014	9.75%
Beginning July 1, 2014	11.75%

Prior to July 1, 2012, re-employed retirees were not required to pay TFFR member contributions (or have member contributions paid on their behalf) as a condition of their re-employment. However, with the enactment of legislation approved in 2011 (HB 1134), effective July 1, 2012, member contributions are required on salary earned by re-employed retirees as shown in the table above, and re-employed retirees continue to receive their retirement benefits while employed. The proposed legislation would revert to prior law and eliminate the requirement that TFFR member contributions be paid on behalf of re-employed retirees who stay under the General Rule (GR) annual hour limit, or return full time in Critical Shortage Areas (CSA). However, participating employers would still be required to pay employer contributions for these re-employed retirees.

Benefits, Compensation and HR Consulting Offices throughout the United States and Canada



Founding Member of the Multinational Group of Actuaries and Consultants, a global affiliation of independent firms

Actuarial Analysis

Using an estimated salary of \$8,000,000 for the 2012-2013 fiscal year for approximately 310 re-employed retirees that fall under the GR and CSA, the impact of eliminating member contributions would be a reduction of approximately \$780,000 in contributions to the system (based on the current 9.75% member rate), or 0.15% of total estimated fiscal 2013 payroll of \$535,900,000. Beginning in fiscal 2015 and each year thereafter, the impact would be a reduction of approximately 0.18% of total pay in contributions to the system (based on the 11.75% member rate that will be effective July 1, 2014). For fiscal 2015, this equates to \$1,002,000 based on estimated re-employed retiree salary of \$8,528,000. The impact for each year will depend on the number of re-employed retirees that fall under the GR and CSA and their payroll. In addition, the impact on TFFR's unfunded liability would be the amount of contributions that would no longer be collected and there would be a small negative impact on the funding ratio of the plan going forward.

Technical Comments

In 2011, HB 1134 was enacted with the intention of improving the funded position of the system. Eliminating the provision associated with collection of member contributions for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

Administrative Costs

This bill will require the Retirement and Investment Office to revise member and employer communications materials. In addition, there will be programming costs for TFFR and employers associated with modifying software to revert to pre- July 1, 2012 provisions.

General Comments

Calculations presented in this analysis were made using generally accepted actuarial practices and are based on demographic data as of July 1, 2012, asset returns through July 1, 2012, and use assumptions and methods in place for the July 1, 2012 valuation.

Please do not hesitate to contact us with any questions or comments.

Sincerely,



Kim Nicholl, FSA, MAAA, EA
Senior Vice President and Actuary



Matthew A. Strom, FSA, MAAA, EA
Consulting Actuary

kn/ms/bmi

2011-12 RETIREE RE-EMPLOYMENT SUMMARY STATISTICS

Total number of Re-employed Retirees 318

Superintendents	26
Administrators	44
Teachers	<u>248</u>

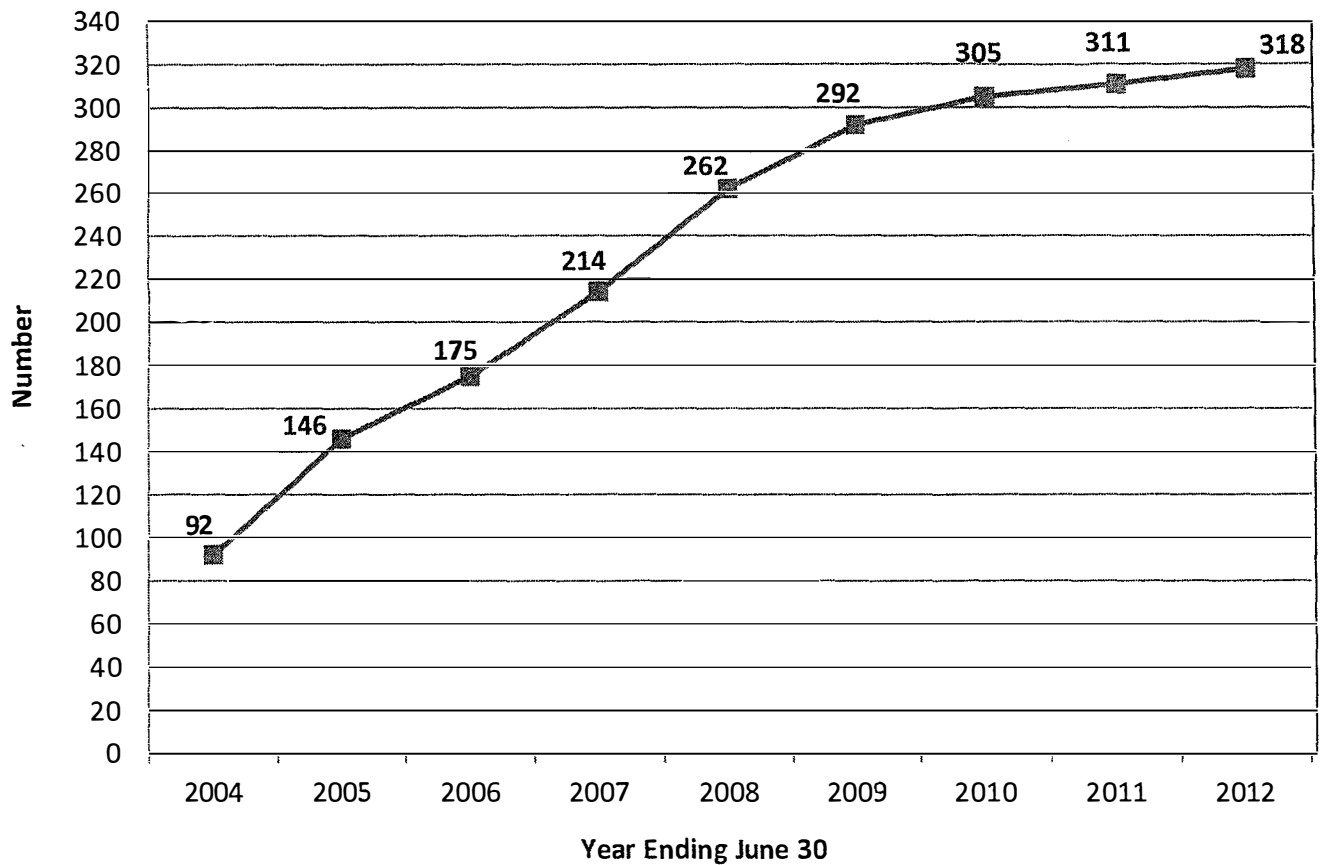
General Rule	298
Critical Shortage Area	13
Suspend and Recalculate	<u>7</u>

Average Age 62

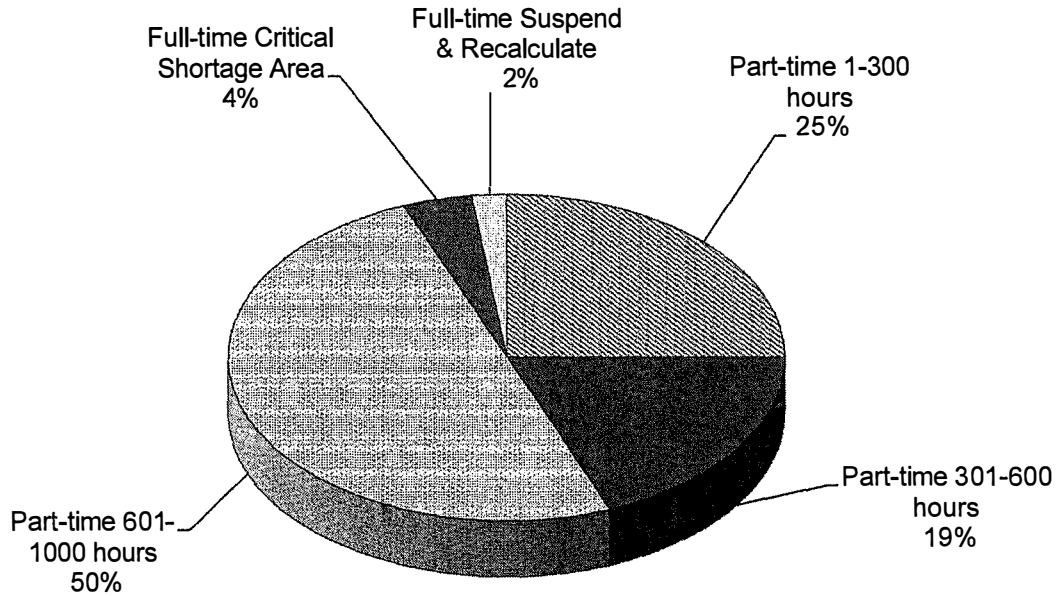
Average Salary \$24,500

Employers of Retirees 132

TFFR RE-EMPLOYED RETIREES 2004-2012

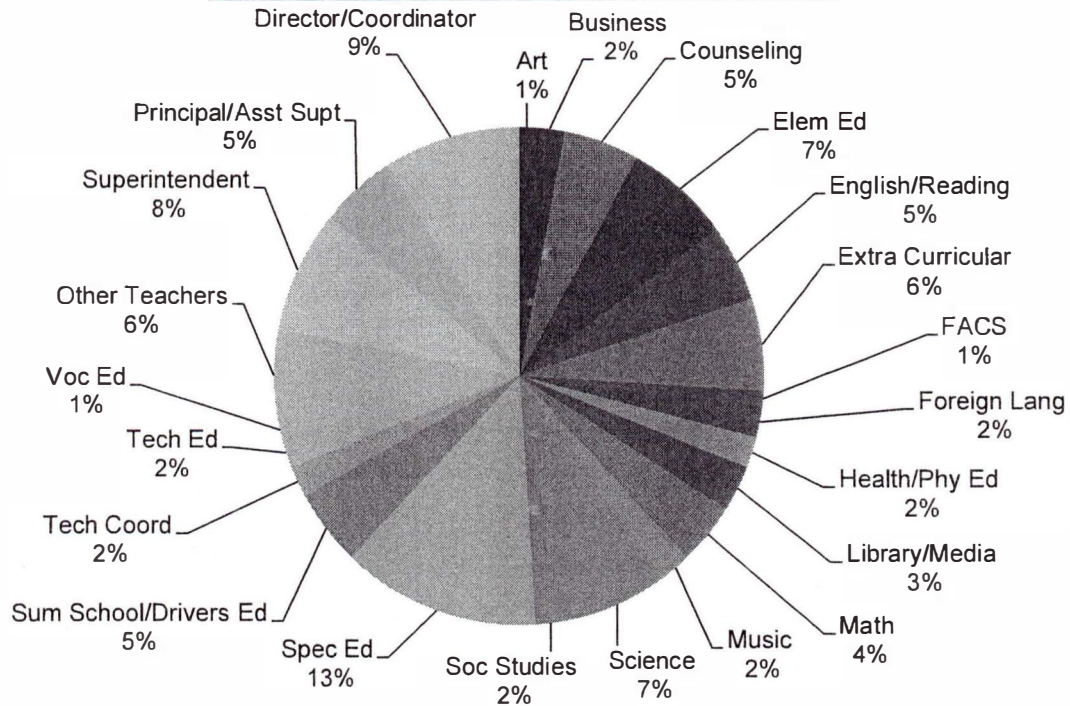


TFFR RE-EMPLOYED RETIREES
By Hours Contracted



<u>Hours Contracted</u>	<u>Re-employed Retirees</u>	
Part Time – General Rule	Number	Percent
1 – 300 hours	78	25
301 – 600 hours	61	19
601 – 1000 hours	159	50
Full Time		
Critical Shortage Area	13	4
Suspend & Recalculate	<u>7</u>	<u>2</u>
Total Re-employed Retirees	318	100%
(4 teaching in 2 districts)		

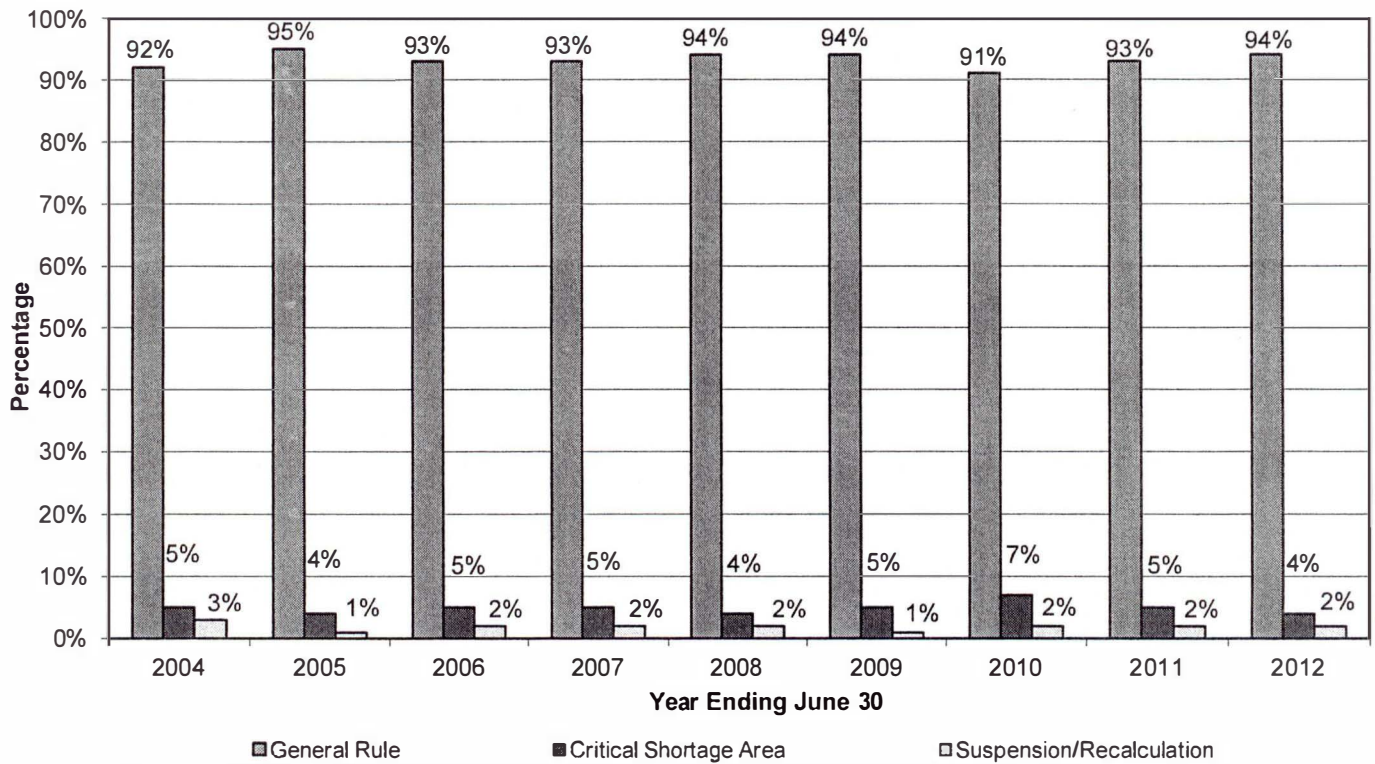
TFFR RE-EMPLOYED RETIREES BY SUBJECT/POSITION



Subject or Position	Re-employed Retirees	
	Number	Percent
Art	4	1
Business	7	2
Counseling	16	5
Elementary Ed	21	7
English/Reading	16	5
Extra Curricular	20	6
FACS	4	1
Foreign Language	7	2
Health/Phy Ed	5	2
Library/Media	10	3
Math	13	4
Music	6	2
Science	21	7
Social Studies/History	6	2
*Special Ed/Title/LD/Speech	41	13
Summer School/Driver's Ed	17	5
Tech Coordination	5	2
Tech Ed	8	2
Voc Ed	2	1
Other Teachers	19	6
Total Retired Teachers	248	78
Superintendent	26	8
Principal/Asst Supt	15	5
Director/Coordinator	29	9
Total Retired Admin	70	22
Total Re-Employed Retirees	318	100%
(4 teaching in 2 school districts)		

*Special Ed:	
ESL	1
LD	3
Speech Path/Ther	7
Spec Ed	13
Title	15
Hearing Impair	1
Vision Impair	1

TFFR Re-employed Retirees by Option



TFFR Re-employed Retirees by Job Type

