2013 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2331

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2331
02/07/2013
Job Number 18485

☐ Conference Committee

Committee Clerk Signature	

Explanation or reason for introduction of bill/resolution:

A Bill for an Act relating to adjustment of the service benefit upon subsequent retirement of retired teachers who return to active duty.

Minutes:

Chairman Dever: Opened the hearing on SB 2331.

Senator Heckaman, District 23: See Attachment #1 for testimony as sponsor of the bill.

(4:07) Ron Carlson, Principal in Minnewaukan School District: See Attachment #2 for testimony in support of the bill.

(9:10) Chairman Dever: Senator Heckaman mentioned possibly of instead of increasing the benefits, eliminating the contribution.

Ron Carlson: Either way, I would feel good about that.

Chairman Dever: One of the things we struggle with is that everyone came together two years ago to do what was necessary to fix the system and now we are starting to see the exceptions to that.

Ron Carlson: To be honest with you, when I first heard that that was going to happen, I had no problem with it. With the assumption I thought until reading into it further and checking into teacher's retirement, I just assumed that our benefits would go up however small they might be.

Vice Chairman Berry: It sounds as though a lot of retired teachers are coming back to help districts where if they did not come back that they possibly would lose funding. In those districts, if they are not paying that share of the contribution, is there any allotment for that or any way in the negation of the salary that is paid to the teacher coming back so that it can be made up in what the school is actually paying the teacher?

Ron Carlson: I guess I am fortunate in the school that I am at they do pay that for me. It does not affect me other than the fact that my benefits don't go up. I cannot answer as far as all of the other districts as to why the teacher is required to pay in the 9.75%; probably because all their other teachers are probably paying in that percentage too. To do it for retired teachers would probably create a problem for that school district.

Vice Chairman Berry: I am curious to know, if anyone testifying going forward knows the answer to that; if there is flexibility in the negotiations for the salary of the teacher that is coming so that they in fact would not be penalized.

Ron Carlson: Maybe Senator Schaible has an answer to that.

Chairman Dever: In defense of the teacher's retirement board and staff, I need to say that I do not expect that they are going to ask us to vote against this bill. I think their testimony will be to provide information to us. They administer the program as it comes together. If it seems that they are opposed to something or in favor of, it is because they are in favor of doing what needs to be done to keep the fund healthy.

Ron Carlson: All the teachers and administrators that I talked to did not have a problem with the solvency of the fund or paying in the 9.75% if they knew there was going to be a benefit to them for doing it. Just like any other retirement program.

Senator Schaible: Do you know of any situations that because of hiring retired teachers, or teachers in these specials needs, the ability to go off schedule and offer additional contracts with salary for coming back?

Ron Carlson: I think you would get into very touchy areas there with all the other full time teachers and if you start going off that schedule I think you would irritate a lot of others.

(14:40)Steve Swiontek, Retired School Superintendent, Devils Lake: See Attachment #3 for testimony in support of the bill.

(16:50) Senator Schaible: Refresh my memory on these retired teachers working half time, is it for five years and after that you can work full time and still receive your benefit?

Steve Swiontek: Teachers have to sit out a full year before they can go back as a full time teacher. Administrators, I do not believe there is that opportunity at all.

Senator Schaible: So for administrators your option is sitting out a year and working half time or going to a different state.

Steve Swiontek: That is correct. I receive a very nice benefit from TFFR and the TFFR people have been very good to work with; regarding my questions and comments and preparing me for the next stage of my life. I really have a tough time with working for a district and I am earning those benefits but yet I will never see any advantage to those benefits. That is the part that I believe is unfair.

(18:44) Fay Kopp, Interim Executive Director, Chief Retirement Officer, North Dakota Retirement and Investment Office: See Attachment #4 for testimony in opposition to the bill. We have seen some salary increases for some retirees to cover their portion of the contribution.

(35:25)Senator Schaible: So either one of these (referring to this bill and another one in the House) plans has a negative effect?

Fay Kopp: That is correct; they both affect the plan the same amount. One does have an additional amount of administrative complexity, but in either case the TFFR board has taken the position to oppose both of these bills.

(36:05) Kayla Pulvermacher, North Dakota Education Association: See Attachment #5 for testimony in opposition to the bill.

(37:22) Chairman Dever: I am curious of retired and rehired teachers continue their membership and pay dues to the NDEA?

Kayla Pulvermacher: We do have a retired chapter and in terms of our retired members we have not heard anything about this issue.

Chairman Dever: Closed hearing on SB 2331.

2013 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veterans Affairs Committee
Missouri River Room, State Capitol

SB 2331
02/07/2013
Job Number 18548

☐ Conference Committee

Committee Clerk Signature	Carie Illings

Minutes:

Chairman Dever: Opened SB 2331 for committee discussion.

Senator Nelson: Moved a Do Not Pass. This bill was turned in late and it was stressed just like it was this morning that this was part of a package deal to try to get the fund so it works. The retired teachers will not be getting an increase in their amount that they get for a whole lot of years. Teachers will be paying into the fund and luckily we cannot go back but any new teachers are in a different system than the older teachers. It had a unanimous vote out of employee benefits for a do not recommend and that is why I put in a motion for a do not pass.

Senator Cook: Seconded.

Chairman Dever: As Senator Nelson pointed out, everybody made the sacrifice to do that. This is for teachers that are rehired to go back to work. While they are working they continue to receive their retirement pay and they are expected to make that contribution. In most school districts, that contribution is made not by the employee, but by the employer. So it is not really a consideration. It is interesting to me that Faye did mention that substitute teachers don't have to pay that. It seems to me that rather than contracting for a teacher to be half-time they could substitute half-time.

Senator Nelson: I found it interesting that the two people that came in were administrators and not teachers. The teachers realized that this is at the benefit of everyone. These were pretty high powered administrators that were complaining.

Chairman Dever: One of the differences between defined benefits and defined contribution is that in a defined benefit plan everyone is a member of that plan and contributes.

Senator Marcellais: That brings up an interesting question. Do we have a shortage of teachers in North Dakota?

Chairman Dever: That was initially started to address special areas.

Senator Nelson: I have a problem with the standards board saying that we have a critical shortage in everything except elementary ed and phy ed. I don't think they work very hard to look at things. There are a lot of teachers out there that would like to teach in North Dakota. We need some new younger teachers in that system or it is going to go because of the numbers that are getting older are increasing daily.

Senator Marcellais: They did not mention the teachers union also.

Chairman Dever: They testified in opposition.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Senator Nelson: Carrier.

FISCAL NOTE
Requested by Legislative Council
01/29/2013

Bill/Resolution No.: SB 2331

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			
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).*

SB2331 increases TFFR retiree benefits based on amount of retired member contributions paid during re-employment. There is no direct fiscal impact to State or school districts. However, there is a small negative actuarial impact since the bill increases TFFR's actuarial liability.

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.*

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.*

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.*

Name: Fay Kopp
Agency: ND Retirement & Investment Office
Telephone: 328-9895
Date Prepared: 01/30/2013

Date: 2/7

Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 2331

Senate 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 Senator Nelson Seconded By Senator Cook

Senators	Yes	No	Senator	Yes	No
Chariman Dick Dever	✓		Senator Carolyn Nelson	✓	
Vice Chairman Spencer Berry	✓		Senator Richard Marcellais	✓	
Senator Dwight Cook	✓				
Senator Donald Schaible	✓				
Senator Nicole Poolman	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Nelson

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

REPORT OF STANDING COMMITTEE

SB 2331: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2331 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

SB 2331

Attachment #1

SB 2331

Mr. Chairman and Members of the Government and Veterans Affairs Committee:

I am Senator Joan Heckaman from New Rockford and I represent District 23

I am here today to introduce SB 2331 to the committee. This bill came as the result of a constituent request. And I would like the committee to know that I have a possible conflict of interest with this bill. I am a retired teacher who has returned to teaching in an area of critical need.

The bill before you addresses the adjustment of service benefits due to the rehiring of a retired teacher and the member benefits paid by that rehired teacher into the teacher's retirement fund. Due to a change in the law from last session, both the school and the retired teacher contribute to the Teacher's Fund for Retirement. However, also due to that change in law, the retired teacher gets no benefit from the amount assessed them by the fund. I have someone in the room who will testify that this doesn't seem right. The rational last session for assessing a retired teacher was that the teacher is taking the place of someone who would be paying in to the fund. I believe this is not quite true. While the retired teacher pays into the retirement fund, there will be NO teacher in that position to access those retirement funds. All this bill does is help keep the fund solvent. And while this is a concern to all educators across the state, retired teachers are filling positions where usually no teacher can be found. I have re-retired 3 times. All 3 of those times I was re-hired because the school could not find anyone to fill the position. I have heard statement that schools like to hire retired teachers because they don't have to pay into TFFR. I don't believe that is true.

We as legislators are making sure our K-12 students have a good education. As a result, we make laws that put requirements on our schools that sometimes make it difficult to stay accredited. Schools are required to have highly qualified staff. If they don't, they can lose state funding.

I know of some retired teachers who do not know until almost the start of the school year in August if they will be returning to help out certain schools. The schools advertise and look for non-retired teachers, but sometimes it is not

possible. These schools then start calling retired staff to see if they will help the school out.

I am here to look for a solution to this dilemma. Why do retired teachers have to pay into the fund and get no increase in their retirement benefit? Currently 9.75% of a retired teacher's salary is taken out of their check for the retirement fund. This is in addition to the school's share. And remember, there will be NO person drawing on these funds according to current law.

Last week I presented this bill to the Employee Benefits Committee for their approval. That evening, as I was re-reading the testimony of Ms. Kopp, I found a statement that bears attention. Her statement was "..., it would be administratively easier to eliminate these contributions."

I would be in favor of an amendment to this bill changing it into a bill that would eliminate the teacher's contribution to the fund. That was the way the law was prior to the 2011 session. Mr. Chairman, knowing your careful attention to bills, I believe if this committee favored that wording, you would take care to see that such an amendment would be drafted.

Thank you, Chairman Dever and Committee, for your attention to my constituent's concern.

Attachment #2

Mr. Chairman and Committee Members:

First- Thank you for allowing me to give testimony in favor of Senate Bill 2331

I am here representing myself and the other Teachers and Administrators who signed the sheets that were handed out to you.

Seven years ago when I retired and then came back for 800 hours a year, it was a win win situation for myself and the Minnewaukan School District. I could stay in an occupation that I had experience in and the District saved money. My retirement was $2700.00 a month. Enough to pay bills but not enough to retire full time on.

A couple of sessions ago the Legislature changed the plan so the School paid into retirement and last session changed the law so that both the School and the teacher paid into the plan. The total now is over 20 % . Some of the schools pay that amount but some of the teachers and administrators are paying the 9.75% out of their pocket.

I and the others understand why the Legislature had to change the retirement formula and have no problem paying in our share to the retirement system. But with our payment into the system we should be entitled to increased benefits, according to time worked, Half time should receive a half time credit. I have not come across another plan where it is mandated to pay in but receive no benefits

The areas where schools have part time retired teachers are in the critical areas of education in North Dakota. Without them we would have a hard time filling these positions. Most graduates in Math and Science can get jobs in all the larger cities, which is why the part time retirees become so important to smaller size schools. Two examples I can think of is Curt Hallaway who every year gets a call from a school needing a Math Teacher. He has filled in at Border Central, Rock Lake, Starkweather, and now North Star. He is filling a position in each school until they can find a full time teacher, and now he has 9.75% taken out of his check each month. Another is Darlene Thompson who taught in Minnewaukan and then went part time with us for a few years. She retired from here, sold their house and moved to Cavalier with no plans to continue teaching. Valley-Edinburgh called needing a part time math teacher, and even though is was not in her plans, decided to help them out, and again that retirement is being taken out of her check with no extra benefits for her when she fully retires

In calling Teachers Retirement I was told there was no way they could possibly refigure the benefits. I feel that anyone in charge of such a large program should have the ability to do this. If a teacher retires full time and two years later decides to reenter teaching full time, the Teachers Retirement staff would have to refigure their benefits the same way. In voicing my opinion that this was not right, I feel the person at Teachers Retirement was not very cordial and wanted me to drop the issue. I feel they are there to help us with our concerns when we have a question.

If you as committee members take a good honest look at this, losing 9.75 % of their income with no increased benefits is just not fair to these hard working teachers. There will also be someone from

Teachers Retirement Board or Staff who will ask you to vote against this bill. I am very curious what their reasoning is for taking that stance.

Thank you for your time and consideration, and I ask that you vote yes on Senate bill 2331.

Ron Carlson
Minnewaukan High School

As a Teacher or Administrator who is presently teaching in a critical needs area and collecting retirement or a part time Administrator/teacher, I feel that if we are paying into Teachers Retirement fund, that we should be entitled to increased benefits once we fully retire and am in favor of the passing of Senate Bill 2331

TEACHER	SCHOOL
[illegible]	Four Winds. HS.
Eilene Carlson	Four Winds High School
Mark [illegible]	Four Winds High School

As a Teacher or Administrator who is presently teaching in a critical needs area and collecting retirement or a part time Administrator/teacher, I feel that if we are paying into Teachers Retirement fund, that we should be entitled to increased benefits once we fully retire and am in favor of the passing of Senate Bill 2331

TEACHER	SCHOOL
Curtis Halloway	NorthStar Public School Cando, ND
Geul Peterson	Northstar Public School Cando, ND
Marla Nelson	Northstar Public School Cando, ND

As a Teacher or Administrator who is presently teaching in a critical needs area and collecting retirement or a part time Administrator/teacher, I feel that if we are paying into Teachers Retirement fund, that we should be entitled to increased benefits once we fully retire and am in favor of the passing of Senate Bill 2331

TEACHER	SCHOOL
Jeff DeCarpenter	North Border H.S. - Pembina
Laura Norby	North Border HS - Pembina
Doug Anderson	Cavalier Public School
David M Hanson	St Thomas public School
Wesley W Legoe	ST Thomas Public School
Craig Dahling	St. Thomas Public School

Attachment #3

TESTIMONY IN FAVOR OF SENATE BILL 2331

NORTH DAKOTA SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

FEBRUARY 7, 2013

By Steve Swiontek Ed. D.
662-5009
Steve.Swiontek@sendit.nodak.edu

Chairperson Dever and Senate Government and Veterans Affairs Committee Members, for the record, my name is Steve Swiontek, from Devils Lake, ND. I stand in front of you today in support of SB 2331, a bill relating to the change in service credit for retired teachers/administrators who return to work on a halftime or less basis. I retired this past spring and began collecting my TFFR payment in July of 2012. I had every intention to begin work in Minnesota as a school administrator, however, I was contacted by a North Dakota school district to work as a half time superintendent because they were unable to find one. Instead of going across the river, I decided to stay in North Dakota and go to work for this school district as a half time superintendent. The school district pays both sides of my TFFR contribution. However, these contributions to my TFFR account will not change my benefit, which I believe is unfair. SB 2331, if passed, will provide a benefit to the half time teacher and or administrator that they have earned. I do not believe that the half time public school educator should receive a full year credit, but should receive a service credit based on the hours worked, therefore, a half time educator should receive a .5 service credit for one school year worked.

North Dakota school districts have a challenging time filling teacher and administrative positions in the state, and in many cases, halftime employees fit a need in all size school districts. By providing a partial service credit for returning educators who are retired and work on a halftime or less basis, it will assist school districts in filling teacher and administrative positions in local school districts.

To close, I want to thank you for this opportunity. At this time, I would be happy to answer, to the best of my ability, any questions that you may have.

Attachment #4

SB 2331

SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE
February 7, 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 SB 2331 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

SB 2331 would provide an actuarial adjustment to increase benefits based on the total amount of retired member contributions paid to the fund during the period of reemployment. The benefit adjustment would be done after the retiree re-retires, at the completion of the member's re-employment with a covered employer. The benefit adjustment would be paid effective the first day of the month following the retired member's re-retirement.

> 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 General Rule annual hour limit, they continue receiving their monthly TFFR pension benefit and earn salary (and possibly benefits) from the school district. About 94% of re-employed retirees stay under the annual hour limit.

- If the retiree exceeds the annual hour limit (about 2% of retirees), 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. For example, if retirees returned to covered employment, had their monthly benefit suspended, and earned less than 2 years of additional service credit, they would receive their discontinued benefit, plus a refund of member contributions paid after the benefit suspension plus interest. If they earn 2 – 5 years of additional service credit, they would receive the greater of the discontinued annuity plus additional years/salaries at the current multiplier, OR all years recalculated at the current multiplier, less an actuarial offset for the amount of benefits already paid. If they earn 5 or more years of additional service credit, they would receive the greater of the above calculation, OR the retirement benefit recalculated using all the years/salaries at the current multiplier with no actuarial offset.

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. About 4% of retirees work under this option. 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 and 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. Depending on the negotiated agreement between the school districts and the teachers, the member contributions are either paid by the retiree through a salary reduction or paid (all or a portion) by the school districts/employer.

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 member contributions are included in the retiree's guaranteed account value.

Here is an example to help clarify the general rule – annual hour limit, which is the method under which most retirees (about 94%) 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 X 30 years X 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/member contributions are required to be paid (25,000 X 9.75% = $2,438). Employer contributions are also required to be paid (25,000 X 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 return to covered employment and continue to receive their pension benefits. No member (active or retired), wants to pay more contributions for the same or reduced benefit structure. Employers also do not want to pay more contributions. However, it was determined to be in the best interests of the plan as a whole for all parties to share in these funding

improvement actions which are expected to improve TFFR's financial soundness for current and future retirees.

This is the first year TFFR has collected member contributions on re-employed retirees. 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, but in many cases it appears that re-employed retirees may not have received a pay cut as a result of this new provision.

ACTUARIAL ANALYSIS

TFFR's actuarial consultant, Segal Company, reviewed SB 2331. A copy of their January 29, 2013, letter is attached. In their letter they noted they had also conducted an actuarial analysis on HB 1203 (letter dated January 21, 2013) which is a bill that would also impact re-employed retirees under TFFR. While HB 1203 and SB 2331 both impact retired member contributions, they are contradictory to each other. HB 1203 would eliminate retired member contributions during reemployment while SB 2331 returns the member contributions over time by actuarially increasing retired members' benefits upon subsequent retirement.

According to Segal, the impact of actuarially adjusting the benefits for re-employed retirees under SB 2331 would result in an increase in actuarial accrued liability of approximately $780,000 (based on the current 9.75% member rate). In fiscal 2015, the impact would be an increase in actuarial accrued liability of approximately $1,002,000 (based on the 11.75% member rate that will be effective July 1, 2014). These calculations were made using an estimated re-employed retiree salary of $8,000,000 for the 2012-2013 fiscal year and $8,528,000 in 2015 for approximately 310 re-employed retirees that fall under the GR and CSA.

The impact for each year will depend on the number of re-employed retirees that fall under the GR and CSA and their payroll. To the extent that re-employed retirees live longer or shorter than expected, the actual impact to the Fund will be more or less than the additional actuarial liability, and will be recognized as a gain or loss. If SB 2331 were enacted, there would be a small negative impact on the funding ratio of the plan going forward and it will take longer for TFFR to achieve its funding goals.

According to the actuary, the financial impact to TFFR of SB 2331 is similar to the financial impact of HB 1203. Both bills address the retired member contributions collected during the reemployment period. HB 1203 eliminates these contributions and SB 2331 refunds these contributions over time by an increase in the service benefit

upon subsequent retirement. Consideration should be given as to whether the additional administrative costs associated with SB 2331 would warrant passage of HB 1203, which eliminates these member contributions as opposed to increasing the member's service benefit upon subsequent retirement as required under SB 2331.

Another consideration is whether the provisions of SB 2331 will result in active members retiring earlier than they ordinarily would have in order to become re-employed retirees who will be eligible for an increase in service benefit upon subsequent retirement, particularly in school districts where their employers pay the member contributions. If this were the case, the increase in actuarial accrued liability would be greater than described above.

The following chart shows examples of the increase in a re-employed retiree's service benefit based upon various member contribution totals and subsequent retirement ages of 60 and 65.

Re-employed Retiree Member Contribution Totals	Additional Monthly Benefit Assuming Re-retirement Age 60	Additional Monthly Benefit Assuming Re-retirement Age 65
$50	$0.38	$0.40
$500	$3.76	$4.01
$5,000	$37.56	$40.05
$10,000	$75.12	$80.10
$15,000	$112.67	$120.15
$50,000	$375.58	$400.51

The actuary states that it will take 10 to 11 years for a re-employed retiree to recoup the member contributions that were collected during the reemployment period.

Segal notes that this bill will require staff to revise member and employer communications materials. In addition, there will be programming costs for TFFR in order to determine the additional monthly benefit upon each re-employed retiree's subsequent retirement. SB 2331 increases the complexities surrounding re-employed retirees, as there will be added administrative costs associated with educating members on how the provisions work and providing estimates of service benefits under alternative scenarios. As described earlier, if the intent of SB 2331 is to refund member contributions made during reemployment, it would be administratively easier to eliminate these contributions. As shown in the chart above, the increase in monthly benefit is minimal for member contribution totals that are low.

ADMINISTRATIVE ISSUES

To implement SB 2331, a number of administrative issues will need to be addressed.

1) TFFR would need to determine when the retiree is considered to be re-retired. For example, the retiree would need to resign from the position, and apply for re-retirement with TFFR. The retiree and employer would need to indicate that the retiree is not under contract for the upcoming school year, and does not intend to return to covered employment.

2) TFFR would need to work closely with employers regarding accurate and timely reporting of retired member contributions.

3) Once all payments are received and reconciled, then TFFR would begin the process of determining total retired member account values (including member contributions collected beginning July 1, 2012), reviewing applications and documentation from retirees and employers, confirming that retirees have not returned to covered employment the following school year, and finally calculating the necessary benefit adjustments. This process could likely take 3 – 6 months. The benefit adjustment would be paid retroactively to August 1, 2013, or the first day of the month following the retiree's re-retirement after the effective date of the bill.

4) Administrative rules will need to be promulgated, actuarial calculations will need to be determined, business system software changes will need to be made, and new forms and procedures will need to be developed. This will result in increased administrative and consulting costs which are difficult to estimate at this time.

5) TFFR retiree re-employment is already a very complicated process, and requires a considerable amount of counseling and ongoing communications with the retirees and the employers. This bill increases the complexity. A combination of manual, business system, and actuarial updates will be necessary to properly administer and monitor the retiree re-employment program.

FISCAL NOTE

Because SB 2331 maintains current member and employer contribution rates for re-employed retirees, there is no direct fiscal impact to the State, school districts, or political subdivisions compared to the current law.

However, there is a small negative actuarial impact on the TFFR trust fund since the member contributions collected on behalf of re-employed retirees will no longer help to pay down TFFR's actuarial liability, but will instead be returned to the re-employed retirees in the form of increased benefits which will in effect increase the plan's actuarial liability.

SUMMARY

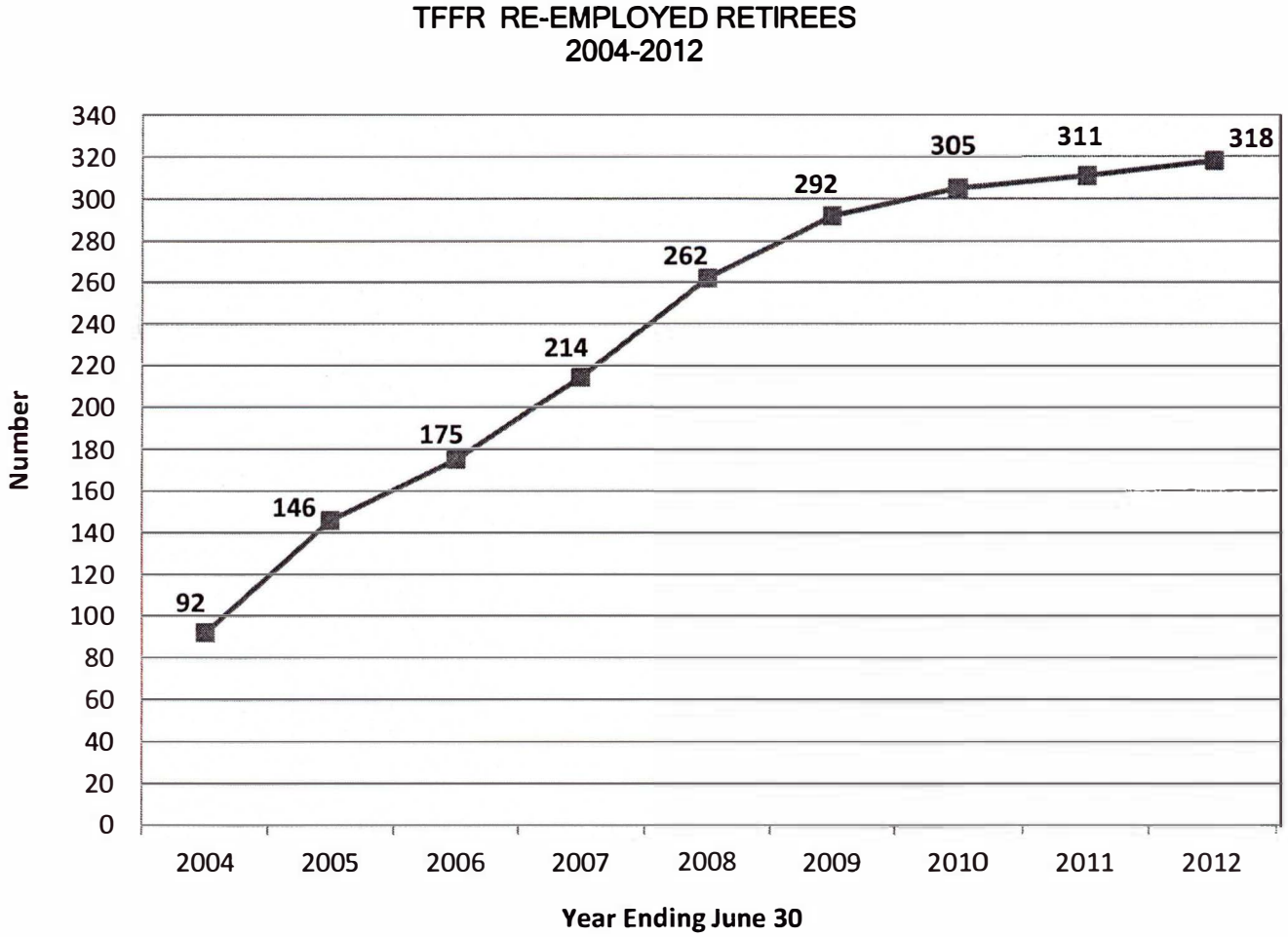
SB 2331 modifies one of the TFFR related funding improvement provisions just approved in the 2011 legislative session. As a result, TFFR's actuarial liability is expected to increase by about $1,000,000 per year.

Because SB 2331 increases TFFR's actuarial liability and is expected to result in it taking longer for TFFR to reach its long term funding goals, the TFFR Board opposes this bill. In addition, the administrative complexity of collecting retired member contributions in order to return them in the form of increased retiree benefits using a new actuarial calculation does not appear to justify the increased costs.

Mr. Chairman and members of the Committee, this concludes my testimony on SB 2331. I would be happy to respond to your questions. Thank you.

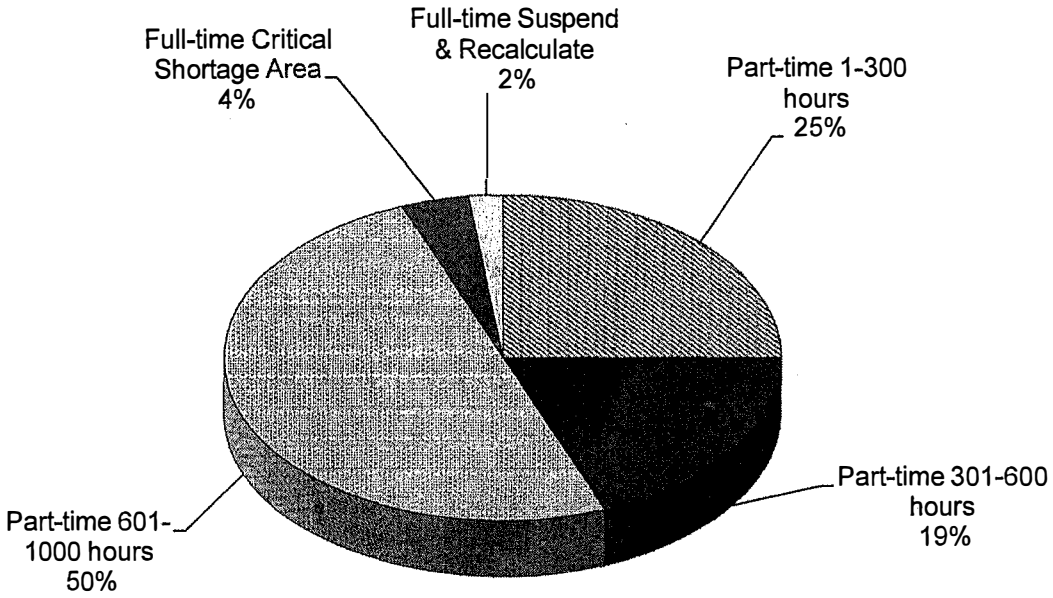
2011-12 RETIREE RE-EMPLOYMENT SUMMARY STATISTICS

Total number of Re-employed Retirees		**318**
Superintendents	26	
Administrators	44	
Teachers	248	
General Rule	298	
Critical Shortage Area	13	
Suspend and Recalculate	7	
Average Age	62	
Average Salary	$24,500	
Employers of Retirees	132	



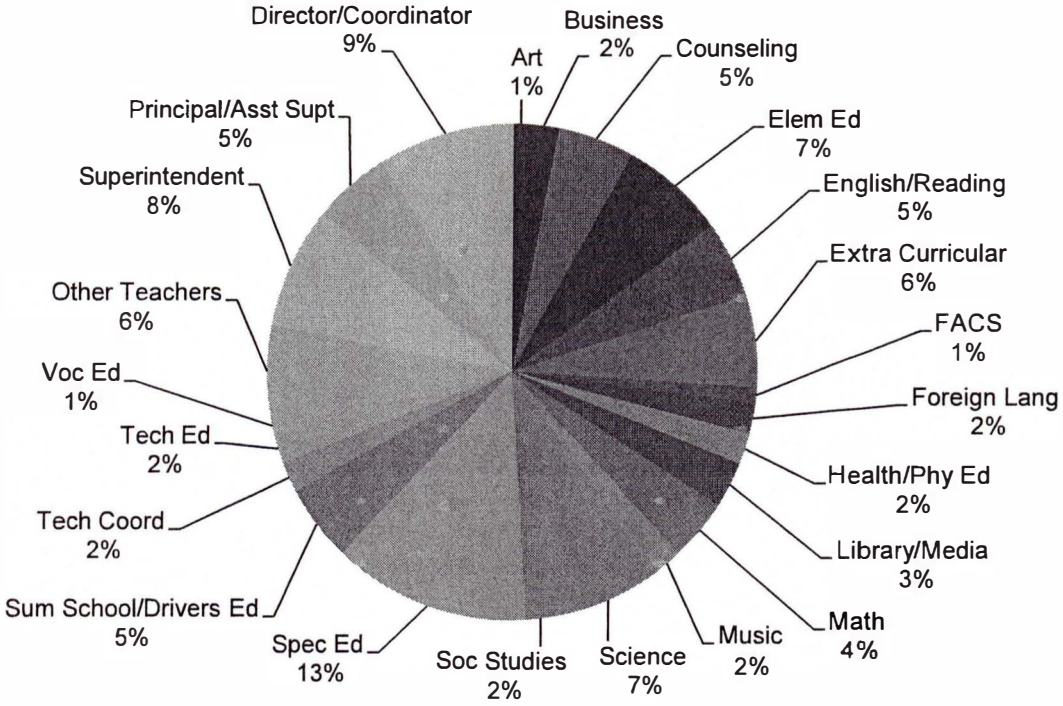
TFFR RE-EMPLOYED RETIREES

By Hours Contracted



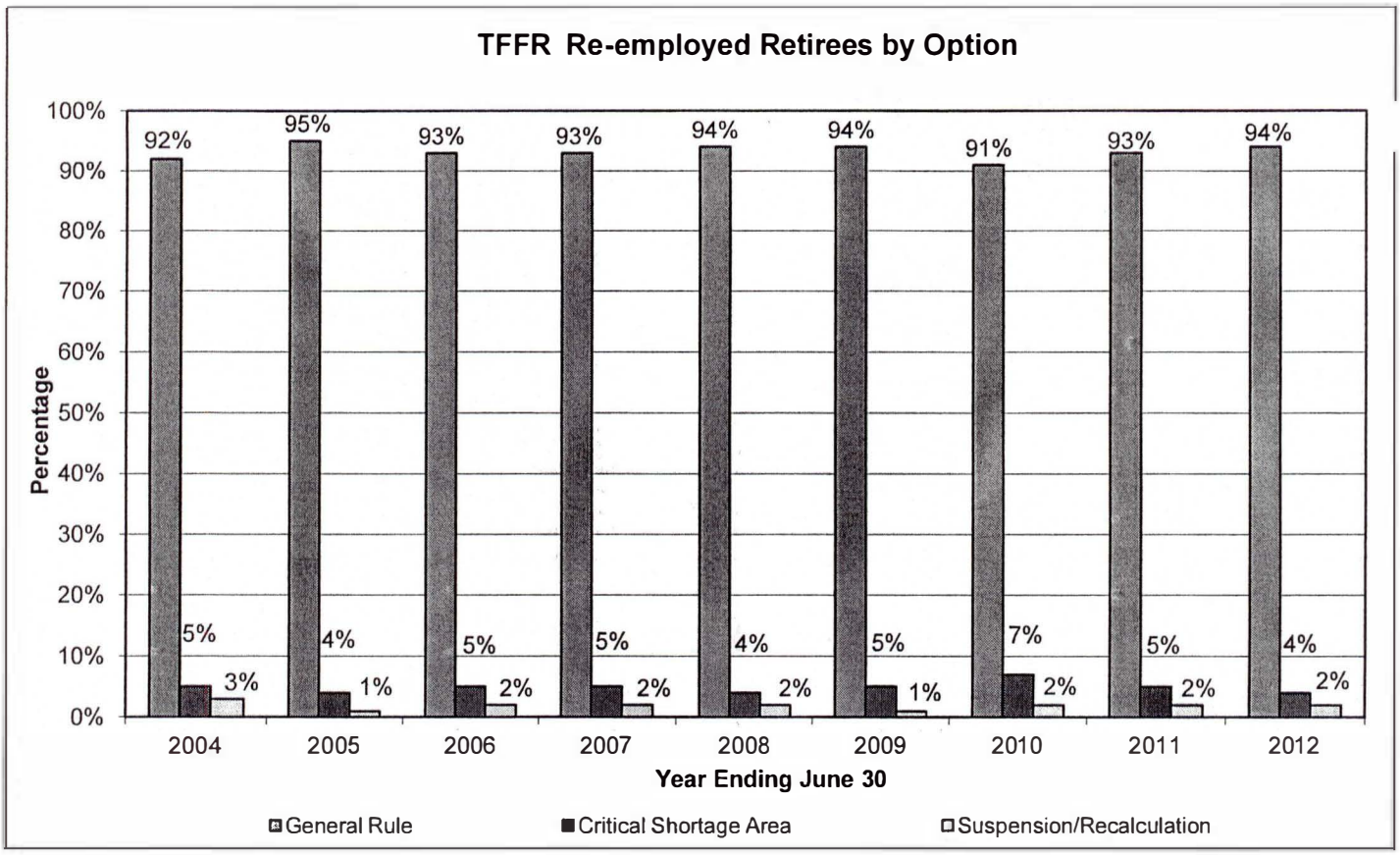
Hours Contracted	Re-employed Retirees	
Part Time – General Rule	**Number**	**Percent**
1 – 300 hours	78	25
301 – 600 hours	61	19
601 – 1000 hours	159	50
Full Time		
Critical Shortage Area	13	4
Suspend & Recalculate	7	2
Total Re-employed Retirees	**318**	**100%**
(4 teaching in 2 districts)		

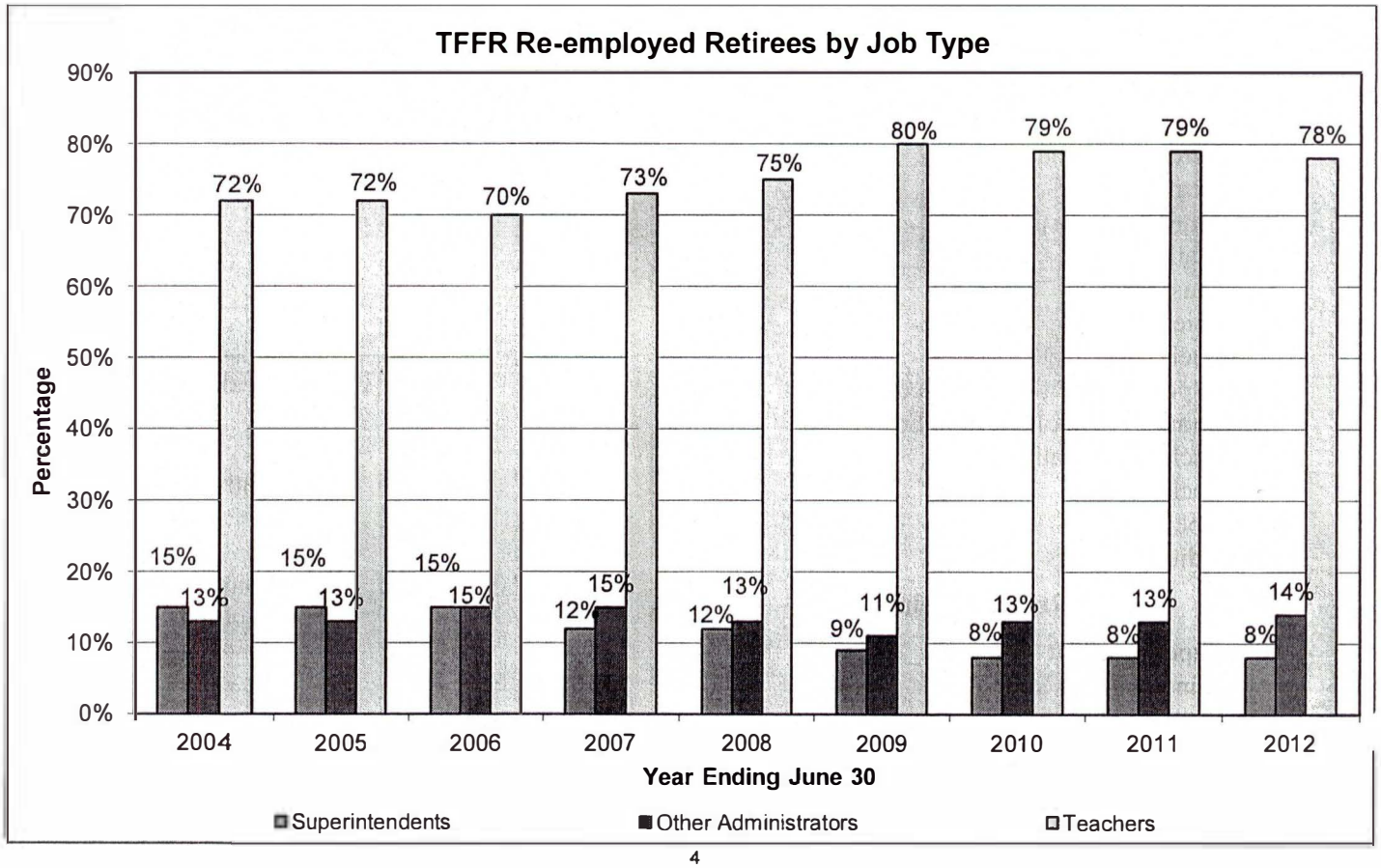
TFFR RE-EMPLOYED RETIREES BY SUBJECT/POSITION



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
100%
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Percentage
92%
95%
93%
93%
94%
94%
91%
93%
94%
5%
4%
5%
5%
4%
5%
7%
5%
4%
3%
1%
2%
2%
2%
1%
2%
2%
2%
2004
2005
2006
2007
2008
2009
2010
2011
2012
Year Ending June 30
General Rule
Critical Shortage Area
Suspension/Recalculation


TFFR Re-employed Retirees by Job Type
90%
80%
70%
60%
50%
40%
30%
20%
10%
0%
Percentage
72%
72%
70%
73%
75%
80%
79%
79%
78%
15%
15%
15%
12%
12%
9%
8%
8%
8%
13%
13%
15%
13%
11%
13%
13%
14%
2004
2005
2006
2007
2008
2009
2010
2011
2012
Year Ending June 30
Superintendents
Other Administrators
Teachers

SEGAL

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January 29, 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 Senate Bill 2331

Dear Fay:

The following presents our analysis of the proposed changes found in Senate Bill 2331 (Bill 13.0832.01000) that would provide for actuarially adjusting the service benefit upon subsequent retirement of retired teachers and administrators who return to active duty (i.e., re-employed retirees) under the Teachers' Fund for Retirement (TFFR). The actuarial adjustment would be based upon the total amount of member contributions received during a re-employed retiree's period of reemployment. The adjusted benefit must be paid effective the first day of the month following the re-employed retiree's subsequent retirement.

We provided a letter with the actuarial analysis of House Bill 1203 on January 21, 2013, which is a bill that would also impact re-employed retirees under TFFR. While House Bill 1203 and Senate Bill 2331 both impact member contributions, they are contradictory to each other. House Bill 1203 would eliminate member contributions during reemployment while Senate Bill 2331 refunds the member contributions over time by actuarially increasing members' benefits upon subsequent retirement. Further commentary on this is included in this letter.

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 provide for an actuarial increase in benefit upon a re-employed retiree's subsequent retirement based upon the member contributions received during a re-employed retiree's period of reemployment. Under current law, TFFR member contributions are 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) and are used to improve the funded status of TFFR. Participating employers would continue to be required to pay employer contributions for these re-employed retirees.

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 actuarially adjusting the service benefits for re-employed retirees would result in an increase in actuarial accrued liability of approximately $780,000 (based on the current 9.75% member rate). In fiscal 2015, the impact would be an increase in actuarial accrued liability of approximately $1,002,000 (based on the 11.75% member rate that will be effective July 1, 2014 and 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. To the extent that re-employed retirees live longer or shorter than expected, the actual impact to the Fund will be more or less than the additional actuarial liability, and will be recognized as a gain or loss. If Senate Bill 2331 were enacted, there would be a small negative impact on the funding ratio of the plan going forward.

The financial impact on TFFR of Senate Bill 2331 is similar to the financial impact of House Bill 1203. Both bills address the member contributions collected during the reemployment period. House Bill 1203 eliminates these contributions and Senate Bill 2331 refunds these contributions over time by an increase in the service benefit upon subsequent retirement. Consideration should be given as to whether the additional administrative costs associated with Senate Bill 2331 would warrant passage of House Bill 1203, which eliminates these member contributions as opposed to increasing the member's service benefit upon subsequent retirement as required under Senate Bill 2331.

Another consideration is whether the provisions of Senate Bill 2331 will result in active members retiring earlier than they ordinarily would have in order to become re-employed retirees who will be eligible for an increase in service benefit upon subsequent retirement, particularly in school districts where their employers pay the member contributions. If this were the case, the increase in actuarial accrued liability would be greater than described above.

Technical Comments

In 2011, HB 1134 was enacted with the intention of improving the funded position of the system. Increasing the retiree benefits based on total member contributions paid for re-employed retirees will mean that it will take longer for TFFR to achieve its funding goals.

The following chart shows examples of the increase in a re-employed retiree's service benefit based upon various member contribution totals and subsequent retirement ages of 60 and 65.

Re-employed Retiree Member Contribution Totals	Additional Monthly Benefit Assuming Re-retirement Age 60	Additional Monthly Benefit Assuming Re-retirement Age 65
$50	$0.38	$0.40
$500	$3.76	$4.01
$5,000	$37.56	$40.05
$10,000	$75.12	$80.10
$15,000	$112.67	$120.15
$50,000	$375.58	$400.51

The actuarial adjustments are based upon TFFR's post-retirement mortality tables, a unisex basis of 25% male and 75% female, and 8% interest.

As an observation, it will take 10 to 11 years for a re-employed retiree to recoup the member contributions that were collected during the reemployment period.

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 in order to determine the additional monthly benefit upon each re-employed retiree's subsequent retirement. Senate Bill 2331 increases the complexities surrounding re-employed retirees, as there will be added administrative costs associated with educating members on how the provisions work and providing estimates of service benefits under alternative scenarios. As described earlier, if the intent of Senate Bill 2331 is to refund member contributions made during reemployment, it would be administratively easier to eliminate these contributions. As shown in the chart above, the increase in monthly benefit is minimal for member contribution totals that are low.

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

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

Matthew A. Strom

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

km/ms/ns

5318635v1/13475.003

Attachment # 5

TESTIMONY OF KAYLA PULVERMACHER, NORTH DAKOTA EDUCATION ASSOCIATION HB 2331 FEBRUARY 7, 2013

Chairman Dever and members of the Senate Government and Veteran Affairs committee:

My name is Kayla Pulvermacher. I am here to represent the North Dakota Education Association (NDEA). I stand in opposition to HB 2331.

NDEA is committed to working along with all education stakeholders to preserve Teachers Fund for Retirement (TFFR). During the last session, NDEA was part of the effort behind HB 1134, which served as a recovery plan for TFFR. Because the bill would have a negative impact on the fund and would result in TFFR taking longer to reach its funding goals, NDEA is opposed to the bill.

Thank you for the opportunity to address this committee on the behalf of the members of NDEA. I am available for any questions the committee may have.