2023 JOINT POLICY

HB 1547

2023 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Roughrider Room, State Capitol

HB 1547
10/23/2023

A bill relating to the membership of the public employees retirement system board; to provide for duties of the public employees retirement system and public employees retirement system board; to provide an exemption; to provide for retroactive application; and to provide an effective date.

11:30AM Co-Chairman Thomas Opened the hearing.

Members Present: Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

Discussion Topics:

- PERS Board
- Composition of the PERS board
- Prior action relating to this bill
- Retiree member removed in this bill
- How elected members are elected
- Bill failed prior and was added in OMB budget
- Quorum as it relates to the PERS board
- Citizen members defined
- Investment dollars
- Fiduciary strength
- Retirement plan appropriations
- Definition of significant injury
- Definition of conflict of interest
- Actuary Consultants
- Actual Standards of Practice
- Recession Potential
- Unfunded Liability responsibility
- Illiquid asset definition
- Actuarial Rate of 6.5%

11:30AM Jennifer Clark, Senior Counsel and Code Revisor, Legislative Council explained the bill. #28060

11:52AM Representative Kasper proposed amendment. #28042

12:04 PM Chairman Thomas recessed the hearing.

1:02PM Chairman Thomas reconvened the hearing.

1:02PM Representative Kasper continued with proposed amendment.

1:27PM Scott Miller, Executive Director, Public Employees Retirement System. Testified verbally in opposition to Section 2.

1:45PM Co-Chairman Thomas closed the hearing.

Carie Winings, Committee Clerk

2023 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Roughrider Room, State Capitol

HB 1547
10/24/2023

A bill relating to the membership of the public employees retirement system board; to provide for duties of the public employees retirement system and public employees retirement system board; to provide an exemption; to provide for retroactive application; and to provide an effective date.

11:38AM Chairman Thomas opened hearing.

Members Present: Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

Discussion Topics:

- Amendments
- Quarem defined
- Standing to sue defined
- Plaintiff defined
- Board representation effect

11:38AM Senator Roers presented and moved amendment 23.1171.01005. #28065

11:40AM Representative Schauer seconded the motion.

11:59AM Co-Chairman Thomas recessed for lunch.

Carie Winings, Committee Clerk

2023 JOINT STANDING COMMITTEE MINUTES

Policy Committee
Roughrider Room, State Capitol

HB 1547
10/24/2023

A bill relating to the membership of the public employees retirement system board; to provide for duties of the public employees retirement system and public employees retirement system board; to provide an exemption; to provide for retroactive application; and to provide an effective date.

2:41PM Co-Chairman Thomas reconvened.

Members Present: Co-Chairman Klein, Senator Clemens, Senator Conley, Senator Elkin, Senator Hogan, Senator Kannianen, Senator Kessel, Senator Larson, Senator Lee, Senator Luick, Senator Patten, Senator Piepkorn, Senator Roers, Senator Wobbema Co-Chairman Thomas, Representative Anderson, Representative Dobervich, Representative Headland, Representative Heinert, Representative Kasper, Representative Klemin, Representative Koppelman, Representative Longmuir, Representative Louser, Representative Ruby, Representative Schauer, Representative Schneider, Representative Weisz.

Discussion Topics:

- Amendments
- Concern over member resignations
- Policy application to other boards
- Standards in Law
- Judicial Application
- Consequences

2:41PM Senator Roers withdrew prior motion and **Representative Schauer** seconded.

2:41PM Senator Roers presented and explained amendment 23.1171.01006 #28071

2:42PM Senator Roers moved the amendment.

2:43PM Representative Kasper seconded the motion.

2:44PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	N	Representative Dick Anderson	AB
Senator Cole Conley	Y	Representative Gretchen Dobervich	N
Senator Jay Elkin	N	Representative Craig Headland	Y
Senator Kathy Hogan	N	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	N	Representative Donald Longmuir	Y

Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	N	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	N
Senator Michael Wobbema	Y	Representative Robin Weisz	Y

Motion carried 18-7-1. (House 11-2-1 Senate 9-5-0)

2:47PM Representative Klemin presented amendment 23.1171.01007. #28072

2:51PM Representative Klemin moved the amendment.

2:51PM Senator Roers seconded the motion.

2:54PM Chris Joseph, Legislative Council addressed questions.

2:58PM Jennifer Clark, Legislative Council addressed questions.

3:03PM Scott Miller, Executive Director,PERS addressed questions.

3:19PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	N	Representative Paul Thomas	N
Senator David Clemens	N	Representative Dick Anderson	N
Senator Cole Conley	N	Representative Gretchen Dobervich	N
Senator Jay Elkin	N	Representative Craig Headland	N
Senator Kathy Hogan	N	Representative Pat Heinert	N
Senator Jordan Kannianen	N	Representative Jim Kasper	N
Senator Greg Kessel	N	Representative Lawrence Klemin	N
Senator Diane Larson	N	Representative Ben Koppelman	N
Senator Judy Lee	N	Representative Donald Longmuir	N
Senator Larry Luick	N	Representative Scott Louser	N
Senator Dale Patten	N	Representative Dan Ruby	N
Senator Merrill Piepkorn	N	Representative Austen Schauer	N
Senator Kristin Roers	N	Representative Mary Schneider	N
Senator Michael Wobbema	N	Representative Robin Weisz	N

Motion Failed 0-28-0. (House 0-14-0 Senate 0-14-0)

3:21PM Senator Lee presented and explained Amendment 23.1171.01008. #28074

3:23PM Senator Lee moved to rescind prior action on .01006 amendment and consider the amendment in replacement .

3:23PM Representative Schauer seconded the motion.

3:30PM Motion is out of order due to Senator Lee not being on the prevailing side of the vote of amendment 23.1171.01006.

3:31PM Representative Koppelman moved a Do Pass As Amended.

3:31PM Senator Luick seconded the motion.

3:42PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	N	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	N
Senator Jay Elkin	N	Representative Craig Headland	Y
Senator Kathy Hogan	N	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	N	Representative Ben Koppelman	Y
Senator Judy Lee	N	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	N	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	N
Senator Michael Wobbema	N	Representative Robin Weisz	Y

Motion failed 19-9-0. (House 12-2-0 Senate 7-7-0) (Failed due to 7-7 vote in Senate)

3:44PM Senator Roers moved to send Without Committee Recommendation As Amended.

3:44PM Senator Kannianen seconded the motion.

3:45PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	N	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	N
Senator Jay Elkin	N	Representative Craig Headland	Y
Senator Kathy Hogan	Y	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	N
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	N
Senator Dale Patten	Y	Representative Dan Ruby	N
Senator Merrill Piepkorn	Y	Representative Austen Schauer	N
Senator Kristin Roers	Y	Representative Mary Schneider	N
Senator Michael Wobbema	Y	Representative Robin Weisz	N

Motion failed 19-9-0. (House 7-7-0 Senate 12-2-0) (Failed due to 7-7 vote in the House)
3:46PM Representative Heinert moved a Do Pass As Amended.

3:46PM Representative Schauer seconded the motion.

3:47PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	N	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	N
Senator Jay Elkin	N	Representative Craig Headland	Y
Senator Kathy Hogan	N	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	Y
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	N	Representative Ben Koppelman	Y
Senator Judy Lee	N	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	Y
Senator Dale Patten	Y	Representative Dan Ruby	Y
Senator Merrill Piepkorn	N	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	N
Senator Michael Wobbema	N	Representative Robin Weisz	Y

Motion failed 19-9-0. (House 12-2-0 Senate 7-7-0) (Failed due to 7-7 vote in Senate)

3:48PM Representative Schneider moved to send Without Committee Recommendation As Amended.

3:49PM Representative Schauer seconded the motion.

3:50PM Roll call vote:

Senators	Vote	Representatives	Vote
Senator Jerry Klein	Y	Representative Paul Thomas	Y
Senator David Clemens	Y	Representative Dick Anderson	Y
Senator Cole Conley	Y	Representative Gretchen Dobervich	N
Senator Jay Elkin	Y	Representative Craig Headland	Y
Senator Kathy Hogan	Y	Representative Pat Heinert	Y
Senator Jordan Kannianen	Y	Representative Jim Kasper	N
Senator Greg Kessel	Y	Representative Lawrence Klemin	Y
Senator Diane Larson	Y	Representative Ben Koppelman	Y
Senator Judy Lee	Y	Representative Donald Longmuir	Y
Senator Larry Luick	Y	Representative Scott Louser	N
Senator Dale Patten	Y	Representative Dan Ruby	N
Senator Merrill Piepkorn	Y	Representative Austen Schauer	Y
Senator Kristin Roers	Y	Representative Mary Schneider	Y
Senator Michael Wobbema	Y	Representative Robin Weisz	N

Motion passed 23-5-0. (House 9-5-0 Senate 14-0-0)

Senator Roers and Representative Kasper will carry the bill.

3:54PM Co-Chairman Thomas adjourned the meeting.

Carie Winings, Committee Clerk

23.1171.01006
Title.02000

Prepared by the Legislative Council staff for
Senator K. Roers
October 24, 2023

24
10-24-23
1/1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1547

Page 1, line 4, after "board" insert "; to provide for a transition"

Page 2, line 7, after the underscored period insert "The members appointed under this subsection serve at the pleasure of the appointing majority leader."

Page 2, line 12, after "one" insert "of the"

Page 2, line 12, overstrike "member"

Page 2, line 12, after "~~is~~" insert "members"

Page 2, line 12, after "board" insert ". The members appointed under this subsection serve at the pleasure of the governor"

Page 3, line 7, replace "six" with "eight"

Page 3, after line 18, insert:

"**SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD - TRANSITION.** Upon the effective date of this Act, the terms of all appointed members of the public employees retirement system board end, and within fourteen days following the effective date of this Act, all appointing officers shall appoint individuals to serve on the board."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1547: Joint Policy Committee (Rep. Thomas, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1547 was placed on the Sixth order on the calendar.

Page 1, line 4, after "board" insert "; to provide for a transition"

Page 2, line 7, after the underscored period insert "The members appointed under this subsection serve at the pleasure of the appointing majority leader."

Page 2, line 12, after "one" insert "of the"

Page 2, line 12, overstrike "member"

Page 2, line 12, after "~~is~~" insert "members"

Page 2, line 12, after "board" insert ". The members appointed under this subsection serve at the pleasure of the governor"

Page 3, line 7, replace "six" with "eight"

Page 3, after line 18, insert:

"**SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD - TRANSITION.** Upon the effective date of this Act, the terms of all appointed members of the public employees retirement system board end, and within fourteen days following the effective date of this Act, all appointing officers shall appoint individuals to serve on the board."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1547: Joint Policy Committee (Sen. Klein, Co-Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1547 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 4, after "board" insert "; to provide for a transition"

Page 2, line 7, after the underscored period insert "The members appointed under this subsection serve at the pleasure of the appointing majority leader."

Page 2, line 12, after "one" insert "of the"

Page 2, line 12, overstrike "member"

Page 2, line 12, after "~~is~~" insert "members"

Page 2, line 12, after "board" insert ". The members appointed under this subsection serve at the pleasure of the governor"

Page 3, line 7, replace "six" with "eight"

Page 3, after line 18, insert:

"**SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD - TRANSITION.** Upon the effective date of this Act, the terms of all appointed members of the public employees retirement system board end, and within fourteen days following the effective date of this Act, all appointing officers shall appoint individuals to serve on the board."

Renumber accordingly

TESTIMONY

HB 1547

23.1171.01001

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1547

Introduced by

Legislative Management

A BILL for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to the membership of the public employees retirement system board; to provide for duties of the public employees retirement system and public employees retirement system board; to provide an exemption; to provide for retroactive application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is ~~hereby~~ created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.

~~1. Two~~

2. Four members of the legislative assembly must be appointed ~~by the chairman of the legislative management~~ to serve on the board.

~~a. If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~

~~b. If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~

~~2.~~ ~~One member~~ The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years. A member appointed under this subsection serves at the pleasure of the appointing majority leader.

3. Four members of the board must be appointed by the governor to serve a term of ~~five~~two years, for no more than a total of six years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who by experience is familiar with money management~~retirement~~ and employee benefit plans. The governor shall appoint one citizen member ~~is~~to serve as chairman of the board. A member appointed under this subsection serves at the pleasure of the governor.

~~3.~~4. One member of the board must be appointed by the attorney general ~~from the attorney general's legal staff and shall serve a term of five years~~. One member of the board must be appointed by the insurance commissioner. One member of the board must be appointed by the tax commissioner. Each member appointed under this subsection must be receiving retirement benefits under or be an active participating member under this chapter, the retirement plan established under chapter 54-52.6, the retirement plan established under chapter 39-03.1, or the job service North Dakota retirement plan. A member appointed under this subsection shall serve a term of two years. A member appointed under this subsection serves at the pleasure of the appointing officer.

~~4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~

~~5.~~4. ~~Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their~~

~~employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.~~

~~6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~

~~7.~~5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

~~8.~~6. A board member shall serve ~~a five-year term and~~ until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~~~six~~eight of the ~~nine~~eleven board members constitute a quorum. ~~Five~~~~Six votes are necessary for resolution or action by the board at any meeting.~~

7. A legislator member does not have a conflict of interest in a matter before the board based solely on that member's status of being a legislator.

8. A person may not bring a civil action against the board unless that person has a unique and significant injury.

SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - MAIN SYSTEM DEFINED BENEFIT PLAN INVESTMENTS. During the 2023-25 biennium, the retirement board may not reduce the actuarial rate of return assumption for the public employees retirement system main system defined benefit plan below six and one-half percent.

SECTION 3. PUBLIC EMPLOYEES RETIREMENT SYSTEM - RETIREMENT PLAN TRANSITION EDUCATION. During the 2023-25 biennium, the public employees retirement system shall conduct an informational campaign to educate current and prospective state

employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD - TRANSITION. Upon the effective date of this Act, the terms of all members of the public employees retirement system board end, and within fourteen days following the effective date of this Act, all appointing officers shall appoint individuals to serve on the board.

SECTION 5. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE. This Act is exempt from the requirements of section 54-35-02.4.

SECTION 6. RETROACTIVE APPLICATION. Sections 2 and 3 of this Act apply retroactively to July 1, 2023.

SECTION 7. EFFECTIVE DATE. This Act becomes effective immediately upon its filing with the secretary of state.

North Dakota Legislative Council
Prepared for the Legislative Management
LC# 25.9141.01000
October 2023

SUMMARY OF REENACTMENT OF PROVISIONS RELATING TO THE PUBLIC EMPLOYES RETIREMENT SYSTEM BOARD MEMBERSHIP AND DUTIES - LC# 23.1153.01000

This memorandum describes the bill draft [23.1153.01000], which reenacts the following sections of Senate Bill No. 2015 (2023):

- Section 41, relating to the membership of the Public Employees Retirement System (PERS) Board membership;
- Section 56, relating to PERS main system defined benefit retirement plan investments;
- Section 57, relating to a PERS informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan;
- Part of Section 59, relating to the exemption from the requirements of the Employee Benefits Programs Committee;
- Part of Section 67, providing for a June 1, 2023, effective date for the section amending the membership of the PERS Board; and
- Part of Section 68, providing an emergency clause for the June 1, 2023, effective date for the section amending the membership of the PERS Board. (appendix)

SECTION 1

Section 1 reenacts Section 41 of Senate Bill No. 2015, which modifies the membership of the PERS Board as follows:

- Increases the board membership from 9 members to 11 members.
- Increases, from 2 to 4, the number of legislators serving on the board:

  The Majority Leader of the House of Representatives appoints 2 members of the House of Representatives.

  The Majority Leader of the Senate appoints 2 members of the Senate.

  Legislator members serve terms of 2 years.
- Increases, from 1 to 4, the number of members appointed by the Governor. The Governor appointees serve terms of 5 years.
- Removes from the board an appointee of the Attorney General, the State Health Officer, and an individual representing retirees.

SECTION 2

Section 2 reenacts Section 56 of Senate Bill No. 2015, which provides during the 2023-25 biennium the PERS Board may not reduce the actuarial rate of return assumption for the PERS main system defined benefit plan below 6.5 percent.

SECTION 3

Section 3 reenacts Section 57 of Senate Bill No. 2015, which provides during the 2023-25 biennium the PERS Board shall conduct an informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 4

Section 4 reenacts part of Section 59 of Senate Bill No. 2015, which provides the Act is not subject to the requirements of North Dakota Century Code Section 54-35-02.4, which establishes the powers and duties of the Employee Benefits Programs Committee. In effect, this section exempts the Act from the actuarial analysis requirement of Section 54-35-02.4.

SECTION 5

Section 5 provides the modifications to the PERS Board membership in Section 1 of the Act apply retroactively to June 1, 2023, and the remainder of the Act applies retroactively to July 1, 2023.

SECTION 6

Section 6 provides the Act becomes effective immediately upon its filing with the Secretary of State.

ATTACH:1

SECTION 41. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.

~~1. Two~~

2. Four members of the legislative assembly must be appointed ~~by the chairman of the legislative management~~ to serve on the board.

   ~~a. If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~

   ~~b. If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~

~~2. One member~~ The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.

3. Four members of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who ~~by experience~~ is familiar with ~~money management~~retirement and employee benefit plans. The governor shall appoint one citizen member ~~is~~to serve as chairman of the board.

~~3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~

~~4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~

~~5.~~4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.

~~6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~

~~7.~~5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

~~8.~~6. A board member shall serve ~~a five-year term and~~ until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~six of the ~~nine~~eleven board members constitute a quorum. ~~Five~~Six votes are necessary for resolution or action by the board at any meeting.

SECTION 56. PUBLIC EMPLOYEES RETIREMENT SYSTEM - MAIN SYSTEM DEFINED BENEFIT PLAN INVESTMENTS. During the 2023-25 biennium, the retirement board may not reduce the actuarial rate of return assumption for the public employees retirement system main system defined benefit plan below six and one-half percent.

SECTION 57. PUBLIC EMPLOYEES RETIREMENT SYSTEM - RETIREMENT PLAN TRANSITION EDUCATION. During the 2023-25 biennium, the public employees retirement system shall conduct an informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 59. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE. Sections 36 through 50 and sections 56 and 57 of this Act are exempt from the requirements of section 54-35-02.4.

SECTION 67. EFFECTIVE DATE. Section 41 of this Act becomes effective on June 1, 2023. Section 27 of this Act becomes effective on July 1, 2024.

SECTION 68. EMERGENCY. The following are declared to be an emergency measure:

1. The targeted market equity pool line item in section 1 of this Act and section 20 of this Act;
2. The deferred maintenance funding pool line item in section 1 of this Act and section 15 of this Act;
3. Sections 4, 5, 30, and 41 of this Act;
4. Section 4 of Senate Bill No. 2012, as approved by the sixty-eighth legislative assembly; and
5. Senate Bill No. 2024, as approved by the sixty-eighth legislative assembly.

23.1171.01005

Sixty-eighth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1547

Introduced by

Legislative Management

A BILL for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to the membership of the public employees retirement system board; to provide for duties of the public employees retirement system and public employees retirement system board; to provide an exemption; to provide for retroactive application; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.

~~1. Two~~

2. Four members of the legislative assembly must be appointed ~~by the chairman of the legislative management~~ to serve on the board.

~~a. If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~

~~b. If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~

~~2.~~ ~~One member~~ The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years. The members appointed under this subsection serve at the pleasure of the appointing majority leader.

3. Four members of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who ~~by experience~~ is familiar with ~~money management~~retirement and employee benefit plans. The governor shall appoint one of the citizen ~~member is~~ members to serve as chairman of the board. The members appointed under this subsection serve at the pleasure of the governor.

~~3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~

~~4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~

~~5.~~4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.

~~6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the~~

~~election pursuant to this subsection. The board member shall serve a term of five years.~~

~~7.~~5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

~~8.~~6. A board member shall serve ~~a five-year term and~~ until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~six of the ~~nine~~eleven board members constitute a quorum. ~~Five~~Six votes are necessary for resolution or action by the board at any meeting.

7. A legislator member does not have a conflict of interest in a matter before the board based solely on that member's status of being a legislator.

8. A person may not bring a civil action against the board unless that person has a unique and significant injury.

SECTION 2. PUBLIC EMPLOYEES RETIREMENT SYSTEM - MAIN SYSTEM DEFINED BENEFIT PLAN INVESTMENTS. During the 2023-25 biennium, the retirement board may not reduce the actuarial rate of return assumption for the public employees retirement system main system defined benefit plan below six and one-half percent.

SECTION 3. PUBLIC EMPLOYEES RETIREMENT SYSTEM - RETIREMENT PLAN TRANSITION EDUCATION. During the 2023-25 biennium, the public employees retirement system shall conduct an informational campaign to educate current and prospective state employees of the transition from the defined benefit retirement plan to the defined contribution retirement plan.

SECTION 4. EXEMPTION - EMPLOYEE BENEFITS PROGRAMS COMMITTEE. This Act is exempt from the requirements of section 54-35-02.4.

SECTION 5. RETROACTIVE APPLICATION. Sections 2 and 3 of this Act apply retroactively to July 1, 2023.

SECTION 6. EFFECTIVE DATE. This Act becomes effective immediately upon its filing with the secretary of state.

23.1171.01006
Title.02000

Prepared by the Legislative Council staff for
Senator K. Roers
October 24, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1547

Page 1, line 4, after "board" insert "; to provide for a transition"

Page 2, line 7, after the underscored period insert "The members appointed under this subsection serve at the pleasure of the appointing majority leader."

Page 2, line 12, after "one" insert "of the"

Page 2, line 12, overstrike "member"

Page 2, line 12, after "~~is~~" insert "members"

Page 2, line 12, after "board" insert ". The members appointed under this subsection serve at the pleasure of the governor"

Page 3, line 7, replace "six" with "eight"

Page 3, after line 18, insert:

"**SECTION 4. PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD - TRANSITION.** Upon the effective date of this Act, the terms of all appointed members of the public employees retirement system board end, and within fourteen days following the effective date of this Act, all appointing officers shall appoint individuals to serve on the board."

Renumber accordingly

23.1171.01007
Title.

Prepared by the Legislative Council staff for
Representative Klemin
October 24, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1547

Page 1, line 1, after "to" insert "create and enact a new section to chapter 54-52 of the North Dakota Century Code, relating to standing to bring a civil action against the public employees retirement system board; to"

Page 3, after line 9, insert:

"**SECTION 2.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Standing for action against board.

A person may not bring a civil action against the board unless:

1. That person has suffered a threatened or actual injury resulting from the action at issue;

2. The asserted harm is not a generalized grievance shared by all or a large class of persons; and

3. That person rests the claim to relief on that person's legal rights and interests, and not the legal rights and interests of a third party."

Page 3, line 21, replace "2" with "3"

Page 3, line 21, replace "3" with "4"

Renumber accordingly

23.1171.01008
Title.

Prepared by the Legislative Council staff for
Senator Lee
October 24, 2023

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1547

Page 1, line 11, replace "eleven" with "ten"

Page 1, line 17, replace "Four" with "Three"

Page 1, line 17, remove the overstrike over "~~by the chairman of the~~"

Page 1, line 18, remove the overstrike over "~~legislative management~~"

Page 1, line 18, after "board" insert "for a term of two years"

Page 1, remove the overstrike over line 19

Page 1, line 20, remove the overstrike over "~~and senate,~~"

Page 1, line 20, after the first "~~member~~" insert "two members"

Page 1, line 20, remove the overstrike over "~~must be from that majority party and one member from~~"

Page 1, remove the overstrike over lines 21 and 22

Page 2, remove the overstrike over line 1

Page 2, line 2, remove the overstrike over "~~the house and senate,~~" and insert immediately thereafter "at least"

Page 2, line 2, remove the overstrike over "~~one member must be from the majority party in the house~~"

Page 2, line 3, remove the overstrike over "~~and~~" and insert immediately thereafter "at least"

Page 2, line 3, remove the overstrike over "~~one member must be from the majority party in the senate.~~"

Page 2, line 4, remove "The majority leader of the house of representatives shall appoint two"

Page 2, remove lines 5 through 7

Page 2, line 8, replace "Four" with "Three"

Page 2, line 8, overstrike "five" and insert immediately thereafter "two"

Page 2, line 12, after "one" insert "of the"

Page 2, line 12, overstrike "member"

Page 2, line 12, after "~~is~~" insert "members"

Page 2, line 27, after "~~6.~~" insert "5."

Page 2, line 27, remove the overstrike over "~~One board member must be elected by and from among those individuals who are~~"

Page 2, remove the overstrike over lines 28 and 29

Page 2, line 30, remove the overstrike over "~~election pursuant to this subsection. The board member~~" and insert immediately thereafter "elected under this subsection"

Page 2, line 30, remove the overstrike over "~~shall serve a term of five~~"

Page 2, remove the overstrike over line 31

Page 3, line 1, replace "5." with "6."

Page 3, line 6, replace "6." with "7."

Page 3, line 7, replace "six" with "seven"

Page 3, line 7, replace "eleven" with "ten"

Page 3, line 8, replace "Six" with "Seven"

Renumber accordingly