

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1067

2005 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1067

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1067

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1/20/05

Tape Number

1

Side A

x

Side B

Meter #

0-51.9

Committee Clerk Signature



Minutes: Participation by short term summer school contract teachers in the teachers' fund retirement. 13 members present, 1 absent.

Representative Grande-District 41 Pt. Cass County-For-I presented this bill this summer to the employee benefits committee for the reason that there are teachers in North Dakota who will only take on short term contracts, that being like our summer school teachers, where you are not a full time teacher, you are hired for a couple of months, maybe one summer, maybe two summers, maybe five summers, that is the kind of contract that you are working with. You are not a teacher in the school system, you are not under contract in any other for, except during the summer school. As that type of a teacher, you are also then required to be a part of the teachers' fund for retirement, even though to become vested it would take you years and years and years of working two month contract to be fully vested in the program. What I have done is propose in this bill that these teachers can opt out of being a part of TFFR and have that left in their pay checks, that would be money they are taking out instead of paying into a retirement plan that they

are truly not going to build into nor benefit from later, because of the amount that is going there for them. As you read through this bill, in section 2, it talks about the teacher may purchase the service credits in the accuracy amounts back and the purpose for that is, say you are a young teacher out of school and you are trying to get into a school system, it plays out very well in places like Grand Forks, Fargo, Bismarck where the school system has just a huge amount of teachers waiting for the opportunity to teach, but you have to wait on that person retiring to get in line and be a part of the school district, you substitute teach and you teach on short term contract like that, that way they get to know you, they see your work and eventually when that position opens up, kinda, almost a preference type thing where you are ready to go into the system, so if that actually happens and you have deferred your TM to file for a couple of summers, not knowing if you are ever going to get a full time contract. All of a sudden you do get your full time contract and then you go right into TFFR, that is a part of how this is and that is what the system is and that is how it belongs, but what you can do then is not lose those years you deferred out of , but purchase in them, so you don't lose out necessarily, but you can eventually purchase into and be a part of that type of thing, but some teachers don't ever plan on going into that full time contract, either. That flexibility they prefer doing short time contract work and substitute teaching. What I would like to do at this time, Mr. Chairman, I left amendments for this bill and I apologize for coming in on a new bill and not having the amendment proper, but I hadn't realized at the time one of the concerns that came out of the employee benefits committee was not having the time certain to start this and how it is going to go, so this addresses that issue, so we will have a set time and date this goes into a affect and that is what you will see in this amendment and this amendment actually will function as an emergency clause, because the law now is this bill will

go into affect, until the first of August, we would like it to go into affect the first of June so that the upcoming teachers for this summer will be able to take part in this.

Chairman Haas: If you have a young graduate who intends to make a career teaching and is under other employment, while they are waiting for an opening, as you described, and if they take on a short term contract, wouldn't they be less likely then to elect out of this, knowing they are going to become a full time teacher at some point?

Rep. Grande: Yes, that is why they have the option to stay in it if they wish. They certainly don't have to opt out by any means, this is just for the teachers who feel this is the best avenue for them and I would like to explain your fiscal note to you. Revenues listed as other funds is negative, that is to the TFFR fund, because that amount is the amount the school board would be paying in, that would no longer be taking place, if every teacher opted out. The chances are there is a lot of teachers that won't opt out, because they are looking for that full time position and they want to build that up right away. This is kind of the worse case scenario, every teacher, which there is about a hundred in the summer school system that would fall under this, so it is a small group and of that small group, there is probably another group that is even smaller that don't feel paying into that is going to be a beneficial thing, because of the vesting issues, because of the issue that it is salary that they can keep. The other aspect here you see, county city school district fiscal effect and it is a positive to the school district of the 31 and that is why the numbers match up the way they do. In talking with my school district, actually if I was to have this ability as a short term teacher, I would have not had my portion of 7.75 taken out of my pay check, nor would I had the 7.75 of the employers taken out of my pay check. I am an hourly paid teacher, all of that would have come to me. If you can picture the new teacher whose salary is low to start

with having the option to keep that money in their pay check, how beneficial that is to them to be able to take home a little more money. In the grand scheme of things, yeah, it is only a about two hundred dollars for the summer, but that is a lot to a family, looking at short term teaching like that, so it was an issue that I felt needed to brought up.

Rep. Meier: You had talked about the process in which an educator by in the fact in the TFFR, can you explain a little about that.

Rep. Grande: Actually Fay is kinda of the expert to that, I will refer you to Fay, she can explain what actual cost to buy back and that type of thing is.

Testimony in opposition of HB 1067.

Fay Kopp-Deputy Executive Director-ND Retirement and Investment

Office-Opposed-Testimony Attached.

Rep. Froseth: I am confused, this note shows a loss of 31,000 and I understand TFFR won't be getting the share of the deduction for retirement, the way Rep. Grande explained it the contract teacher will be getting all of that reduction for the retirement, the school district share and the share, that should be a wash. According to the fiscal note, if it is not a monetary loss to your account, because that teacher will never draw benefits from TFFR.

Fay: You are correct in the issue, that teacher will not be paying in, so that teacher will not be drawing out a benefit. However, both the employee contribution that the employee would pay in and the employer contribution that is made by the school district goes to provide basically everything is pooled together to provide benefits for all teachers with in the system, so while that individual is not going to draw benefits from TFFR, the whole fund, in a very minuscule fashion loses out by those contributions not coming in and being invested and being utilized to pay

benefits for all teachers, so on a one to one ratio, I would say your right, but I think it is a little bigger then that.

Rep. Froseth: The contract teachers that will teach, like two months in the summer time, that is all they teach, they would never, to be vested how many years do you have to teach.

Fay: To be invested in TFFR you would need three full years of service credits and if you teach, lets say summer school only, you are probably earning .15, maybe .2 for summer, it is going to take you 15 years or so at that rate, to get vested. There are teachers, that have chosen to do that and build it up and keep in the plan and there are certainly those teachers that say, I am doing it this summer, but I don't know what I am doing next summer and they elect by fall, they request a refund of their contributions which we do provide a refund to that employee of the contributions they have paid into the plan. They teach summer school next summer, they have to pay in and if they want their money they can apply for a refund, or they can keep it in during that time, just to see if it will build up, so they have those opportunities to with draw their contributions or to leave with the funds in an effort to build up toward that vesting.

Rep. Meier: What is the process of buying back into TFFR, when teachers have elected to opt out of the program.

Fay: All teachers can purchase service credit at the actual equivalent cost, under certain eligibility requirements, know in this case the provision in this bill would allow the summer school teachers who opted out of TFFR to purchase that loss service credit of .15 year of service credit at the actual equivalent clause, on average to purchase one year of service credit costs about 7 or 8 thousand dollars, so if you pear that down to .15, you are looking at thousand or under, depends on when you buy that service credit, know if you would have stayed in the service

plan, you would have just paid the 155 dollars, in that example, if you in a few years down the road decide to opt out TFFR, you didn't want to pay in that 155 dollars, then you got a full time teaching contract and at sometime you became a teacher and started to contributing to TFFR, you would have that opportunity to go back and immediately go back and buy that .15 of the year service credit. If you do it right away it probably isn't going to cost you, maybe three, four, five hundred dollars, but the longer you wait the more it is going to cost, because it is based on your annual salary, or age, your retirement down the road, so you have to build in all of these issues, most teachers when they start work do not purchase service credit, most teachers if they purchase credit will wait until they are near retirement, while it is true that teacher may purchase service credit, they are granted that opportunity, if they wait until they are 55 it is probably going to cost them 8 thousand dollars, no it is not going to cost 8 thousand, because it is still a portion of that amount, because it is going to cost them whole lot more to purchase it, then it would have cost them, because they made that election thirty years ago.

Rep. Klemin: When a person does buy these credits later, lets say for example they waited 15 years and now they realize while 15 years went by pretty fast in hind site. Since the teacher was ordinarily would have been required to contribute 7.75 per cent and the employer would have contributed 7.75 per cent, does the teacher now have to contribute for herself and himself and the school when they buy back.

Kay: Generally speaking that is the case, in that, since TFFR did not have that employee contribution, did not have that employer contribution, did not have that for the 15 year period of time to invest and to hopefully gain from those funds, yes they are paying both sides, that is not specifically how we calculate it, but for a general estimate it is going to be both sides plus more,

because we didn't have the money and we have to figure in to this whole calculation, what their new benefit is going to be. How much sooner they are going to retire, the fact that they are going to have an increased benefit now, so this is figured into this cost.

Rep Klemin: So in hind sight it actually it would be detrimental to them financial to do it later, when they could have done it earlier and the employer could have been contributing to.

Fay: Yes that is correct.

Rep. Sitte: I am one of those teachers who taught summer school last summer, which was shocked to have repayment taken out, because I thought this was such a very short term contract that I wasn't looking for more, so what I am trying to find out, if the school district that is putting in the 7.75 as well and if I would apply for that refund, if I didn't even know that I was able to apply for it, but does the school district get that refund as well.

Fay: No, the employer contribution do stay with TFFR, so the employer contribution are not refunded back. The member is always eligible to receive their contribution back plus interest, but employer contribution stays with the funds. In a plan such as TFFR all employee and employer contributions are pooled together for the benefit for all teachers that choose to stay in and retire from TFFR, at some point in the future.

Rep. Sandvig: Would it be possible to put in some trigger mechanism where the number of people that are opting to use this option got increased to a certain number, we could revisit it and have change in legislation.

Fay: I am sure there are all sorts of ways of putting a trigger on this, but the thing that I question is I am not sure that TFFR would ever know who opted out of TFFR, we wouldn't really have

that information, we are only going to know about the people that paid into TFFR, it is going to be at the local level, the employers are going to have to identify who opted out, so we will never know how many people could have been in, so I think it would be difficult to that, unless it was some how handled through the employers and I would hesitate to add that additional burden to them.

Rep. Klemin: Take somebody that has been doing this summer school teaching in some other state appeared and continues to do it, can they count the time they were in the other state? How does that work.

Fay: Anything a teacher does in another state doesn't really count toward their retirement plan in North Dakota, so if they have 2 years or 5 years or 10 years, summer school or any other type of teaching in another state and they begin doing that here, for their benefit from TFFR, we only calculate on their years of service credit they have in North Dakota. I am not sure their salary is adjusted on a local level because they have experience, they might move up on the experience skill.

Chairman Haas: If the other state has a refund provision, they could take their money out and then come in and buy the time.

Rep. Froseth: That brought up an interesting point. Why don't we have a reciprocity with other states for TFFR retirement, because we have a lot of other people move from one state to another, we could have teachers that move into North Dakota that probably don't come to North Dakota because they can't carry their retirement funds with them and why isn't that affordable, so teachers can do that.

Fay: Certainly there is always a discussion on how to make and state retirement system, any retirement plan more affordable with others. Certainly the ability to purchase service credit in and out of retirement plans is a move toward affordability and I am sorry that I miss understood Rep. Klemins question, but certainly if a teacher has service credit in another state and stops teaching and refund out of that state road into TFFR and purchased additional service credit, so that really is a move towards, in other cases it gets to be pretty difficult, because every state and like every retirement system has different contributions, different benefit levels, there is a lot of things that are different from state to state. Everyone would like to see, I think it would be very difficult to actually incorporate.

Rep. Grande: A couple of things with the definition in as far a TFFR has the ability to and obviously does set up their own definition of teacher contract to teacher and that varies as I am finding out taking a look through the codes. I found four different definitions in what a teacher does and only TFFR really has the definition of what is considered a contracted teacher. When I went and asked for the renewal of my teaching contract and went up to that through ESPB, I found out that my teaching of a short term contract isn't even considered teaching, so it is not recognized as a contract to teaching. I don't get the benefit of that when it comes to my accreditation, but yet TFFR makes me a part of that. I beg to differ kinda thing, it is your guys kind of philosophy, you have the right to put that in, but I just want to kindly dually note that to the committee, that in your accreditation it doesn't count and so that is where the discrepancy comes in for myself for a short term contract. Along that issue then is there any chance that TFFR is going to work with the ESPB on the definition of teacher and teachers contract?

Kay: Certainly I recognize that as you have that there is many definitions of teacher in the state law, in fact the board, we took a look at this a number of years ago when we were trying to identify, questions who is a member and who is not, certain position and title always come up and there is a question, should that person be a member of TFFR or they not and typically yes we go back to our indication that, my understanding is that you are licensed or summer school teachers are licensed or certified by ESPB, which is the definition and are contracted. TFFR, your right historically has always taken a very broad approach to who is a member and it is from 1913, when the plan begin. We have always taken that very broad approach, so that teacher, teacher related sort of individuals. Again, certified contracted would have the benefit of being, receiving TFFR retirement benefits, so that definition, that approach is long standing. Going through any definition there is good reason, it is not always easy to put them all together and make them do exactly what you want, certainly we can visit with them, see if we can align some things, but at this time there is no direct plan do so.

Rep. Grande: On the issue when you talk about the fairness issue, some of the teachers that were full time teachers, teaching summer school, thinking they would want to opt out. I can't quite recognize why any teacher would opt out if they were full time, out of their two month and diminish their retirement plan for that time period, that wouldn't make sense, the fairness issue, I would really beg to differ that argument personal point, I guess. You brought up the actual soundness of the fund and whether or not this could have a negative affect to it, in reading Mr. Comrode, who is the actuary for this fund, his notes hear, the fund has significant money to pay retirement benefits for many years. The projection shows even if the constant 8 percent, which is the bench mark of the actuary fund, it is fine, I think it needs to be understood that there is

enough money in this fund to pay it out, that is not an issue, even with the diminish of that, eventually this comes back, granted maybe not in the quickness and time frame that TFFR would wish it to be, the board, because of the desire for enhancement, but if we don't look at it that we have to have enhancements right now and the idea is to pay teachers in the program, the money, the fund is stable according to their actuary and I question whether or not you have addressed the issue properly as far as saying this is a negative impact to the fund, but it is not going to diminish the fund or ruin the fund and it is not going to make it completely unpayable, it just not going to over fund, the fund as quickly as maybe some people would feel it would be. Correct.

Kay: I certainly agree with you, yes the fund is sound and it is able to pay out benefits for many years into the future. The letter that you are indicating, I noticed a number of committee members were trying to find it is not a part of the attachment, that was a different letter that Rep. Grande had requested, so you won't find it. I agree with her in that respect and I agree that the impact of this particular bill as written today has basically, insignificant amount of loss to TFFR, yes there is going to be a slight loss of revenues, but in a 1.4 billion dollar plan, its true that 31,000 is not even a one-hundredth of a percent. I agree with that, but the concern does relate to future negative financial implications and while again it is true that part time teachers or summer school teachers, I think she questioned whether or not any regular teachers that taught through the school year and also taught summer school, if any of them would opt out, if they had an opportunity every year to opt out, my guess is that they would until the last three years prior to their retirement, because during the course of the school year they have already earned one full year of service credit. If you teach for a full year your already earning one full year of service credit and if you teach in the summer, your salary is going up, your paid contributions, but you

are not earning any additional service credit, so for that group of teachers, they may wish to opt out of TFFR, for all the years, until it is time to include that salary, so at the end is when they would want to be in, no one probably want to pay in at the beginning, that is the reality, also, everybody needs to pay in on all of the salary, so that all of the salary can be counted at retirement, thirty years from now.

Rep. Grande: On that line again it is the fairness issue that is going to be a difference of opinion, but in that same point if TFFR didn't have the definition they have of a contracted teacher we wouldn't be having this discussion right now. TFFR set up that problem for the teachers by having a difference in a definition of a contract, as far as contracted teachers, because you can't, again you pointed out they are having to pay in and not get credit for it and so that lends me to the question that a couple have had about the refund that you spoke about and yes you can have the refund, you get the amount you paid in and you forfeit to the fund what is paid on your behalf by your employer. I guess I am sorry, I don't mean to but just for clarification, but again buying back at a higher cost, my question would be why would somebody want to buy those 1.2 or 1.5 credit hours, when it doesn't matter toward their service.

Kay: When you are a regular school year teacher from July 1 through June 30th, if you earn at least 700 hours in a school year, you are going to get one full year school service credit, never more, but you can get less, so if you teach only in the summer school and not through out the course of the year, you are going to get .15 or whatever that amount is, so if a regular summer school teacher and regular school teacher was teaching throughout, it is true, it is not going to benefit them, they would never want to go back and repurchase, because they have already received the service credit, but someone that did not receive the service credit, the summer

school only teacher out of district or out of state or something they might want to because that service credit, that is all they would have and that little bit or those couple of years of little bit might help them reach the rule of 85, it would increase their retirement benefits, so they would have somewhat of incentive to make that service purchase if they came out of the district only, if they taught during the summer only.

Rep. Kasper: A teacher who is not covered under a public school teaching contract and you had a concern, what if the teacher who is covered under a public service contract wants to, well this bill does not address that, so your concern would be addressed at another legislative session, if the teachers were wanting to do that, it is immaterial to this bill. You can have all the concerns you want, but until it comes to the legislature, the legislature acts, the concerns are really not something you to be concerned about. On the bill itself. Am I correct?

Fay: Your correct.

Rep. Kasper: This is just a question on philosophy that I have and I want to know what your philosophy is. I believe that if I purchase something, I should get something in return, as example if I go down to the grocery store and I buy a bag of potatoes, I give them a dollar and then I should be able to take the bag of potatoes home, that is fair, that is the way our system works. Here you are giving something and getting nothing back, because you are having to give the fund, particularly the employers share, but the employee and the employer receive nothing back, the fund gets the money, that is almost like stealing isn't it?

K

Fay: I would disagree with that, I don't believe that is stealing.

Rep. Kasper: Something for nothing.

Fay: I believe that individual made a choice to, while they didn't have a choice to pay into the fund, they do have a choice whether or not to leave their funds with TFFR, so if they have decided if they want to take their funds out of TFFR and not draw a benefit, they have forfeited their right, they have decided to give that bag of potatoes away.

Rep. Kasper: Lets talk about the employer contribution which is never refunded.

Fay: The employer contribution, you are correct, it is not refunded, it does go towards paying benefits for all teachers in the system. In this type of benefit program, I believe it is an appropriate feature. Employers contribute to pay benefits for all of their teachers and they are pooled together in a defined benefit plan. That is true.

Rep. Kasper: Thank you.

Rep. Klemin: The summer school teachers, let say after ten years, they goofed and they are in California some place are they able to with draw that money they contribute.

Fay: They can with draw their portion, plus interest, but the employer does not receive a refund of their contributions and the employee does not receive a refund of the employers contribution. The employers contribution stays with the fund.

Rep. Klemin: What if they don't move to California and they just want to with draw it, can they.

Kay: They can do that as well, as long as they are not under contract with another participating employer, they can.

Rep. Klemin: So if they put the money in, they have the right to with draw it, plus interest.

Fay: Yes.

Rep. Amerman: I am trying to think through all if this testimony, I can't remember if there was a recommendation, can you recall about the employee benefit during the interim committee.

Page 15
House Government and Veterans Affairs Committee
Bill/Resolution Number 1067
Hearing Date 1/20/05

Fay: Yes, no recommendation came out of the committee, I believe it was a tie vote and so as a result no recommendation was given on that committee. We went through that vote about three times.

Rep. Haas: Thank you very much. Any more questions?

Rep. Galvin: I move a DO PASS on HB 1067.

Rep. Kasper: I second.

VOTE: YES 9 NO 1 ABSENT 0 REP. SITTE WILL CARRY THE BILL.

FISCAL NOTE

Requested by Legislative Council
01/25/2005

Amendment to: HB 1067

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	(\$31,000)	\$0	(\$31,000)
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$31,000	\$0	\$0	\$31,000

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal impact of HB 1067 would be caused by school districts not having to pay TFFR contributions on summer school teachers employed on a short term contract basis who could elect to opt out of TFFR. This would cause TFFR revenues to decrease. According to TFFR's actuarial consultant, the bill would have minimal actuarial cost since it is estimated that it would impact approximately 100 teachers each summer. However, the impact is dependent upon the number of individuals who utilize the provision.

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.*

There is minimal actuarial impact on TFFR. (\$31,000 estimated impact is based on 7.75% TFFR contribution rate X \$2,000 salary X 100 teachers X 2 years.) Also, RIO does not budget revenues so there is no impact on RIO 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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Fay Kopp
Phone Number: 328-9895

Agency: ND Retirement & Investment Office
Date Prepared: 01/25/2005

FISCAL NOTE
Requested by Legislative Council
01/03/2005

REVISION

Bill/Resolution No.: HB 1067

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	(\$31,000)	\$0	(\$31,000)
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$31,000	\$0	\$0	\$31,000

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal impact of HB 1067 would be caused by school districts not having to pay TFFR contributions on summer school teachers employed on a short term contract basis who could elect to opt out of TFFR. This would cause TFFR revenues to decrease. According to TFFR's actuarial consultant, the bill would have minimal actuarial cost since it is estimated that it would impact approximately 100 teachers each summer. However, the impact is dependent upon the number of individuals who utilize the provision.

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.*

There is minimal actuarial impact on TFFR. (\$31,000 estimated impact is based on 7.75% TFFR contribution rate X \$2,000 salary X 100 teachers X 2 years.) Also, RIO does not budget revenues so there is no impact on RIO 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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Fay L. Kopp
Phone Number: 328-9895

Agency: ND Retirement & Investment Office
Date Prepared: 12/21/2004

FISCAL NOTE
Requested by Legislative Council
12/20/2004

Bill/Resolution No.: HB 1067

1A. 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.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	(\$31,000)	\$0	(\$31,000)
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$31,000	\$0	\$0	\$31,000

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

The fiscal impact of HB 1067 would be caused by school districts not having to pay TFFR contributions on summer school teachers employed on a short term contract basis who could elect to opt out of TFFR. This would cause TFFR revenues to decrease. According to TFFR's actuarial consultant, the bill would have minimal actuarial cost since it is estimated that it would impact approximately 100 teachers each summer. However, the impact is dependent upon the number of individuals who utilize the provision.

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.*

There is no impact on Executive Budget. Also, RIO does not budget revenues so there is no impact on RIO budget. \$31,000 estimated impact is based on 7.75% TFFR contribution rate X \$2,000 salary X 100 teachers X 2 years.

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, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: Fay L. Kopp

Phone Number: 328-9895

Agency: ND Retirement & Investment
Office

Date 12/21/2004

Prepared:

REPORT OF STANDING COMMITTEE (410)
January 20, 2005 5:10 p.m.

Module No: HR-13-0812
Carrier: Sitte
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1067: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1067
was placed on the Eleventh order on the calendar.

VR
1/21/05

HOUSE AMENDMENTS TO HOUSE BILL NO. 1067 GVA 1-24-05

Page 1, line 3, after "retirement" insert "; to provide an effective date; and to declare an emergency"

Page 1, after line 22, insert:

"SECTION 3. EFFECTIVE DATE. This Act becomes effective on June 1, 2005.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1/20/05
Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1067

House House Government and Veterans Affairs

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

50165.0202

Action Taken

Do Pass As Amended

Motion Made By

Rep Galvin

Seconded By

Rep Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman C.B. Haas		✓	Rep. Bill Amerman		✓
Bette B. Grande - Vice Chairman	✓		Rep. Kari Conrad		✓
Rep. Randy Boehning	✓		Rep. Louise Potter	AB	
Rep. Glen Froseth	✓		Rep. Sally M. Sandvig	✓	
Rep. Pat Galvin	✓				
Rep. Stacey Horter	✓				
Rep. Jim Kasper	✓				
Rep. Lawrence R. Klemin		✓			
Rep. Lisa Meier	✓				
Rep. Margaret Sitte	✓				

Total (Yes)

9

No

4

Absent

1

Floor Assignment

Rep Sitte

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

REPORT OF STANDING COMMITTEE

HB 1067: Government and Veterans Affairs Committee (Rep. Haas, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1067 was placed
on the Sixth order on the calendar.

Page 1, line 3, after "retirement" insert "; to provide an effective date; and to declare an
emergency"

Page 1, after line 22, insert:

"SECTION 3. EFFECTIVE DATE. This Act becomes effective on June 1,
2005.

SECTION 4. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

2005 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1067

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1067**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date February 24, 2005

Tape Number

1

Side A

x

Side B

Meter #

0-4450

Committee Clerk Signature



Chairman Krebsbach opens hearing on **HB 1067**

Relating to participation by short-term summer school contract teachers in the teachers' fund for retirement.

Representative Grande - sponsor- See written testimony.

Senator Lee - Asked if summer school teachers were NDEA members.

Rep. Grande - Said that would be her assumption.

Senator Lee - Wanted to know what the harm would be to the members that are they for the minuscule contribution that would be made by these summer school teachers is not going to harm the members.

Rep. Grande - Said that would be her point also.

Senator Krebsbach - Asked if you could apply for this money to be refunded to you and the end of the summer session.

Rep. Grande - Said yes, your employee contribution but not your employer contribution. So you would not get the money that was put in on your behalf.

Senator Krebsbach - Stated that would be their investment.

Rep. Grande - Wanted it remembered that any investment that is made is made on your behalf. Those dollars are counted towards your retirement. It is money in to a fund but it is ear marked for retirement.

Senator Krebsbach - Asked if this bill were enacted what portion would you get back. You would not get back any that the school system put in.

Rep. Grande - Stated her school district said that she would receive both sides of that .

Senator Nelson - Said she interprets that her share would stay in her paycheck but not the employers share since it never was in your paycheck.

Rep. Grande - Said this was one way her district enhances the teachers program because it is in a low paying district.

Senator O'Connell - He is also here to introduce the bill.

(meter #1020)

Fay Kopp - Deputy Executive Director ND Retirement and Investment Office - See written testimony. Opposed to this bill.

(meter #2340)

Senator Krebsbach - Asked how many school districts pay both costs.

Kopp - She said about 100. She will get that exact information.

Senator Krebsbach - Asked if there has been any contact with Fargo regarding this bill.

Kopp - Said she had not.

Senator Lee - Asked if it would be more fair to say those who taught so many hours per year instead of saying summer school teachers.

Kopp - Said that is a question of policy. Anytime you hurt the plan you hurt all employers. It could drive the contribution rates up.

Senator Lee - Asked why its considered a greater cost to TFFR if there are people who are not receiving retirement benefits.

Kopp - Said there is a cost deals with the fact that people that teach summer school will take a refund. A certain percentage of those will stay in and a certain will not. So those who refund out their employer contribution will never get paid into the plan.

Senator Lee - Understands what she is saying but questions why should the employer stay in for someone who is never going to collect. Seems unfair to her that TFFR gets to keep both sides of somebody who is never going to collect anyway and the district has put in twice as much as their required contribution. Seems like a windfall to TFFR.

Kopp - That is the nature of it. Doesn't believe there is a windfall but a certain value to those assessments that are retained. It is not a one for one scenario.

Senator Lee - Said that is what is part of the problem. She said it seems to be an injustice to people who are never going to collect.

Senator Syverson - Asked if there has been any discussions to changing from a defined benefit program to a defined contribution program.

Kopp - Said no, discussions have been more in line with insuring the integrity of that defined benefit plan and maintaining that as being the preferred retirement plan for teachers.

(meter #3117)

Howard Snortland - Retired Teachers Association - Said they are concerned with the declining enrollment therefore a decline in teachers. This is a problem the fund has. They would opposed to any changes in the fund.

(meter #3320)

Joe Westby - Executive Director of ND Teachers Association - He supports what Fay Kopp said. He said they are trying to recover from a bad market. They are sensitive to anything that takes out potential contributors out of the fund, both employees and employers.

(meter #4440)

Closed the hearing on HB 1068

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB 1067**

Senate Government and Veterans Affairs

Business and Conference Committee

Hearing Date March 3, 2005

Tape Number

2

Side A

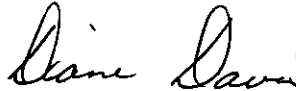
x

Side B

Meter #

900-1270

Committee Clerk Signature



Chairman Krebsbach opens committee work on **HB 1067**

Relating to participation by short-term summer school contract teachers in the teachers' fund for retirement.

Discussion was on the written testimony submitted by Rep. Grande. Senator Nelson said that Fargo administration was not contacted about the bill. Senator Nelson told of her talk with Dan Hoffman, Fargo School district. She told there would not be any reimbursement on the part of the school district. The committee disagreed with much of Rep. Grande's testimony.

Senator Lee moved for a do not pass

Senator Nelson seconded

Senator Krebsbach will carry

Date: 3/3/05
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1067

Senate **Government and Veterans Affairs**

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken *Do Not Pass*

Motion Made By *Senator Lee* Seconded By *Senator Nelson*

Senators	Yes	No	Senators	Yes	No
Karen K. Krebsbach, Chairman	X		Carolyn Nelson	X	
Richard L. Brown, Vice Chairman	X				
Judy Lee	X				
John O. Syverson	X				

Total (Yes) *5* No *0*

Absent *0*

Floor Assignment *Senator Krebsbach*

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

REPORT OF STANDING COMMITTEE (410)
March 3, 2005 3:58 p.m.

Module No: SR-39-4118
Carrier: Krebsbach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1067, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends DO NOT PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1067 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1067

HOUSE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

HOUSE BILL 1067

**Fay Kopp, Deputy Executive Director
ND Retirement and Investment Office
January 20, 2005**

BACKGROUND ON TFFR MEMBERSHIP PROVISIONS

State statutes define teachers for TFFR membership purposes. Teachers are defined as persons who are **licensed** by the Education Standards and Practices Board who are **contractually employed in teaching, supervisory, administrative, or extracurricular services** by a state institution, special education unit, school board, or other governing body of a school district of this state. Generally speaking, this includes superintendents, assistant superintendents, county superintendents, business managers, directors, coordinators, principals, assistant principals, classroom teachers, and special teachers. Other specified persons or positions are also included as TFFR members.

Substitute teachers are typically not contracted by school districts, and are therefore not eligible for TFFR participation.

There are no minimum participation requirements. That is, teachers do not have to teach a certain number of days or hours to be eligible for TFFR membership. Teachers (as defined above) become TFFR participating members at their date of employment.

SUMMER SCHOOL TEACHERS

Currently, school districts and teachers contribute to TFFR for summer school teaching. HB 1067 would allow summer school teachers who are not covered under a regular school year teaching contract to elect to opt out of paying into TFFR for their summer school teaching. The bill allows summer school teachers who opt out of TFFR to purchase service credit at a later date at the actuarial equivalent cost for time spent teaching summer school.

ACTUARIAL AND TECHNICAL ANALYSIS

TFFR's actuarial consultant, Chris Conradi of Gabriel, Roeder, and Smith (GRS), reviewed an initial draft of the bill and provided comments in a letter dated October 15, 2004 (attached).

The actuary states they find the actuarial cost of the provisions to be negligible. A key reason is that based on 2004 summer school teacher figures, it is estimated that it would only apply to a small group of about 100 summer school teachers. Other technical issues

were also brought up relating to administration of the election, effective date, providing incentives for school districts to hire non-TFFR teachers, and treating non-TFFR teachers differently than regular TFFR members.

TFFR BOARD CONCERNS

- **Potential for Future Negative Financial Implications**

HB 1067 is intended to only apply to a small, select group of licensed, contracted teachers (approximately 100 or so per summer based on historical data). The fiscal impact of the bill would be caused by school districts not having to pay TFFR contributions on summer school teachers employed on a short term contract basis who could elect to opt out of TFFR. This would cause TFFR revenues to decrease by approximately \$31,000 per biennium. However, according to TFFR's actuarial consultant, this amounts to a minimal actuarial cost to the fund, and is not considered to be material. The financial impact is dependent upon the number of individuals who utilize the provision.

Like other TFFR membership provisions which have been considered from time to time, no one provision may have a significant actuarial cost. In fact, many are expected to be relatively minor. Unfortunately, the more exceptions that are made, the more difficult it becomes to stop making exceptions. Over time, due to more and more exceptions being granted, these small amounts begin to add up and could negatively impact TFFR. Declining student enrollment, and the corresponding declining active teacher membership, is already expected to impact TFFR. At a time when TFFR can least afford any more losses, the Board believes that HB 1067 opens the door for more.

- **Fairness to Other Summer School, Part time, or Temporary Teachers**

Allowing a special group of licensed, contracted teachers to elect to "opt out of TFFR coverage" when other licensed, contracted teachers are not able to do so may appear to be inequitable. The TFFR Board is concerned that over time, because of perceived unfairness by other teachers, this election could be extended to other summer school teachers (approximately 1,000 in 2004), or other temporary or part time teachers employed during the regular school year. This, in turn, would cause the group to expand and increase TFFR costs.

- **Employer Budget and Administrative Issues**

School district budgets are tight, and employers are naturally looking for places to save money. HB 1067 provides such a place. It provides an incentive for school districts to hire non-TFFR teachers in order to avoid paying employer contributions (or both employee and employer contributions if the school has elected to do so). Inducing school districts to hire non-TFFR members could cause the group of 100 or so summer school only teachers to expand, which would also increase the cost to the TFFR plan.

In addition, the administrative burden of the "opt out of TFFR election" will fall on the shoulders of the school district staff. Employers will have to secure the necessary information and provide the election since TFFR does not know who the district hires until after they are reported to TFFR. Unless summer school teachers are also teachers during the regular school year and participating in TFFR, employers may not know if a summer school teacher is a TFFR member or not. Employers will have to make this determination before they can provide the election form to the teacher, or validate it with TFFR after they receive the election from the teachers. Again, the administrative burden may encourage expansion of this provision to include all summer school employment which would result in greater costs to TFFR.

SUMMARY

As noted above, the TFFR Board has concerns about HB 1067, and opposes its passage due to the potential for future negative financial implications on TFFR, fairness to other summer school teachers, part time, and temporary teaching staff, and employer budget and administrative issues.

RECEIVE

OCT 22 2004

NDRIO



GABRIEL, ROEDER, SMITH & COMPANY

Consultants & Actuaries

5605 N. MacArthur Blvd. • Suite 870 • Irving, Texas 75038-2631 • 469-524-0000 • fax 469-524-0003

October 15, 2004

Senator Karen Krebsbach, Chair
Employee Benefits Program Committee
c/o Jeffrey Nelson
ND Legislative Council
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear Senator Krebsbach:

Subject: Bill 165 (Summer School Teaching)

We have analyzed Bill No. 165 which gives summer school teachers working under a short-term contract the right to elect not to participate in the North Dakota Teachers' Fund for Retirement (TFFR). This letter includes our comments about both the actuarial and technical issues raised by the bill.

Provisions of Bill 165

Currently, any teacher who teaches in a North Dakota public school under a teaching contract must become a contributing member of TFFR. The only exceptions are for certain re-employed retirees of TFFR.

Bill 165 would allow teachers employed in teaching a summer course or in a summer program to elect out of membership in TFFR with regard to their summer contract. It is our understanding that the sponsor intends the bill to apply only to teachers who are not covered under a public-school teaching contract during the regular school year. For example, a teacher who is not employed in public-school teaching during the regular school year, but who teaches drivers education, an enrichment program, or even core curriculum during the summer, would be able to opt out of TFFR coverage. A teacher who taught in a public school during the regular school year, though, would not be eligible to opt out of coverage in TFFR.

The language in the bill restricts the group of teachers eligible to elect out of coverage in TFFR to persons teaching on "a short-term contract basis." However, this requirement may not accomplish the sponsor's intent to limit the bill to teachers who are not regular TFFR members, since we have been informed that all summer-school teachers are

covered under a short-term contract. We understand that Bill 165 will be amended so that it reflects the sponsor's intent. The rest of our analysis is based on this understanding.

Impact on summer-only teachers

Under current law, a teacher employed only for the summer would have 7.75% withheld from pay (or possibly this would be picked up by the employer, depending on an election made by the school district). The district would also contribute 7.75% of the teacher's pay. When the teacher terminates, he/she could receive a refund of his/her contributions, accumulated with interest, or could keep contributions with TFFR if they plan to continue teaching in North Dakota public schools. So, for example, if a teacher works for just one summer at a salary of \$2,000, he/she would contribute \$155 (7.75% of \$2,000), as would the district. Upon termination, this teacher could receive a refund of \$155, plus interest. TFFR would retain the \$155 employer contribution made on the teacher's behalf. If the teacher refunds, the employer's \$155 contribution is not used to provide benefits for this teacher, it is used to strengthen the system and to help amortize the unfunded actuarial accrued liability.

Under the proposed law, this teacher would not pay \$155 in contributions. The district would not make contributions and would therefore save \$155. There is no direct savings to the teachers.

Depending on the contribution model utilized by the district, there might also be some minor tax effects on the teacher. For example, if the district picks up the employee's contribution, then the employee escapes immediate taxation for federal income tax purposes on the amount of the contribution. However, these effects are very small, and they will differ depending on the contribution model utilized by the particular district.

Actuarial analysis

We find the actuarial cost of the provisions to be negligible. A key reason that the cost is insignificant is that Bill 165 would only apply to a small group of teachers: Based on information supplied by TFFR, we estimate that the bill would impact only about 100 teachers each summer. This is based on the following data:

Summer	Number of Teachers	Average Salary
2002	91	\$2,033
2003	98	\$1,971

The numbers above are for summer-school teachers who did not teach during the prior school year. Data for 2004 is not yet available.

Our analysis assumed that 100 teachers per year with an average summer salary of \$2,000 would elect not to be covered under TFFR. Under the current provisions, these members could receive a refund of their 7.75% member contributions when they leave, but the TFFR system retains the 7.75% employer contributions when the members terminate. Consequently, the annual cost to TFFR would be \$15,500 per year, equal to:

$$(7.75\% \text{ contribution rate}) \times (\$2,000 \text{ salary for summer}) \times (100 \text{ teachers per summer})$$

Because of the relatively large population of TFFR and small number of teachers impacted, this represents less than 0.01% of payroll, and is not material.

Technical Analysis

The bill does not provide any provisions relating to how and when the elections would be made. Since districts are required to remit contributions to TFFR on a timely basis, the elections should presumably occur before the beginning of the contract and should be in writing. Employees should be given a reasonable period of time to make their elections. There should also be a default option specified in the bill, for those who do not make a timely election.

Administration of the election will necessarily fall to the district because TFFR has no information on non-members. The administrative burden may be confusing for districts, particularly those who do not regularly employ non-TFFR summer school teachers. The administrative hassle may encourage expansion of this provision to include all summer employment. As mentioned above, this would generate considerably more cost. Approximately 1,000 teachers taught summer school in 2004.

Bill 165 would be effective on August 1, 2005. We believe that the bill could not be applied to teachers employed during the summer of 2005, since their employment would already have begun by the time the bill became effective. However, because the effective date may fall before all summer sessions are complete, the sponsor may wish to consider modifying the effective date section, perhaps by choosing an effective date that does not fall during the summer session, in order to avoid potential confusion and misunderstanding.

We are concerned that the bill provides an incentive for school districts to hire non-TFFR teachers, since it could save them 7.75% of pay if the non-TFFR teachers elect to remain out of TFFR. Such an inducement for districts to hire non-TFFR members could cause the group of 100 to expand, potentially increasing costs.

We are also concerned because the bill treats non-TFFR teachers differently than regular TFFR members. This could lead the regular TFFR members to lobby for the same right to opt out of TFFR with regard to their summer contracts, and increase costs. This would be advantageous for most of them, since pay earned in teaching during the summer

Senator Karen Krebsbach, Chair

October 15, 2004

Page 4

session would not impact the teacher's retirement benefit, unless the teacher was within a few years of retirement. (Only the highest three years pays are used in determining the Final Average Compensation.) Almost all regular TFFR members would have earned a year's service with or without the inclusion of the summer-school term.

Other teachers working only a few hours and earning a small amount of service under TFFR, such as a part-time music teacher in a rural district, may also argue for the right to opt out of TFFR. This could cause the group to expand and increase system costs.

If you have any questions about our comments, please do not hesitate to call or write.

Sincerely,
Gabriel, Roeder, Smith & Company



William B. Fornia, FSA
Senior Consultant



J. Christian Conradi, ASA
Senior Consultant

klb

c: Ms. Fay Kopp, North Dakota Retirement and Investment Office

2039/2004/Leg/Bill 165 - Summer School.doc

1067
Chairwoman Kresbach and members of the Senate GVA Committee, House bill 1067 is presented today for the reason of offering an opt out provision to teachers who are not under full or partial contracts with the school system, but are offered summer school contracts, to defer from participation in TFFR until the move to a school year contract.

Currently there has been less than 100 teachers hired each summer in North Dakota that only working summer contracts. The fiscal note indicates that ALL would choose this option with an affect of appt. \$31,000 to the fund for the biennium. This is a fund that is approx. \$1.1 billion. The actuary of this fund, Mr. Conradi put it this way:

"Because of the relatively large population of the TFFR and small number of teachers impacted, this represents less than .01% of payroll, and is not material."

In the way of vesting for these teachers.

TFFR is a cliff vesting fund. So for a summer school teacher to qualify for the retirement payments they would need to work for 15 years. Receive very little in return since the pay is not much for these contracts, and they would only be at 3 years of service.

As for teachers who plan to move into a full time position, they would not choose to opt out and then just build for there retirement plan.

It is said that summer school teachers can already opt out – But this is not completely true. You may request for your employee contribution back, but the employer contribution made on your behave is not given to you or the school district, but is mixed into the overall fund. If the teacher was able to opt out completely they would keep their potion and the school district would have theirs to offer back in pay or benefits. Helping the teacher to have more take home pay.

The concerns that have been brought up in previous hearings about this bill, and may be mentioned today, for the most part DO NOT pertain to this bill proper. But are being offered as "what if's". I ask that you keep in mind that these are reaching scenarios that serve to have no bearing to the bill's purpose. "What if's" should not stop proper adjustments from taking place, when there is a need to correct an error in the plan such as the requirement of the summer school teacher to participate in TFFR.

Oddly enough the school administrators lobbyist spoke in opposition to the bill previously and yet I know that the Fargo administration is in favor of the bill, and they have the largest population of summer school teachers, I question how many school districts are truly against this bill. NDEA's lobbyist also says it is opposed and I again question of this is a true reflection of the teachers that are affected by this bill.

In conclusion I ask for your support of HB 1067 allowing these teachers the option to join TFFR or keep the money they have earned for themselves and in there school district.

Thank you,
Rep. Bette Grande, Dist. 41

SENATE GOVERNMENT & VETERANS AFFAIRS COMMITTEE HOUSE BILL 1067

**Fay Kopp, Deputy Executive Director
ND Retirement and Investment Office
February 24, 2005**

BACKGROUND ON TFFR MEMBERSHIP PROVISIONS

State statutes define teachers for TFFR membership purposes. Teachers are defined as persons who are **licensed** by the Education Standards and Practices Board who are **contractually employed in teaching, supervisory, administrative, or extracurricular services** by a state institution, special education unit, school board, or other governing body of a school district of this state. Generally speaking, this includes superintendents, assistant superintendents, county superintendents, business managers, directors, coordinators, principals, assistant principals, classroom teachers, and special teachers. Other specified persons or positions are also included as TFFR members.

Substitute teachers are typically not contracted by school districts, and are therefore not eligible for TFFR participation.

There are no minimum participation requirements. That is, teachers do not have to teach a certain number of days or hours to be eligible for TFFR membership. Teachers (as defined above) become TFFR participating members at their date of employment.

SUMMER SCHOOL TEACHERS

Currently, school districts and teachers contribute to TFFR for summer school teaching if contracted and licensed by ESPB. HB 1067 would allow summer school teachers who are not covered under a regular school year teaching contract to elect to opt out of paying into TFFR for their summer school teaching. The bill allows summer school teachers who opt out of TFFR to purchase service credit at a later date at the actuarial equivalent cost for time spent teaching summer school.

ACTUARIAL AND TECHNICAL ANALYSIS

TFFR's actuarial consultant, Chris Conradi of Gabriel, Roeder, and Smith (GRS), reviewed an initial draft of the bill and provided comments in a letter dated October 15, 2004 (attached).

The actuary states they find the actuarial cost of the provisions to be negligible. A key reason is that based on 2004 summer school teacher figures, it is estimated that it would only apply to a small group of about 100 summer school teachers. Other technical issues were also brought up relating to administration of the election, effective date, providing incentives for school districts to hire non-TFFR teachers, and treating non-TFFR teachers differently than regular TFFR members.

TFFR BOARD CONCERNS

- **Potential for Future Negative Financial Implications**

HB 1067 is intended to only apply to a small, select group of licensed, contracted teachers (approximately 100 or so per summer based on historical data). The fiscal impact of the bill would be caused by school districts not having to pay TFFR contributions on summer school teachers employed on a short term contract basis who could elect to opt out of TFFR. This would cause TFFR revenues to decrease by approximately \$31,000 per biennium. However, according to TFFR's actuarial consultant, this amounts to a minimal actuarial cost to the fund, and is not considered to be material. The financial impact is dependent upon the number of individuals who utilize the provision.

Like other TFFR membership provisions which have been considered from time to time, no one provision may have a significant actuarial cost. In fact, many are expected to be relatively minor. Unfortunately, the more exceptions that are made, the more difficult it becomes to stop making exceptions. Over time, these small amounts begin to add up and could negatively impact TFFR. Declining student enrollment, and the corresponding declining active teacher membership, is already expected to impact TFFR. At a time when TFFR can least afford any more losses, the Board believes that HB 1067 opens the door for more.

- **Fairness to Other Summer School, Part time, or Temporary Teachers**

Allowing a special group of licensed, contracted teachers to elect to "opt out of TFFR coverage" when other licensed, contracted teachers are not able to do so may appear to be inequitable. The TFFR Board is concerned that over time, because of perceived unfairness by other teachers, this election could be extended to other summer school teachers (approximately 1,000 in 2004), or other temporary or part time teachers employed during the regular school year. This, in turn, would cause the group to expand and increase TFFR costs.

- **Employer Budget and Administrative Issues**

School district budgets are tight, and employers are naturally looking for places to save money. HB 1067 provides such a place. It provides an incentive for

school districts to hire non-TFFR teachers in order to avoid paying employer contributions (or both employee and employer contributions if the school has elected to do so). Inducing school districts to hire non-TFFR members could cause the group of 100 or so summer school only teachers to expand, which would also increase the cost to the TFFR plan.

In addition, the administrative burden of the "opt out of TFFR election" will fall on the shoulders of the school district staff. Employers will have to secure the necessary information and provide the election since TFFR does not know who the district hires until after they are reported to TFFR. Unless summer school teachers are also teachers during the regular school year and participating in TFFR, employers may not know if a summer school teacher is a TFFR member or not. Employers will have to make this determination before they can provide the election form to the teacher, or validate it with TFFR after they receive the election from the teachers. Again, the administrative burden may encourage expansion of this provision to include all summer school employment which would result in greater costs to TFFR.

- **Service Purchase Provisions**

A short term summer school teacher who chooses to opt out of TFFR may save around \$155 in member contributions. However, if that teacher later becomes re-employed in a full time teaching position, and wants to purchase the summer school teaching service, the actuarial equivalent cost to purchase the service credit lost increases as the teacher gets older and closer to retirement.

Examples of actuarial equivalent cost based on a \$38,000 average salary:

Age	0.15 year cost	1.0 year cost
25	\$ 600	\$4,125
40	\$ 875	\$5,775
55	\$1,275	\$8,500

SUMMARY

As noted above, the TFFR Board has concerns about HB 1067, and opposes its passage due to the potential for future negative financial implications on TFFR, fairness to other summer school teachers, part time, and temporary teaching staff, and employer budget and administrative issues.

Krebsbach, Karen K.

From: Kopp, Fay L.
Sent: Thursday, February 24, 2005 5:19 PM
To: Krebsbach, Karen K.
Subject: HB1067

Good afternoon Senator Krebsbach:

As you requested this morning, here is a breakdown of TFFR members and employers by contribution method. There are currently 266 employers participating in TFFR which covers 10,729 active members:

*Teacher pays 7.75% employee contribution AND Employer pays 7.75% employer contribution:
143 employers covering 6,686 members

*Employer pays both 7.75% employee contribution AND 7.75% employer contribution:
81 employers covering 3,176 members

*Teacher pays part of 7.75% employee contribution/Employer pays part of employee contribution AND Employer pays 7.75% employer contribution
42 employers covering 867 members

On another issue that came up relating to licensure requirements for summer school teachers, I contacted Janet Welk at ESPB and Anita Decker at DPI. While this is not my area of expertise and you may wish to verify this information directly, here is my understanding of the situation.

According to ESPB, summer school teachers are required to have the same teaching license as other teachers contracted by a school district during the standard school year. Both must meet certain education and experience conditions in order to be licensed. Generally speaking, ESPB offers both 2 year and 5 year license renewals. One condition for 5 year renewals is that 18 months of contracted experience is required to renew. However, if a teacher does not complete the 18 months of full time contracted teaching requirement, they may continue to renew for 2 years. According to the ESPB website, the 2 year renewal is most commonly used for those who are teaching part time, subbing, or who simply want to maintain their ND licensure.

According to DPI, summer school information is not collected electronically, however, they do receive summer school information from the school districts in paper format. Since this data is not reported to DPI electronically, ESPB does not receive the summer school information when they access the DPI data base to determine if the teacher has 18 months of experience. However, ESPB indicated they will use the summer school teaching and count it toward the experience requirement if it is provided by the teacher (it just doesn't automatically appear on the data base since it is not electronically recorded). It is possible that the summer school teacher may not know this in advance, so communication may solve part of the problem.

I hope that this information is helpful to you. Please contact me if you have any questions. Thanks.

Fay Kopp
Deputy Executive Director
ND Retirement & Investment Office
Phone: 701-328-9895
FAX: 701-328-9897
www.discovernd.com/rio