NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Tuesday, August 21, 2007
Pioneer Room, State Capitol
Bismarck, North Dakota

Representative Bette Grande, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Bette Grande, Eliot Glassheim, Jim Kasper, Matthew M. Klein, Joe Kroeber; Senators Ralph L. Kilzer, Karen K. Krebsbach

Members absent: Senators Curtis Olafson, Harvey D. Tallackson

Others present: See Appendix A

At the request of Chairman Grande, committee counsel reviewed the *Supplementary Rules of Operation and Procedure of the North Dakota Legislative Council*.

At the request of Chairman Grande, committee counsel distributed two packets of newspaper clippings provided by the Teachers' Fund for Retirement (TFFR) which are on file in the Legislative Council office. Committee counsel also distributed copies of the June 2007 *Retirement Today* and June 2007 *Report Card*, copies of which are on file in the Legislative Council office.

At the request of Chairman Grande, committee counsel reviewed a memorandum entitled *Employee Benefits Programs Committee - Background Memorandum* describing the statutory duties and past procedures of the Employee Benefits Programs Committee. He said the committee was established in response to difficulties experienced in past legislative sessions resulting from inadequate prior study of the actuarial impacts of proposed legislative changes in retirement programs. He reviewed the statutory authority of the committee, procedures for solicitation and review of retirement proposals, actuarial services, and the additional committee responsibilities. He said the committee has the authority to establish rules for its operation, including rules relating to the submission and review of proposals and the establishment of standards for actuarial review. In prior years, he said, including the 2005-06 interim, the committee has limited the persons and entities permitted to submit to the committee legislative proposals affecting retirement programs to legislators and state agencies with the bill introduction privilege and required that the proposals be in bill draft form and submitted to the committee before April 1 of even-numbered years to allow enough time for actuarial evaluation. He said the committee has the authority to waive its self-imposed deadline for proposals received after any deadline established by the committee.

It was moved by Representative Klein, seconded by Senator Krebsbach, and carried on a roll call vote that the committee only accept legislative proposals affecting retirement programs that are submitted to the committee by legislators and state agencies with the bill introduction privilege, that the proposals be in bill draft form, and that the proposals must be submitted to the committee before April 1, 2008. Representatives Grande, Glassheim, Kasper, Klein, and Kroeber and Senators Kilzer and Krebsbach voted "aye." No negative votes were cast.

In response to a question from Representative Kasper, committee counsel said even if a proposal were submitted to the committee last interim, received an unfavorable recommendation, and was introduced and defeated in the preceding Legislative Assembly, the proposal may be resubmitted to the committee. He said even if a proposal receives an unfavorable recommendation it may still be introduced by the sponsor.

OVERVIEW OF RETIREMENT, INSURANCE, AND RETIREE HEALTH INSURANCE PROGRAMS

Mr. Steve Cochrane, Executive Director, Retirement and Investment Office, presented an overview of the state's investment program. A copy of Mr. Cochrane's PowerPoint presentation is attached as Appendix B. His presentation included a program review of the State Investment Board, the Retirement and Investment Office, and the funds managed by the State Investment Board.

Using the Public Employees Retirement System (PERS) fund as an example, Mr. Cochrane said the PERS Board conducts an asset liability analysis under which various optimal portfolios developed by the asset/liability analysis are considered. He said the preferred target allocation is then integrated into the statement of investment policy developed by the PERS Board and staff. He said the statement of investment policy is then presented to the PERS Board for approval and, if approved, presented to the State Investment Board for acceptance and implementation. He said when the statement of investment policy is accepted by the State Investment Board, administration of the fund goes from the State

Investment Board to the Retirement and Investment Office.

In response to a question from Senator Kilzer, Mr. Cochrane said the State Treasurer also invests state funds. The difference between the State Investment Board and the State Treasurer, he said, is that the State Treasurer usually invests smaller sums in cash or cash equivalents for shorter time periods while the State Investment Board and the Retirement and Investment Office invest the state's pension trust fund, and large funds, such as the workers' compensation fund, and invests these funds for longer time horizons.

Mr. Cochrane said the Retirement and Investment Office administers the investment strategy, maximizes risk and return opportunities within each asset class, and acts as a liaison between the State Investment Board and the board's money managers, investment consultants, and the custodian of the assets.

Mr. Cochrane said the State Investment Board has approximately $5.4 billion under management consisting of $4.5 billion in the pension trust, $1.3 billion in the insurance trust, and $230 million in other funds. He said the pension trust participants are PERS, TFFR, Bismarck public employees, Bismarck police employees, and Job Service North Dakota. He said the pension trust consists of 57 percent stocks, 31 percent bonds, 7 percent real estate, and 5 percent classified as other assets.

Mr. Cochrane said for the year ending June 30, 2007, the North Dakota pension trusts returned 19.9 percent and ranked in the top 2 percent of the Callan Associates public fund sponsor data base. He said the PERS pension trust returned 19.53 percent and ranked in the top 3 percent, while the TFFR pension trust returned 20.86 percent and ranked in the top 1 percent of the Callan Associates public fund sponsor data base. He said the difference in investment return between the PERS and the TFFR pension trusts is a function of the asset allocation of the two funds. For the year ending June 30, 2007, he said, the insurance trust returned 10.61 percent as compared to the target return of 9.5 percent.

Ms. Fay Kopp, Deputy Executive Director, Retirement and Investment Office, presented an overview of TFFR. A copy of Ms. Kopp's PowerPoint presentation is attached as Appendix C. She discussed the history and structure of TFFR, the goals of TFFR, and a summary of the TFFR plan.

Ms. Kopp said the mission of TFFR, a trust fund, is to advocate for, develop, and administer a comprehensive retirement program for all trust fund members within the resources available. She said the investment and funding goals of TFFR are to prudently invest assets in a well-diversified portfolio to optimize long-term returns while controlling risks to the fund; accumulate sufficient funds to pay all current and future benefit expense obligations when due; improve and maintain adequate funding of all promised benefits to ensure the financial integrity of the system; and to build a funding cushion for future benefits improvements. She said the benefit goals of TFFR are to provide a 2 percent benefit formula for all current and future retirees and to provide ad hoc retiree benefit adjustments for all current and future retirees to maintain purchasing power of retirement benefits and assist with rising health care costs. The services goals for TFFR, she said, are to administer an accurate, prompt, and efficient pension benefits program; to deliver high-quality, friendly service to members and employers; and to provide educational outreach programs, including preretirement seminars and individual benefits counseling sessions.

In response to a question from Representative Grande, Ms. Kopp said active members and retired members are fully informed of the funding level and actuarial status of the plan.

Ms. Kopp said TFFR is experiencing several demographic changes. She said the number of active members is declining due to student population declines; school closings, consolidations, and budget reductions; and the fact that teachers are retiring earlier and returning to teach part time. She said the number of retired members is increasing with teachers retiring earlier and returning to teach part time and beneficiaries are generally living longer.

In response to a question from Representative Grande, Ms. Kopp said the TFFR staff would provide a history of benefit changes enacted by the Legislative Assembly since 1977 as well as the number of Department of Public Instruction and Department of Career and Technical Education employees that transferred from TFFR to the PERS system under legislation allowing them to do so.

In response to a question from Senator Krebsbach, Ms. Kopp said the TFFR staff would attempt to identify the number of members employed as special education teachers.

Ms. Kopp said membership in TFFR is mandatory for teachers, special education teachers, superintendents, principals, directors, and other positions required by state law. She said teachers must be licensed by the Education Standards and Practices Board and contracted with a participating employer to provide teaching, supervisory, administrative, or extracurricular services to be a member. She said the Legislative Assembly enacted significant changes to the TFFR plan in 2007. She said the Legislative Assembly created two membership tiers. She said Tier 1 consists of all current active, inactive, and retired members who have fund service credit on July 1, 2008, and Tier 2 members are all new members and returning refunded members employed after July 1, 2008. She said the current statutory contribution rate is 7.75 percent for members and employers, but under the 2007 legislation employer contributions will increase to 8.25 percent until the fund reaches a funded level of 90 percent. She said the employer contribution increase becomes effective July 1, 2008. She said the current vesting period for Tier 1 members is three years and effective July 1, 2008, the vesting period for Tier 2 members will be five years.

In response to a question from Representative Glassheim, Ms. Kopp said the funded level of TFFR in 2006 was 75 percent and is estimated to be approximately 80 percent in 2007.

Representative Grande requested the Legislative Council staff invite representatives of the Education Standards and Practices Board to discuss how the critical shortage areas exception for defining retirees returning to work is determined.

Ms. Kopp said normal retirement for Tier 1 members is age 65 with three years of service or the Rule of 85--age plus years of service equals 85. She said normal retirement for Tier 2 members is age 65 with five years of service or the Rule of 90--age plus years of service equals 90. She said a member may retire early at age 55 with the benefit reduced by 6 percent per year.

In response to a question from Representative Klein, Ms. Kopp said of the 244 TFFR participating employers, approximately one-half pay all or a portion of the employee contribution. She said this amounts to approximately one-third of teacher members.

Mr. Sparb Collins, Executive Director, Public Employees Retirement System, presented an overview of the Public Employees Retirement System. A copy of his PowerPoint presentation is attached as Appendix D. He reviewed the structure of the PERS Board; structure of the PERS office; retirement programs, including the PERS main system, Highway Patrolmen's retirement system, judges' retirement system, National Guard Security Police and Firefighters retirement system, law enforcement retirement system, prior service retiree system, higher education system, defined contribution retirement plan, and the Old-Age and Survivor Insurance System; retiree health insurance program; health insurance program; life insurance program; employee assistance program; deferred compensation program; dental, vision, and long-term care insurance programs; and flexcomp program.

Concerning the PERS main system, Mr. Collins said the employer contribution for this plan is 4.12 percent of covered compensation, the employee contribution is 4 percent of covered compensation for a total of 8.12 percent of covered compensation. He said an employee vests for purposes of a disability benefit after 180 days and the vesting for normal retirement benefits is 36 months. He said the normal retirement date is age 65 or the Rule of 85. He said the main retirement system has 17,878 active members, 5,540 retired members, and 610 beneficiaries. He said the main retirement system has a portability enhancement provision, whereby a member has the option to vest in up to 4 percent of the employer contribution paid into the retirement pool of funds and have this vesting percentage credited to the employee's account. He said for every dollar an employee puts in the deferred compensation plan, PERS will then transfer $1 from the retirement pool of funds to the member's account balance.

Mr. Collins noted that the contribution rate has not increased since inception of the plan and in 1989 was in fact decreased by 1 percent to pay for the retiree health credit program. He said the contribution rate is below average for public sector plans and the effective rate is approximately 3.8 percent assuming 87 percent of retiree payments go to North Dakota mailing addresses and the taxes generated on these pension payments are approximately $1 million.

Mr. Collins said the employer cost rate in 2005 was 6.03 percent and the employer cost rate for 2006 was 6.82 percent. He said the statutory contribution rate is 4.12 percent and thus the available margin on July 1, 2006, was negative 2.7--4.12 percent minus 6.82 percent equals negative 2.7 percent. He said the funded ratio of the main retirement system on July 1, 2006, was 89 percent.

Concerning the judges' retirement system, Mr. Collins said the employer contribution is 14.52 percent of covered compensation, the employee contribution is 5 percent of covered compensation for a total retirement contribution of 19.52 percent. He said the contribution margin for the judges' retirement system as of July 1, 2006, was 2.16 percent.

Concerning the National Guard and law enforcement retirement plans, Mr. Collins said the employer contribution for the National Guard plan is 6.5 percent of covered compensation, the employee contribution is 4 percent of covered compensation and thus the total retirement contribution is 10.5 percent. He said the available contribution margin on July 1, 2006, for the National Guard retirement plan was 2.48 percent. For the law enforcement plan, he said, the employee contribution is 4 percent while the employer contribution for current employer groups is 8.31 percent and 6.43 percent for new employer groups. He said the contribution margin for the law enforcement without prior main service plan was negative 1 percent on July 1, 2006, and the contribution margin for the law enforcement with prior main service plan was negative 3.76 percent on July 1, 2006. He said the funded ratio for the law enforcement with prior main service plan is 44 percent while the funded ratio for the law enforcement without prior main service plan is 59 percent.

Concerning the Highway Patrolmen's retirement system, Mr. Collins said the employer contribution is 16.7 percent of covered compensation while the employee contributes 10.3 percent of covered compensation for a total retirement contribution of 27 percent. However, he noted, participants in the Highway Patrolmen's retirement system do not participate in the federal Social Security system. He said the available contribution margin on July 1, 2006, for the Highway Patrolmen's retirement system was a negative 2.33 percent. He said the funded ratio for the Highway Patrolmen's retirement system is 87 percent.

EMPLOYEE BENEFITS STUDY

At the request of Chairman Grande, committee counsel reviewed a memorandum entitled *Employee Benefits Programs Committee Benefits Survey Results*.

Representative Kasper requested the Legislative Council staff request additional detail from the state agencies surveyed in the benefits survey and summarize the authority cited by each agency for its expenditures.

Chairman Grande called on Ms. Laurie Sterioti Hammeren, Director, Human Resource Management Services, Office of Management and Budget. A copy of Ms. Sterioti Hammeren's written comments is attached as Appendix E and a schedule of benefits is attached as Appendix F. Ms. Sterioti Hammeren also distributed a brochure entitled *What Every Employee Needs to Know*, a copy of which is on file in the Legislative Council office. She said the role of Human Resource Management Services is to establish general policies and rules that are binding on the agencies affected. She said the agency does this through the adoption of administrative rules. She said these rules apply to employees in the classified service, not agencies such as the Department of Commerce and Workforce Safety and Insurance which are not part of the classified service. She said the University System, legislative branch, and judicial branch are also not part of the classified service.

In response to a question from Representative Glassheim, Ms. Sterioti Hammeren said there are provisions in administrative rules allowing agencies to provide documentation to allow an agency to go beyond what the rules provide. She said Human Resource Management Services does audit the merit system to ensure that agencies are in compliance and also advises agencies on questions involving personnel statutes and rules. She said it is not common for classified agencies to vary much from applicable statutes or rules.

In response to a question from Senator Kilzer, Ms. Sheila Peterson, Director, Fiscal Management Division, Office of Management and Budget, said that in the budget process the budget detail outlines expenditures, such as professional development, and when the Legislative Assembly approves an agency's budget it is approving that expenditure for that purpose.

Ms. Peterson said fiscal analysts employed by the Office of Management and Budget are not required to possess a certified public accountant certificate but if she is able to hire an employee holding a certified public accountant certificate she would encourage that employee to maintain certification and the Office of Management and Budget would pay for the certification. She said the Office of Management and Budget pays for memberships in the Government Finance Officers Association and believes this is beneficial for both the employee as well as the agency. She said the agency uses professional development funds to pay this membership.

In response to a question from Representative Kroeber, Mr. Gordy Smith, Audit Manager, State Auditor's office, described the various types of audit processes used by the State Auditor's office. He said if the State Auditor's office discovers a practice not in compliance with state or federal law the office will first consult with Human Resource Management Services to verify the discrepancy, consult with the Attorney General's office, and then note the discrepancy in the audit report.

At the request of Chairman Grande, Ms. Laura Glatt, Vice President of Finance, University System, addressed the committee. She said the University System is governed by the State Board of Higher Education, which is given broad authority under the Constitution of North Dakota regarding personnel matters.

STAFF DIRECTIVES

Representative Glassheim requested the Legislative Council staff contact the National Conference of State Legislatures and the Council of State Governments for information on public employee benefits in surrounding states.

No further business appearing, Chairman Grande adjourned the meeting at 2:30 p.m.

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Jeffrey N. Nelson
Committee Counsel

ATTACH:6