

**TESTIMONY OF
SPARB COLLINS
CONCERNING RULES OF THE
NORTH DAKOTA
PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Good morning, Mr. Chairman and members of the Committee. My name is Sparb Collins. I am the Executive Director of the North Dakota Public Employees Retirement System (NDPERS). Today I would like to discuss with you the rules adopted by NDPERS. Some of the rules before you today are the result of new state legislation, however, there are some "housekeeping" items as well. Specifically the legislation implemented in these rules is SB2045 and SB2048. These rules relate to General Administration, the NDPERS Retirement System, the Uniform Group Insurance Program, the Highway Patrol Retirement Plan, the Retiree Health Insurance Credit Program, and the Defined Contribution Plan.

The NDPERS Board follows a standard procedure in its rule making process, which includes:

- 1) Preparation of draft rules.
- 2) Initial presentation of proposed rules by staff to the Board.
- 3) After Board review and comments, a second draft is prepared for public hearing.
- 4) A date and location of the public hearing is determined and notifications are filed with newspapers across the state.
- 5) Draft rules are posted to the NDPERS website and provided to employer groups, employee groups and others upon request.

- 6) Notice is sent to legislators who sponsored legislation pertaining to proposed rules along with a copy of the draft rules (when applicable).
- 7) The hearing is held at the date and time specified in the notice, with a staff member present to receive comments, and all comments are recorded.
- 8) The results of the hearing and comments are reviewed by the Board.
- 9) Following Board review and approval, the final draft rules are forwarded to the Attorney General's office and, following the Attorney General's review, they are filed with the Legislative Council.

This process was followed with the rules before you today. A public hearing on the rules was held on Wednesday, November 21, 2007 at 11:00 a.m. in the Peace Garden Room at the State Capitol, here in Bismarck. The hearing record was held open for written comments until the close of business on December 10, 2007. No comments were given relating to the proposed rules, as no members of the public attended the hearing. No written comments were received. At its January meeting, the NDPERS Board reviewed and adopted the proposed rules before you. The cost of giving notice was approximately \$2,367.00. We estimate that staff spent approximately 40 hours on the rule making process.

Relating to the requirements of Chapter 28-32, we have done the following:

- Concerning 28-32-08 NDCC it was determined these rules would not have an economic impact on the regulated community and there were no written requests received for a regulatory analysis.
- Concerning NDCC 28-32-02.5 it was determined that there are no constitutional takings implications applicable to the proposed rules.

- Concerning NDCC 28-32-08.1 we determined there was generally no effect on small entities and have attached a copy of the assessment.

The following is an explanation of the proposed rules:

PROPOSED RULE	EXPLANATION
GENERAL ADMINISTRATION	
Chapter 71-01-02, pages 93 through 98	The rules in this section relate to the PERS Board and clarify who is eligible to serve, who is eligible to vote, the process for conducting elections, being nominated to the board and how to resolve a tie in the election.
NDPERS MAIN RETIREMENT SYSTEM	
Chapter 71-02-03, pages 99 through 102	The change in this section relates to the payment due date for sick leave purchases and changes the completion date from 60 days after termination to 15 days. The rules also clarify the procedure for employer purchases relating to confidentiality.
Chapter 71-02-04, pages 103 through 106	The proposed rules in this section relate to benefit options and erroneous payments. Concerning benefit options they clarify processing of J&S benefit if a divorce occurs. Relating to erroneous benefit payments the rules clarify and specify the process relating to over payments and underpayments.
Chapter 71-02-05, pages 107 through 108	This section relates to the disability benefit under PERS and clarifies processing the J&S benefit in case of a divorce
Chapter 71-02-06, page 109	Clarifies the administrative process relating to bonuses
UNIFORM GROUP INSURANCE PROGRAM	
Chapter 71-03-01, page 110	Adds the Medicare Part D Rx coverage to the list relating to bid specifications
Chapter 71-03-05, pages 111 through 113	Details the process for underpayment of insurance premiums and provides the methodology for the vision plan.
Chapter 71-03-07, page 114	Updates the rules relating to the changes in statute adopted last session relating to

PROPOSED RULE	EXPLANATION
	employer payment of temporary employee health premiums
HIGHWAY PATROL RETIREMENT PLAN	
Chapter 71-05-02, Page 115	Clarifies the processing of the J&S benefit in the HP retirement plan when a divorce occurs
Chapter 71-05-04, pages 116 through 119	The change in this section relates to the payment due date for sick leave purchases and changes the completion date from 60 days after termination to 15 days. The rules also clarify the procedure for employer purchases relating to confidentiality.
Chapter 71-05-05, pages 120 through 122	This portion of the rules standardizes the method for handling payment date for late retirees, the method of optional benefits and erroneous payment of benefits with the PERS system.
RETIREE HEALTH INSURANCE CREDIT PROGRAM	
Chapter 71-06-01, pages 123 through 125	This portion of the rules implements the change passed last session that allows married members to combine their health benefit for purchasing a family plan
DEFINED CONTRIBUTION PLAN	
Chapter 71-08-07, pages 126 through 127	Adds the confidentiality provision passed this last session for employer additions to a members DC plan account

Mr. Chairman, members of Committee, this concludes my testimony.

Small Entity Regulatory Analysis

1. **Was establishment of less stringent compliance or reporting requirements for small entities considered? No**
To what result? The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
2. **Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? No**
To what result? The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
3. **Was consolidation or simplification of compliance or reporting requirements for small entities considered? No**
To what result? The proposed rules do not require any new reporting requirements nor do they add any additional compliance responsibility to any of our existing employers.
4. **Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? No. To what result? There were no replacement design or operational standards required in the proposed rules.**
5. **Was exemption of small entities from all or any part of the requirements in the proposed rule considered? No To what result? As none were required, none were considered.**

Small Entity Economic Impact Statement

1. **Which small entities are subject to the proposed rule?** Any participating entity is subject to the proposed rule.
2. **What are the administrative and other costs required for compliance with the proposed rule?** There are no costs for compliance with the proposed rules. The proposed rules provide additional options for employers and include 71-03-07-06, 71-02-03-07, 71-08-04-09, 71-02-06-04.
3. **What is the probable cost and benefit to private persons and consumers who are affected by the proposed rule?** Since the proposed rule changes are optional, there is no specific cost or benefit to private persons or consumers. Specific to employer purchases, if a small entity elects to offer an employer purchase program, then the cost is determined specific to the individual that they are purchasing time for and therefore, the exact cost can not be determined at this time.
4. **What is the probable effect of the proposed rule on state revenues?** Since the proposed rule changes are optional, there is no probable effect or cost on state revenues.
5. **Is there any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule?** None were identified at this time.