

**LEGISLATIVE COUNCIL ADMINISTRATIVE RULES COMMITTEE
JUNE 11, 2008**

**Teachers' Fund for Retirement (TFFR)
Title 82, ND Administrative Code, July 2008 supplement**

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Today I would like to discuss the rules adopted by the TFFR Board relating to its retirement plan for ND public school teachers.

- 1) Most of the rule changes are the result of statutory changes made by the 2007 Legislature, with a few administrative changes to clarify certain provisions in NDCC Chapter 15-39.1.
- 2) There are also a few rule changes relating to changes in federal law, including the Economic Growth and Tax Relief Reconciliation Act of 2001.
- 3) The TFFR Board follows a standard procedure in its rulemaking process as required by state law. The rule changes were drafted under the direction of the TFFR Board of Trustees, and submitted to TFFR's legal counsel and actuarial consultant for input and review. The Board approved the proposed administrative rule changes at its November 15, 2007 board meeting. On November 19, 2007, a Notice of Intent to Adopt and Amend Administrative Rules was filed with the Legislative Council and a Publication Notice was sent to the North Dakota Newspaper Association. The notice was published once in each official county newspaper during the week of December 1-8, 2007. TFFR also uses direct mail and electronic mail to notify interested persons and organizations of proposed rulemaking. Notice was provided on the NDRIIO website, sent to

employers, member and employer interest groups (ND Education Association, ND Council of Educational Leaders, ND Retired Teachers Association, and ND School Board Association), and included in member and employer newsletters. A public hearing was held prior to the TFFR Board meeting on January 17, 2008 at the State Capitol. Individuals present were TFFR Board members, RIO staff, legal counsel, and representatives from member and employer interest groups. After the public comment period which ended January 31, 2008, the Attorney General's Office examined the changes and the rulemaking process and approved them on February 12, 2008. The TFFR Board formally adopted the administrative rules on March 13, 2008.

4) No written or oral concern, objection, or complaint on the proposed rules were submitted at the public hearing, nor during the public comment period.

5) Total cost for developing and adopting the rules was \$2,896. This includes fees to assist in drafting and reviewing the proposed rules of \$808 from the Attorney General's Office and \$740 from the Fund's actuarial consultant. Advertising costs were \$1,348 for publishing the notice in the county newspapers.

6) The following amendments were made to implement new statutory provisions approved by the 2007 Legislature and to clarify certain other provisions in NDCC Chapter 15-39.1.

- 82-02-01-01 Definitions. Clarifies the definition of "covered employment" and "participating employer;" adds a definition for "referee;" and changes the definition of vesting to include Tier 1 and Tier 2 membership.
- 82-03-01-02 Nonvested teachers' withdrawal from fund/Refund. Removes language regarding automatic refunds of accumulated assessments for nonvested teachers.
- 82-05-04-01 Actuarial factors/Early retirement. Modifies language to include Tier 1 (Rule of 85) and Tier 2 (Rule of 90) normal retirement eligibility when calculating an early retirement reduction.

- 82-05-04-02 Actuarial factors/Optional payment forms. Clarifies the actuarial assumptions that will be used to determine partial lump sum retirement reductions.
- 82-05-04-04 Actuarial factors/Purchase of service. Updates salary increase assumption for service credit purchase calculations.
- 82-05-06 Retiree return to work program. Creates a new chapter relating to retiree reemployment.
- 82-05-06-01 Retiree reemployment reporting requirements. Clarifies retiree re-employment reporting requirements.
- 82-07-01-01 Definitions. Modifies definition of "medical examination."
- 82-07-04-01 Suspension of disability benefits. Clarifies the meaning of covered employment and regular employment as it relates to disability annuitants returning to work.
- 82-10-01-01 Right to formal hearing and appeal. Clarifies language relating to when the timeline to file a request for a formal hearing begins.

7) A regulatory analysis was not issued or requested. The rule changes are not expected to have an economic impact on the regulated community.

8) A small entity regulatory analysis was prepared (attached), but a small entity economic impact statement was not prepared because none of the rule changes are expected to have an adverse economic impact on small entities.

9) A constitutional takings assessment was not required or prepared.

10) The rules were not adopted as emergency (interim final) rules.

This concludes my testimony describing the procedure followed by the TFFR Board in adopting administrative rules.



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SMALL ENTITY REGULATORY ANALYSIS

For Proposed Changes to NDAC, Title 82
ND Teacher's Fund for Retirement

1. Was establishment of less stringent compliance or reporting requirements for small entities considered? Yes. To what result? No effect on small entities expected.
2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? Yes. To what result? No effect on small entities expected.
3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? Yes. To what result? No effect on small entities expected.
4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rules? No. To what result? No effect on small entities expected.
5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? Yes. To what result? No effect on small entities expected.