NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

EMPLOYEE BENEFITS PROGRAMS COMMITTEE

Wednesday, July 21, 2010
Harvest Room, State Capitol
Bismarck, North Dakota

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

Members present: Representatives Bette B. Grande, David Drovdal, Ralph Metcalf, Francis J. Wald, Lisa Wolf; Senators Ralph L. Kilzer, Ray Holmberg, Karen K. Krebsbach, Carolyn Nelson

Others present: See Appendix A

It was moved by Senator Nelson, seconded by Senator Holmberg, and carried on a voice vote that the minutes of the April 27, 2010, meeting be approved as distributed.

At the request of Chairman Grande, committee counsel distributed a copy of the July 2010 issue of *Your Vested Interest* and two summaries prepared by the National Conference of State Legislatures entitled *Pensions and Retirement Plan Enactments in 2010 State Legislatures* and *State Defined Contribution and Hybrid Pension Plans*. These documents are on file in the Legislative Council office.

STATE INVESTMENT BOARD

Chairman Grande recognized Mr. LeRoy Gilbertson, Interim Executive Director and Chief Investment Officer, Retirement and Investment Office and State Investment Board. Mr. Gilbertson presented an update of the search for a permanent executive director and chief investment officer and an update of the State Investment Board preliminary June 30, 2010, investment returns. He delivered a PowerPoint presentation (Appendix B) and distributed frequently asked questions and answers (Appendix C) prepared by the State Investment Board concerning the state's investment program.

Mr. Gilbertson said the search for a permanent executive director - chief investment officer is underway. He said the State Investment Board has selected EFL Associates, Inc., to recruit a permanent executive director - chief investment officer. He said the State Investment Board is targeting a late fall date for completion of the selection process. He said the State Investment Board Audit Committee has selected Clifton Gunderson LLP to conduct a performance audit of the Retirement and Investment Office. He said the audit work has commenced and the targeted reporting date is August 2010. He said the State Investment Board is also undergoing its annual financial audit, which is being conducted by Eide Bailly LLP under contract with the State Auditor's office. He said the financial audit report is due in October 2010. Finally, he said, the State Investment Board is undertaking a special study of investment fees paid to money managers. He said this study is being conducted by the board's investment consultant--Callan Associates, Inc.--and is targeted to be completed by the end of July.

Mr. Gilbertson said the Retirement and Investment Office administers overall investment strategy for the funds managed by the State Investment Board. He said the task of the Retirement and Investment Office is to maximize risk and return opportunities within each asset class and to act as a liaison between the State Investment Board and managers, consultants, and the custodial bank. He said the Retirement and Investment Office also monitors each fund's investment guidelines and asset allocations and maintains separate accounting for each fund. He said the State Investment Board currently has 41 investment managers, and the board's investment consultant is Callan Associates, Inc. He said the State Investment Board manages risk by diversifying the portfolio of assets under management by the board, hiring professional money managers, and establishing investment guidelines and policies. He emphasized that all funds are externally managed, and that by utilizing a custodial bank no individual firm can access money.

Mr. Gilbertson said the estimated returns for both pension trusts for June 30, 2010, is 13.2 percent. He said the estimated return of the insurance trust is 11.9 percent and the Workforce Safety and Insurance fund is 12.6 percent.

In response to a question from Representative Wald, Mr. Gilbertson said the 8 percent assumed rate of return reflects historical rates of return, current and projected rates of inflation, and projected returns for individual asset classes. He said if the assumed rate of return were lowered, then contribution rates must increase. He said Arizona uses an 8 percent investment assumption, and the average for public pension systems is between 7.75 percent and 8.75 percent with the average being 8 percent.

In response to a further question from Representative Wald, Mr. Gilbertson said it would be imprudent to change the assumed rate of return based on short-term rates of return.

Mr. Gilbertson said the State Investment Board's long-term investment strategy is sound, the portfolio is professionally managed, and the assets are well-diversified. He noted that long-term historical returns have been approximately 8.5 percent. Although the current market recovery is good news, he said, it will still not change the pension fund's long-term funding projections very much. He said he was doubtful that the board can expect much excess return over the 8 percent assumption in the future to assist with addressing the funding shortfall.

Concerning the Westridge Capital Management/WG Trading Investors, L.P., fraud, Mr. Gilbertson said, the State Investment Board, and its coclaimants, and representatives of a number of other investor-victims are in communication in an effort to develop and propose to the receiver a mutually agreeable plan for the distribution of the Westridge Capital Management entity assets currently held by the receiver.

TUITION REIMBURSEMENT POOL PROGRAM APPROPRIATION STUDY

At the request of Chairman Grande, committee counsel distributed a spreadsheet (Appendix D) showing agencies with fewer than 30 employees and agencies with 30 to 50 employees. He said there are 18 agencies with fewer than 30 employees and 8 agencies with 30 to 50 employees. He said he had visited with Office of Management and Budget (OMB) officials concerning the study, and OMB has no position concerning the study.

At the request of Representative Wolf, committee counsel distributed a memorandum prepared for the Employee Benefits Programs Committee in November 2007 entitled *Employee Benefits Programs Committee Benefits Survey Results*.

ADMINISTRATIVE LEAVE PROGRAM STUDY

Chairman Grande recognized Mr. Stuart Savelkoul, Executive Director, North Dakota Public Employees Association. Mr. Savelkoul provided written comments (Appendix E) concerning the study. He said the benefits of an administrative leave program would be numerous, and the cost of implementing a program would be minimal.

In response to a question from Representative Grande, Mr. Savelkoul said the North Dakota Public Employees Association has not determined the cost of an administrative leave program. The cost, he said, would depend upon the hourly wage of the individual taking leave to testify. However, he estimated the cost would be minimal, and the benefit provided by hearing comments from interested state employees would be very beneficial for the Legislative Assembly.

In response to a question from Senator Holmberg, Mr. Savelkoul said he was unsure of the level of support from agencies for the proposal, but support among members of the North Dakota Public Employees Association for the proposal is unanimous.

In response to a question from Representative Grande, Mr. Savelkoul said the North Dakota Public Employees Association has approximately 1,500 members.

In response to a question from Senator Holmberg, Mr. Ken Purdy, Classification and Compensation Manager, Human Resource Management Services, Office of Management and Budget, said there are approximately 15,000 executive branch and higher education employees. He said there are approximately 7,200 higher education employees and approximately 7,800 executive branch employees.

RECRUITMENT AND RETENTION BONUS REPORT

Chairman Grande recognized Mr. Purdy who presented a report (Appendix F) on the implementation, progress, and bonuses provided by state agency programs to provide bonuses to recruit or retain employees in hard-to-fill positions. Mr. Purdy said recruitment and retention bonuses are authorized by North Dakota Century Code Section 54-06-31. This section, he said, was originally enacted in 1999 with a provision to sunset in 2003. Legislation enacted in 2003, he said, removed the sunset provision allowing bonuses to become an ongoing tool for use by agency management. Although bonuses cannot replace a sound base pay plan, he said, agencies continue to use bonuses conservatively and effectively to recruit and maintain their workforce. For the July 1, 2009, to June 30, 2010, period, he said, agencies have provided 101 recruitment bonuses at a cost of $154,357.75 and 111 retention bonuses at a cost of $279,096.21. He said the Department of Transportation and the Department of Human Services are the largest users of the recruitment bonus program, and the Department of Transportation and Department of Mineral Resources are the largest users of the retention bonus program. He said North Dakota state government is seeing more applications as a result of economic troubles elsewhere in the country and North Dakota's strong economy.

In response to a question from Representative Wald, Mr. Purdy said the Oil and Gas Division of the Department of Mineral Resources has been very aggressive in using the retention bonus program to retain employees in competition with the oil and gas private sector.

In response to a further question from Representative Wald, Mr. Purdy said the program is working very well, and he could not recommend any changes or improvements to the program.

In response to a further question from Representative Wald, Mr. Purdy said the program is funded via vacancies, so in that respect the program is self-funding.

RETIREMENT PROPOSALS CONSIDERATION

At the request of Chairman Grande, committee counsel reviewed Employee Benefits Programs Committee Bill No. 68 [10068.0100]. Committee counsel said this bill would enable the establishment and operation of member-run nonprofit health insurance issuers. He said this bill was drafted prior to April 1, 2010, but the Legislative Council staff had made a determination that since it did not affect a retirement, health insurance, or retiree health insurance program, it did not need to be submitted to the committee. However, he said, Senator Tim Mathern--the sponsor--has requested the committee take jurisdiction of the bill and refer it to the Public Employees Retirement System (PERS) for technical comments. In addition, he said, Employee Benefits Programs Committee Bill No. 103 [10103.0100] was submitted to the committee by Representative Al Carlson. He said the bill would authorize health savings accounts under the uniform group insurance program. He said this bill was prepared by the Legislative Council staff at the request of Representative Carlson based upon discussions at the April 27, 2010, committee meeting. He recommended that the committee take jurisdiction over both bills for the purpose of obtaining technical and actuarial comments.

Chairman Grande recognized Mr. Sparb Collins, Executive Director, Public Employees Retirement System. Mr. Collins said the PERS Board is proposing that Employee Benefits Programs Committee Bill No. 60 [10060.0100] be amended, and he distributed a copy of the amendment (Appendix G). He said the amendment would allow the PERS Board to carve out the prescription drug plan and bid that program separately from other health insurance products. He said this would be another option in addition to those already available to the board. He said the amendment also would update the provisions of the statute relating to the contingency reserve fund.

It was moved by Senator Krebsbach, seconded by Representative Wolf, and carried on a voice vote that the committee assume jurisdiction over the bill drafts submitted to the committee, and that the PERS Board be requested to obtain an actuarial analysis of each bill draft submitted to the committee, or, if a bill draft does not have an actuarial effect on a fund, to provide any other information that would assist the committee in making a recommendation concerning the bill draft and to approve the amendment submitted by the PERS Board.

RECRUITMENT AND RETENTION REPORT

Chairman Grande recognized Mr. Purdy who presented a PowerPoint presentation (Appendix H) describing the study directed to Human Resource Management Services by 2009 Senate Bill No. 2061. Mr. Purdy said the bill directed Human Resource Management Services to determine perceived and actual barriers to retaining state employees as those employees near retirement, consider steps other public employers have taken to retain their workforce, and provide specific steps the state could take to retain employees nearing retirement. A copy of the employee retention study is on file in the Legislative Council office.

Chairman Grande recognized Ms. Stacey Breuer, Human Resource Officer, Human Resource Management Services, Office of Management and Budget, who reviewed the methodology of the study. Ms. Breuer said four agencies were selected--the Tax Department, State Department of Health, State Historical Society, and the Department of Transportation. She said the four agencies were selected based on the total number of employees, the number of employees eligible for retirement, and the number of employees not eligible for retirement.

In response to a question from Representative Grande, Mr. Purdy said Human Resource Management Services will provide information on the benefit formulas in place in each state that is a member of the Central States Compensation Association.

Concerning recommendations, Mr. Purdy said, Human Resource Management Services is not making any specific legislative recommendations; however, all of the recommendations fall within two key areas--pay and benefits and work environment. He noted that employee recommendations include flexible work options, training and development, employee appreciation, and compensation and benefits. Concerning Human Resource Management Services recommendations in the pay and benefits area, he said, the two recommendations are that the balance of pay and benefits be monitored to ensure an overall competitive position in the market and that the results of the Hay Group study being conducted by the Government Services Committee be considered. Concerning work environment, he said, Human Resource Management Services is recommending that flexible and alternative work arrangements be utilized, that jobs be redesigned as employees near retirement, that consideration be given to double filling of positions for succession planning, that employers offer development opportunities, and that employers participate in generational training. He said the key to retention of employees is engagement. He said a truly engaged employee regardless of whether that employee is newly hired, midcareer, or nearing retirement is most productive and less likely to be actively looking for opportunities to move on. He noted that agencies have flexibility to implement many of these recommendations, and it is the responsibility of Human Resource Management Services to inform agencies and to bring them up to speed on what is available in this area.

Chairman Grande announced that the final two committee meetings will be September 21 and October 26. No further business appearing, Chairman Grande adjourned the meeting at 2:05 p.m.

Jeffrey N. Nelson
Committee Counsel

ATTACH:8