

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

Good afternoon, 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, others are updating or clarifying existing provisions. Specifically the legislation implemented in these rules is SB2153. 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 Tuesday, November 17, 2010 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, 2010. No comments were given relating to the proposed rules as no members of the public attended the hearing however one call was received asking a question. No written comments were received. After the hearing we discovered instances where we had not underlined a change or lost the underlining in the final draft that went to hearing. After consultation we decided to restart the process. A second hearing was held on March 23 at 11 am in the Fort Totten Room. There were no members of the public in attendance. No comments were received.

The cost of giving notice was approximately \$5,600.00 and our attorney fees were approximately \$1880.00 We estimate that staff spent approximately 70 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:

Row #	Proposed Rule Chapter	Explanation
Main PERS Retirement Plan		
1	Chapter 71-01-02 pages 245-246	Related to the PERS Board election process, implements the changes enacted in SB 2153 allowing members of the DC, HP and job service retirement plan to run for the board. This section as provides for a process if issues arise relating to an election
2	Chapter 71-02-01 pages 247-250	Clarifies the normal retirement age for all plans to be 65 except for the national guard and law enforcement plans
3	Chapter 71-02-03 pages 251-253	<ul style="list-style-type: none"> • Set minimum payment amount pertaining to payments for service credit • Establishes a schedule for payments • Sets the process for crediting purchase • Addresses conversion of service credit from main to judges plan • Clarifies timeline for employer purchases of sick leave
4	Chapter 71-02-04 pages 254-259	<ul style="list-style-type: none"> • Establishes process and timeframe for a new retiree to make a benefit change • Clarifies the judges retirement normal retirement benefit includes a 50% J&S benefit as set in statute • Reorganizes optional benefits into forms and modification. Forms are 100% J&S, 50% J&S and term certain, modifications are LLS, Partial lump sum, deferred normal and graduated. • Clarifies that early retirement reduction is based on member effective date not paid date, • Removes limit on repayment date and harmonious rules to the HP rules
5	Chapter 71-02-05 pages 260-261	Clarifies language and when interest accrual on a disability account ends
6	Chapter 71-02-06 page 262	In compliance with federal law this section clarifies the automatic refund provision
7	Chapter 71-02-07 pages 263-264	Removes the refund option for retired members who return to work and subsequently retiree and clarifies that all service will be used in final

Row #	Proposed Rule Chapter	Explanation
		calculation
8	Chapter 71-02-11 page 265	Modifies the process for military service credit purchases
Group Insurance Program		
9	Chapter 71-03-03 page 266	Clarifies and updates language to be consistent with SPD
10	Chapter 71-03-04 page 267	<ul style="list-style-type: none"> Adds language to clarify that employer contribution are not payable if employee terminates prior to effective date of coverage Removes redundant language
11	Chapter 71-03-05 pages 268-269	Updates terminology and removes limit on payment period
12	Chapter 71-03-06 pages 270-272	<ul style="list-style-type: none"> Clarifies and updates language to be consistent with SPD Updates section pursuant to SB 2153 by removing language for employees with a political subdivision that does not offer a group health plan Removes redundant language or clarifies terms. Clarifies terms for employer payment of employer contributions Provides that employer will give information to all employees
Deferred Comp Plan		
13	Chapter 71-04-01 page 273-274	Updates language
14	Chapter 71-04-03 page 275	<ul style="list-style-type: none"> Clarifies language relating to effective date of deferrals Eliminates the term "partial" as it relates to emergency withdrawals Updates language
15	Chapter 71-04-04 page 276-277	Update all references to "retirement board" for consistency or clarifies language
16	Chapter 71-04-06 pages 278-280	<ul style="list-style-type: none"> Update all references to "retirement board" for consistency Clarifies language
Highway Patrol plan		
17	Chapter 71-05-02 pages 281	Clarifies language and when interest accrual on a disability account ends (same change in #5 above for main system)
18	Chapter 71-05-04 pages 282-284	<ul style="list-style-type: none"> Set minimum payment amount pertaining to payments for service credit Establishes a schedule for payments Sets the process for crediting purchase Clarifies timeline for employer purchases of sick leave

Row #	Proposed Rule Chapter	Explanation
		Same changes as the main system in #3 above
19	Chapter 71-05-05 pages 285-288	<ul style="list-style-type: none"> Establishes process and timeframe for a new retiree to make a benefit change Reorganizes optional benefits into forms and modifications. Forms are 100% J&S, 50% J&S and term certain, modifications are LSS, Partial lump sum, deferred normal and graduated. Clarifies that early retirement reduction is based on member effective date not paid date. Removes limit on repayment date and harmonious rules to the main system <p>Same changes for the main plan in #4 above</p>
20	Chapter 71-05-06 page 289	<p>In compliance with federal law this section clarifies the automatic refund provision</p> <p>Same change in Main Plan - #6 above</p>
21	Chapter 71-05-07 page 290	<p>Removes the refund option for retired members who return to work and subsequently retiree and clarifies that all service will be used in final calculation</p> <p>Same change in Main Plan - #7 above</p>
<i>Retiree Health Credit Program</i>		
22	Chapter 71-06-01 pages 291-292	Updates references to NDCC
<i>Defined Contribution Plan</i>		
23	Chapter 71-08-06 page 293	Updates the payment process for military service
24	Chapter 71-08-07 page 294	Clarifies the timeline for additional employer contributions

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