

**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, updates in our understanding of federal regulations relating to veterans, and others are updating or clarifying existing provisions.

The proposed rules before you relate to General Administration (71-01 NDAC), the NDPERS Retirement System (71-02 NDAC), the Uniform Group Insurance Program (71-03 NDAC), the Highway Patrol Retirement Plan (71-05 NDAC), the Retiree Health Program (71-05 NDAC) and the Defined Contribution Plan (71-06 NDAC).

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 final draft is prepared and finalized with the board for public hearing.
- 4) A date and location of the public hearing is determined and notifications are filed with newspapers across the state and the Legislative Council.

- 5) Draft rules are posted to the NDPERS website and provided to legislative council, 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 of comments/testimony from the hearing, 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 16, 2011 at 11:00 a.m. in the NDPERS Office, here in Bismarck. Normally the hearing is held at the Capitol, but due to the special session, no rooms were available, so it was held at the NDPERS office. The hearing record was held open for written comments until the close of business on November 29, 2011. No testimony was given relating to the proposed rules as no members of the public attended the hearing. No written comments were received.

The cost of giving notice was approximately \$1,980.00 and our attorney fees were approximately \$3,500.00.

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, it was determined there was generally no effect on small entities.

The following is an explanation of the proposed rules:

Summary of Proposed Rules

Section	Description	Reason
General Administration (71-01 NDAC)		
71-01-02-02	Eligible Voters. Amended language to incorporate all group insurance programs and added deferred compensation and pre-tax benefits programs. Also deleted reference to deferred vested participants being able to vote.	SB2109 Section 6
71-01-02-03(2)	Candidate eligibility. Removes language regarding deferred vested participants.	SB 2109, Section 6
71-01-02-05	Petition Format. Removes reference to deferred vested retirement allowance.	SB 2109, Section 6
NDPERS Retirement System (71-02 NDAC)		
71-02-04-04	Optional Benefits. Added Judge's Normal benefit reference to the Joint and Survivor "popup" provision.	Administrative clarification
71-02-04-09.1(2)	Dual Membership limitations. Removal of reference to an obsolete subsection.	Administrative update
71-02-05-07	Optional benefits. Removal of the \$100 optional benefit limitation.	Administrative update
71-02-05-07.1	Judges retirement plan optional benefits. Removal of the \$100 optional benefit limitation	Administrative update
71-02-06-10	Transfer of funds. Repealed section 71-02-08-03 is relocated to this section.	Administrative update – moved to 71-02-11-02
71-02-06-11	Transfer date. Repealed section 71-02-08-04 is relocated to this section.	Administrative update – moved to 71-02-11-04
71-02-08-01	Participation. Clarification of new governmental units purchasing past service credit.	SB2109, Section 5

Section	Description	Reason
71-02-08-03	Transfer of Funds. Relocating 71-02-08-03 to 71-02-06-10.	Administrative update
71-02-08-04	Transfer date. Relocating 71-02-08-04 to 71-02-06-11.	Administrative update
71-02-09-01	Review procedure. Clarification of review procedures is not just on application for benefits.	Administrative update
71-02-10-02	Qualified domestic relations orders procedures. Removal of language regarding establishment of an escrow account during proposed domestic relations order review and adding language detailing how NDPERS will administer an application for lump sum distribution received while proposed order is under review.	Administrative update
71-02-11-02	Award of service credit. Additional language added to address the granting of service credit for benefit eligibility purposes (vesting and Rule) due to federal USERRA law.	Administrative revision reflecting federal law & regulations.
71-02-11-04	Payment. Clarifies that for service credit to be recognized for benefit calculation purposes, required contributions must be submitted.	Administrative revision reflecting federal law & regulations.
Uniform Group Insurance (71-03 NDAC)		
71-03-01-02	Bid Specifications. Modified bid specification language to allow for greater flexibility in bidding out group insurance programs.	SB2110
71-03-01-03	Bid Deadlines. Repealed.	Administrative revision, in NDCC at 54-52.1-04 and at 54-52.1-04.2.
71-03-01-04	Bid letting. Repealed	Administrative update and in code at 54-52.1-04 & at 54-52.1-04.2
71-03-03-01	Enrollment. Adds reference to the dental, vision and prescription drug plans	To Comply with provisions of SB2110, Section 1
71-03-03-05	Special enrollment for Certain Qualifying Events. Adds reference to the dental, vision and prescription drug plans	Administrative clarification and SB2110
71-03-03-06	Continuation of Hospital and Medical Coverage after termination. Adds reference to the dental, vision and prescription drug plans	Administrative clarification and SB2110
71-03-03-07	Continuation of health benefits for dependents. Adds reference to the dental and vision plans dental, vision and prescription drug plans	Administrative clarification and SB2110
71-03-03-09	Leave without Pay. Adds reference to the dental, vision and prescription drug plans	Administrative clarification and SB2110
71-03-05-04	Late premium for terminated employees. Repealed outdated language.	Administrative update

Section	Description	Reason
71-03-05-05	Appeal process. Clarifies review procedures and changes terminology to "members" from "employees".	Administrative update
Highway Patrol Retirement Plan (71-05 NDAC)		
71-05-02-04	Optional benefits. Removal of language requiring a \$100 minimum optional benefit	Administrative update
71-05-05-04	Optional Benefits. Removal of remarriage option that has never been utilized.	Administrative update
71-05-08-02	Qualified Domestic Relations Orders Procedures Removal of language regarding establishment of an escrow account during proposed domestic relations order review and adding language detailing how NDPERS will administer an application for lump sum distribution received while proposed order is under review.	Administrative update and establishing a standard process
Retiree Health Plan (71-06 NDAC)		
71-06-01-03	For retirees receiving more than one benefit entitled to retiree health insurance credit. Removing outdated requirement to make application to combine RHIC in certain situations.	Administrative update
Defined Contribution Plan (71-08 NDAC)		
71-08-01-08	Transfer of Funds. New section for Defined Contribution plan transfer of funds to TIAA-CREF identical to main system administration.	SB2109
71-08-04-02	Qualified domestic relations orders procedures. Removal of language regarding establishment of an escrow account during proposed domestic relations order review and adding language detailing how NDPERS will administer if application for lump sum is received while proposed order is under review.	Administrative update and establishing a standard process
71-08-06-02	Award of service credit. Additional language added to address the granting of credit for benefit eligibility purposes (vesting in employer contribution schedule and RHIC Rule of 85 calculations) due to federal USERRA law. Clarifies that for credit to be recognized for benefit calculation purposes, required contributions must be submitted.	Administrative update based upon federal law & regulations
71-08-06-04	Cost. Clarifies that for credit to be recognized for benefit calculation purposes (RHIC Rule of 85), required contributions must be submitted.	Administrative update based upon federal law

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? *There were no new reporting requirements established for small entities. To what result? N/A*

2. Was establishment of less stringent schedules or deadlines for compliance or reporting requirements considered for small entities? *As discussed above, no new reporting requirements were established. To what result? N/A*

3. Was consolidation or simplification of compliance or reporting requirements for small entities considered? *Please see responses above.*
To what result?

4. Were performance standards established for small entities for replacement design or operational standards required in the proposed rule? *Our proposed rules do not provide for performance standards or replacement design for either large or small employer entities.*

To what result? *N/A*

5. Was exemption of small entities from all or any part of the requirements in the proposed rule considered? *No, again no new reporting requirements were established.*
To what result? *N/A*