NDPERS BOARD MEETING
Agenda

Bismarck Location:
Workforce Safety & Insurance
1600 East Century Avenue
Fargo Location:
Workforce Safety & Insurance
2601 12th Avenue SW

September 19, 2012 **Time: 8:30 AM**

I. FLEXCOMP PLAN (Board Action)

Overview

8:50 - 9:20 ADP

9:30 -10:00 Discovery Benefit Services

10:10-10:40 P & A Group

10:50 -11:20 WageWorks

II. RETIREMENT *

A. Highway Patrol Indexing – Kathy (Board Action)
B. Purchase Issue – Sparb (Board Action)
C. Deferred Normal Retirement Option – Sparb (Board Action)

* If time does not allow, one or more of these agenda items may be carried over to the September 20, 2012 meeting.

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.

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Memorandum

TO: PERS Board

FROM: Sparb and Kathy

DATE: September 13, 2012

SUBJECT: FlexComp Vendor Interviews

More detailed information was provided to the Board relating to the proposals submitted. This information is available upon request at the conclusion of the bid award process.

At this meeting we will be interviewing the four firms selected by the Board at its last meeting to provide administrative and recordkeeping services for the FlexComp Program.

Thirty minutes have been set aside for each presenter including time for questions by the NDPERS Board. We suggested to each presenter that their presentation be no more than 15-20 minutes, thereby leaving the Board 10-15 minutes for questions. We also let them know if their presentation took the full 30 minutes, there would be no time for Board questions; consequently, we encouraged them to plan the use of their time accordingly.

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Memorandum

TO: **NDPERS Board**

FROM: **Kathy & Sparb**

DATE: **September 5, 2012**

SUBJECT: **Final Average Salary Indexing for Highway Patrol**

North Dakota Century Code 39-03.1-11(5) provides:

"...The final average salary used for calculating a deferred vested retirement benefit must be increased annually from the later of the date of termination of employment or July 1, 1991, until the date the contributor begins to receive retirement benefits from the fund, at a rate as determined by the board not to exceed a rate that would be approximately equal to annual salary increases provided state employees pursuant to action by the legislative assembly."

As indicated above, it is necessary for the NDPERS Board to determine the rate to be used in establishing the index factor for deferred members of the Highway Patrol. It has been PERS policy to solicit input and a recommendation from the Highway Patrol leadership.

The sixty-second assembly increased each agencies budget by 3% for the second year of the 2011-13 biennium. The North Dakota Highway Patrol leadership is recommending that deferred members in its system have their final average salary indexed by 2%. Currently there are nine members in the system in a deferred status.

The current assumption for indexing of deferred members is 5%. Therefore, an increase of 2% will result in an actuarial gain to the plan as confirmed by our consultant, The Segal Company.

For your information, listed below are the legislative increases granted, as well as the increase percentages set for indexing purposes by the Board since 1993 when the factor was first established.

	Legislative Increase %	Board Approved Index %
1993	3.00	3.57
1994	2.00	3.00
1995	2.00	2.00
1996	2.00+ 1.00 discretionary	2.00
1997	Average 3.00	3.00
1998	Average 3.00	1.80
1999	2.00 (min $35)	1.26
2000	2.00 (min $35)	2.00
2001	3.00 (min $35)	1.81
2002	3.00 (min $35)	1.73
2003	None authorized	-0-
2004	None authorized	-0-
2005	4.00	4.00
2006	4.00	4.00
2007	4.00	4.00
2008	4.00	4.00
2009	5.00	5.00
2010	5.00	5.00
2011	3.00	2.00

As illustrated above, the Board has generally set an indexing percentage that is the same or slightly lower than the salary increases granted to state employees.

Board Action Requested:

Accept or reject the Highway Patrol's recommendation.

North Dakota Highway Patrol

Colonel James J. Prochniak, Superintendent
State Capitol, 600 E Boulevard Ave. Dept. 504
Bismarck, ND 58505-0240
Telephone: 701-328-2455

Jack Dalrymple
Governor
State of North Dakota

August 20, 2012

RECEIVED
AUG 2 2 2012
ND PERS

Ms. Kathy Allen
North Dakota Public Employees Retirement System
P.O. Box 1657
Bismarck, ND 58502-1657

Dear Kathy:

We recommend the members of the North Dakota Highway Patrol Retirement System who participate in the Deferred Vested Benefit provision have their final average salary indexed by two percent.

The current employees received, on average, a three percent increase in July 2012. However, additional retirement contributions required in January 2013 will offset that increase by slightly more than one percent. Effective January 1, 2013 the current employees in the Highway Patrol Retirement System will be contributing an additional one percent to the retirement fund in attempt to keep the system adequately funded.

Sincerely,

Lori R Malafa

LORI R. MALAFA
Captain, NDHP
Administrative Services Commander

lrm/blc

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 13, 2012

SUBJECT: Purchase Issue

We recently had an issue arise relating to a member's purchase of service at retirement that resulted in them not getting the requested service purchase causing a loss in benefits. I am seeking your concurrence in an approach to deal with the situation and allow the purchase to be completed by the member and have that amount reflected in their retirement benefit.

BACKGROUND

In March of 2012 a member requested from us a purchase estimate for 29 months of service. They were going to be retiring and wanted to know the cost of purchasing additional time. They also requested information on how that purchase would affect their retirement benefit. Pursuant to this request, a letter was sent by the office indicating the price of the purchase and the other information was supplied separately discussing the affect on the retirement benefit. Pursuant to our procedures, a purchase letter from our office is valid for 90 days or the 15th of the month following termination of employment. This is stated in NDAC 71-02-03-02.5

> Upon receipt of the written request from the member, and all required documentation, a written cost confirmation must be prepared and mailed to the member. The cost stated in the confirmation letter is valid for a period of ninety days from the date of the letter unless the contributor terminates employment with a participating employer. If the contributor terminates employment, then the cost stated in the confirmation letter is valid only until the earlier of the end of the ninety-day period or the fifteenth day of the month following the month of termination.

To accept such an offer, our administrative process requires that we receive payment within that time frame and we receive back a completed form SFN 52059. The member reviewed the service purchase letter and elected to purchase the service. They decided to have the funds for the payment rolled over from their supplemental retirement savings program with a provider outside the PERS 457 plan. The member signed the SFN 52059 form and so did their outside provider (who was their local agent). Our office received it back on April 12th. In May the member also elected to purchase 1 month of unused sick leave at their retirement. The member paid the amount at that time. The member retired effective June 1, 2012. Under our process, a member gets their first retirement payment the first of the month following the month of retirement. For this member, they got their first check from us for 2 months in July of 2013 (this was for June and July). They received their first benefit payment for 1 month in August 2013. When they received the August payment for a single month they noticed the amount did not match the amount they were expecting based upon the information our office had supplied.

The member contacted our office. What was discovered was the purchase payment was not completed since the provider did not rollover to us the funds to complete it within the required timeframe. The member indicated to us that they felt everything had been completed with the filing of the form with our office and that since the provider also signed the funds we were going to be paid subsequently. The provider (the local agent) indicated that it was their understanding that PERS was going to mail the form to the provider's main office to direct the disbursement of the funds to us for payment. The provider also indicated that they called us and asked if the form should be filed with us and they got the answer from this office that it should be, consequently their conclusion that we were going to do the rest. The SFN 52059 form is a PERS form and while it is to be filed with us, separate forms are generally executed by providers for the release of the funds within their operations. Within our business process if we do not get payment it simple means to us that a member has decided not proceed with the purchase and therefore we do not follow-up.

As a result of the above, misunderstandings the members purchase did not happen within the required timeframes. We process many purchase requests every year and they generally go smoothly. One differentiating factor with this purchase is the funds came from an outside firm. If the funds come from a PERS provider, we are the plan administrator, our office signs off on the form and we do not sign until the funds are received which causes us to monitor this transaction to insure it is completed. Since we were not the plan administrator for the other company, we did not monitor the transaction.

This appears to staff to be a unique situation. We have not encountered this in the past and we believe we can put into place administrative procedures in the future to aid in insuring this does not occur again. However, the question remaining is whether or not we should allow this member's purchase to go forward as a result of the above circumstances. I am proposing, with your concurrence, to use the authority in NDAC 71-02-03-02.3

> **Delinquent payment.** If no payment is received within thirty days of the due date, the public employees retirement system shall send a letter to the member advising them of the delinquency. If no payment is received within sixty days after the due date, the account must be closed. Payments received on closed accounts must be returned to the member. The member may submit written documentation as to the cause for the delinquency to the executive director for review and to request that the purchase contract be reestablished without a new calculation.

Pursuant to the above, I would classify this one situation as a delinquent payment and allow the member to explain the above in a letter and then allow the purchase to take place. Generally we would not classify this as a delinquent payment. Delinquent payments are a flow of funds that occur after a purchase has been initiated by an initial payment. In this case we do not have that initial payment and therefore I am seeking your concurrence to deal with this situation in this manner on a one time basis due to the unique set of facts in this case.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 13, 2012

SUBJECT: Deferred Normal Retirement Option (DNRO)

Subject for Board Consideration

It has recently come to the attention of the PERS staff that the administrative process for the Deferred Normal Retirement Option results in a retirement benefit, for members who utilized this option, that is higher than if they had stayed under covered employment. The process that is utilized is correct based upon the actuarial method provided by Segal. The purpose of this memo is to review the situation with the Board and to determine if you would like to adjust the actuarial methodology going forward.

Background

In the 2007 legislative session we added the Deferred Normal Retirement Option to the PERS plan. The following is the provision that was added to our statute in our proposed legislation and subsequently it was enacted:

Upon termination of employment after completing three years of eligible employment, except for supreme and district court judges, who must complete five years of eligible employment, but before normal retirement date, a member who does not elect to receive early retirement benefits is eligible to receive deferred vested retirement benefits payable commencing on the member's normal retirement date in one of the optional forms provided in subsection 9. Members who have delayed or inadvertently failed to apply for retirement benefits to commence on their normal retirement date may choose to receive either a lump sum payment equal to the amount of missed payments, or an actuarial increase to the form of benefit the member has selected, which increase must reflect the missed payments.

After the legislation was approved, the following administrative rule was adopted to implement the above:

NDAC 71-02-04-04.1 provides:

> **Deferred normal retirement option**. *The deferred normal retirement option will only be available to members who retire after reaching normal retirement date. This option is an irrevocable election and made at initial application for retirement. The payment is in lieu of a lump sum equal to the amount of missed payments, without interest, retroactive to the member's normal retirement date. The member is permitted to choose one of the optional forms of payment as defined in section 71-02-04-04. The ongoing benefits will be actuarially increased to reflect the lump sum.*

This option was added to the plan in the 2007 Session in SB 2048. The situation it addresses is the rare instance when a member retires after their normal retirement date (age 65 or the Rule of 85) and was no longer under covered employment for a period of time from their normal retirement age until their retirement. For example, if a member was eligible to draw a retirement benefit at age 65, was no longer under covered employment (that is they were no longer an active member in the retirement plan) but elected not to draw their retirement until the mandatory retirement age of 70½, then under the plan provisions in effect before adding the above, the member would have been paid a lump sum amount equal to the amount they had deferred by not drawing a retirement benefit at retirement. In this example it would be the retirement benefits from age 65 to 70½. When paid in a lump sum amount it is all taxable in the year it was paid out. We had a member that generally fit this circumstance and received a lump sum payment. This did happen to one of our members and they had requested that we pay the lump sum amount in some other manner than a lump sum. At the time, we did not have the authority to do it but it became the reason we proposed the above. What we developed as an option was that instead of having to take these funds as a lump sum the member could elect to have the lump sum amortized into their retirement benefit over their projected lifetime as an additional amount.

As noted above, the bill was passed with this provision, administrative rules were adopted and we received from Segal the actuarial tables to implement this provision.

<u>Issue</u>

The attached memo from Segal provides an example of the issue to be considered in the memo. In that example a member is age 57 and they have met their normal retirement age, in this case the rule of 85. Let's assume this member has a choice to make at this point in their life. Let's further assume they are not ready to retire. The choice they have to make is whether they should continue to work for the state or maybe take a job with another employer that is not a part of PERS. They plan to retire either way at age 60. If they continue to work for the state, their retirement benefit at age 60 will be $2,914 per month.

However, if they elect to leave employment with the state and take the deferred normal retirement benefit at age 60, their retirement benefit will be $3,112 per month or about $200 more. Consequently, the member is better off from a retirement perspective by leaving employment with the state and going to work for a non-covered employer until they finally retire.

Method for Determining the Deferred Normal Retirement Benefit and Alternative Options

Attached is a memo from Segal discussing the existing method for determining this retirement benefit. As you will note in that memo, the reason the DNRO amount is higher is because the existing method amortizes that deferred amount over the member's lifetime using an 8% rate. In their memo they also describe some other options for determining this benefit.

Staff Recommendation

Staff is recommending that we ask Segal to develop new tables to calculate this benefit. While the existing method is correct, the result provides for some unintended incentives. Staff recommendation is that new tables be developed that will result in a Deferred Normal Retirement Benefit that is equal to or slightly less then the benefit the member would have received if they had stayed under covered employment.

THE SEGAL COMPANY
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September 11, 2012

Mr. Sparb Collins, Executive Director
North Dakota Public Employees
Retirement System
400 East Broadway, Suite 505
Bismarck, ND 58502

RE: Deferred Retirement Option Factors

Dear Sparb:

At your request, we have reviewed the factors used to calculate benefits under the NDPERS deferred retirement payment options.

Under NDPERS provisions, members who delay retirement benefits past their normal retirement date may choose either a lump sum payment of missed payments or an actuarially increased benefit to reflect the missed payments. Currently, the factors used in the actuarial increase of benefits are the same as those used for the partial lump sum option calculation and reflect an 8.0% interest rate assumption and the 1983 GAM unisex mortality table with margins.

Because of the interest and mortality assumptions used, in many cases where the accrued benefit is large relative to the benefits that would have been earned during the deferral period, the participant would receive a larger benefit under the deferral option than the benefit that would have been earned through further service. This may have the unintended effect of encouraging participants to leave active service. This is illustrated by the example below.

Monthly Benefit at age 57 (27 years of service): $2,400 per month
Deferred Payments (3 years): $86,400
Adjusted Deferred Benefit Payable at age 60: $3,112 per month
Monthly Benefit at age 60 (30 years of service): $2,914 per month*
*assumes 3% pay increases

In this example, the participant earns a larger retirement benefit by leaving active service at age 57 and electing the deferred benefit than the benefit that would have been earned with three more years of service. While other considerations would affect the participant's decision to remain working, this may have the effect of encouraging participants to leave service when first eligible for the deferred benefit.

The use of interest in these factors is a policy choice that credits the participant for deferring the benefits and leaving the payments in the System. Using this methodology increases the benefits at the System's assumed rate of return for the duration of the participant's life expectancy. The actuarial effects of these factors are approximately neutral from a valuation standpoint and the System is not expected to undergo any large experience gains or losses as a result. However, the mortality table used in determining the factors is different from the table used in the actuarial valuations, so these conversions are not completely cost neutral to the System. Furthermore, the System also assumes the risk of gains or losses based upon the actual investment returns over the payment period.

The use of an 8% rate of return on the conversion of missed payments presents some risk to the System. In essence, the System guarantees that the missed payments will produce a return of 8% for the lifetime of the employee after the deferral period. Had the benefits been paid under a non-deferred option, the System's guarantee of return would have ended upon payment of the benefits. While this is a reasonable method for determining the factors, other options are available. For example, the amount of interest granted for missed payments could be reduced to adjust the amount of risk taken by the System in the deferral of payments.

Option 1: Convert the missed payments to an adjusted benefit using a lower interest rate (4% per year).

Using a lower interest rate for the conversion of missed payments would reduce the amount of increases for missed payments. This would reduce the asset return risk to the System for the payments that are deferred.

This would reduce the factors by approximately 30%-35%. In the example above, the amount of the adjusted benefit would be approximately $2,800.

Option 2: Convert the missed payments to an adjusted benefit using no interest.

Using a 0% interest rate in the conversion of missed payments would further reduce the amount of increases for missed payment, and reduce the asset return risk to the System for the payments that are deferred.

This would reduce the factors by approximately 55%-60%. In the example above, the amount of the adjusted benefit would be approximately $2,600.

Regardless of any changes made to the interest rate, we recommend that the mortality table used in determining the factors be changed to be consistent with the mortality used in the annual actuarial valuations. This will help to reduce the magnitude of actuarial gains and losses for participants who elect this benefit.

We look forward to discussing this with you in more detail. Please contact me if you have any questions.

Sincerely,

Brad Ramirez, FSA, MAAA, EA, FCA
Consulting Actuary

cc: Tammy Dixon, FSA, MAAA, EA

/cz

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NDPERS BOARD MEETING

Agenda

Bismarck Location:
Workforce Safety & Insurance
1600 East Century Avenue
Fargo Location:
Workforce Safety & Insurance
2601 12th Avenue SW

September 20, 2012 **Time: 8:30 AM**

I. MINUTES
A. August 23, 2012
B. September 12, 2012

II. HEALTH PLAN BID * (Board Action)

Overview

BCBSND Presentation – one hour
Sanford Presentation – one hour

III. RETIREMENT
A. Hartford Update – Sparb (Board Action) **

IV. MISCELLANEOUS
A. Legislation – Sparb (Board Action)
B. Audit Committee Minutes – (Information)
C. SIB Agenda

*Executive Session Pursuant to North Dakota Century Code §44-04-19.1 (9) and §44-04-19.2, to discuss negotiating strategy relating to the health insurance bid.

** Executive Session Pursuant to North Dakota Century Code §44-04-19.1(2) and (5) and §44-04-19.2, for Attorney Consultation.

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 14, 2012

SUBJECT: Health Plan Bid

More detailed information was provided to the Board relating to the proposals submitted. This information is available upon request at the conclusion of the bid award process.

PERS staff and Deloitte met with Sanford and BCBS on September 10.

We have also requested a best and final offer from both of them no later than 10:00 a.m. on Monday September 17. In addition, we have requested information on the Sanford network. We will send you that on Tuesday. The format for the meeting is:

8:30 – 9:00 – Deloitte and PERS staff with do an overview for the Board
9:00 – 10:00 – Presentation by BCBS
10:15 – 11:00 – Presentation by Sanford

Following the above, the Board can discuss the two proposals and award the bid. If you need additional information, we can defer the decision to a later meeting. However, we will need to submit a proposed rate to OMB so we will need to settle on that rate at our meeting.

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Memorandum

TO: PERS Board

FROM: Sparb

DATE: September 13, 2012

SUBJECT: Draft Legislative Actuarial/Technical Reviews

Attached please find the first draft of the technical reviews from Segal and Deloitte that will be presented to the Legislative Employee Benefits Committee (LEBC) on Sept 25. The four bills that we submitted were:

1. Retirement Plan (LC #13.0100.01) (attached pages 1-5) – Provides for various administrative changes to the PERS statutes including updating the IRS compliance provisions.

2. Health Plan (LC # 13.0101.01) (attached pages 6-11) - Revises the definition of an eligible employee to comply with the ACA and allows political subdivision to select their own health savings account option as part of the high deductable health plan alternative.

3. Retiree Health Insurance Credit (RHIC) & Pre-Medicare Health Insurance (LC #13.0102.01) (attached pages 12-15 and 16-18) – Allows the RHIC to be used towards any health insurance product and PERS dental, vision, or long term care insurance products. Also provides for discontinuing pre-Medicare health insurance to retirees contingent on the establishment of the health exchanges.

4. Retirement Plan (LC #13.0103.01) (attached pages 19-24) - Recovery plan which includes a 2% increase in employee and a 2% increase in employer contributions over 2 years beginning January 2014 and January 2015.

As you will note in reviewing the attached, recommendations or observations are offered made relating to two of our proposed bills. The set of recommended changes are for the health plan bill (#2 above) LC # 13.0101.01. Deloitte is suggesting some minor technical changes. They attached a copy of the bill draft with the suggested changes highlighted in the gray shading on pages 10 and 11. Staff would recommend we make the changes by offering an amendment to our bill at the next LEBC meeting.

Concerning the Retiree Health Bill (LC 13.102.01), you will note that we have two reviews - one from Segal (pages 12-15) and one from Deloitte (pages 16-18). The Segal review focuses on the effect on the Retiree Health Credit Program which indicates the cost of making the credit portable is .18% of payroll. The Deloitte review focuses on the effect of the bill on the health plan. You will also note that they say on the last page of that review:

> *The current bill contains an effective date for the amendment of January 1, 2014, which is the date when HIX plans should be implemented according to federal legislation. The State may want to consider delaying the effective date of the amendment to allow time for the Health Insurance Exchanges to be fully implemented. It is possible that there could be administrative problems at the initial implementation date that would create an undue hardship on retirees.*
>
> *The effect on GASB liability can be recognized as soon as the legislation is passed regardless of the effective date of the amendment.*

I agree with this comment and would suggest that we move back the effective date of the bill to July 1, 2015. As I have reflected on the bill, I have become more concerned that we are locking ourselves into an implementation without full knowledge of what the health care exchanges are going to look like, what additional eligibility requirements could be established in the federal rules, and other issues that could arise. I still agree with the bill, but we may want to allow ourselves some room to make changes if something should arise. I am suggesting July 1, 2015 since it would allow us to go back to the 2015 session if we found something during implementation that would create a significant problem for our members and allow us the opportunity to make any necessary legislative changes if needed. The advantage of proposing this legislation now and getting it approves is that as note above "*The effect on GASB liability can be recognized as soon as the legislation is passed regardless of the effective date of the amendment*" and secondly we could began the education and implementation process.

<u>Staff Recommendation:</u>

To amend our legislation to make the above suggested changes.

<u>Board Action Requested</u>

To approve amending our legislation to make the above suggested changes

SEGAL

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September 13, 2012

Mr. Sparb Collins
Executive Director
State of North Dakota Public Employees' Retirement System
400 East Broadway, Suite 505
P.O. Box 1657
Bismarck, ND 58502

Re: **Technical Comments – Bill Draft No. 13.0100.01000**

Dear Sparb:

The following presents our analysis of the proposed changes found in Bill Draft No. 13.0100.01000:

Systems Affected: North Dakota Public Employees Retirement System (PERS) Hybrid Plan and Defined Contribution Plan and Highway Patrolmen's Retirement System (HPRS)

Summary: The proposed legislation would make the following important changes:

- Eliminates the level social security option as a form of payment for new retirees in the Hybrid Plan.
- Updates federal compliance provisions of the Hybrid Plan and HPRS regarding Internal Revenue Code sections 401(a)(17), 401(a)(9), 401(a)(31) and 415(b) and (d) in North Dakota Century Code (NDCC) sections 39-03.1-11.2 and 54-52-28.
- Establishes a new section in NDCC chapter 54-52.6 for the Defined Contribution Plan regarding federal compliance provisions under Internal Revenue Code sections 401(a)(7), 401(a)(17), 401(a)(9), 401(a)(31) and 415(b) and (d).
- Clarifies the normal retirement date in the Hybrid Plan for national guard security officers and firefighters, peace officers and correctional officers of a political subdivision and peace officers in the bureau of criminal investigation to age 55 and three years of employment in such positions, regardless of whether employment in such positions immediately precedes retirement. Currently, the normal retirement date is age 55 with

completion of three consecutive years of service in that position immediately preceding retirement.

- For purposes of payment of a member's account balance at death from the Defined Contribution Plan, clarifies rules for beneficiaries, including: (1) how a member may designate a nonspouse beneficiary with spousal consent; (2) treatment of multiple beneficiaries and deceased beneficiaries and the lack of a designated beneficiary; and (3) that surviving spouses may only elect a periodic payment of the account balance (including retiree health insurance credits) if spouse is the sole refund beneficiary.

- Permits the Board to use fees collected from service providers to fund administrative expenses of the deferred compensation program.

- Permits the Board to pay for third-party vendor administration services of the flex comp program from revenue generated by that program.

- Updates the committee name in the PERS and HPRS statutes.

Actuarial Cost Analysis: This bill would not have a significant actuarial cost impact on the Hybrid Plan or the Highway Patrolmen's Retirement System.

Technical Comments: Our comments on the bill are as follows:

General

The bill would generally clarify existing statutory provisions to more accurately reflect actual operations of the Systems or to make the terms of various plans under the Systems more consistent with each other.

Benefits Policy Issues

➢ Adequacy of Retirement Benefits

Providing national guard security officers and firefighters, peace officers and correctional officers in the Hybrid Plan with unreduced normal retirement benefits even where retiring from other positions enhances retirement benefits for this limited group of members.

➢ Benefits Equity and Group Integrity

The bill would enhance benefit equity between the HPRS and the Hybrid Plan by eliminating the level social security option as a form of payment in the Hybrid Plan.

The proposed Defined Contribution Plan changes regarding designated beneficiaries would improve equity between the Defined Contribution Plan and the Hybrid Plan. The Hybrid Plan currently only permits a surviving spouse to elect to receive a monthly benefit (including retiree health insurance credits) if the spouse is the sole designated beneficiary and elects a lifetime benefit payment option.

> Competitiveness

No impact.

> Purchasing Power Retention

No impact.

> Preservation of Benefits

By no longer requiring national guard security officers and firefighters, peace officers and correctional officers in the Hybrid Plan to complete the required three years of employment in such officer positions immediately before retirement, this bill would preserve the level of accrued benefits for this limited group of members.

> Portability

No impact.

> Ancillary Benefits

- No impact.

- *Social Security:* If the Hybrid Plan's level social security option is eliminated, retirees would be required to use other methods of leveling retirement income amounts before and after commencement of Social Security benefits. The Hybrid Plan offers a 10-year and 20-year certain option and a partial lump sum option that may be useful for this purpose.

Funding Policy Issues

> Actuarial Impacts

This bill would have no material actuarial impact on the Hybrid Plan or the Highway Patrolmen's Retirement System.

> Investment Impacts

- *Cash Flow*: No impact.

- *Asset Allocation:* The bill would not create new investment asset allocation issues.

Administration Issues

> Implementation Issues

This bill would not present any significant implementation issues for the PERS.

➢ Administrative Costs

The bill would have no impact on the administrative resources of the PERS. If the level social security option is eliminated, PERS would no longer need to track ages of members receiving this form and then send a communication regarding the change in benefit amount at estimated Social Security commencement date.

➢ Needed Authority

The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

➢ Integration

No impact.

➢ Employee Communications

The PERS may need to update employee communications material and/or retirement benefit application forms to accurately reflect the following proposed changes in the bill:

- Eliminating the level social security option as a form of payment in the Hybrid Plan;
- Allowing national guard security officers and firefighters, peace officers and correctional officers in the Hybrid Plan to reach normal retirement date at age 55 by completing the three years of employment in such officer positions, regardless of whether employment in such officer positions immediately precedes retirement; and
- New rules regarding beneficiary designations in the Defined Contribution Plan, including the requirement that the surviving spouse be the sole refund beneficiary in order to be permitted to elect a periodic payment from the Plan.

➢ Miscellaneous and Drafting Issues

None.

The calculations were made using generally accepted actuarial practices and are based on demographic data as of July 1, 2011 provided by the system and use assumptions adopted by the Board for the July 1, 2011 valuation. Calculations were completed under the supervision of Tammy Dixon, FSA, MAAA, EA.

Please call if you have any questions or comments.

Sincerely,

Brad Ramirez, FSA, MAAA, FCA, EA
Consulting Actuary

cc: Tammy Dixon
Melanie Walker

5204624V2/01640.004

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Technical Review of Draft Bill

13.0101.01

I. Section 1

Section 1 of the draft bill would amend Section 54-52.1-03.4 of the North Dakota Century Code to modify the uniform group insurance program's eligibility rules for temporary employees first employed after December 31, 2013, and to limit the amount any temporary employee can be required to contribute towards the cost of coverage. The purpose of the proposed changes is to prevent the State of North Dakota from being subjected to Employer Shared Responsibility penalties with respect to its temporary employees.

Overview of Affordable Care Act Shared Responsibility Rules

The Affordable Care Act's Shared Responsibility rules, effective for months beginning after December 31, 2013, will impose potential penalties on "applicable large employers"[1] that –

1. fail to offer "minimum essential coverage"[2] to "full-time employees" and their dependents ("No Coverage"), or
2. offer "minimum essential coverage" to full-time employees and their dependents, but the coverage does not meet certain minimum value and affordability thresholds ("Inadequate Coverage").

For purposes of the Shared Responsibility rules, a Full-Time Employee (FTE) for any month is anyone who is employed on average at least 30 hours of service per week during that month. The IRS is expected to issue guidance on determining which of an employer's employees are FTEs for purposes of these rules. Among other things, future guidance is expected to address how these rules are to be applied to seasonal and other temporary employees who are FTEs.

The Shared Responsibility penalty for No Coverage will be $2,000 per FTE per year. This No Coverage penalty will be imposed only if at least one FTE purchases coverage in a Health Insurance Exchange and qualifies for a Premium Tax Credit or Cost-Sharing Reduction. A FTE who is not offered minimum essential coverage by his or her employer will qualify for a Premium Tax Credit or Cost-Sharing Reduction if his or her household income is at least 100%, but not more than 400%, of the federal poverty level.

The Shared Responsibility penalty for Inadequate Coverage will be $3,000 per year for each FTE who –

1. Opts-out of the State's coverage;

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[1] An "applicable large employer" generally is any employer that employs an average of at least 50 full-time employees on business days during the preceding calendar year. See IRC § 4980H(c)(2).
[2] The PERS group health plan will qualify as "minimum essential coverage" assuming it is a "governmental plan" under Public Health Service Act § 2791(d)(8) and assuming its coverage is not limited to "excepted benefits." This technical review assumes the PERS group health plan will qualify as "minimum essential coverage."

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2. Purchases coverage in a State Health Insurance Exchange; and
3. Qualifies for a Premium Tax Credit or Cost-Sharing Reduction.

A FTE who is offered minimum essential coverage by the State will qualify for a Premium Tax Credit or Cost-Sharing Reduction only if –

1. The State's coverage:
    a. Does not meet a 60% minimum value threshold, or
    b. Is unaffordable to the employee, meaning the employee's required contribution for self-only coverage exceeds 9.5% of his or her household income; AND
2. The employee's household income is at least 100%, but does not exceed 400%, of the federal poverty level.

The Employer Shared Responsibility rules do not apply with respect to part-time employees (i.e., anyone who, for a month, works an average of less than 30 hours per week).

Summary of Section 1

Section 1 of the draft bill would make the following two amendments to Section 54.52.1-03.4 of the North Dakota Century Code:

1. The first amendment would make any temporary employee "first employed after December 31, 2013 ... eligible to participate in the uniform group insurance program only if the employee meets the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4) in effect on April 15, 2011."
2. The second amendment would preclude any temporary employee's contribution for coverage from exceeding "... the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)] in effect on March 23, 2010 ...."

Comments on Amendment #1

The first amendment would ensure that temporary employees first employed after December 31, 2013 could not expose the State to the No Coverage penalty. This is so because these temporary employees would be eligible to participate in the uniform group insurance program if they are full-time employees for purposes of the Employer Shared Responsibility rules. However, the following two edits are needed to the draft language:

a. A closing bracket (i.e., "]") is needed at the end of the cite to 26 U.S.C. 4980H(c)(4); and
b. The clause "in effect on April 15, 2011 should be deleted because IRC § 4980H(c)(4) will not become effective until months beginning after December 31, 2013.

The first amendment does not alter the eligibility requirements for temporary employees first employed on or before December 31, 2013. If any of these temporary employees are full-time employees for purposes of IRC § 4980H(c)(4) at any time after January 1, 2014, but are not eligible to participate in the

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uniform group insurance program, they may expose the State to Employer Shared Responsibility penalties.

Comments on Amendment #2

The second amendment would ensure that any temporary employee who is eligible to participate in the uniform group insurance program could not expose the State to the Inadequate Coverage penalty based on the temporary employee's cost of coverage. This is so because it would prevent any temporary employee from paying more than 9.5% of his or her household income to obtain coverage.

In fact, the second amendment goes further than necessary to avoid Employer Shared Responsibility penalties. Specifically, the amendment does not limit the temporary employee contribution cap only to those temporary employees with household incomes of at least 100%, but not more than 400%, of the federal poverty level. As noted, an individual may not qualify for a Premium Tax Credit or Cost-Sharing Subsidy if his or her household income is less than 100%, or exceeds 400%, of the federal poverty level. However, no change to this approach is recommended due to the administrative impracticality of applying this type of limit.

One potential modification to the second amendment would be to insert the phrase "for self-only coverage" immediately after the word "contribution" the first and third time it appears in the amendment. The affordability threshold applies only with respect to self-only coverage. The required employee contribution for family coverage can exceed 9.5% of an employee's household income without exposing the State to Employer Shared Responsibility Penalties.

Finally, the second amendment should be modified by striking the phrase "in effect on March 23, 2010". Section 36B(c)(2)(C) of the Internal Revenue Code will not become effective until tax years ending after December 31, 2013.

II. Section 2

Section 2 of the draft bill would amend Section 54-52.1-18 of the North Dakota Century Code relating to the high-deductible health plan alternative. The objectives of these changes are to:

1. Ensure the State's high-deductible health plan option can be offered to political subdivision employees.
2. Clarify that political subdivisions are not required to make the same employer contribution to their employees' HSAs as the State is required to make to its employees' HSAs.

Comment

The draft bill would achieve the two objectives identified above.

However, the following is a general observation about current Section 54-52.1-18.

Total annual contributions to health savings accounts may not exceed certain limits established by Section 223(b) of the Internal Revenue Code. For 2013, the contribution limit is $3,250 for eligible individuals[3] with self-only coverage, and $6,450 for eligible individuals with family coverage.[4] Additionally, an eligible individual who is at least 55 years old as of the end of a tax year may contribute (or have contributed on his or her behalf) an additional $1,000 regardless of whether he or she has self-only or family coverage. However, an otherwise eligible individual may not contribute any amount to a health savings account for any month in which he or she is eligible for Medicare.

In order to avoid inadvertent violations of these health savings account contribution limits, Section 54-52.1-18 should be modified by adding the following to the beginning of the fifth sentence: "Subject to the limits of Section 223(b) of the Internal Revenue Code [26 U.S.C. 223(b)], ...".

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[3] An "eligible individual" generally is anyone who is covered by a high-deductible health plan and is not covered by any health plan that is not a high-deductible health plan. See IRC § 223(c)(1).
[4] *See* IRS Revenue Procedure 2012-26.

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APPENDIX

The following reproduction of the draft bill includes the modifications recommended in this technical review. The recommended modifications are highlighted in yellow.

A BILL for an Act to amend and reenact sections 54-52.1-03.4 and 54-52.1-18 of the North Dakota Century Code, relating to the definition of an eligible employee, payment of the cost of uniform group insurance premiums for temporary employees, and the health savings account option offered to political subdivisions as part of the high-deductible health plan alternative under the uniform group insurance program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52.1-03.4 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-03.4. Temporary employees and employees on unpaid leave of absence.

A temporary employee employed before August 1, 2007, may elect to participate in the uniform group insurance program by completing the necessary enrollment forms and qualifying under the medical underwriting requirements of the program. A temporary employee employed on or after August 1, 2007, is only eligible to participate in the uniform group insurance program if the employee is employed at least 20 hours per week and at least 20 weeks each year of employment. A temporary employee first employed after December 31, 2013, is eligible to participate in the uniform group insurance program only if the employee meets the definition of a full-time employee under section 4980H(c)(4) of the Internal Revenue Code [26 U.S.C. 4980H(c)(4)] ~~in effect on April 15, 2011~~. The temporary employee or the temporary employee's employer shall pay monthly to the board the premiums in effect for the coverage being provided but in no event may the temporary employee's required contribution for self-only coverage exceed the maximum employee required contribution specified under section 36B(c)(2)(C) of the Internal Revenue Code [26 U.S.C. 36B(c)(2)(C)] ~~in effect on March 23, 2010~~, and the employer shall pay any difference between the maximum employee required contribution for self-only coverage and the cost of the premiums in effect for the coverage

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being provided. An employer may pay health or life insurance premiums for a permanent employee on an unpaid leave of absence. A political subdivision, department, board, or agency may make a contribution for coverage under this section.

SECTION 2. AMENDMENT. Section 54-52.1-18 of the North Dakota Century Code is amended and reenacted as follows:

54-52.1-18. High-deductible health plan alternative with health savings account option.

The board shall develop and implement a high-deductible health plan ~~with a health savings account~~ as an alternative to the plan under section 54-52.1-06. The high-deductible health plan alternative with a health savings account must be made available to state employees by January 1, 2012~~, and~~. The high-deductible health plan alternative may be offered, at the discretion of the board, to political subdivisions after June 30, 2013. Health savings account fees for participating state employees must be paid by the employer. Subject to the limits of Section 223(b) of the Internal Revenue Code [26 U.S.C. 223(b)], ~~T~~the difference between the cost of the single and family premium for eligible state employees under section 54-52.1-06 and the premium for those employees electing to participate under the high-deductible health plan under this section must be deposited in a health savings account for the benefit of each participating employee. ~~For political subdivision employees, the board shall deposit into a health savings account for the benefit of a participating political subdivision employee, an amount equal to the difference between the primary plan premium as established by the board and premium for the high-deductible health plan under this section.~~ Each new employee of a participating employer under this section must be provided the opportunity to elect the high-deductible health plan alternative. At least once each biennium, the board shall have an open enrollment period allowing existing employees of a participating employer under this section to change their coverage.

//

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September 13, 2012

Mr. Sparb Collins
Executive Director
State of North Dakota Public Employees' Retirement System
400 East Broadway, Suite 505
P.O. Box 1657
Bismarck, ND 58502

Re: **Technical Comments – Bill Draft No. 13.0102.01000**

Dear Sparb:

The following presents our analysis of the proposed changes found in Bill Draft No. 13.0102.01000:

Systems Affected: Retiree Health Insurance Credit Fund (RHIC)

Summary: The proposed legislation would:

- Eliminate coverage under the uniform group insurance program for employees who first retire after January 1, 2014 and are not eligible for Medicare upon retirement;
- Expand the permissible types of benefit payments from retiree health insurance credits to include contributions towards hospital and medical benefits and prescription drug coverage under any health insurance program; and
- Expand the permissible types of benefit payments from retiree health insurance credits to include contributions towards dental, vision and long-term care benefits coverage under the uniform group insurance program.

Actuarial Cost Analysis:

This bill would have an actuarial cost impact on the Retiree Health Insurance Credit Fund, as outlined below.

Technical Comments: Our comments on the bill are as follows:

General

The purpose of the bill is to allow credits to be used for additional benefits or services for all retirees, and to close the uniform group insurance program to new, pre-Medicare retirees.

Benefits Policy Issues

- Adequacy of Retirement Benefits

  The bill would have no direct impact on retirement benefits. However, the bill would indirectly affect any retirement benefits for members by eliminating the availability of subsidized health coverage for pre-Medicare retirees who first retire after January 1, 2014, and therefore would likely increase the cost of retiree health benefits for those retirees.

- Benefits Equity and Group Integrity

  The bill would reduce the benefits equity of uniform group insurance coverage for new pre-Medicare retirees as compared to current State retirees.

- Competitiveness

  No impact.

- Purchasing Power Retention

  No impact.

- Preservation of Benefits

  New pre-Medicare retirees will not be eligible to receive health insurance coverage under the State's uniform group insurance program, but rather must find health care coverage after retirement from another source (e.g., under a state health care exchange).

- Portability

  No impact.

- Ancillary Benefits

  No impact.

Funding Policy Issues

➢ Actuarial Impacts

Since the bill would allow for additional coverage for current members, we have estimated the additional contribution requirement that would result. Since the bill would expand the allowable use of benefit credits, the participation in the plan would be expected to increase. In fact, it is likely that most, if not all, of participants would elect to participate.

To estimate this effect, we calculated the actuarial contribution requirement reflecting the additional eligibility. The assumptions used were those adopted by the Board for Main members in the July 1, 2011 valuation of the Retiree Health Insurance Credit Fund, except as follows:

- The participation assumption was increased to 100% for all members.

Under these assumptions, and based upon the 19-year amortization policy of the Retiree Health Insurance Credit Fund, the required annual contribution would be approximately $8.8 million, which is approximately 1.06% of payroll of all active members in the Retiree Health Insurance Credit Fund. This represents an increase of approximately 0.18% of payroll over the current actuarial rate of 0.88%. This is based on the projected annual payroll for the Main System from the July 1, 2011 valuation of $828,978,804. Based upon the current statutory rate of 1.14% of covered payroll, current contribution levels would be sufficient to meet the required annual contribution.

➢ Investment Impacts

- *Asset Allocation:* The bill would not create new investment asset allocation issues.
- *Cash Flow Impacts:* The bill would have a moderate, negative impact on cash flow to the Retiree Health Insurance Credit Fund from increased benefit payouts.

Administration Issues

➢ Implementation Issues

No impact.

➢ Administrative Costs

The bill would have minimal effect on the PERS' administrative costs.

➢ Employee Communications

Employee communications will be necessary to describe the new covered services for current numbers and to notify future retirees that coverage under the Uniform Group Insurance Program is no longer available.

> Miscellaneous and Drafting Issues

None.

The calculations were made using generally accepted actuarial practices and are based on demographic data as of July 1, 2011 provided by the system and use assumptions adopted by the Board for the July 1, 2011 valuation. Calculations were completed under the supervision of Tammy Dixon, FSA, MAAA, EA.

Please call if you have any questions or comments.

Sincerely,

Brad Ramirez, FSA, MAAA, FCA, EA
Consulting Actuary

Cc: Tammy Dixon
Melanie Walker

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Memo

Date: September 12, 2012

To: Sparb Collins

From: Pat Pechacek and Michael de Leon

Subject: Review of Proposed Bill No. 13.0102.01000

At the request of the Public Employees Retirement System, Deloitte was asked to provide a review of the effect on healthcare premiums and retiree health liability of proposed Bill No. 13.0102.01000 relating to amending insurance benefit coverage and health benefit credits for retired employees not eligible for Medicare.

Essentially, the North Dakota Century Code as amended by this bill will permit retired employees to use the health benefit credits to purchase insurance coverage outside of the uniform group insurance program. Currently, the health benefit credits must be used to purchase coverage from the uniform group insurance program.

The intended result of this amendment is that the affected group will be able to purchase health insurance coverage, beginning at the effective date of this bill, from a State Health Insurance Exchange (HIX) for similar coverage at rates more attractive than those offered by the uniform group insurance program.

Effect on Active Employee Premium Rates

Retirees not eligible for Medicare are currently blended with active employees when determining premium rates under the uniform group insurance program. This amendment will eventually eliminate all retirees from the uniform group insurance program. Since these retirees are expected to have higher claims on average than the active employees, removing them from the program will decrease the premiums for the remaining population.

We estimate that the active premium rates currently charged for the uniform group insurance program will decrease by approximately 0.9% (not withstanding other medical trend factors) as a result of all non-Medicare retirees leaving the program. This full effect of this decrease would be worth approximately $120,000 in reduced premiums for one year based on Fiscal Year 2013 rates and data.

The effect on active premiums of this amendment may not be fully realized in the year after the effective date of this bill. This is due to the fact that current non-Medicare retirees will be permitted to stay within the plan. However, given that a HIX will likely offer less expensive options to these retirees, we would expect almost all of the savings to be realized within the first few years.

Our analysis of the effect of the amendment on active employee premium rates was based on claims and membership data for non-Medicare retirees and State active employees for the period July 2009 through April 2012. We also used normative data from national sources and proprietary data from the States of Wisconsin, Minnesota, and Iowa. Finally, we used summary information provided in the North Dakota Retiree Health Insurance Credit Fund Actuarial Valuation Report as of July 1, 2011.

Effect on Retiree Health Liability (Implicit Subsidy)

The fact that non-Medicare retirees are blended with active employees to set premiums in the uniform group insurance program creates a liability that has to be valued under GASB Statement No. 45 (GASB 45). Since these non-Medicare retirees are paying a premium rate that is on average lower than their expected health claims, they are receiving an implicit subsidy. GASB 45 requires that the liability associated with this implicit subsidy for current and future retirees be valued and reported as a footnote in the State's financial statements.

The values shown in the rest of this memo are based on the report titled "*July 1, 2011 Actuarial Valuation of Retiree Health Plans under GASB Statement No. 45 for Fiscal Years Ending 2012 and 2013*" prepared by Van Iwaarden Associates. We have not reviewed the report; therefore, we can make no comment on the reasonableness of the results contained in the report and restated in this memo.

According to the most recent actuarial valuation report, the present value of all implicit subsidy benefits expected to be paid for the current active and retiree population is $122 million as of July 1, 2011. Of this, $4 million is due to current retirees and $118 million is due to actives. For the active population, $61 million is attributable to services already provided and $57 million is attributable to future service. The retiree portion plus the active portion attributable to past service totals $65 million. This is considered the Actuarial Accrued Liability and is what is disclosed in the State's financial statements. Only a portion of this liability currently appears on the State's balance sheet; however, new GASB Statements being considered will likely require that the full unfunded liability be reported on the balance sheet at some point in the near future (similar to the new pension requirements under GASB 67/68).

This amendment will eventually eliminate all of this implicit subsidy liability. When this amendment is passed, the liability associated with the active population will be eliminated. The remaining liability associated with the retirees (currently $4 million) will decrease as individuals opt to leave the uniform group insurance program in favor of an HIX plan or as they reach age 65. The majority of the remaining retiree liability will be eliminated within a few years after the effective date of the amendment.

Effective Date of Amendment

The current bill contains an effective date for the amendment of January 1, 2014, which is the date when HIX plans should be implemented according to federal legislation. The State may want to consider delaying the effective date of the amendment to allow time for the Health Insurance Exchanges to be fully implemented. It is possible that there could be administrative problems at the initial implementation date that would create an undue hardship on retirees.

The effect on GASB liability can be recognized as soon as the legislation is passed regardless of the effective date of the amendment.

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September 13, 2012

Mr. Sparb Collins
Executive Director
State of North Dakota Public Employees' Retirement System
400 East Broadway, Suite 505
P.O. Box 1657
Bismarck, ND 58502

Re: **Technical Comments – Bill Draft No. 13.0103.01000**

Dear Sparb:

The following presents our analysis of the proposed changes found in draft Bill No. 13.0103.01000:

Systems Affected: North Dakota Public Employees Retirement System (PERS) Hybrid Plan, Defined Contribution Plan and Highway Patrolmen's Retirement System (HPRS)

Summary: The proposed legislation would increase both the employer contribution rates and the member contribution rates that are mandated by statute in the HPRS, Hybrid Plan (Main and Judges only) and Defined Contribution Plan by 1% of the member's monthly salary beginning January 2014, plus an additional increase in both employer and member contribution rates of 1% of the member's monthly salary beginning January 2015. The bill would also increase member contribution rates for the following three groups:

- Peace officers and correctional officers in the Hybrid Plan employed by political subdivisions, for which only member contributions would increase 0.5% annually, instead of 1%, over the same time period; and

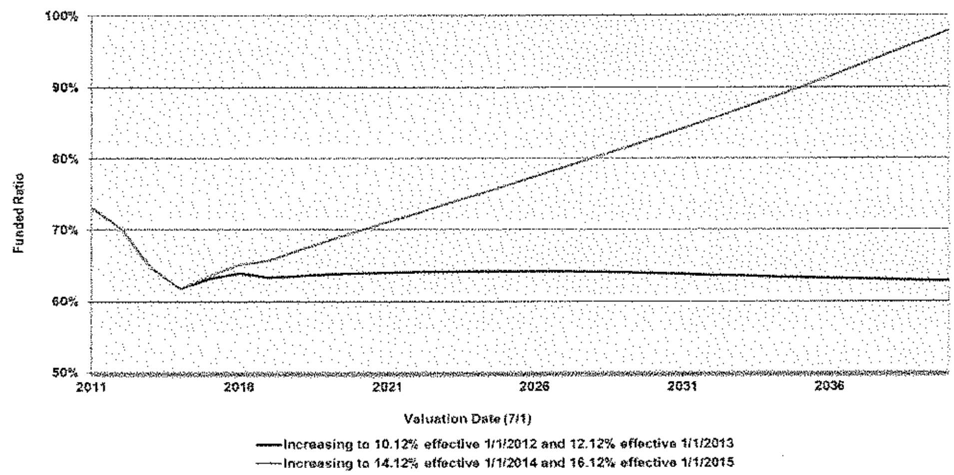
- Peace officers in the Hybrid Plan employed by the State Bureau of Criminal Investigation, for which only member contributions would increase 1.0% annually over the same time period; and

- Temporary employees in the Hybrid Plan and Defined Contribution Plan, for which the member contribution rate would increase by 2% annually, instead of 1%, over the same period.

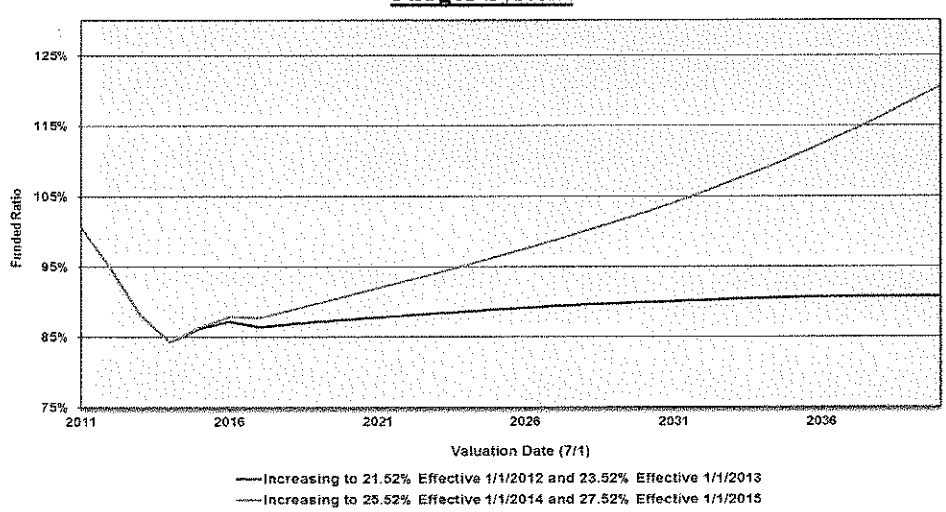
Actuarial Cost Analysis: This bill would not have an actuarial impact on the liabilities of either the Hybrid Plan or Highway Patrolmen's Retirement System. The bill would positively affect the current funding levels of both Systems, as follows:

The Actuarial Value of Assets is compared to the Actuarial Accrued Liability for the Main, Judges, and Highway Patrol groups in the graphs below for the currently scheduled increases (gray line) and the proposed increases (green line). We have assumed a 0% market value return during the plan year ending July 1, 2012, and 8% for all remaining years.

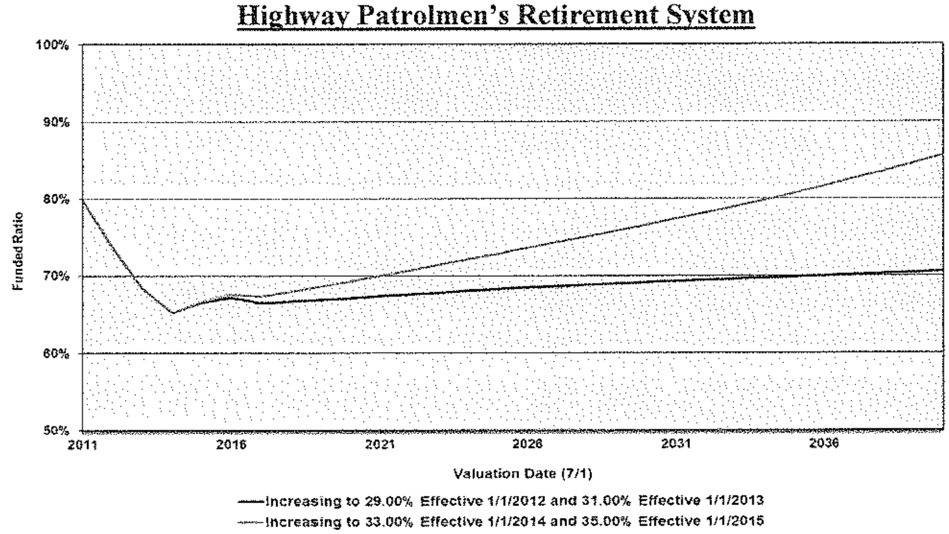
Main System



Judges System



Highway Patrolmen's Retirement System



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Technical Comments: Our comments on the bill are as follows:

General

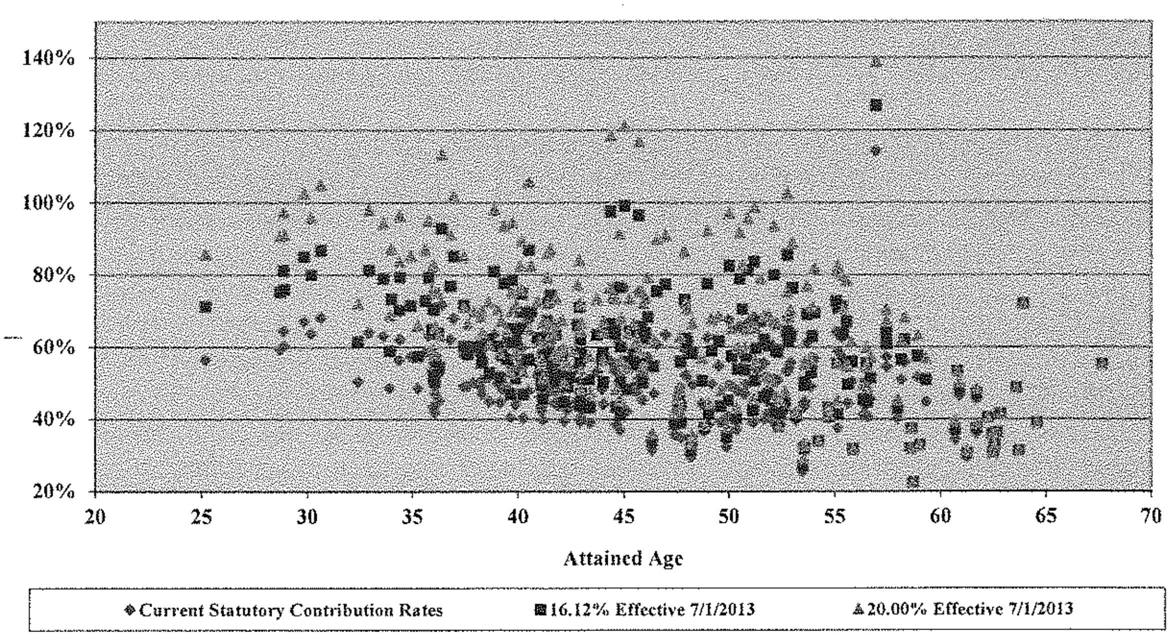
The bill would significantly increase funding to the Systems in the form of additional employer and member contributions.

Benefits Policy Issues

➢ Adequacy of Retirement Benefits

No impact on the defined benefit plans. The additional contributions to the Defined Contribution Plan will provide additional retirement income. A previous analysis of the Defined Contribution Plan indicated that an increase to the future contribution rate of 16.12% effective July 1, 2013 would increase the number of participants receiving 50% or more of the comparable Hybrid Plan benefit from 45% to 68%. The annual increases proposed in this Bill would be expected to have a similar impact. The table below shows the comparison of the DC and DB benefits by age under current schedule of contribution rates as well as future increases to 16.12% and 20.00% starting July 1, 2013.

Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit by Attained Age as of June 30, 2011



➢ Benefits Equity and Group Integrity

To the extent increased member contributions reduce take-home pay of members, this bill may create salary inequity between peace officers/correctional officers employed by political subdivisions (0.5% annual increase) and peace officers employed by the State Bureau of Criminal Investigation, as well as other employees of political subdivisions, (1.0% annual increase). Future amendments to the legislation would be needed to increase contribution requirements for National Guard security officers or firefighters.

➢ Competitiveness

To the extent increased member contributions reduce the take-home pay of members without a resulting increase in pension benefits, this bill may diminish the total compensation package offered by participating employers in the Systems.

➢ Purchasing Power Retention

No impact.

➢ Preservation of Benefits

Increased funding to the Systems in the form of additional employer and member contributions provides additional funds to pay down the unfunded actuarial accrued liability of the Systems at a faster rate. By setting up this additional funding mechanism it will help preserve the value of benefits from the Systems for several years.

➢ Portability

The additional member contributions to the Defined Contribution plan would be fully portable as are the existing member contributions.

➢ Ancillary Benefits

- No impact.
- Social Security: No impact.

Funding Policy Issues

➢ Actuarial Impacts

As previously noted, the bill will have a positive actuarial impact on the Hybrid Plan and the HPRS.

➢ Investment Impacts

- *Cash Flow*: The bill would have a substantial, positive impact on cash flow.
- *Asset Allocation:* The bill does not create new investment asset allocation issues.

Administration Issues

- Implementation Issues

  While this bill would have minimal impact on administrative costs of the PERS, it would have an effect on the members and participating employers, since their required contributions would increase substantially.

  In addition, pursuant to rules under Internal Revenue Code section 414(h), participating employers (including the State) would be required to take formal, written action to elect to pick up the increased member contribution amounts for 2014 and 2015, in order for such contributions to be made on a pre-tax basis.

- Administrative Costs

  No impact.

- Needed Authority

  The bill appears to provide appropriate levels of administrative and governance authority to the PERS Board to implement the changes made by the bill.

- Integration

  No impact.

- Employee Communications

  Employee communications will be necessary to describe the impact of increased member contributions on employee pay.

- Miscellaneous and Drafting Issues

  Since this bill would increase member contribution rates, participating employers (including the State) would need to determine whether they can pay for the increased member contributions from their own funds as a salary supplement or would reduce members' current or future salary, while also paying an increased employer contribution rate. Any participating employer that decides to reduce members' salary to pay for the increased level of member contributions must pay and report FICA taxes on the member contribution amounts made via salary reduction.

The projections were made using generally accepted actuarial practices and are based on demographic data as of July 1, 2011 and asset returns through July 1, 2012 and use assumptions adopted by the Board for the July 1, 2011 valuation. Calculations were completed under the supervision of Tammy Dixon, FSA, MAAA, EA .

Projections, by their nature, are not a guarantee of future results. The modeling projections are intended to serve as estimates of future financial outcomes that are based on the information available to us at the time the modeling is undertaken and completed, and the agreed-upon assumptions and methodologies described herein. Emerging results may differ significantly if the actual experience proves to be different from these assumptions or if alternative methodologies are used. Actual experience may differ due to such variables as demographic experience, the economy, stock market performance and the regulatory environment.

The information contained in this letter is provided within our role as the plan's actuary and benefits consultant and is not intended to provide tax or legal advice. We recommend that you address all issues described herein with your legal counsel. Please call if you have any questions or comments.

Sincerely,

Brad Ramirez, FSA, MAAA, FCA, EA
Consulting Actuary

cc: Tammy Dixon
Melanie Walker

5202945v3/01640.004

North Dakota
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MEMORANDUM

TO: NDPERS Board

FROM: Jamie Kinsella

DATE: August 29, 2012

SUBJECT: **May 23, 2012 PERS Audit Committee Minutes**

Attached are the approved minutes from the May 23, 2012 meeting. Those who attended the meeting are available to answer any questions you may have.

The minutes may also be viewed on the NDPERS web site at www.nd.gov/ndpers.

The next audit committee meeting is tentatively scheduled for November 21, 2012 10:00 a.m., in the NDPERS Conference Room.

Attachment

North Dakota
Public Employees Retirement System
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Bismarck, North Dakota 58502-1657

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MEMORANDUM

TO: Audit Committee
Jon Strinden
Arvy Smith
Rebecca Dorwart

FROM: Jamie Kinsella, Internal Auditor Jamie

DATE: May 30, 2012

SUBJECT: **March 23, 2012 Audit Committee Meeting**

In Attendance:
Jon Strinden, via conference call
Rebecca Dorwart,
Arvy Smith
Jamie Kinsella
Sparb Collins
Sharon Schiermeister
Stacey Jones, absent

The meeting was called to order at 10:04 a.m.

I. February 22, 2012 Audit Committee Minutes

The audit committee minutes were examined and approved by the Audit Committee.

II. Internal Audit Reports

A. Quarterly Audit Plan Status Report – A summary of the past quarter audit staff time was included with the audit committee materials. Ms. Kinsella indicated to the board that Ms. Jones will be leaving PERS on June 8, 2012. NDPERS will be posting the position this week and close the posting on June 15, 2012.

B. Audit Recommendation Status Report – As stated in the Audit Policy #103, the Internal Audit Division is to report quarterly to management and the audit committee the status of the audit recommendations of the external auditors, as well as any found by the internal auditor. A copy of the report was included with the audit committee materials.

C. Benefit Adjustments Monitoring Proposal – The Audit Committee determined that the information to monitor is whether the error was a member error, a PERS error, the dollar amount of the error, and whether it was repaid or written off. All four forms will be tracked in a spreadsheet quarterly to see if it is manageable and if the information is valuable. The Audit Committee determined that deceased letters do not have to be included.

D. Audit Committee Charter Activity review – To meet the Audit Committee Charter Activity review requirement a matrix has developed to review against current practices to ensure that the audit committee is meeting its responsibilities. A few changes were made per the Audit Committee's request and these changes were approved. This matrix will be provided to the board at the June meeting.

III. Administrative

A. Audit Committee Meeting Date & Time – The next audit committee is scheduled for August 22, 2012 at 10:00 a.m.

B. Performance Evaluation – The performance evaluation for the Internal Audit Manager is scheduled to be performed in late spring/early summer.

IV. Miscellaneous

A. External Audit Update – Every three years the State Auditor's Office goes out to bid for a new external auditor for our agency. In April the State Auditor's Office informed us they have selected Brady Martz P.C. to be our external auditors for the next three years, 2012, 2013, and 2014. Stacy DuToit from Brady Martz has been in touch with Ms. Kinsella to schedule their preliminary and field work in our offices. They are scheduled to be in our offices June 18-22, and August 20-30.

B. Travel Expenditures Update– Attached was a report incurred by the Board and/or Executive Director for out of state travel submitted from February 1, 2012 through April 30, 2012

C. Risk Management Report – At a previous audit committee meeting, it was determined that a Risk Management Policy for PERS would not be necessary since a Loss Control Committee is in place to manage risk for the agency. At that time It was suggested that the Loss Control Committee provide a copy of the last meeting agenda and the approved minutes. Included with the audit committee materials were the following: copy of the approved meeting minutes from the December 7, 2011 meeting, and agenda for the March 13, 2012 meeting.

D. PERSLink Update – An update was provided at the meeting on PERSLink from Ms. Schiermeister.

E. Report on Consultant Fees - According to the Audit Committee Charter, the audit committee should "Periodically review a report of all costs of and payments to the external financial statement auditor. The listing should separately disclose the costs of the financial statement audit, other attest projects, agreed-upon-procedures and any non-audit services provided." Attached was a copy of the report showing the actuary/consulting audit, legal, investment and administrative fees paid during the quarter ended March 31, 2012.

Meeting adjourned at 10:55 a.m.