

MINUTES

North Dakota Public Employees Retirement System
Thursday, December 19, 2002
Blue Cross Blue Shield
107 West Main
Bismarck, North Dakota

Members Present:

Video Conference

Chairman Jon Strinden
Mr. David Gunkel
Ms. Rosey Sand
Mr. Howard Sage
Mr. Weldee Baetsch
Dr. Terry Dwelle
Ms. Sandi Tabor

Absent

Others Present:

Mr. Sparb Collins, Executive Director NDPERS
Mr. Scott Miller, Attorney General's Office
Ms. Denise Curfman, NDPERS
Ms. Kathy Allen, NDPERS
Ms. Deb Knudsen, NDPERS
Mr. Bryan Reinhardt, NDPERS
Mr. Larry Brooks, BCBS
Ms. Rhonda Peterson, BCBS
Mr. Tom Tupa, INDSEA
Mr. Howard Snortland, AFPE
Mr. David Peske, ND Medical Association
Ms. Chris Runge, NDPEA AFT 4660

Chairman Strinden called the meeting to order at 8:33 AM.

Minutes

Chairman Strinden called for any questions or comments regarding the October 24, 2002 NDPERS Board minutes.

Mr. Gunkel moved approval of the November 21, 2002 NDPERS Board minutes. Ms. Sand seconds.

Governor Hoeven's Executive Budget Recommendation (Informational)

Mr. Collins indicated that on December 4th, Governor Hoeven released his Executive Budget recommendations. The following were in the recommendation:

- The compensation package continues full health insurance coverage for state employees and their families. The total cost for the health insurance coverage is \$493.00 per month per employee. This is a 21% increase over last biennium.
- Approves addition of 1.0 FTE for administrative support in the group insurance division. These duties are presently being handled by temporary staff.
- Adds 1.0 FTE to conduct internal audits of programs administrated by PERS. These duties are presently being handled by temporary personnel.
- Includes \$250,000 contingency line to provide funding for HIPAA compliance.

Not funded in the recommendation:

- The IT work plan enhancements including the addition of .5 FTE (\$76,284)
- Newsletter/travel (\$23,269)
- Video Conferencing (\$18,500)

Mr. Collins also indicated that he spoke to PERS budget analyst (Lori Laschkewitsch) who indicated that OMB was considering proposing in PERS appropriation bill that line item transfers from the contingency line could be approved by the PERS Board rather than having to go to the Emergency Commission. The reasoning is that this has already been reviewed and approved in the budget process by the Governor and the Legislature.

Mr. Collins indicated that the PERS appropriation hearing is January 23, 2003.

FlexComp – Voluntary Payback of Contributions (Informational)

Ms. Allen indicated that it has been the practice of PERS that when a FlexComp participant terminates employment, a letter is sent notifying him/her of the status of their medical spending account. In the situations where the participant has received reimbursements greater than his/her contributions, we notify the terminating employee that he/she may voluntarily elect to repay their account. We asked our consultant, The Segal Company, to review this practice as it is unclear based on reference material used in-house whether or not this practice is appropriate.

Based on Segal's interpretation of the regulations, a plan can not accept the payback of contributions, even if they are made voluntarily because additional contributions may be made only under a COBRA election. In order to uniformly permit voluntary repayment of overspent accounts, PERS needs a policy to offer COBRA coverage to all terminating participants, regardless of whether their account is overspent or under spent. With this policy, the employee has the option to elect COBRA and continue to pay those premiums to the plan for a period of months not to exceed the end of the plan year.

Based on this information, the new Plan Document includes a section outlining the COBRA continuation requirements for all terminating employees in section 3.05. Allowing this option is consistent with Segal's interpretation of the Section 125 regulations.

FlexComp Plan Document (Board Action Requested)

Ms. Allen indicated that the new FlexComp Plan Document, prepared by The Segal Company, was included in the board materials for review. Ms. Allen indicated that it was necessary to have the document rewritten due to changes and clarifications to the Federal regulations as well as to include the COBRA continuation rights.

Ms. Sand moved approval of the new plan document. Mr. Baetsch seconds.

Ayes: Baetsch, Gunkel, Sand, Sage and Chairman Strinden.

Nays: None

Absent: Dwelle and Tabor

PASSED

2003 Board Meeting Schedule (Board Action Requested)

Ms. Sand moved approval of the 2003 Board meeting schedule with the exception of January 23, to be moved to January 22, 2003. Mr. Sage seconds.

Ayes: Baetsch, Gunkel, Sand, Sage and Chairman Strinden.

Nays: None

Absent: Dwelle and Tabor

PASSED

Legislation (Board Action Requested)

Mr. Collins indicated that at the November Board meeting the Board had expressed concerns relating to bill #18 and bill #28 as they may have a negative impact on the defined benefit plan, and whether or not the DB plan will be harmed by the addition of the DC plan. Mr. Chris Conradi, from GRS, reviewed the concerns with the Board via conference call.

Mr. Gunkel moved approval of staff recommendation on bill #18 for the Board to take a neutral position on the bill and propose:

- **To pursue the following amendments:**
 - **Add appropriation for implementation (\$340,648)**
 - **Add authority for BND loan (\$507,588)**
 - **Work with RIO to determine transfer costs and add that into BND amount.**
 - **Existing employees will be required to attend an education session.**
 - **Allow new employee beginning work on or after August 1, 2003 to be treated like new employees to the existing DC plan.**
 - **Change filing date from 12:01 to 5pm**
 - **Change method to a % of payroll rather than assets.**
 - **Provide a provision for disability insurance**
- **To seek an additional amendment to increase the employer contribution by .28% based upon the cost identified by GRS.**
 - **To express in PERS testimony its concerns about "pension adequacy" for participants of this system.**

On Bill #28, to take a neutral position on the bill. To seek an amendment to increase the employer contribution to pay the cost of .07 or seek a lump sum payment from the State Mill & Elevator for past service liability.

Mr. Baetsch seconds.

Ayes: Baetsch, Gunkel, and Chairman Strinden.

Nays: Sage and Sand

Absent: Dwelle and Tabor

PASSED

Update on Federal and State Issues (Informational)

Ms. Cathie Eitelberg, National Director, Public Sector Marketing, from The Segal Company, appeared before the Board via video conference. Ms. Eitelberg presented a presentation to the Board on recent developments at the state and federal level concerning employee benefits.

Asset Allocation (Board Action Requested)

Mr. Collins indicated that at the last meeting the board approved a new asset allocation for PERS. Included in the board materials was the updated "Statement of Investment Policies" based upon the new asset allocation.

Ms. Sand moved approval of the update "Statement of Investment Policies". Mr. Gunkel seconds.

Ayes: Gunkel, Sand, Sage and Chairman Strinden.

Nays: None

Absent: Dwelle, Tabor and Baetsch

PASSED

Smoking Cessation (Board Action Requested)

Mr. Collins indicated that last summer the board decided to move forward with a smoking cessation program in the eastern part of the state with the Tobacco Dependence Treatment Center (TDTC) located in Fargo. The center was grant funded by the Dakota Medical Foundation. However, during the summer they lost their grant from the Foundation. Staff had several conference calls with BCBS and Ms. Myra Ohlson from the center to determine if this was a problem. Staff also conducted a site visit in October. Staff was told in the fall that the TDTC was prepared to move forward with our project.

Staff was informed in mid November that Ms. Ohlson was leaving the Center. Staff met with Ms. Susan Bosak on November 22, in Fargo. Staff was informed at that time that the Center wished to suspend discussion on providing this service to PERS members until its board could consider how to proceed. Consequently, staff recommended waiting to start any new program until the next biennium due to the limited time remaining this biennium.

Ms. Sand requested staff to aggressively pursue other Centers, and to keep the Board informed.

No action was taken at this time.

Health Officer (Board Action requested)

Mr. Collins indicated that he received a letter from the AFPE concerning proposed legislation by the health department relating to the deputy health officer. The proposed legislation allows the deputy to serve on the various committees in lieu of the health officer. Dr. Dwelle, State Health Officer, discussed with the board the proposed legislation on whether or not the board needed a physician member to assist with health plan issues.

Ms. Sand motioned the appointee must be a physician. Mr. Baetsch seconds the motion.

Ayes: Baetsch, Sand, Sage.

Nays: Gunkel, Dwelle and Chairman Strinden

Absent: Tabor

FAIL

HIPAA (Informational)

Mr. Collins indicated that in May staff reported to the Board the effect of HIPAA on PERS. This has become a major work effort for the agency. Mr. Mullen is PERS's attorney relating to this issue and has been designated to handle HIPAA for all state agencies. Mr. Mullen appeared before the Board to provide an overview of these requirements as they related to PERS.

HIPAA Update (Informational)

Mr. Mullen indicated the four major areas PERS has been working on which was contracting, privacy, security and transactions. Concerning contracting Mr. Mullen has completed an

analysis relating to PERS. Concerning privacy, Mr. Mullen indicated that in order to meet the compliance requirements of the Privacy Rule it was necessary to develop detailed policies and procedures to meet the standards. Mr. Mullen reviewed the implementation requirements with the Board. Concerning Security, Mr. Mullen indicated to meet requirements in the area of security for HIPAA, an initial survey of NDPERS was completed in November, using the "Early View" software sponsored by NCHICA. (North Carolina Healthcare Information and Communication Alliance, Inc.) Completion of the 500 question survey instrument indicated that a considerable amount of work effort will be needed in this area. Pursuant to the survey results, staff will be reviewing procedures and drafting security policies with possible procedure revisions. Mr. Collins indicated that a draft procedures and policies will be incorporated into a Security manual and NDPERS staff will subsequently be trained on its contents. It is anticipated that the manual will be completed in the spring. Concerning Transactions, Mr. Mullen indicated that an assessment of the transactions subject to HIPAA reporting standards was performed this summer. The following two types of transactions were identified as being subject to the EDI Transaction Standards:

1. Premium payment data provided electronically to BCBS by PERS
2. Premium payment data provided electronically to PERS from employers

In October, staff met with BCBS to review the reporting requirements for premium payment. PERS currently provides premium payment information in an electronic format; however, it maybe necessary to modify this file to meet the EDI Standards. The requirements for this file have been determined and will be submitted to ITD for a cost estimate. Also in October PERS submitted its request for an extension to meet the transaction requirements as set forth in the federal regulations.

Currently, PERS does not receive premium payment information electronically from any of the employers covered under the group insurance program. However, under HIPAA, we must be able to accept this type of information electronically if it is submitted in the standard format. Staff is currently reviewing these requirements and making an assessment of what changes, if any, need to be performed to meet this requirement.

HIPAA Privacy Policies (Board Action Requested)

The Board reviewed the proposed privacy policy and Ms. Allen handed out a revised Participant Authorization Form. The following policies have been developed and reviewed by legal counsel:

Legal Documents

- Notice of Privacy Practices
- Participant Authorization Form

Privacy Policies & Procedures

- Notice of Privacy Practices
- Use of Authorizations
- Disclosure to the Plan Sponsor
- Participant Privacy Rights
- Participant Requests for Restrictions on the Use and/or Disclosure of PHI
- Participant Requests for Confidential Communications
- Participant Requests for Access to PHI for Inspection and/or Copying
- Participant Requests to Amend PHI
- Requests for an Accounting or Disclosures of PHI
- Minimum Necessary uses of PHI
- Minimum Necessary Disclosures of PHI

- Minimum Necessary Requests for PHI
- Privacy of the PHI of Deceased Participants
- Workforce Privacy Training
- Sanctions for Privacy Violations

Ms. Sand moved approval of all documents including amended Authorization form. Mr. Sage seconds.

Ayes: Baetsch, Gunkel, Sand, Sage, Dwelle and Chairman Strinden.

Nays: None

Absent: Tabor

PASSED

Chairman Strinden appointed Mr. Gunkel to take over meeting as Chair at 11:10 AM.

Surplus/Affordability Update (Informational)

Mr. Reinhardt provided an over view of the report for the board.

Annual Enrollment-Dental and Vision (Informational)

Ms. Allen reviewed the outcome of this year's dental and vision annual enrollment for active and retired members.

Mr. Gunkel called for any other business, hearing none asked for a motion to adjourn the meeting.

Ms. Sand moved approval to adjourn the meeting. Mr. Baetsch seconds.

Meeting adjourned at 11:12 AM.

Respectfully Submitted

Denise A. Curfman

*Denise A. Curfman
Secretary, NDPERS Board*