

MINUTES

**North Dakota Public Employees Retirement System
Thursday, March 17, 2005
ND Association of Counties, Bismarck
BCBS, 4510 13th Ave SW, Fargo**

Members Present:

Mr. David Gunkel
Mr. Howard Sage
Mr. Ron Leingang
Ms. Arvy Smith
Ms. Sandi Tabor

**Via Video Conference:
Fargo**

Mr. Jon Strinden
Ms. Rosey Sand

Others Present:

Mr. Scott Miller, Attorney General's Office
Mr. Sparb Collins, Executive Director NDPERS
Ms. Denise Curfman, NDPERS

Ms. Deb Knudsen, NDPERS
Mr. Bryan Reinhardt, NDPERS
Ms. Cheryle Masset-Martz, NDPERS
Ms. Sharmain Dschaak, NDPERS
Ms. Rebecca Fricke, NDPERS
Ms. Onalle Sillheim, BCBS
Mr. Larry Brooks, BCBS – Fargo
Mr. Howard Snortland, AFPE
Mr. Weldee Baetsch, Former Board Trustee
Mr. Bill Robinson, GBS (Via Telephone Conference)
Mr. Tracy Stein, DOCR Field Services
Mr. Dan Heidbreder, DOCR Field Services
Dr. Terry Dwelle, ND Health Department

Chairman Strinden called the meeting to order at 8:30 AM.

Minutes

Chairman Strinden called for any questions or comments regarding the NDPERS Board minutes for February 17, 2005. It was noted that Ms. Tabor was not listed as present. A correction to the minutes have been made adding Ms. Tabor as present.

Mr. Leingang approved the February 17, 2005, NDPERS Board minutes with change. Ms. Tabor seconds.

Employer Bases Wellness Plan (Board Action Requested)

Mr. Collins indicated that during the last several weeks staff has been having some additional discussions with Dr. Dwelle and the Health Department about the proposed employer based wellness program. They have provided some additional thoughts, comments and suggestions relating to the plan that has been adopted and an alternative approach based upon the Healthy North Dakota initiative that has been ongoing over the last several years. Mr. Collins reviewed with the Board the existing plan, identifying the strengths, weaknesses, opportunities and treats based upon discussion with Dr. Dwelle and the Health Department.

Dr. Dwelle appeared before the board to review the modified wellness plan.

Mr. Gunkel moved approval of staffs' recommendation to adopt the modified wellness plan with a pilot program. Ms. Smith seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

Life Insurance Renewal (Board Action Requested)

Mr. Collins indicated that at the last several meetings GBS has reviewed the life bid and followed up on some additional information requests. Specifically some questions have arisen relating to the basic plan benefits and the retiree coverage. GBS has pointed out that the retiree coverage of \$1,300 @.28 cents is being subsidized by the supplemental coverage and will need to be shown as an accrued liability on the states financial statements beginning in 2006. As a result the board discussed whether or not to continue this policy or change it. Other questions have been discussed relating to whether or not to continue the plan as an experience rated plan or as a pooled plan. Mr. Collins indicates that the following decisions were to be made:

1. Determine whether or not to continue the plan as an experience rated plan or pooled plan.
2. Select the vendor for the life plan.
3. Determine whether or not to change the retiree coverage.

Mr. Collins provided the Board with some background information on the life plan, its membership and the levels of coverage.

Mr. Bill Robinson, from Gallagher Benefits Services (GBS), appeared before the Board via video conference to provide and clarification or answers any questions the Board had.

Mr. Sage made motion to eliminate all subsidies. Ms. Sand seconds.

Ayes: Sand, Sage, Tabor, Smith.

Nays: Leingang, Gunkel, and Chairman Strinden

Absent: None

PASSED

Mr. Leingang made motion for experience rated plan. Mr. Sage seconds.

After discussion Mr. Leingang withdrew his motion as did Mr. Sage.

Discussion followed.

Ms. Sand made motion to accept Prudential's pooled plan. Ms. Tabor seconds.

Ayes: Leingang, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: Gunkel

Absent: None

PASSED

Employee Assistance Plan (Board Action Requested)

Mr. Collins indicated that the methodology that PERS has adopted for providing EAP services is called an agency based approach. Pursuant to this method, each agency is the focal point for the decision on which EAP vendor would be the most appropriate for their employees. To implement this approach, the PERS Board establishes through the RFP process a list of qualified vendors. EAP vendors that are able to successfully meet the requirements in the RFP and provide the service at or below the specified price are placed on a list of qualified vendors. Each agency is offered the list and is allowed to select one vendor from that list to provide services for that agency.

Presently PERS has three vendors who are providing services to state agencies in North Dakota. These vendors are:

1. MedCenter One Health Systems
2. St. Alexius / Heartview
3. Village Family Services

In the past the Board has approved a process where existing vendors have been allowed to file a renewal. This renewal will indicate the price (which must be \$1.42 per member per month or less) and an indication that all services offered in the original proposal still apply or specify any deviations. If they continue to be able to meet the minimum requirements then they continue to offer their services.

Mr. Collins indicated that the search for additional vendors would be as follows:

- Place an ad in the major newspapers around the state. This will be done at the end of March and close the process at the end of April.
- Send the RFP to vendors that have expressed an interest.
- Staff will review with the board the renewal bids in May.
- Staff will review new proposals with the board in May.
- Notice would then be sent to agencies allowing them to select a vendor.

Ms. Tabor moved approval of the updated Employee Assistant Program RFP and procedures as stated above.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

Smoking Cessation Update (Board Action Requested)

Mr. Collins indicated that at the December meeting, the Board approved changing the reimbursement for the smoking cessation program to 100% not to exceed \$700 in total eligible expenses for each member that enrolled by the end of February, 2005. From January 1 through the end of February a total of 44 members have enrolled in the program. The number that participated in 2004 from August when the plan was introduced through December was 38. Total participation since inception is now at 82.

In view of the positive response to the enhanced program, staff is recommending that this special offer be extended through April 30, 2005. BCBS has verified that there is sufficient funding available to support this decision. A total of \$13,101.81 out of the \$250,000 grant has been utilized through February 28, 2005.

Ms. Tabor moved approval of staffs' recommendation. Ms. Smith seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

2004 BCBS Claims Review (Informational)

Mr. Reinhardt indicated that each year he conducts a claims review to check the accuracy of BCBS claims processing. He noted that this is not a random sample but a select sample of 100 NDPERS claims.

Mr. Reinhardt reviewed his findings with the board. These findings were included in the board materials.

After discussion of the finds the Board requested follow-up with BCBS on several of the findings.

Surplus/Affordability Update (Informational)

Mr. Reinhardt indicated that the latest Surplus/Affordability report was included in the board materials.

FlexComp Annual Enrollment (Informational)

Mr. Collins indicated that annual enrollment for the 2005 FlexComp Plan year was included in the board materials.

457 Companion Plan & 401(a) plan Quarterly Reports (Informational)

Mr. Reinhardt indicated that the fourth quarter 2004 reports were included in the board materials.

Defined Contribution Plan – 2004 Enrollment (Informational)

Mr. Collins indicated that the 2004 enrollment was included in the board materials.

Deferred Compensation Companion Plan Recalculation of Fees (Board Action Requested)

Mr. Collins indicated that Board requested that the proposed annual fee of \$39.00 be reviewed after the transition of the plan from AIG/VALIC to Fidelity.

In February, Fidelity Finance recalculated the pricing for the plan. The average participant account balance has increased about \$3,000; however, the total plan assets are only slightly higher than at the time of the August transition. Therefore, they are not able to offer a fee reduction. Fidelity did indicate that they would be willing to review this again once they have a year's worth of data to analyze and to make projections.

Implementation of HB 1069 – Lump Sum Option (Board Action Requested)

Ms. Dschaak indicated that HB 1069 provides for an actuarially equivalent partial lump sum distribution with a 12-month maximum lump sum distribution.

HB 1069 amends sections 39-03.1-11 and 54-52.7 of the North Dakota Century Code. These sections allow for the board to adopt rules to provide for the receipt of retirement benefits in optional forms. Included in the board materials were the outlines from staff and Segal's recommendations for implementation of the new partial lump sum option (PLSO).

The new PLSO allows members who are retiring to take a partial lump-sum distribution equal to 12 monthly payments determined under the Single Life annuity option. (No variations will be accepted). If they make this election, the member's monthly annuity would be actuarially reduced. Members would still be permitted to choose one of the optional forms of payment for their annuity benefit. In addition, as with all retirees, except disability, the PLSO as well as regular monthly benefits payments will be subtracted from individual minimum guarantee.

Although the amount of the reduction will depend on the retiree's age. Most retirees who elect this option will still receive a monthly annuity equal to about 90% of the amount they would have received had they not elected this option.

If not rolled over to an IRA or other qualified plan, PLSOs are taxed as ordinary income and are subject to automatic 20% withholding. Because a PLSO will increase most members' taxable income significantly in the year it is paid, those members will pay federal income tax on the PLSO at a higher rate than usual. Members younger than 55 who elect a PLSO and do not roll it over are also subject to a 10% penalty tax under the IRS Section 72(t).

Ms. Dschaak indicated that the following is staffs' recommendation for the parameters outlining the PLSO:

1. Limit the option to members retiring on or after their Normal Retirement Date as set by statute.
2. Exclude disability and early retirees, beneficiaries of deceased members, and level social security income option.
3. Exclude multiple PLSO elections-limiting to a once in a life time election and made at initial application for retirement benefits.

If approved the above would be implemented August 1, 2005 providing the passage of HB 1069. These conditions will also be added to NDPERS Administrative Rules during the rulemaking process.

Mr. Gunkel moved approval of staffs' recommendation. Ms. Tabor seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

Implementation of HB 1266 (Board Action Requested)

Ms. Dschaak indicated that included in the board materials was HB 1266, which relates to returning to employment after retirement under NDPERS defined benefit and defined contribution retirement plans. This bill has an emergency clause; therefore the following are proposed procedures to implement HB 1266.

Under N.D.C.C. 54-52-01(8), a "Governmental unit" means the state of North Dakota, except the highway patrol for members of the retirement plan created under chapter 39-03.1, or a participating political subdivision thereof. Therefore, North Dakota state agencies are considered one employer group and any member retiring with one state agency and becoming reemployed with another state agency would not be eligible for the provisions of HB 1266. The following retired members may be eligible for the provisions of HB 1266:

<u>Past Employer</u>	to	<u>New Employer</u>
State		Political Subdivision
Political Subdivision		State
Political Subdivision		Political Subdivision

Each retired member that becomes reemployed and is eligible to decline future participation in the NDPERS defined benefit/defined contribution plan will be required to complete a "Retirement Plan Membership Waiver".

Ms. Dschaak reviewed several situations and procedures with the Board. These situations and procedures were included in the board materials.

Explanation of HB 1266 provisions will be added to our New Hire Kit and Retirement Kit. A special newsletter will be sent via email to employers notifying them of the passing of HB 1266.

Ms. Tabor moved approval of staffs' recommendation of procedures to implement HB 1266. Ms. Smith seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

QDRO Issue Regarding a Law Enforcement Participant (Board Action Requested)

Ms. Fricke indicated that a county elected to join the PERS Law Enforcement Plan and offer it to its peace officers. It was noted that when an employer elects to offer the Law Enforcement plan to its employees, the accounts and previous service under the Main System are absorbed into its Law Enforcement account for those that elect to become Law Enforcement participants. As a result of this employer's decision, one individual became eligible to transfer their participation from the Main System Defined Benefit Plan into the Law Enforcement Plan. This individual elected to do so effective January 1, 2005.

This individual happens to have a Qualified Domestic Relations Order (QDRO) on file at PERS that was received by PERS on March 31, 2000. At the time that the order was filed, the member was an active participant in the Main System Defined Benefit Plan. The QDRO was approved as it meets the requirements specified by the PERS Board. The QDRO provides detail regarding the amount of benefits to be provided to the ex-spouse, referred to as the alternate payee. In addition, the QDRO specifies when the payments are to begin to the alternate payee. The election was that the alternate payee is to begin receiving benefits when the participating member qualifies for early retirement. Early retirement under the Main System is age 55. However, under the Law Enforcement Plan, early retirement is defined as age 50.

An issue clearly arises regarding what date PERS should recognize as early retirement for determining when the alternate payee is to begin receiving benefits as a result of the transfer to the Law Enforcement Plan.

Ms. Fricke indicated that staff has discussed the issue with both Mr. Scott Miller (AG Office) and Ms. Melanie Walker (Segal Company). It was determined that there is not a clear legal or technical solution regarding how this should be handled and therefore, the recommendation is that the Board will need to review the issue to provide guidance.

Ms. Fricke reviewed with the Board several options for handling this situation. These options were included in the board materials.

Ms. Tabor made motion to accept option 3. Which provides that the parties should be notified that it is impossible to calculate the portion of a distribution awarded to the alternate payee so that both or either party can petition the Court for reformation. Paragraph J in the QDRO provides this authority. Ms. Sand seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

Legislative Update (Informational)

Mr. Collins indicated that included in the board materials is the latest status reports for the bills PERS is following relating to PERS benefits. Mr. Collins noted that there is a Pharmacy Bill that would have some implications to PERS being watched. Ms. Tabor requested that Mr. Miller work with Mr. Mullen.

PERS Audit Committee Meeting Minutes (Informational)

Mr. Collins indicated that the Audit Committee Meeting Minutes were included in the board materials.

Appeal 2005-0001R (Board Action Requested)

Chairman Strinden asked for all members of the public to leave the meeting room. The meeting went into Executive Session under NDCC section 44-04-19.1(7), at 10:55 AM to discuss Appeal 2005-0001R.

Members Present:

Mr. David Gunkel
Mr. Howard Sage
Mr. Ron Leingang
Ms. Arvy Smith
Ms. Sandi Tabor

Via Video Conference:

Fargo

Mr. Jon Strinden
Ms. Rosey Sand

Others Present:

Mr. Scott Miller, Attorney General's Office
Mr. Sparb Collins, Executive Director NDPERS
Ms. Denise Curfman, NDPERS

Ms. Deb Knudsen, NDPERS
Mr. Bryan Reinhardt, NDPERS

Executive session moved in to regular meeting at 11:15 AM.

Ms. Sand made motion to allow the member to sign-up for the PERS benefits. Ms. Tabor seconds.

Ayes: Leingang, Gunkel, Sand, Sage, Tabor, Smith, and Chairman Strinden

Nays: None

Absent: None

PASSED

Chairman Strinden called for any additional items, hearing none the meeting adjourned at 11:20 AM.

Respectfully Submitted

Denise A. Curfman

*Denise A. Curfman
Secretary, NDPERS Board*