

# MINUTES

North Dakota Public Employees Retirement System  
Thursday, October 16, 2003  
North Dakota Association of Counties, Bismarck  
BCBS, 4510 13<sup>th</sup> Ave SW, Fargo

Members Present:

Chairman Jon Strinden  
Mr. David Gunkel  
Ms. Rosey Sand  
Mr. Howard Sage  
Mr. Weldee Baetsch  
Ms. Arvy Smith  
Ms. Sandi Tabor

Others Present:  
Bismarck Location:

Mr. Sparb Collins, Executive Director NDPERS  
Mr. Scott Miller, Attorney General's Office  
Ms. Denise Curfman, NDPERS  
Ms. Kathy Allen, NDPERS  
Ms. Sharmain Dschaak, NDPERS  
Ms. Rebecca Fricke, NDPERS  
Mr. Bryan Reinhardt, NDPERS  
Ms. Deb Knudsen, NDPERS  
Ms. Sharon Schiermeister, NDPERS  
Mr. Tom Tupa, AFPE/INDSEA  
Ms. Rhonda Peterson, BCBS  
Ms. Chris Runge, NDPEA AFT 4660  
Mr. Bryan Klipfel, NDHP  
Mr. Howard Snortland, AFPE  
Ms. Fay Kopp, RIO  
Mr. Larry Books, BCBS  
Mr. John Garrett, Segal

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

**Minutes**

Chairman Strinden called for any questions or comments regarding the September 18, 2003 NDPERS Board minutes.

**Mr. Gunkel moved approval of the September 18, 2003 NDPERS Board minutes. Ms. Smith seconds.**

FICA (Informational)

Ms. Carol Calhoun, a Washington Attorney, via telephone conference, provided the Board with an update on the FICA tax issue relating to employer pick ups of employee retirement contributions.

SB 2013 (Informational)

Mr. Collins indicated that this last session SB 2013 provided that employees of the Department of Public Instruction that participated in the Teacher Fund for Retirement could make an election to transfer to the Public Employees Retirement System. For those employees electing to transfer the present value of their accrued benefit would be transferred from TFFR to PERS and all service in TFFR would be recognized by PERS.

Mr. Collins indicated that this summer a special election opportunity was held for DPI employees. All the eligible individuals elected to change from TFFR to PERS. The present value of the accrued benefit for this group was \$3,789,319. This amount was transferred from TFFR to PERS at the end of September. The new member accounts were set up in September as well.

Mr. Collins indicated that the bill also provided that these members would contribute a higher amount to the retiree health credit fund (3.1%) for eight years to provide for the additional benefit they will get in this system. The necessary changes to implement this provision were made to the administrative systems.

Mr. Collins specified that the provisions of this bill have been implemented.

Purchase Update (Information)

Ms. Fricke provided the board with information relating to the implementation of legislation that allows additional funds to be applied towards purchasing service credit. The following information was reviewed.

	Calculations Prepared	Letters Prepared	Benefit Estimates Prepared
Indicated use of eligible funds for payment	158	108	264
No indication for payment method	144	123	248
Total	302	231	760

From August 1 through September 30, 16 members have elected to purchase service credit with a transfer or rollover from 18 eligible funds. The total amount of funds accepted by NDPERS from these eligible fund sources is \$477,255.98. The source of the funds accepted was broken out as follows:

457 Plans	13
403(b) Plans	1
Traditional IRAs	4
Previously Qualified Plans	0

Prior to the new law becoming effective, only 9 members had purchased service credit with an eligible rollover and the total amount of funds that were accepted by NDPERS prior to August 1, 2003 for this purpose was \$454,631.42. The total amount of rollovers accepted on behalf of these 9 members was 15. The funds were accepted from 12 conduit IRAs and 3 401(k) funds.

#### QDRO Model (Board Action Requested)

Ms. Allen indicated that included in the board materials for the boards review was the model for domestic relations order (QDRO) for members of the Job Service Retirement Plan. This model was provided to PERS by Job Service. It was originally drafted by Job Services legal counsel. The model was amended to change the references to Job Service North Dakota to the North Dakota Public Employees Retirement System. Ms. Allen indicated that staffs recommendation was to approve the model.

**Ms. Tabor moved approval staff recommendation to approve the QDRO model. Ms. Smith seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith, Tabor and Chairman Strinden.

**Nays:**

**Absent:**

**PASSED**

#### Walsh County (Board Action Requested)

Mr. Collins indicated that at the May meeting the board reviewed a situation relating to Walsh County relating to paying retirement contributions on ineligible wages. Mr. Collins indicated that the Board's action was for staff to reverse the erroneous retirement contributions as completely as possible, with the exception of a short period of time (August 1, 1995 to January 1, 1998.) The total contribution amount that goes back to the County is \$146,000. That contribution amount includes both the employer and the employee contribution. NDPERS has given interest of 7.5% on refunded contributions. Of the \$146,000 that was paid back in contributions the interest would be an additional \$87,000. Before remitting this to the County staff wanted to bring this to the Boards attention. The Board requested a review of this practice at the November meeting and directed staff to pay the principal to the county but wait until the board reviews the interest payment methodology in November. The board also asked Mr. Miller to review the practice from a legal perspective.

#### USERRA – (Information)

Mr. Miller reviewed with the board that when folks were first being called up there was a concern as to whether or not the laws that were on the books relating to military service were still timely. The PERS Board asked the Attorney Generals Office for an Attorney Generals Opinion. The Attorney General reviewed whether or not the employer was responsible to pay the employee contribution for the returning service members. There had been an opinion from 1990 that was written under the VRRRA. The Attorney General agreed with that opinion stating that the Employer does not need to pick that up. This was codified last session in our statutes. Mr. Miller indicated that there is a member who has come back from active service who is displeased with that position and has taken it to the Federal Department of Labor. They are stating that USERRA requires the employer to pay. Ms. Tabor received a letter indicating that they will be referring this to the Department of Justice. Mr. Miller indicated that a meeting has been set for the following week to review our position. Mr. Miller indicated that he would report back to the Board.

#### Contributions (Board Action Requested)

Mr. Collins indicated that at the August meeting the Board reviewed a memo from Ms. Sharon Schiermeister, relating to changing the method for handling the 457 plan contributions. The board asked that staff get an estimate of the programming charges. ITD has indicated that the estimated cost would be about \$5,100. This amount PERS could absorb in its budget if the board should decide to make this change. Mr. Collins indicated that if this change is not made based upon information from our previous bid, providers like Fidelity would not bid on the 457 plan since they want only one payroll source.

**Mr. Gunkel moves approval of staff recommendation to move forward with the changes for all deferred compensation providers to have employers send deferred comp contributions directly to PERS instead of the provider companies effective August 1, 2004. Mr. Baetsch seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith, Tabor and Chairman Strinden.

**Nays:**

**Absent:**

**PASSED**

Pharmacy Rebates (Board Action Requested)

Mr. Collins indicated that included in the board materials was a letter from BCBS dated August 29, 2003, relating to a new program they are putting in place for their fully insured business relating to the pharmacy rebates. He reviewed that PERS gets about \$1,000,000 per year in rebates, this amount is figured into the premium calculation. Since this is anticipated as income during the biennium it offset the need for premium. Mr. Collins indicated BCBS is proposing to allocate some of the premium rebate money directly to the member by setting up member rebate accounts. This will reduce the amount available for general premium reduction.

Mr. Collins indicated that after getting the letter from BCBS staff had several questions and the second letter in the board materials was the answers to staffs questions.

Mr. Collins indicated that BCBS is offering this option to PERS at this time. The cost would be deducted as part of our final accounting.

Staff is recommending not proceeding with this at this time and discussing this as part of plan design efforts for the 2005-2007 biennium.

**Ms. Tabor moved approval of staff recommendation to not proceed at this time. Ms. Sand seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith, Tabor and Chairman Strinden.

**Nays:**

**Absent:**

**PASSED**

Flu Shots (Informational)

Ms. Allen provided the board with a review of dates, times, and location for the upcoming Flu Shots provide by UND Family Medical Practice. Ms. Allen indicated that this may be the last year UND will provide them free due to the administrative cost.

Employer Participation Agreement (Board Action Requested)

Ms. Allen indicated that due to legislative changes, updates to our administrative procedures and changes in federal regulations, it was necessary to amend the Employer Participation Agreements for the health, life, FlexComp, and deferred compensation plans. Included in the board materials were the agreements along with a brief summary of the reason for the amendments to each agreement.

**Ms. Smith moved approval of the amendments to the Employer Participation Agreements for the health, life, FlexComp and deferred compensation plans. Ms. Tabor seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith, Tabor and Chairman Strinden.

**Nays:**  
**Absent:**  
**PASSED**

Benefit Committee (Informational)

Mr. Collins indicated that in the board materials were the NDPERS Retiree Benefits Committee meeting minutes for their review.

Purchase Appeal 2003-002R (Board Action Requested)

NDPERS received notification that a member would like an issue reviewed by the Board regarding the election to purchase additional service credit. The individual did not complete the purchase within the required timeframe due to a personal financing issue and therefore, was not allowed to purchase. The member is requesting the opportunity to make the purchase.

Mr. Miller indicated that the federal law requires an individual to be an active contributing participant in the plan in order to be able to make payments towards a purchase contract within that plan. Since contribution reporting is a month behind. To support this procedure, an administrative rule was added under NDAC 71-02-03-02.2(4) which states that payments "may only be received until the fifteenth of the month in which the member retires or takes a lump sum refund." He noted that the member has passed the required timeframes.

**Ms. Tabor moved to deny the appeal. Ms. Sand seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith and Chairman Strinden.  
**Nays:**  
**Absent:** Tabor  
**PASSED**

Conference (Board Action Requested)

Ms. Smith requested approval for several board members to attend a conference in January.

**Ms. Sand moved approval. Mr. Sage seconds.**

**Ayes:** Baetsch, Gunkel, Sand, Sage, Smith, Tabor and Chairman Strinden.  
**Nays:**  
**Absent:**  
**PASSED**

Actuarial Reports (Informational)

Mr. John Garrett, Segal Company appeared before the Board via video conference. Mr. Garrett reviewed the 2003 actuarial reports with the Board.

<u>System</u>	<u>Actuarial Rate for 2003</u>	<u>Statutory Rate</u>	<u>Margin</u>
Main	5.51%	4.12%	-1.39%
Judges	12.10%	14.52%	2.42%
Guard	2.75%	8.33%	5.57%
HP	16.96%	16.70%	-.26%
Retiree Hlth Credit	.98%	1.00%	.02%

These reports were included in the board materials.

Chairman Strinden called for any other business, hearing none the meeting adjourned at 10:20 AM.

*Respectfully Submitted*

*Denise A. Curfman*

*Denise A. Curfman  
Secretary, NDPERS Board*