

Minutes
North Dakota Public Employees Retirement System
Thursday, September 15, 2005
ND Association of Counties, Bismarck
BCBS, 4510 13th Ave SW, Fargo
8:30 A.M.

Members Present:	Mr. Ron Leingang Mr. David Gunkel Mr. Howard Sage Ms. Sandi Tabor
Via Video Conference	Ms. Rosey Sand
Others Present:	Mr. Sparb Collins, Executive Director NDPERS Ms. Kim Humann, NDPERS Ms. Kathy Allen, NDPERS Mr. Bryan Reinhardt, NDPERS Ms. Deb Knudsen, NDPERS Ms. Sharmain Dschaak, NDPERS Ms. Rebecca Fricke, NDPERS Ms. Cheryle Masset, NDPERS Mr. Scott Miller, Attorney General's Office Mr. Howard Snortland, AFPE Mr. Bill Kalanek, AFPE/INDSEA Mr. Weldee Baetsch Ms. Onalee Sellheim, BCBSND Ms. Lorri Giddings, ND Pharmacy Association
Via Video Conference	Mr. Larry Brooks, BCBSND Dr. Jon Rice, BCBSND Ms. Cheryl Wigginton, BCBSND Ms. Sharmayne Smith, BCBSND Mr. Brad LaPorte, Health Dialog Mr. Al Pertuz, Health Dialog Mr. Brad Ramirez, Segal Company

Acting Chairman Tabor called the meeting to order at 8:25 a.m.

MINUTES

Acting Chairman Tabor called for any questions or comments regarding the minutes of the August 18, 2005 meeting.

MR. GUNKEL MOVED APPROVAL OF THE AUGUST 18, 2005 NDPERS BOARD MINUTES. MR. SAGE SECONDED THE MOTION.

GROUP INSURANCE

Disease Management (Informational)

Mr. Brad LaPorte and Mr. Al Pertuz, Health Dialog, joined the meeting via video conference and gave an overview of the Opportunity Analysis Summary Report and outreach plan for the NDPERS disease management program. A copy of the report is on file at the NDPERS office.

Medical Update (Informational)

Ms. Cheryl Wigginton, BCBSND reviewed the NDPERS Medical Management/Case Management activities from the calendar year 2003, 2004 and the first six months of 2005. Ms. Sharmayne Smith, BCBSND, reviewed the NDPERS Utilization Analysis data for NDPERS members for the years 2002 to 2004.

RETIREMENT

Return to Work (Board Action Requested)

Ms. Dschaak provided background information regarding a retired member who returned to NDPERS covered employment and was overpaid retirement benefits. Staff conveyed as more members are returning to work after retirement, overpayment of benefits is becoming more of an issue which has caused staff to reexamine the Administrative Rules and practices. Included with the board materials were the applicable state statute, rules and policies regarding returning to work and overpayment of benefits. Staff recommended the following:

- Staff proposed that in cases of overpayment of benefits as a result of returning work, due to a member not notifying NDPERS prior to returning to work that this would should be considered an omission as provided in subsection 4 of 71-02-04-10 (4).
- Staff proposed that a minimum payment and repayment period be determined. NDPERS does not have system capabilities to bill and track payments. These functions have to be performed manually. Plus, if the repayment period is for a considerable length of time the probability of the member retiring again or passing away is greater and would require either a recalculation benefits or make application to the member's estate.
- Staff recommended setting the minimum repayment amount at \$50 a month with the total repayment period not to exceed 36 months, unless otherwise approved by the executive director.
- In addition, it has also become apparent that the repayment provision in subsection 3 of 71-02-04-10 is not provided in subsection 4. "If repayment arrangements are not in place within sixty days of the date of the written notice of overpayment, the executive director shall offset the amount of the overpayment from the amount of future retirement benefit payments so that the actuarial equivalent of the overpayment is spread over the individual's benefit payment period." Staff proposed adding this amendment to the current rule drafting process to allow for offset of benefits if a member does not repay an overpayment.

Discussion followed.

MR. GUNKEL MOVED TO ADOPT STAFF'S RECOMMENDATION. MR. LEINGANG SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor
Nays: None

PASSED

Normal Cost (Board Action Requested)

Mr. Brad Ramirez, The Segal Company, joined the meeting via video conference. Mr. Ramirez conveyed that Ms. Thompson was unable to join the meeting and he would be filling in for her. This issue is in follow-up to the presentation at the last meeting. This came up during the actuarial audit by GRS who noted the normal cost amount of Segal was higher than theirs. Segal has noted that both methods are acceptable and indicated the primary difference between the two methods is that the Segal method assumes that all members hired during the first year will remain employed whereas the GRS method applies assumptions to reflect that this may not be the case. Staff requested Segal to look back at the data over the last several years to see which method most closely reflects the NDPERS plan actual experience. Mr. Ramirez, The Segal Company, provided an overview of Segal's analysis. Based upon this assessment, staff believes that it would be appropriate to apply a turnover assumption to the normal cost portion as GRS does. This would more accurately reflect NDPERS situation and would not overstate the normal as the present may do. Staff recommended changing the normal cost method to that used by GRS. Discussion followed.

MR. SAGE MOVED TO ADOPT THE NORMAL COST METHOD USED BY GRS. MR. GUNKEL SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor
Nays: None

PASSED

GROUP INSURANCE

Surplus/Affordability Update (Informational)

The July 2005 surplus projection and affordability analysis for the NDPERS group medical plan were included with the board materials.

DEFERRED COMPENSATION

Provider Company Update (Informational)

Ms. Allen indicated on August 26th, a certified letter was sent to Chase Insurance and ING notifying them that the loss of active provider status suspension was now in effect per the Board's action at its August meeting. ING indicated by written notice that it was willing to accept this suspension. To date, Chase had not responded to this notice. Ms. Allen conveyed a letter was sent to each active broker registered with Chase or ING notifying them that they may no longer enroll new participants in these products

Bank of North Dakota (Board Action Requested)

Ms. Allen indicated the office had not received a signed amended Provider Administrative Agreement from the Bank of North Dakota (BND) within the required deadline because the Bank sent the agreement to the Attorney General's office for review. Upon this review, BND's counsel indicated that the bank could not sign the agreement due to language contained in Section II-O of the agreement.

Mr. Miller, legal counsel, reviewed this and agreed that BND cannot sign an agreement with this provision. However, he further indicated that BND does have the authority to sign it if it identifies the funds from which the indemnification would come prior to signing the agreement, and if the agreement contains a non-appropriation clause. A non-appropriation clause would essentially void the indemnity if the Legislative Assembly failed to appropriate moneys for the indemnification. Ms. Allen noted that the BND has signed past agreements that have contained this provision

MR. LEINGANG MOVED FOR MR. MILLER, LEGAL COUNSEL, TO CONSULT WITH BND'S LEGAL COUNSEL TO DETERMINE IF THEY WOULD SIGN THE AGREEMENT IF IT INCLUDED A NON-APPROPRIATION CLAUSE. MR. SAGE SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor

Nays: None

PASSED

Investments Quarterly Review (Informational)

Mr. Reinhardt reviewed the 457 Companion Plan & 401(a) Plan 2nd Quarter 2005 Reports with the Board. The reports were included in the board materials.

MISCELLANEOUS

Board Retreat (Board Action Requested)

At the August board meeting it was decided that October 26 worked for everyone to hold the special board meeting to review the goals and direction of the PERS programs. Included with the board materials were several options and locations for the meeting. Discussion followed. By general consensus, the Board recommended that the meeting be held in Bismarck due to the number of board members and staff that are located in Bismarck. Staff will make the arrangements for the all day meeting and will present a tentative agenda and location for the meeting at the next regular board meeting on October 20.

Administrative Rules (Board Action Requested)

Included with the board materials were the proposed rules to implement the legislation enacted this last year and changes to address other issues that have arisen since the last promulgation process. Discussion followed.

MR. SAGE MOVED TO APPROVE THE PROPOSED ADMINISTRATIVE RULES AND FOR STAFF TO CONDUCT A PUBLIC HEARING ON THE PROPOSED ADMINISTRATIVE RULES. MR. GUNKEL SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor

Nays: None

PASSED

Special Board Election (Board Action Requested)

Ms. Allen conveyed due to Mr. Gunkel's retirement, it would be necessary to conduct a special board election. The individual elected will complete the current term which expires on June 30, 2009. According to §71-01-02-11 of the election rules, "Special elections must be conducted in accordance with the regular

election rules, except that the board will determine a new election schedule.” The following is the election schedule developed in compliance with Chapter 71-01-02, Election Rules:

2005 Election Schedule

- October 14, 2005 - Last date to publish election notice in newsletter
- November 4, , 2005 - Deadline to file nomination petitions
- November 11, 2005 - Last day for candidates to withdraw from election
- November 21, 2005 - Ballots are sent out to membership
(Week of the 21st)
- December 16, 2005 - Deadline to return ballots
- December 19, 2005 - Ballot canvassing
- December 22, 2005 - Presentation of results to Board/Notification to candidates

Based on the above schedule, the elected individual could begin his/her term on January 1, 2006. To meet the above schedule, it may be necessary for the Board to move the board meeting scheduled for December 15th to December 22nd, or to have a special meeting to validate the results. By general consensus, the Board approved the schedule with the understanding that the special meeting validating the election results would be held via conference call on December 22, 2005.

MR. SAGE MOVED TO APPROVE THE PROPOSED SPECIAL BOARD ELECTION SCHEDULE. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor

Nays: None

PASSED

Audit Committee Minutes (Informational)

The May 18, 2005, Audit Committee Meeting Minutes were included in the board materials.

Conflict of Interest Policy (Board Action Requested)

Ms. Allen indicated the Audit Committee had requested that NDPERS develop a policy wherein its employees notify management of employment they may have outside NDPERS. The committee’s main concern was that management should have a method to determine whether the type of outside employment an employee may be engaged in represents any conflict of interest with their employment at PERS. The following policy was developed and will be included in NDPERS Personnel Policy Manual:

It is your responsibility to notify your supervisor if you accept employment outside of NDPERS during your employment tenure. A new agreement must be completed annually. If there is a change in outside employment you must notify your supervisor immediately and a new agreement must be completed. If you terminate outside employment, you must notify your supervisor in writing of your change in status.

The above policy will be included in the Code of Ethical Responsibility statement which is provided to all new employees upon initial employment and to all current employees annually. A signed copy is retained in the employee’s personnel file. A copy of the proposed Outside Employment Agreement form was included for the Board’s information. During the 2005 performance review period this policy will be reviewed with each current employee and if anyone is engaged in outside employment, they will be required to complete the agreement form.

MR. LEINGANG MOVED APPROVAL OF THE CONFLICT OF INTEREST POLICY. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor
Nays: None

PASSED

Financial Hardship 2005-008DC (Board Action Requested)

Ms. Allen indicated the participant was requesting a hardship withdrawal to cover credit card debt accrued due to out-of-pocket medical expenses incurred by a family member. Ms. Allen conveyed the participant had suspended their monthly deduction to their deferred compensation account. The application, income and expense statements of the participant along with copies of the member's credit card company statements and outstanding debt history were included for the Board's information. The Board reviewed the application and discussed the request. By general consensus, the Board recommended that staff request from the member additional documentation for the medical expenses and bring back to the Board for further consideration at the next meeting.

Appeal (Board Action Requested)

Included with the board materials were the administrative law judges recommended findings and recommended order, together with the proposed final order for signature relating to the appeal heard by the Board at the April 2005 meeting. Mr. Miller, legal counsel, indicated he thought the appropriate person to sign the Order should be the Chairman of Board rather than the Executive Director.

MR. GUNKEL MOVED TO ACCEPT THE ADMINISTRATIVE LAW JUDGES RECOMMENDED FINDINGS AND RECOMMENDED ORDER AND FOR THE CHAIRMAN OF THE BOARD TO SIGN THE ORDER. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor
Nays: None

PASSED

OTHER

NDPERS Logo (Board Action Requested)

Mr. Collins conveyed he had received a request from the deferred compensation provider, Nationwide Retirement Solutions, to use the NDPERS logo on marketing materials. Discussion followed.

MR. SAGE MOVED FOR STAFF TO COMMUNICATE THAT THE BOARD DOES NOT AUTHORIZE THE USE OF THE NDPERS LOGO TO ANY OUTSIDE USERS. MR. LEINGANG SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sand, Sage and Tabor
Nays: None

PASSED

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November Board Meeting

Acting Chairman Tabor indicated that both she and Mr. Collins have a conflict with the scheduled board meeting date in November. Staff will send an email to Board members to check for other available dates they would be available in November.

Acting Chairman Tabor called for any other business or comments. Hearing none, the meeting was adjourned at 10:40 a.m.

Prepared by,

Kim Humann
Administrative Assistant