TESTIMONY OF SPARB COLLINS

HOUSE BILL 1059

Mr. Chairman, members of the committee, good morning my name is Sparb Collins and I am the Executive Director of the North Dakota Public Employees Retirement System. Today I appear before you in support of HB1059. This bill addresses two areas:

1. Compliance with the Affordable Care Act (ACA) (Section 1).
2. Participation by political subdivisions in the PERS High Deductible Health Plan (HDHP) (Section 2).

Section 1 - Compliance with the Affordable Care Act (ACA)

Section 1 of the 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 the Employer Shared Responsibility penalties with respect to its temporary employees under the Affordable Care Act. 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.

Section 1 of the 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)]."
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)], …."

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.

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 uniform group insurance program, they technically could expose the State to Employer Shared Responsibility penalties. However, the safe harbors outlined in IRS Notice 2012-58 will allow the State to avoid this problem.

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.

The above changes should insure that the state complies with the shared responsibilities rules without changing our definition of full time employees that are eligible for 100% payment of their health insurance premium. Consequently, the fiscal note on this indicates the estimated cost of this change is $2,000,000 with 50% coming from the general fund and 50% coming from other funds. This also assumes that the State, as the employer will use a 12 month look-back period for determining eligibility.

Section 2 - Political Subdivision Participation in High Deductible Health Plan (HDHP)

Section 2 of the bill would amend Section 54-52.1-18 of the North Dakota Century Code relating to the high-deductible health plan alternative and clarifies political subdivision participation in the plan. Specifically, it provides 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. Secondly, it allows political subdivisions to directly retain the HSA vendor for its employees. It is felt that these changes will allow this option to operate more efficiently and will facilitate the political subs participation in the HDHP.

Mr. Chairman, members of the committee this bill was reviewed by the Legislative Employee Benefits Committee and given no recommendation. At the time of the Committee's review, they felt that additional information on the ACA would be available at a later date.

Thank you and this concludes my testimony.