SB 2061

SENATE GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
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SB 2061 was submitted by the TFFR Board. The bill makes a number of technical and administrative changes to the TFFR program. These changes are not expected to have an actuarial effect on the plan, and are not being submitted for funding improvement purposes.

In general, the bill updates certain definitions, and incorporates federal tax law changes to stay current with federal Internal Revenue Code (IRC) changes as they relate to qualified governmental plans. The proposed amendments are intended to prevent a change in the federal IRC from automatically triggering a change in ND law. The bill also adds a savings clause for plan modifications to ensure compliance with federal statutes or rules. (Note: On May 30, 2012, the IRS made a favorable determination on the NDTFFR, subject to adoption of certain proposed amendments which are included in this bill draft.)

Section 1. NDCC 15-39.1-04 (1) Definitions: Actuarial equivalent.

Updates the definition of "actuarial equivalent" to more clearly describe its use in TFFR pension calculations. Actuarial equivalent is an amount calculated by the actuary (or based on actuarial calculations provided by the actuary) which is expected to be of equal actuarial value to the benefit otherwise payable when computed based on actuarial assumptions and methods approved by the Board.

Actuarial equivalence calculations are used to determine early retirement factors; optional payment factors for joint and survivor, term certain, level income, and partial lump sum options; maximum benefits payable under Internal Revenue Code; service purchase cost factors; qualified domestic relations order calculations; and other pension calculations as needed. Actuarial factors are described in ND Administrative Code, Section 82-05-04. Actuarial assumptions and methods are described in TFFR's annual actuarial valuation report which is available on the TFFR website.

<u>Section 1. NDCC 15-39.1-04 (7) Definitions: Normal Retirement Age.</u>

Adds the definition of "normal retirement age" recommended by outside tax counsel for IRS determination letter approval. As provided in subsection 1 of section 15-39.1-10, normal retirement age is the age at which a member becomes eligible for monthly lifetime normal unreduced retirement benefits, summarized as follows:

EFFECTIVE 7/1/13	Tier 1 Grandfathered	Tier 1 Nongrandfathered	Tier 2 All
Unreduced Retirement Eligibility			
Minimum Age	No	60	60
AND Rule	Rule 85	Rule 90	Rule 90
OR Normal Retirement Age	65	65	65

<u>Section 1. NDCC 15-39.1-04 (10) Definitions: Eligible Retirement Salary</u>

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the maximum annual compensation limit that can be used in benefit calculations ($255,000 in 2013). No active TFFR member currently has a salary large enough to be affected by this limit.

<u>Section 2. NDCC 15-39.1-10(4) Eligibility for benefits</u>

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Provision relates to minimum distribution requirements requiring payment of retirement benefits at age 70.5 or termination of employment, whichever is later.

<u>Section 3. NDCC 15-39.1-10.6 Benefit limitations</u>

Updates reference to federal tax law changes in effect on August 1, 2013, to comply with IRS qualification requirements. Increases the Section 415 maximum annual benefit limit ($205,000 in 2013). To date, no retiree's benefit has exceeded the annual benefit limit.

Section 4. NDCC 15-39.1-11 Vesting of Rights

Changes to this section were recommended by outside tax counsel for IRS determination letter approval.

- Removes the requirement that member assessments be paid in order to be vested. There are other statutory provisions in place which require member contributions to be paid (NDCC 15-39.1-09). If member contributions are not withheld by the employer and paid to TFFR, the employer could incur a penalty, and DPI foundation payments could be withheld (NDCC 15-39.1-23).

- Current language provides that a Tier 1 member must earn 3 years of service credit and a Tier 2 member must earn 5 years of service credit in order to be vested. The new language clarifies that in addition to the service credit requirement, when a member reaches normal retirement age (as described in NDCC 15-39.1-04(7) and NDCC 15-39.1-10), the member has a vested right to a retirement annuity.

Section 5. NEW SECTION - Savings clause – Plan modifications.

Adds new section to NDCC which would allow the TFFR Board to adopt appropriate terminology to comply with federal statutes or rules, subject to approval of the interim legislative employee benefits programs committee, IF it is determined that TFFR plan provisions do not comply with applicable federal statutes or rules. Such plan modifications would be effective until the effective date of any measure enacted by the legislative assembly which would provide the necessary amendments to ensure compliance with the federal statutes or rules.

SUMMARY

SB 2061 includes various technical and administrative changes to the TFFR program. Based on actuarial analysis from TFFR's actuarial consultant in a letter dated October 15, 2012, these changes are not expected to impact the financial position of the fund.

The interim Legislative Employee Benefits Programs Committee (LEBPC) voted unanimously to give this bill a favorable recommendation. The TFFR Board respectfully requests that your Committee give a "do pass" recommendation to this bill.

I would be happy to respond to your questions. Thank you.