

**NORTH DAKOTA TEACHERS' FUND FOR RETIREMENT
MINUTES OF THE
FEBRUARY 16, 2010, BOARD MEETING**

BOARD MEMBERS PRESENT: Mike Gessner, President
Clarence Corneil, Trustee (teleconference)
Kim Franz, Trustee
Lowell Latimer, Vice President
Kelly Schmidt, State Treasurer
Bob Toso, Trustee

BOARD MEMBER ABSENT: Wayne Sanstead, State Superintendent

STAFF PRESENT: Steve Cochrane, Executive Director
Fay Kopp, Deputy Executive Director
Darlene Roppel, Retirement Assistant
Shelly Schumacher, Retirement Program Manager

OTHERS PRESENT: Josh Askvig, NDEA
Greg Burns, NDEA
Erica Cermak, NDRTA
Dakota Draper, NDEA
Dr. Warren Henke, Retired Teacher
Doug Johnson, NDCEL
Gloria Lokken, NDEA-Retired
Bev Nielson, NDSBA
Ken Tupa, NDRTA
Aaron Webb, Attorney General's Office

CALL TO ORDER:

Mr. Mike Gessner, President of the Teachers' Fund for Retirement (TFFR) Board of Trustees, called the meeting to order at 1:00 p.m. on Tuesday, February 16, 2010, at the State Capitol, Pioneer Room, Bismarck, ND.

THE FOLLOWING MEMBERS WERE PRESENT REPRESENTING A QUORUM: PRESIDENT GESSNER, MR. CORNEIL, MRS. FRANZ, DR. LATIMER, TREASURER SCHMIDT, AND MR. TOSO.

APPROVAL OF AGENDA:

The Board considered the meeting agenda. Mrs. Fay Kopp, Deputy Executive Director, requested a report from Mr. Toso on the Callan Conference he recently attended be added to "Other Business."

TREASURER SCHMIDT MOVED AND MRS. FRANZ SECONDED TO APPROVE THE AGENDA WITH THE ADDITION.

AYES: MR. CORNEIL, MRS. FRANZ, MR. TOSO, PRESIDENT GESSNER, TREASURER SCHMIDT, AND DR. LATIMER.
NAYS: NONE
MOTION CARRIED.

MINUTES:

The Board considered the minutes of the January 21, 2010, board meeting.

TREASURER SCHMIDT MOVED AND MRS. FRANZ SECONDED TO APPROVE THE MINUTES OF THE JANUARY 21, 2010, BOARD MEETING.

AYES: PRESIDENT GESSNER, MR. TOSO, DR. LATIMER, TREASURER SCHMIDT, MR. CORNEIL, AND MRS. FRANZ.
NAYS: NONE
MOTION CARRIED.

INVESTMENT UPDATE:

Mr. Steve Cochrane, Executive Director, reported fiscal year performance from July 1, 2009 to February 15, 2010, is estimated at 14.8%. The agenda items for the next State Investment Board (SIB) meeting to be held February 26, 2010, 8:30 a.m. were reviewed.

TFFR FUNDING IMPROVEMENT STUDY:

President Gessner welcomed the representatives from member and employer interest groups including North Dakota Education Association (NDEA), North Dakota Council of Educational Leaders (NDCEL), North Dakota School Board Association (NDSBA), and North Dakota Retired Teachers Association (NDRTA) to the table to continue discussion of TFFR funding improvement issues and options.

Mrs. Kopp reviewed the January 29, 2010 memo from Aaron Webb, Assistant Attorney General. The memo addressed the question: if a bill was passed by the Legislature, and one part of the bill was challenged in court and found to be unconstitutional, would the whole bill be invalidated or only the part found to be unconstitutional? Mr. Webb concluded, in general, that if a court finds a portion of a bill to be invalid, the court's judgment does not invalidate other portions of the bill, but is confined to the portion of the bill that was found to be invalid unless it cannot be separated. Board discussion followed.

Mrs. Kopp presented examples of how possible benefit and contribution changes would affect members and employers. Board members reviewed examples and discussed issues relating to possible employee and employer contribution increase, re-employed retiree contributions, disability benefit changes, unreduced and reduced retirement eligibility age, and comparisons of various age 62 unreduced retirement eligibility options.

Mrs. Kopp also presented information from TFFR's actuarial consultant, Gabriel, Roeder, and Smith (GRS) in a letter dated February 15, 2010. A copy of the information is on file at the administrative office. The letter outlined various proposed amendments the Board is considering and projected the actuarial impact of the alternatives as follows:

- Member and employer contribution increase - total 8%, split equally between employees and employers, phased in each biennium, beginning July 1, 2012.
- Require re-employed retirees to pay member contributions, with no increase in benefit amount.
- Benefit changes
 - Retirement eligibility for unreduced benefits EXCEPT those who are 5 years from unreduced retirement eligibility are grandfathered in under current retirement eligibility provisions. For all other Tier 1, Tier 2, and new employees, retirement eligibility age would be increased to:
 - 1) Minimum Age 62 with Rule of 90, or age 65 without Rule of 90; OR 2) No Rule, minimum age 65.
 - Retirement eligibility for reduced benefits - change to 5 years before unreduced benefit eligibility and use 10% per year reduction instead of 6%.
 - Disability benefits - change to 5 year vesting, and use actual service in benefit calculation
- Above changes, with and without \$75 million state general fund appropriation.

The Board reviewed the projections for the various alternatives with funding levels which ranged from 50% to 95% at the end of 30 years, depending upon the amount and timing of contribution increases, type of benefit changes and who they applied to, and whether there was a general fund appropriation.

The Board also analyzed the cost savings from various grandfather provisions. The group discussed concerns with various grandfathering provisions, and whether to grandfather those members who are 5 or 10 years from unreduced retirement eligibility, or all Tier 1 members.

In reviewing the analysis done by GRS relating to early retirement reduction factors, the Board generally agreed that an 8% early retirement reduction at age 57 should be included in the legislative proposal, instead of the current 6%, and instead of the earlier proposal of 10%.

The Board also considered issues such as program complexity due to grandfathered and non-grandfathered groups in each of the two tiers with

different benefit provisions and eligibility requirements. They also discussed difficulty in communicating benefit and contribution changes to members, employers, and legislators; employee morale between different tiers and grandfathered groups; benefit equity and benefit adequacy concerns, shared responsibility, timing of changes, potential legal consequences, and other related issues.

The meeting recessed at 2:55 p.m. and reconvened at 3:05 p.m.

Mrs. Kopp presented a bill draft that includes proposed technical and administrative changes to TFFR statutes. She reviewed a summary of the proposed changes which would clarify the definition of eligible retirement salary, clearly allow the Board to determine on a case-by-case basis whether special payments are eligible or ineligible retirement salary, update beneficiary and death benefit provisions, and incorporate federal tax law changes to stay current with federal Internal Revenue Code (IRC) changes as they relate to qualified governmental plans. The board considered the proposed bill draft, and will discuss it further at the next board meeting.

The Board returned to their discussion on funding improvement issues and options. They generally agreed that more than one legislative proposal could be submitted for study. One such proposal could include the following provisions.

1. Disability benefit changes
2. Member contributions from re-employed retirees
3. Employee and employer contribution increases totaling 8%, 50/50 split (4% each), phased in at 2% each side each biennium, with effective date 7/1/12.
4. Unreduced retirement benefit eligibility at minimum age 62 with the Rule of 90, or age 65 without the Rule of 90
5. Reduced retirement benefit eligibility at minimum age 57 would be 8% per year reduction in benefits.
6. Members who are within 10 years of retirement or all Tier 1 members would be grandfathered in under current retirement eligibility provisions.

The Board also discussed the possibility of a second legislative proposal which could include the above contribution and benefit changes as well as a general fund appropriation. To avoid potential legal issues, a third legislative proposal could also include an increase in employer contributions only with no other changes.

In addition to the above possible legislative proposals, additional discussion will also be needed on the possible benefit changes relating to raising retirement eligibility to age 62 as well as various grandfathered groups.

The Board plans to finalize the provisions to be included in bill draft(s) at their next meeting in early March. TFFR's legal counsel will then draft the bill(s), and all bill drafts will be presented for final approval at the March 25 board meeting.

OTHER BUSINESS:

The next board meetings will be held ^{Tues} ~~Wednes~~day, March ¹⁶ ~~20~~, 2010, at ¹⁰ ~~8~~:00 a.m., and Thursday, March 25 at 1:00 p.m. at the State Capitol, Bismarck, ND.

ADJOURNMENT:

With no further business to come before the Board, President Gessner adjourned the meeting at 4:25 p.m.

Respectfully Submitted:


Mr. Mike Gessner, President
Teachers' Fund for Retirement Board


Darlene Roppel
Reporting Secretary