

NDPERS BOARD MEETING

Agenda

Bismarck Location:
ND Association of Counties
1661 Capitol Way
Fargo Location:
BCBS, 4510 13th Ave SW

July 25, 2013

Time: 8:30 AM

I. MINUTES

- A. May 28, 2013
- B. June 20, 2013

II. MISCELLANEOUS

- A. PERS Board Election Results – Kathy (Board Action)
- B. PERS Subcommittee Assignments – Sparb (Board Action)
- C. Quarterly Consultant Report – Jim (Information)
- D. NASRA Issue Briefs – Sparb (Information)
- E. Defense of Marriage Act Update – Jan (Information)

III. GROUP INSURANCE

- A. EAP Update – Bryan (Information)
- B. Affordable Care Act Implementation Update – Sparb (Information)

IV. DEFERRED COMP

- A. Provider Compliance Update – Kathy (Information)

V. FLEX COMP

- A. Flex Comp Survey – Sparb (Information)

VI. RETIREMENT

- A. Defined Contribution Plan Rules and Policies – Deb (Board Action)
- B. Defined Contribution Plan Review – Sparb (Information)
- C. Job Service Retirement Plan – Sparb (Board Action)
- D. * Job Service Retirement Plan Benefit Payments – Sparb (Board Action)

*Executive Session pursuant to NDCC §44-04-18.4(1)&(2)(b) and/or §44-04-19.2(1) and/or §54-52.1-11 to discuss confidential records or confidential member information.

Any individual requiring an auxiliary aid or service must contact the NDPERS ADA Coordinator at 328-3900, at least 5 business days before the scheduled meeting.



**North Dakota
Public Employees Retirement System**
400 East Broadway, Suite 505 • Box 1657
Bismarck, North Dakota 58502-1657

Sparb Collins
Executive Director
(701) 328-3900
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Memorandum

TO: NDPERS Board

FROM: Election Committee:
Howard Sage – Chair
Mike Sandal
Arvy Smith

DATE: July 17, 2013

SUBJECT: Board Election Results

On July 1, 2013 the Election Committee met to review and validate the results of the election for the active opening on the PERS Board. Kim Riedlinger Wassim was elected as the active member. The following is a recap of the election results:

Levi Erdmann	740
Kim Riedlinger Wassim	799
Invalid	36
Received after deadline	<u>32</u>
	1,607

The Election Committee validated and approved the results of the election. A copy of the meeting minutes is attached.

Board Action Requested

The Committee requests the Board move to accept the election results as presented.

MINUTES

North Dakota Public Employees Retirement System Election Committee

Monday, July 1, 2013
NDPERS Conference Room
400 E Broadway, Suite 505
Bismarck, ND 58502
12:00 P.M.

Members Present: Howard Sage – Chair
Mike Sandal
Arvy Smith

Others Present: Sparb Collins, NDPERS
Kathy Allen, NDPERS

Meeting convened at 3:30 p.m.

The ballots had been separated by candidate for tallying by the Committee. The Committee Chair, Howard Sage authorized Sparb Collins and Kathy Allen to assist with the canvassing.

The first tally after the count had been completed was as follows:

Levi Erdmann	863
Kim Riedlinger Wassim	800
Invalid	32
Received after Deadline	<u>32</u>
	1,727

As provided in the rules, because the percentage of votes received by the candidate with the highest number of votes was less than one percent more than the votes received by the other candidate, a recount was conducted. The final count was:

Levi Erdmann	740
Kim Riedlinger Wassim	799
Invalid	36
Received after deadline	<u>32</u>
	1,607

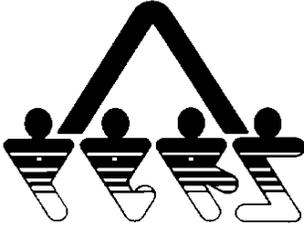
The difference was reconciled and noted that Levi had three invalid ballots that were previously counted and that a group of 120 ballots had been counted twice; Kim had one invalid ballot that was previously counted.

The Committee approved the outcome of the election and directed staff to notify candidates this same day, if possible.

The meeting Adjourned at 4:20 p.m.

Prepared by:

Kathy M. Allen
NDPERS Benefit Programs Manager



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 9, 2013
SUBJECT: Board Subcommittee Assignments

As of June 2013 the PERS Board had several standing committees comprised of the following Board members:

- Investment Committee: Mr. Sandal, Mr. Sage, Mr. Erdmann and Mr. Trenbeath (alternate)
- Audit Committee: Chairman Strinden and Ms. Smith
- Benefits Committee: Ms. Ehrhardt, Ms. Smith, and Mr. Trenbeath
- Election Committee: Ms. Smith, Mr. Sage, and Mr. Sandal

With Levi's departure from the Board, we currently have a vacancy on the Investment Committee and with Kim's election to the Board we need to consider the committee membership.

Concerning the Investment Board, state statute requires three members be appointed by PERS as specified below.

The North Dakota state investment board consists of the governor, the state treasurer, the commissioner of university and school lands, the director of workforce safety and insurance, the insurance commissioner, three members of the teachers' fund for retirement board or the board's designees who need not be members of the fund as selected by that board, two of the elected members of the public employees retirement system board as selected by that board, and one member of the public employees retirement system board as selected by that board. The director of workforce safety and insurance may appoint a designee, subject to approval by the workforce safety and insurance board of directors, to attend the meetings, participate, and vote when the director is unable to attend. The teachers' fund for retirement board may appoint an alternate designee with full voting privileges to attend meetings of the state investment board when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the director of workforce safety and insurance or the director's designee, are entitled to receive as compensation one hundred forty-eight dollars per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

Board Action Requested

Appoint members to the PERS standing committees.

MEMORANDUM

TO: NDPERS Board
FROM: Jim Smrcka
DATE: June 26, 2013
SUBJECT: **Consultant Fees**

Attached is a report showing the consulting, investment and administrative fees paid during the quarter ended June, 2013.

Attachment

**North Dakota Public Employees Retirement System
Consulting/Investment/Administrative Fees
For the Quarter ended June 30, 2013**

Program/Project	Fee Type	Apr-13	May-13	Jun-13	Fees Paid During The Quarter	Fees Paid Fiscal Year-To-Date	
Actuary/Consulting Fees:							
Deloitte Consulting	Health RFP		\$9,026		\$9,026	\$115,397	
VanIwaarden	Fee and travel	Actual			\$0	\$11,014	
SEGAL ROGERSCASEY					\$0	\$1,995	
Mid Dakota Clinic	Retirement Disability	Time charges	\$1,250	\$800	\$2,050	\$8,800	
The Segal Company	Retirement (DB)	Fixed Fee	\$17,050		\$17,050	\$67,550	
The Segal Company	Ret Health Credit	Fixed Fee	\$3,150		\$3,150	\$12,475	
The Segal Company	FlexComp	Fixed Fee			\$0	\$4,001	
The Segal Company	Job Service	Fixed Fee	\$4,575		\$4,575	\$18,125	
The Segal Company	QDRO/Compliance	Time charges			\$0	\$16,609	
The Segal Company	Legislation	Time charges	\$1,500	\$30,671	\$32,171	\$153,803	
The Segal Company	Retirement (DC)	Time charges	\$29,568		\$29,568	\$29,568	
The Segal Company	Def comp	time charges			\$0	\$6,731	
The Segal Company	RFP preparation investr	Time charges			\$0	\$1,688	
The Segal Company	115 TRUST				\$0	\$1,688	
The Segal Company	Dental RFP				\$0	\$24,000	
The Segal Company	Travel Expenses	Actual			\$0	\$0	
			\$57,093	\$40,497	\$0	\$97,590	\$473,442
Audit Fees:							
Brady Martz	Annual audit	Fixed Fee			\$0	\$39,950	
Legal Fees:							
ND Attorney General	Administrative	Time charges	\$3,240	\$2,649	\$1,202	\$7,091	\$25,001
Calhoun Law Group	Administrative	Time charges			\$0	\$0	
Investment Fees:							
SIB - Investment Fees	Retirement (DB)	% Allocation	\$142,254	\$460,719	\$849,458	\$1,452,431	\$5,904,842
SIB - Investment Fees	Ret Health Credit	% Allocation	\$46,363	\$565	\$49,257	\$96,185	\$221,243
SIB - Investment Fees	Insurance	% Allocation	\$291	\$332	\$298	\$921	\$3,933
SIB - Administrative Fees	Retirement (DB)	% Allocation	\$13,770	\$17,033	\$25,349	\$56,152	\$230,468
						\$1,605,689	\$6,360,486
Administrative Fee:							
Blue Cross Blue Shield	Health Plan	Fixed fee	\$1,070,008	\$1,070,230	*	\$2,140,238	\$11,689,072



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 16, 2013
SUBJECT: NASRA Issue Briefs

Attached, for your information, are two recent issue briefs from the National Association of State Retirement Administrators. The first is on the interest rate of return assumption. The second is titled State and Local Government Spending on Public Employee Retirement Systems.

NASRA ISSUE BRIEF:

State and Local Government Spending on Public Employee Retirement Systems



Updated May 2013

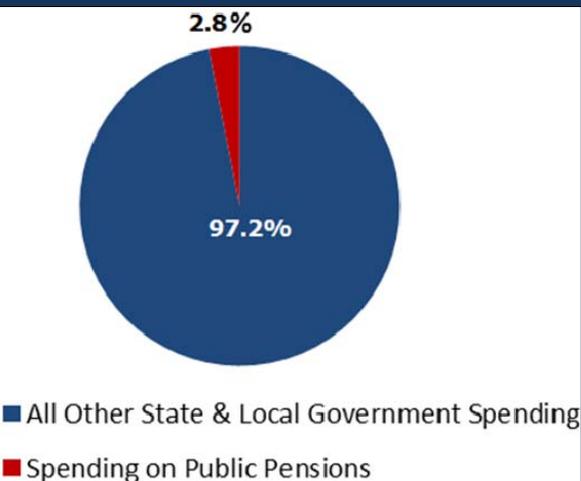
State and local government pension benefits are paid not from general operating revenues, but from trust funds to which public retirees and their employers contributed while they were working. On a nationwide basis, pension contributions made by state and local governments account for roughly three percent of total spending (see Figure 1). Current pension spending levels, however, vary widely and are sufficient for some entities and insufficient for others.

In the wake of the 2008-09 market decline, nearly every state and many cities have taken steps to improve the financial condition of their retirement plans and to reduce costs. Although some lawmakers have considered closing existing pension plans to new hires, most determined that this would increase—rather than reduce—costs,ⁱ particularly in the near-term. Instead, states and cities have made changes to the pension plan by adjusting employee and employer contribution levels, restructuring benefits, or both. Generally, any adjustments to pension plan costs have been proportionate to the plan's funding condition and the degree of change needed.ⁱⁱ

Three Percent Nationwide

Based on the most recent information provided by the U.S. Census Bureau, approximately three percent of all state and local government spending is used to fund pension benefits for employees of state and local government.ⁱⁱⁱ As shown in Figure 2, pension costs since 1980 have been reliably stable, declining from around four percent to three percent in 2010.

Figure 1: State and local spending on public pensions as percentage of total government spending, 2010



Source: U.S. Census Bureau

Because not all state and local government revenue is discretionary, the actual effect of pension costs on state and city budgets is likely to be higher—to varying degrees—than calculated. In addition, some states and cities do not contribute the amount determined actuarially to adequately fund the plan.

Although pensions are not the state-local budget-drain that some claim they are, as shown in Table 1, spending levels for states and cities do vary from the national average, from less than one percent to more than four percent. Some municipalities have reported higher pension costs as a percentage of their budget. One study estimates that total required spending on pensions could consume as much as 13 percent of one state's budget,^{iv} due partly to past failures to adequately fund pension costs and assuming a relatively low five percent investment return. The chronic failure by some pension plan sponsors to pay required contributions results in greater future contributions to make-up the difference.

Most of the variation in pension spending levels is attributable to three factors: different levels of effort by states and cities to make pension contributions; differences in benefit levels; and variations in the size of unfunded pension liabilities. As a percentage of total spending, pension costs for cities are higher than states by about 50 percent. This is due in part to the types of services delivered at the local level and the resulting larger share of municipal budgets that is committed to salaries. As with states, pension costs for municipalities can vary widely.

NASRA Issue Brief: Public Pension Plan Investment Return Assumptions



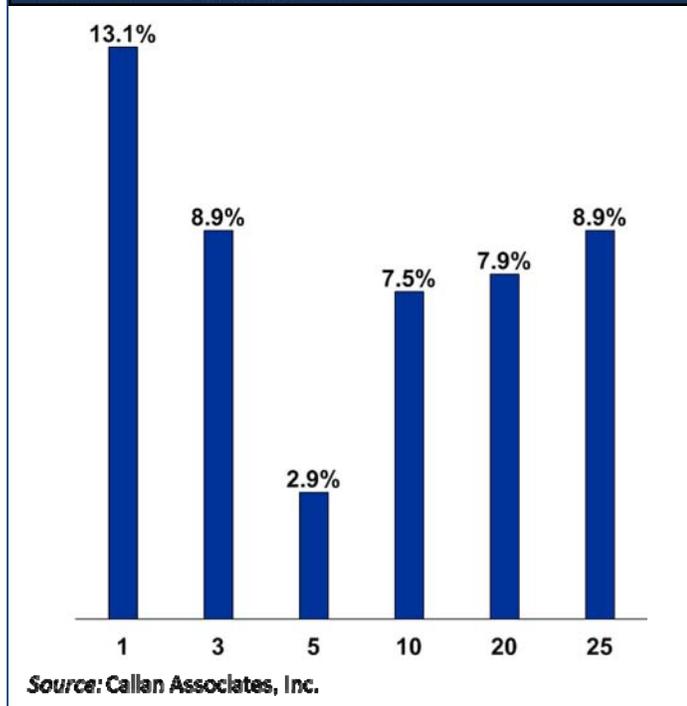
Updated March 2013

At year-end 2012, state and local government retirement systems held assets of approximately \$3.05 trillion.¹ These assets are invested to defray the cost of benefits within an acceptable level of risk. The investment return on these assets matters because over time, investment earnings account for a majority of public pension fund revenues. A shortfall in expected investment earnings must be made up by higher contributions or reduced benefits.

Funding a pension benefit requires the use of projections, known as actuarial assumptions, about future events. Actuarial assumptions fall into one of two broad categories: demographic and economic. Demographic assumptions are those pertaining to a pension plan's membership, such as changes in the number of working and retired plan participants; when participants will retire, and how long they'll live after they retire. Economic assumptions pertain to such factors as the rate of wage growth and the investment return on the fund's assets.

As with other actuarial assumptions, projecting public pension fund investment returns requires a focus on the long-term. This brief discusses how investment return assumptions are established and evaluated and compares these assumptions with public funds' actual investment experience.

Figure 1: Median public pension annualized investment returns for period ended 12/31/12



Public pension fund investment return assumptions have been the focus of growing attention in recent years. With current low current interest rates and volatile investment returns, some believe these assumptions are unrealistically high. Because investment earnings account for a majority of revenue for a typical public pension fund, the accuracy of the assumption has a major effect on the plan's finances and actuarial funding level.

An investment return assumption that is set too low will overstate liabilities and costs, causing current taxpayers to be overcharged and future taxpayers to be undercharged. A rate set too high will understate liabilities, undercharging current taxpayers, at the expense of future taxpayers. An assumption that is significantly wrong in either direction will cause a misallocation of resources and unfairly distribute costs among generations of taxpayers.

Although public pension funds, like other investors, have experienced sub-par returns over the past decade, median public pension fund returns over longer periods meet or exceed the assumed rates used by most plans. As shown in Figure 1, at 8.9 percent, the median annualized investment

return for the 25-year period ended December 31, 2012, exceeds the most-used investment return assumption of 8.0 percent. The 10-year return is slightly below the average assumption of 7.80 percent (see Figure 4).

¹ Federal Reserve, *Flow of Funds Accounts of the United States: Flows and Outstandings, Fourth Quarter 2012*, Table L.117

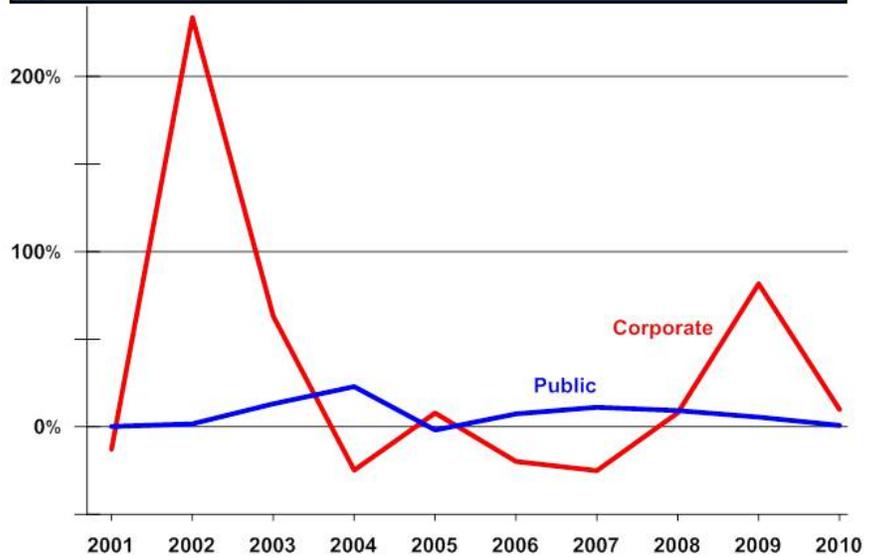
Public retirement systems employ a process for setting and reviewing their actuarial assumptions, including the expected rate of investment return. Most systems review these assumptions regularly, pursuant to statute or system policy. The process for establishing and reviewing the investment return assumption involves consideration of various financial, economic, and market factors, and is based on a very long-term view, typically 30 to 50 years. A primary objective for using a long-term approach in setting the return assumption is to promote stability and predictability of cost.

Unlike public pension plans, corporate plans are required by federal regulations to make contributions on the basis of current interest rates. As Figure 2 shows, this method results in plan costs that are volatile and uncertain, often changing dramatically from one year to the next. This volatility is due in part to fluctuations in interest rates. This volatility has been identified as a leading factor in the decision among corporations to abandon their pension plans. By focusing on the long-term and relying on a stable investment return assumption, public plans experience less volatility of costs.

As Figure 3 shows, since 1982, public pension funds have accrued an estimated \$5.3 trillion in revenue, of which \$3.2 trillion, or 61 percent, is estimated to have come from investment earnings. Employer (taxpayer) contributions account for \$1.4 trillion, or 26 percent of the total, and employee contributions total \$662 billion, or 13 percent.

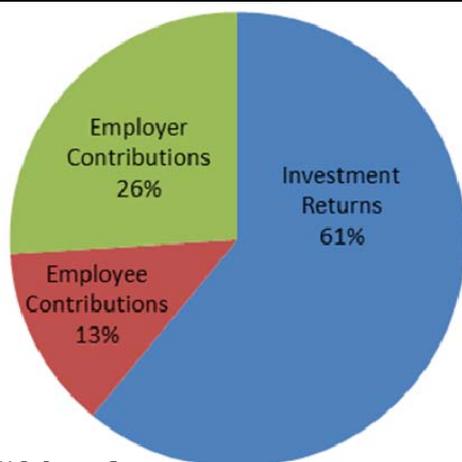
Public pension plans operate over long timeframes and manage assets for participants whose involvement with the plan can last more than half a century. Consider the case of a newly-hired public school teacher who is 25 years old. If this pension plan participant elects to make a career out of teaching school, he or she may work for 35 years, to age 60, and live another 25 years, to age 85. This teacher's pension plan will receive contributions for the first 35 years and then pay out benefits for another 25 years. During the entire 60-year period, the plan is investing assets on behalf of this participant. To emphasize the long-term nature of the investment return assumption, for a typical career employee, more than one-half of the investment income earned on assets accumulated to pay benefits is received *after* the employee retires.

Figure 2: Comparison of change from prior year in corporate and public pension contributions, 2001 to 2010



Source: Milliman and U.S. Census Bureau

Figure 3: Public Pensions Sources of Revenue, 1981-2011



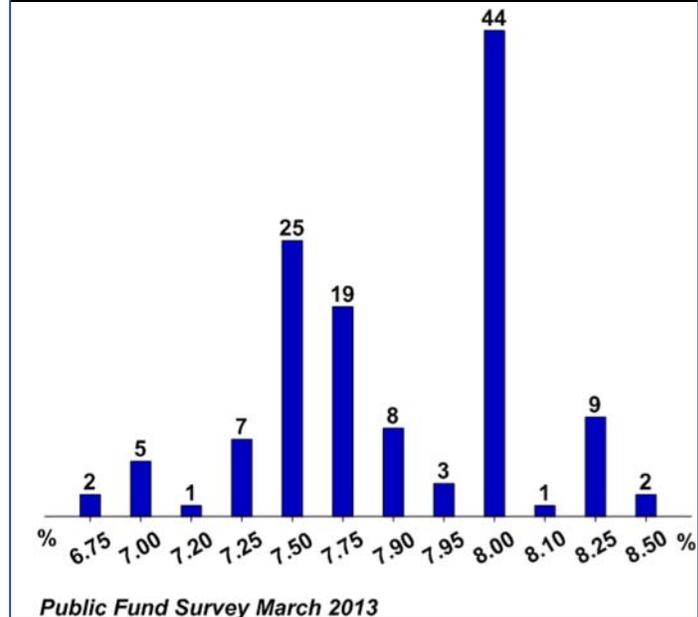
Source: U.S. Census Bureau

The investment return assumption is established through a process that considers factors such as economic and financial criteria; the plan's liabilities; and the plan's asset allocation, which reflects the plan's capital market assumptions, risk tolerance, and projected cash flows.

Standards for setting an investment return assumption, established and maintained by professional actuaries, recommend that actuaries consider a range of specified factors, including current and projected interest rates and rates of inflation; historic and projected returns for individual asset classes; and historic returns of the fund itself. The investment return assumption reflects a value within the projected range.

Many public pension funds have reduced their return assumption in recent years. Among the 126 plans measured in the Public Fund Survey (see Figure 4), nearly one-half have reduced their investment return assumption since fiscal year 2008. While 8.0 percent remains the predominant rate assumption, the average is 7.77 percent. Appendix A details the assumptions in use or adopted by the 126 plans in the Public Fund Survey.

Figure 4: Distribution of investment return assumptions



Conclusion

Since 1987, a period that has included three economic recessions and four years when median public pension fund investment returns were negative (including the 2008 decline), public pension funds have exceeded their assumed rates of investment return. Changes in economic and financial conditions are causing many public plans to reconsider their investment return assumption. Such a consideration must remain consistent with the long timeframe under which plans operate.

See Also:

Actuarial Standards of Practice No. 27, Actuarial Standards Board,
http://www.actuarialstandardsboard.org/pdf/asops/asop027_109.pdf

The Liability Side of the Equation Revisited, Missouri SERS, September 2006,
http://www.mosers.org/~media/Files/Adobe_PDF/About_MOSERS/Board-Newsletters/Operations-Outlook/operations_outlook_September06.ashx

The Public Fund Survey is sponsored by the National Association of State Retirement Administrators and the National Council on Teacher Retirement, <http://www.publicfundsurvey.org> (registration required)

Contact:

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Alex Brown, Research Associate
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National Association of State Retirement Administrators
www.nasra.org

Appendix A: Investment Return Assumption by Plan

(Figures reflect the nominal assumption in use or announced for use as of March 2013)

Alabama ERS	8.00%
Alabama Teachers	8.00%
Alaska PERS	8.25%
Alaska Teachers	8.25%
Arizona Public Safety Personnel	8.00%
Arizona SRS	8.00%
Arkansas PERS	8.00%
Arkansas Teachers	8.00%
California PERS	7.50%
California Teachers	7.50%
Chicago Teachers	8.00%
City of Austin ERS	7.75%
Colorado Affiliated Local	7.75%
Colorado Fire & Police Statewide	7.75%
Colorado Municipal	8.00%
Colorado School	8.00%
Colorado State	8.00%
Connecticut SERS	8.25%
Connecticut Teachers	8.50%
Contra Costa County	7.25%
DC Police & Fire	7.00%
DC Teachers	7.00%
Delaware State Employees	7.50%
Denver Employees	8.00%
Denver Public Schools	8.00%
Duluth Teachers ¹	8.00%
Fairfax County Schools	7.50%
Florida RS	7.75%
Georgia ERS	7.50%
Georgia Teachers	7.50%
Hawaii ERS	7.75%
Houston Firefighters	8.50%
Idaho PERS	7.00%
Illinois Municipal	7.50%
Illinois SERS	7.75%
Illinois Teachers	8.50%
Illinois Universities	7.75%
Indiana PERF	6.75%
Indiana Teachers	6.75%
Iowa PERS	7.50%
Kansas PERS	8.00%
Kentucky County	7.75%
Kentucky ERS	7.75%

Kentucky Teachers	7.50%
LA County ERS	7.75%
Louisiana SERS	8.00%
Louisiana Teachers	8.25%
Maine Local	7.25%
Maine State and Teacher	7.25%
Maryland PERS	7.75%
Maryland Teachers	7.75%
Massachusetts SERS	8.25%
Massachusetts Teachers	8.25%
Michigan Municipal	8.00%
Michigan Public Schools	8.00%
Michigan SERS	8.00%
Minnesota PERF ¹	8.00%
Minnesota State Employees ¹	8.00%
Minnesota Teachers ¹	8.00%
Mississippi PERS	8.00%
Missouri DOT and Highway Patrol	8.25%
Missouri Local	7.25%
Missouri PEERS	8.00%
Missouri State Employees	8.00%
Missouri Teachers	8.00%
Montana PERS	7.75%
Montana Teachers	7.75%
Nebraska Schools	8.00%
Nevada Police Officer and Firefighter	8.00%
Nevada Regular Employees	8.00%
New Hampshire Retirement System	7.75%
New Jersey PERS	7.95%
New Jersey Police & Fire	7.95%
New Jersey Teachers	7.95%
New Mexico PERF	7.75%
New Mexico Teachers	7.75%
New York City ERS	8.00%
New York City Teachers	8.00%
New York State Teachers	8.00%
North Carolina Local Government	7.25%
North Carolina Teachers and State Employees	7.25%
North Dakota PERS	8.00%
North Dakota Teachers	8.00%
NY State & Local ERS	7.50%

NY State & Local Police & Fire	7.50%
Ohio PERS	8.00%
Ohio Police & Fire	8.25%
Ohio School Employees	7.75%
Ohio Teachers	7.75%
Oklahoma PERS	7.50%
Oklahoma Teachers	8.00%
Oregon PERS	8.00%
Pennsylvania School Employees	7.50%
Pennsylvania State ERS	7.50%
Phoenix ERS	8.00%
Rhode Island ERS	7.50%
Rhode Island Municipal	7.50%
San Diego County	8.00%
San Francisco City & County	7.50%
South Carolina Police	7.50%
South Carolina RS	7.50%
South Dakota PERS ³	7.25%
St. Louis School Employees	8.00%
St. Paul Teachers ¹	8.00%
Texas County & District	8.00%

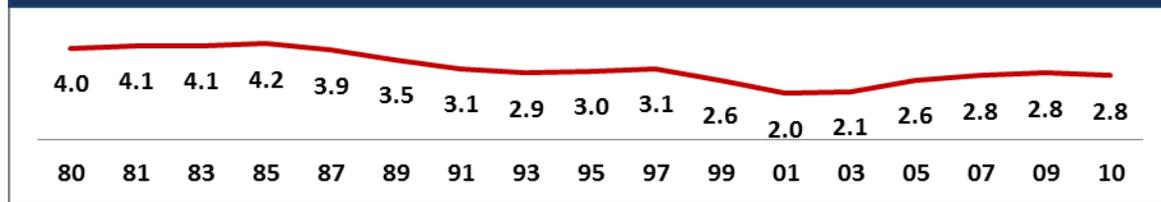
Texas ERS	8.00%
Texas LECOS	8.00%
Texas Municipal	7.00%
Texas Teachers	8.00%
TN Political Subdivisions	7.50%
TN State and Teachers	7.50%
Utah Noncontributory	7.75%
Vermont State Employees ²	8.10%
Vermont Teachers ²	7.90%
Virginia Retirement System	7.00%
Washington LEOFF Plan 1	7.90%
Washington LEOFF Plan 2	7.90%
Washington PERS 1	7.90%
Washington PERS 2/3	7.90%
Washington School Employees 2/3	7.90%
Washington Teachers Plan 1	7.90%
Washington Teachers Plan 2/3	7.90%
West Virginia PERS	7.50%
West Virginia Teachers	7.50%
Wisconsin Retirement System	7.20%
Wyoming Public Employees	8.00%

1. The Minnesota Legislature, which sets in statute investment return assumptions used by public plans in the state, established the use of “select-and-ultimate” rates for investment return assumptions. These plans will use an assumed rate of 8.0 percent for five years, through FY 16, then return to 8.5 percent. For more information on select-and-ultimate rates, please see Actuarial Standards of Practice No. 27: http://www.actuarialstandardsboard.org/pdf/asops/asop027_145.pdf.

2. The Vermont retirement systems adopted “select-and-ultimate” rates in 2011; the rates shown reflect the single rates most closely associated with the funding results for the respective plans, based on their projected cash flows.

3. The SDRS set the rate at 7.25% through FY 2018, after which it will rise to 7.50%.

Figure 2: Pension costs as a percentage of all state and local government spending, 1980-2010



Source: U.S. Census Bureau

Cost and Financing Factors

Public pensions are financed through a combination of contributions from public employers (state and local agencies) and public employees, and the investment returns on those contributions.^v Since 1982, investment earnings have accounted for approximately 60 percent of all public pension revenue; employer contributions, 28 percent; and employee contributions, 12 percent.

Employee Contributions

Because the vast majority of public employees are required to contribute toward the cost of their pension benefit—typically four to eight percent of pay—most state and local government retirement plans are mandatory savings programs. In recent years, many states have increased required employee contributions. On a national basis, in fiscal year 2009, employee contributions accounted for 31 percent of all public pension plan contributions, with employer contributions making up the remaining 69 percent (see *NASRA Issue Brief: Employee Contributions to Public Pension Funds*, January 2013).

Employer Contributions

A variety of state and local laws and policies guide governmental pension funding practices. Most require employers to contribute what is known as the Annual Required Contribution (ARC), which is the amount needed to finance benefits being accrued each year, plus the cost to amortize unfunded liabilities from past years, minus required employee contributions.

The average ARC received in recent years has been around 90 percent. Beneath this average ARC experience lies diversity: approximately 60 percent of plans in the Public Fund Survey consistently receive 90 percent or more of their ARC.^{vi} This means that although a majority of plans have been receiving their required funding, many plans have not been adequately funded, which will result in higher future costs.

Leading national public sector associations recently established a Pension Funding Task Force, which earlier this year released its report *Pension Funding: A Guide for Elected Officials* urging policymakers to follow recommended guidelines for an actuarially determined contribution to government retirement systems.

Social Security Coverage

Twenty-five to thirty percent of state and local governments and their employees make contributions to their retirement plan instead of to Social Security. This is the case for most to substantially all of the state and local government workforce in seven states, 40 percent of the nation's public school teachers, and a majority of firefighters and police officers. Pension benefits—and costs—for those who do not participate in Social Security are usually higher than for those who do participate in order to compensate for the absence of Social Security benefits. This higher cost should be considered in the context of the 12.4 percent of payroll, or an estimated \$31.2 billion annually,^{vii} these employers and employees would otherwise be paying into Social Security.

Investments and Other Parts of the Financing Equation

The largest portion of public pension funding comes from investment earnings, which illustrates the major role this revenue source plays in determining pension costs (see *NASRA Issue Brief: Public Pension Plan Investment Return Assumptions*, March 2013). Other factors that affect pension costs include expectations for wage and general inflation, rates of worker retirement and attrition, and rates of mortality. Expectations for these and other economic and actuarial events typically are based on long timeframes, such as 20 to 50 years.

Although the market decline of 2008-09 lowered public pension fund asset values, macro-economic events also affect the cost of the plan. These events include such changes as retirement rates, attrition (such as hiring freezes), and wage growth (including salary cuts/layoffs). Additionally, legislatures in over 40 states have made changes to pension benefits and/or financing structures, in some cases reducing plan costs and long-term obligations.

Conclusion

On average, retirement programs remain a small part of state and local government spending, although required costs, benefit levels, funding levels, and funding adequacy vary widely. Over \$210 billion is distributed annually from these trusts to retirees and their beneficiaries, which serves as a source of economic stimulus to virtually every city and town in the nation.^{viii}

Changes to benefit levels and required employee contributions adopted by states and cities have been diverse, dependent in part on such factors as the legal authority to make changes to benefits or required employee contribution rates, and the plan's financial condition prior to the 2008-09 market decline. Generally, states and cities with a history of paying their required pension contributions are in better condition and have needed more minor adjustments to benefits or financing arrangements compared to those with a history of not adequately making their contributions.

Table 1: State and local government contributions to pensions as a percentage of all state and local government spending, by state, 2010

Alabama	2.85	<i>Louisiana</i>	3.31	Oklahoma	3.34
<i>Alaska</i>	2.25	<i>Maine</i>	2.77	Oregon	1.46
Arizona	2.42	Maryland	3.14	Pennsylvania	1.29
Arkansas	3.02	<i>Massachusetts</i>	3.36	Rhode Island	3.99
<i>California</i>	3.58	Michigan	2.32	South Carolina	2.24
<i>Colorado</i>	2.08	Minnesota	1.62	South Dakota	1.54
Connecticut	4.54	Mississippi	2.81	Tennessee	1.97
Delaware	1.99	Missouri	3.08	<i>Texas</i>	2.16
<i>District of Columbia</i>	1.33	Montana	2.40	Utah	2.76
Florida	2.58	Nebraska	1.60	Vermont	1.09
Georgia	2.14	<i>Nevada</i> ¹	2.84	Virginia	3.15
Hawaii	3.57	New Hampshire	2.47	Washington	1.40
Idaho	2.38	New Jersey	2.03	West Virginia	3.87
<i>Illinois</i>	4.75	New Mexico	2.77	Wisconsin	2.07
Indiana	2.82	New York	3.68	Wyoming	1.24
Iowa	1.73	North Carolina	0.99	U. S. weighted avg.	2.77
Kansas	2.03	North Dakota	1.20		
Kentucky	2.58	<i>Ohio</i>	2.85		

States where more than one-half of public employee payrolls are estimated to be outside of Social Security are italicized.

¹ In addition to being a non-Social Security state, one-half of Nevada PERS employers' contribution is attributable to a non-refundable pre-tax salary reduction to fund the employees' portion of the contribution.

Source: U.S. Census Bureau

See also

National Governors Association, National Conference of State Legislatures, The Council of State Governments, National Association of Counties, National League of Cities, The U.S. Conference of Mayors, International City/County Management Association, National Council on Teacher Retirement, National Association of State Auditors, Comptrollers and Treasurers, Government Finance Officers Association, and National Association of State Retirement Administrators, “Pension Funding: A Guide for Elected Officials,” 2013, <http://wikipension.com/images/9/95/1303PensionFundingGuideBrief.pdf>

Center for Retirement Research at Boston College, “The Impact of Public Pensions on State and Local Budgets,” October 2010, http://crr.bc.edu/briefs/the_impact_of_public_pensions_on_state_and_local_budgets.html

Center on Budget Priorities and Policies, “Misunderstandings Regarding State Debt, Pensions, and Retiree Health Costs Create Unnecessary Alarm,” January 2011, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3372>

National Association of State Retirement Administrators, Issue Brief: Public Pension Plan Investment Return Assumptions, Updated March 2013, http://www.nasra.org/resources/InvReturnAssumption_Final.pdf

National Association of State Retirement Administrators, Issue Brief: Employee Contributions to Public Pension Funds, January 2013, <http://wikipension.com/images/8/8e/Issuebrief130102.pdf>

Contact

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www.nasra.org

ⁱ Wikipension, “Costs of Switching from a DB to a DC Plan,”

http://www.wikipension.com/index.php?title=Studies_and_reports#State_Studies

ⁱⁱ Center for Retirement Research at Boston College, “State and Local Pension Costs: Pre-Crisis, Post-Crisis, and Post-Reform,” February 2013

ⁱⁱⁱ A similar study conducted by the Center for Retirement at Boston College calculated the cost of pensions to be 3.8 percent, using a calculation that excluded capital spending

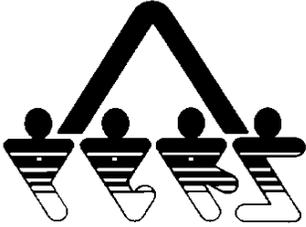
^{iv} Center for Retirement Research at Boston College, “The Impact of Public Pensions on State & Local Budgets,” *supra*

^v U.S. Census Bureau, <http://www2.census.gov/govs/retire/2010ret02.xls> - State and local government retirement system sources of revenue

^{vi} Public Fund Survey, <http://www.publicfundsurvey.org/>

^{vii} Author’s calculation based on 30 percent of state and local government employees not participating in Social Security

^{viii} *Pensionomics: Measuring the Economic Impact of State and Local Pension Plans*, National Institute on Retirement Security, February 2009; see also “Economic Effects of Public Pensions,” <http://www.nasra.org/resources/economic.htm>



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Memorandum

TO: PERS Board

FROM: Sparb

DATE: July 26, 2013

SUBJECT: Defense of Marriage Act (DOMA)

Jan Murtha will be available to update the Board on the Defense of Marriage Act.



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Memorandum

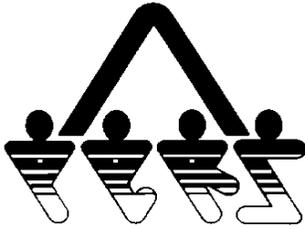
TO: PERS Board
FROM: Sparb & Bryan
DATE: July 25, 2013
SUBJECT: Employee Assistance Program (EAP) Update

There were four vendor responses to the NDPERS EAP Request for Proposal (RFP) issued on April 1st. The four were: St. Alexius, The Village, Deer Oaks, and Live Well Solutions. The vendors were all approved at the May NDPERS Board meeting. Staff sent out the EAP information to the providers and agencies after that meeting. The vendors set up information booths and presented their programs at the June 12th NDPERS Payroll Conference. The deadline for agencies switching providers was June 14th.

There were eight agencies that switched their EAP provider. The changes were:

Custer Health District	St. A's to The Village
Rolette County Health District	St. A's to The Village
Cavalier County Health	Deer Oaks to The Village
NDSU	Deer Oaks to The Village
ND School for the Blind	St. A's to The Village
Information Technology Dept	St. A's to Deer Oaks
Dept of Agriculture	St. A's to Deer Oaks
Devil's Lake Region College	The Village to Live Well Solutions

If you have any questions, we will be available at the NDPERS Board meeting.



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 16, 2013
SUBJECT: ACA Implementation Update

As has been widely reported, the President has delayed the implementation of the shared responsibility provisions of the ACA for one year. Attached is a memo from Robert Davis of Deloitte reviewing what we know about this delay as of now. We expect more information to be available by the Board meeting and we will review it at that time.

The above has several implications for us:

1. The effect on our implementation schedule
2. The effect on the new state law provisions

1. The effect on our implementation schedule

As discussed at the last meeting, we have been working with OMB and the political subdivisions to help them respond to the new federal requirements by the end of the year. We had scheduled a statewide meeting of our employers at the Bismarck Civic Center on July 25th and a briefing for state agency heads on July 26th. With the change in the federal position and after discussions with OMB, we have decided to cancel the meetings on the 25th and the 26th. As we know more we will reschedule.

2. The effect on the new state law provisions

I have asked Jan to review this question and report her findings to us at the July meeting.

Memo

Date: July 17, 2013
To: Sparb Collins
From: Robert Davis
Subject: IRS Notice 2013-45

Sparb:

You have asked Deloitte Consulting (“Deloitte”) to comment on the Treasury Department’s July 2, 2013 announcement that it would not enforce IRC §§ 4980H, 6055, and 6056 in 2014, and the impact on certain amendments to the North Dakota Century Code that were enacted to conform with the requirements of IRC § 4980H.

As you know, Deloitte cannot provide legal advice or legal opinions. The following is intended to summarize recent actions by the Treasury Department and IRS and to suggest possible reactions by the State of North Dakota (“State”). It is being provided for information purposes only to help the State and its legal counsel understand and analyze the effect of these Treasury Department and IRS actions on implementing the amendments to Section 54-52.1-03.4 of the North Dakota Century Code.

As explained below, our review of IRS Notice 2013-45 suggests that additional legislative action by the Legislative Assembly of North Dakota would most likely be needed to delay implementation of the referenced amendments. Barring that, there may be an argument for regulatory action to defer implementation of the amendment to the eligibility rules for Temporary Employees first employed after December 31, 2013.

Background

Earlier this year, the Legislative Assembly of North Dakota enacted House Bill No. 1059 to amend Section 54-52.1-03.4 of the North Dakota Century Code to (1) modify the uniform group insurance program’s eligibility rules for Temporary Employees first employed after December 31, 2013, and (2) to cap the required contribution for self-only coverage by all Temporary Employees. The purpose of these changes was to ensure the State would not be subject to Employer Shared Responsibility penalties under the Affordable Care Act (“ACA”) with respect to Temporary Employees.

The ACA’s Employer Shared Responsibility requirements are effective for months beginning after December 31, 2013. Related reporting requirements pursuant to IRC §§ 6055 and 6056 also are



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To: Sparb Collins
Subject: IRS Notice 2013-45
Date: July 17, 2013
Page 2

effective for 2014. However, the Treasury Department on July 2 informally announced that these requirements would not be enforced in 2014. On July 9, the IRS issued Notice 2013-45 to formally announce this deferred enforcement policy.

In particular, Notice 2013-45 specifically states that "... no employer shared responsibility payments will be assessed for 2014."

The question presented is how the Treasury/IRS deferred enforcement policy with respect to these provisions may affect the implementation of the referenced amendments to Section 54-52.1-03.4 of the North Dakota Century Code.

Discussion

The first amendment to Section 54-52.1-03.4 provides that a Temporary Employee first employed after December 31, 2013 will be eligible to participate in the uniform group insurance program only if he or she is a "full-time employee" as defined in IRC § 4980H(c)(4). Briefly, IRC § 4980H(c)(4) defines "full-time employee" as anyone who works an average of at least 30 hours per week during a calendar month.

As noted, IRS Notice 2013-45 confirms that no employer shared responsibility penalties pursuant to IRC § 4980H will be assessed for 2014. However, the underlying statutory provision will still become effective for months beginning after December 31, 2013. Legislative action would be required to change this effective date.

Nothing in IRS Notice 2013-45 clearly precludes the State from implementing this first amendment to Section 54-52.1-03.4 for 2014. However, in the absence of additional action by the Legislative Assembly of North Dakota, the State might use the recent Treasury/IRS announcement and the fact that IRS still has not issued final guidance on the "full-time employee" definition to support a similar deferred enforcement policy with respect to this provision.

The second amendment to Section 54-52.1-03.4 provides that a Temporary Employee who is an "applicable taxpayer" as defined in IRC §36B(c)(1)(A) cannot be required to contribute more than 9.5% of his or her household income towards the cost of self-only coverage in the uniform group insurance program.

Unlike the first amendment discussed above, this amendment does not cross-reference IRC § 4980H. In fact, the cross-reference to IRC § 36B is to the provision for the premium tax credit for certain individuals purchasing coverage in a health insurance exchange. IRS Notice 2013-45 specifies that the effective date for this provision is not affected by the IRS's announcement with respect to IRC § 4980H.

As a result, there is nothing in IRS Notice 2013-45 that would obviously support a deferred enforcement policy with respect to this second amendment. Thus, it appears additional action by the Legislative Assembly of North Dakota would be required to delay implementation of this provision.

To: Sparb Collins
Subject: IRS Notice 2013-45
Date: July 17, 2013
Page 3

cc: Pat Pechacek

Transition Relief for 2014 Under §§ 6055 (§ 6055 Information Reporting), 6056 (§ 6056 Information Reporting) and 4980H (Employer Shared Responsibility Provisions)

NOT-129718-13

Notice 2013-45

I. PURPOSE AND OVERVIEW

This notice provides transition relief for 2014 from (1) the information reporting requirements applicable to insurers, self-insuring employers, and certain other providers of minimum essential coverage under § 6055 of the Internal Revenue Code (Code) (§ 6055 Information Reporting), (2) the information reporting requirements applicable to applicable large employers under § 6056 (§ 6056 Information Reporting), and (3) the employer shared responsibility provisions under § 4980H (Employer Shared Responsibility Provisions). This transition relief will provide additional time for input from employers and other reporting entities in an effort to simplify information reporting consistent with effective implementation of the law. This transition relief also is intended to provide employers, insurers, and other providers of minimum essential coverage time to adapt their health coverage and reporting systems. Both the information reporting and the Employer Shared Responsibility Provisions will be fully effective for 2015. In preparation for that, once the information reporting rules have been issued, employers and other reporting entities are encouraged to voluntarily comply with the information reporting provisions for 2014. This transition relief through 2014 for the information reporting and Employer Shared Responsibility Provisions has no effect on the effective date or application of other Affordable Care Act provisions.

II. BACKGROUND

Sections 6055, 6056, and 4980H were added to the Code by §§ 1502, 1514, and 1513, respectively, of the Patient Protection and Affordable Care Act (ACA), enacted March 23, 2010, Pub. L. No. 111-148.¹ Section 6055 requires annual information reporting by health insurance issuers, self-insuring employers, government agencies, and other providers of health coverage. Section 6056 requires annual information reporting by applicable large employers relating to the health insurance that the

¹ Section 4980H was amended by § 1003 of the Health Care and Education Reconciliation Act of 2010 (HCERA) (enacted March 30, 2010, Pub. L. No. 111-152) and was further amended by § 1858(b)(4) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (enacted April 15, 2011, Pub. L. No. 112-10). Section 6056 was amended by §§ 10106(g) and 10108(j) of the ACA and was further amended by § 1858(b)(5) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011. In this notice, the term Affordable Care Act refers to the ACA and HCERA, collectively.

employer offers (or does not offer) to its full-time employees. Section 4980H(a) imposes an assessable payment on an applicable large employer that fails to offer minimum essential coverage to its full-time employees (and their dependents) under an eligible employer-sponsored plan if at least one full-time employee enrolls in a qualified health plan for which a premium tax credit is allowed or paid. Section 4980H(b) imposes an assessable payment on an applicable large employer that offers minimum essential coverage to its full-time employees (and their dependents) under an eligible employer-sponsored plan but has one or more full-time employees who enroll in a qualified health plan for which a premium tax credit is allowed or paid (for example, if the coverage offered either does not provide minimum value or is not affordable to that full-time employee).

III. TRANSITION RELIEF

Q-1. When will the rules be published regarding § 6055 Information Reporting and § 6056 Information Reporting? How will these provisions apply for 2014?

A-1. The Affordable Care Act requires information reporting under § 6055 by insurers, self-insuring employers, government agencies, and certain other parties that provide health coverage and requires information reporting under § 6056 by applicable large employers with respect to the health coverage offered to their full-time employees. Proposed rules for the information reporting provisions are expected to be published this summer. The proposed rules will reflect the fact that transition relief will be provided for information reporting under §§ 6055 and 6056 for 2014. This transition relief will provide additional time for dialogue with stakeholders in an effort to simplify the reporting requirements consistent with effective implementation of the law. It will also provide employers, insurers, and other reporting entities additional time to develop their systems for assembling and reporting the needed data. Employers, insurers, and other reporting entities are encouraged to voluntarily comply with these information reporting provisions for 2014 (once the information reporting rules have been issued) in preparation for the full application of the provisions for 2015. However, information reporting under §§ 6055 and 6056 will be optional for 2014; accordingly, no penalties will be applied for failure to comply with these information reporting provisions for 2014.

Q-2. What does the 2014 transition relief for § 6056 Information Reporting mean for application of the Employer Shared Responsibility Provisions for 2014?

A-2. Under the Employer Shared Responsibility Provisions, an applicable large employer generally must offer affordable, minimum value health coverage to its full-time employees or a shared responsibility payment may apply if one or more of its full-time employees receive a premium tax credit under § 36B. The § 6056 Information Reporting is integral to the administration of the Employer Shared Responsibility Provisions. In particular, because an employer typically will not know whether a full-time employee received a premium tax credit, the employer will not have all of the

information needed to determine whether it owes a payment under § 4980H. Accordingly, the employer is not required to calculate a payment with respect to § 4980H or file returns submitting such a payment. Instead, after receiving the information returns filed by applicable large employers under § 6056 and the information about employees claiming the premium tax credit for any given calendar year, the Internal Revenue Service (IRS) will determine whether any of the employer's full-time employees received the premium tax credit and, if so, whether an assessable payment under § 4980H may be due. If the IRS concludes that an employer may owe such an assessable payment, it will contact the employer, and the employer will have an opportunity to respond to the information the IRS provides before a payment is assessed.

For this reason, the transition relief from § 6056 Information Reporting for 2014 is expected to make it impractical to determine which employers owe shared responsibility payments for 2014 under the Employer Shared Responsibility Provisions. Accordingly, no employer shared responsibility payments will be assessed for 2014. However, in preparation for the application of the Employer Shared Responsibility Provisions beginning in 2015, employers and other affected entities are encouraged to voluntarily comply for 2014 with the information reporting provisions (once the information reporting rules have been issued) and to maintain or expand health coverage in 2014. Real-world testing of reporting systems and plan designs through voluntary compliance for 2014 will contribute to a smoother transition to full implementation for 2015.

Q-3. Does this affect employees' access to the premium tax credit?

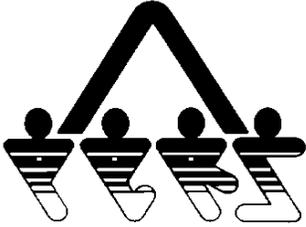
A-3. No. Individuals will continue to be eligible for the premium tax credit by enrolling in a qualified health plan through the Affordable Insurance Exchanges (also called Health Insurance Marketplaces) if their household income is within a specified range and they are not eligible for other minimum essential coverage, including an eligible employer-sponsored plan that is affordable and provides minimum value.

Q-4. What does this mean for other provisions in the Affordable Care Act?

A-4. This transition relief through 2014 for § 6055 Information Reporting, § 6056 Information Reporting, and the Employer Shared Responsibility Provisions has no effect on the effective date or application of other Affordable Care Act provisions, such as the premium tax credit under § 36B and the individual shared responsibility provisions under § 5000A.

IV. DRAFTING INFORMATION

The principal author of this notice is Kathryn Johnson of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). For further information regarding this notice contact Kathryn Johnson at (202) 927-9639 (not a toll-free call).



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Memorandum

TO: NDPERS Board

FROM: Kathy

DATE: July 15, 2013

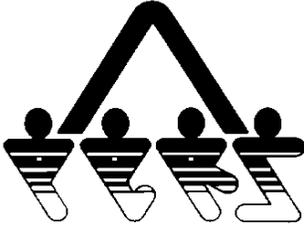
SUBJECT: Provider Compliance Update

At the June meeting the Board was informed that the following companies still had agents out of compliance with our training requirements and had not responded to our request as to how they wanted to address this issue:

- AXA Equitable
- VALIC

The Board took action to put the companies on a “loss of active provider status” to be effective July 1, 2013. Staff indicated it would communicate this information to the companies and continue to work with them to resolve this issue prior to the effective date. Since the meeting, AXA and VALIC have responded and resolved the issue by directing us to remove the agent each had that was out of compliance. Each company also provided us with its appointed representative for future contact.

All companies providing services under the State’s deferred compensation plan are in compliance with our training requirements.



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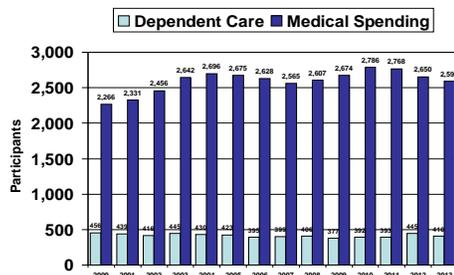
Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 17, 2013
SUBJECT: Flex Comp Survey

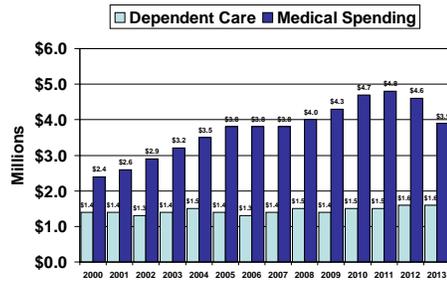
At the June meeting we discussed the changed the method for our flex comp administration from paying on PeopleSoft to external payment. We also discussed the following as noted in my testimony concerning the appropriation for this change:

Attached are several charts that show the participation in this program. As they show, the number of members participating in the program has decreased slightly as well as the average and total deferrals. One of the reasons for this decline is the Affordable Care Act (ACA) which limited the total deferrals to the medical account to \$2,500 - the old limit was \$6,000. As we look to the future with the limitation in place, we believe that we will have to make it easier for members with smaller accounts to be in the plan. The primary reason they do not is the paper work. In recognition of this, we have changed the claims processing format this year from using PeopleSoft to hiring a new claims payment firm. This new format will add additional options for claims payment processing beyond the traditional paper process. The new options are a debit card, auto adjudication and mobile applications. This will make it easier for our members to use this program by reducing paperwork and will facilitate small accounts. As we look to the future, we expect to see the number of users increase as well as the deferrals that fund this program.

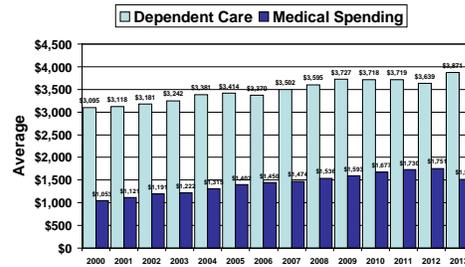
NDPERS Flexcomp Participation



NDPERS Flexcomp Participation

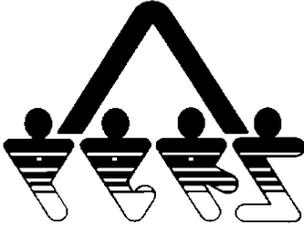


NDPERS Flexcomp Participation



As noted above, the primary reason for the change was to make it easier for our members to use this program.

In June we noted we were going to send a survey to all flex comp participants to help us assess if we are meeting our objective. Attached is a memo from Bryan with the results of the survey. Staff will review it in more detail at the Board meeting.



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Memorandum

TO: PERS Board
FROM: Bryan
DATE: July 25, 2013
SUBJECT: Flexcomp Survey Results

Here are the responses from the recent Flexcomp participant survey. A 1-page survey was sent to all members participating in either medical spending or dependent care. As of July 16th, there were 790 responses. There are about 2,700 flexcomp participants, so this is about a 30% response rate. There are enough responses that these survey results can be extrapolated to the entire flexcomp participant population.

The survey respondents had written additional comments on 334 (42%) the surveys.

NDPERS staff will analyze these results further and report to the NDPERS Board at a future meeting.

If you have any questions, I will be available at the NDPERS Board meeting.

NDPERS 2013 Flexcomp Plan Survey – 790 Responses (30%)

1. Which Flexcomp program(s) do you participate in?	93% Medical 15% Dependent 39% Pre-Tax
2. Are you satisfied with the NDPERS Flexcomp enrollment process?	90% Yes 8% No
3. Are you satisfied with the availability of Flexcomp plan information?	85% Yes 13% No
4. Have you used the ADP claims processing yet?	88% Yes 11% No
5. Have you participated in the Flexcomp program before this year?	96% Yes 4% No
6. Do you plan to participate in the Flexcomp plan next year?	90% Yes 7% No

Please mark the box with how much you agree/disagree with the following statements. Use "N/A" if you have not used the service or don't know.	Answer %						
	Strongly disagree	Disagree	Slightly Disagree	Slightly Agree	Agree	Strongly Agree	N/A
7. I am satisfied with the decision to change to ADP for Flexcomp claims processing.	17	12	8	12	30	17	5
8. I am satisfied with the claim submission options available from ADP.	13	9	9	12	33	19	6
9. I am satisfied with the online Web Services available from ADP.	12	7	8	11	29	20	14
10. I am satisfied with the Debit Card option available from ADP.	13	6	5	9	19	22	27
11. I am satisfied with the online claims submission option available from ADP.	11	7	7	10	24	16	25
12. I am satisfied with the Mobile App option available from ADP.	6	2	1	3	5	3	79
13. I am satisfied with the Automatic Claim Reimbursement option available from ADP.	9	6	3	8	20	17	38
14. I am satisfied with the customer service provided by ADP.	10	5	6	10	21	16	32
15. I am satisfied with the Flexcomp service provided by the NDPERS office.	5	3	4	11	37	30	12
16. I plan to enroll in the Flexcomp plan next year.	5	1	1	3	29	55	5
17. I would recommend the NDPERS Flexcomp plan to other employees.	5	3	2	8	34	43	5
18. I preferred the claims processing method before ADP.	14	17	9	8	11	33	9

19. Years of Service with the state 25% <10, 15% 10-14, 17% 15-19, 43% 20+, 1% N/S 18.0 Years average	20. Age at last birthday 15% <40, 24% 40-49, 39% 50-59, 17% 60+, 4% N/S 50.1 Years average	21. Marital Status 17% Single 82% Married 2% N/S
22. Did you defer/contribute more than \$1,000 to your Flexcomp account? 78% Yes 20% No 2% N/S		

Additional Comments?

THANK YOU!
Please return this survey in the postage-paid envelope by: July 15, 2013



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Memorandum

TO: PERS Board
FROM: Deb
DATE: July 17, 2013
SUBJECT: Defined Contribution Administrative Rules

As part of our work to implement HB1452, staff has been reviewing the bill against the existing administrative rules pertaining to the Defined Benefit Retirement Program in Chapter 71-08. In addition to the changes that HB1452 brings, there is also a stipulation that the election period that extends to all state employees hired on October 1, 2013 or later will close as of July 31, 2017. Attached is a matrix showing the existing rules and the proposed action staff recommends.

To ensure consistency, when there is a conflict within the body of the rules with the new language of the law, staff recommends moving the rule to a policy format to be contained in the Plan Document for the Defined Contribution Retirement Plan. For rules that do not contain a conflict, we recommend leaving them as is in the administrative code. You may have noticed that we have not attempted to change the General Authority or Law Implemented conflicts that arise. Due to the temporary nature of the changes related to this legislation, it is possible these cites will become accurate again when the window closes. Therefore, we have not changed them.

The Plan Document has been submitted to Segal for general review and the draft containing proposed updates will be provided to the Board for it's consideration next month.

As this is a somewhat unusual situation, staff has asked Jan Murtha to explore what action needs to be taken with the Legislative Council. At this time, Jan is still in the process of researching this. She will be providing an update at the Board meeting later this month.

Board Action required: **Determine what direction to take with the Defined Contribution Retirement Plan Rule updates.**

Staff recommendation: **Provided Jan's research confirms this as a viable option, staff recommends putting the recommended portions of the rules into the Plan Document for the DC Plan and leaving the non-conflicting portions as is in administrative code.**

**Defined Contribution Rules Table
June 2013**

Article 71-08 Defined Contribution Administrative Rules	Proposed Changes
Chapter 71-08-01 Election and Transfer	Chapter 71-08-01 Election and Transfer
<p>71-08-01-01. Ability to elect to transfer into the defined contribution retirement plan. Once a member of the public employees retirement system under North Dakota Century Code chapter 54-52 has declined or failed to elect to transfer into the defined contribution retirement plan, that member may not later elect to transfer unless one of the following applies:</p> <ol style="list-style-type: none"> 1. The member is appointed or elected to a new office that is eligible for the defined contribution retirement plan. 2. The member leaves eligible employment and later reacquires eligible employment. <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-02</p>	Valid, leave in as is.
<p>71-08-01-02. Vesting in transferred accumulated fund balance. Vesting in that portion of the accumulated fund balance attributable to the employer's contribution which is transferred from the defined benefit public employees retirement system pursuant to North Dakota Century Code section 54-52.6-03 will follow the same schedule provided in North Dakota Century Code section 54-52.6-10.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-03, 54-52.6-10</p>	Suspend to policy in plan document



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Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 17, 2013
SUBJECT: Defined Contribution Plan Review

At the last meeting we discussed two activities relating to the defined contribution (DC) plan:

1. To conduct a survey of our existing DC members
2. To update the Segal DC study to assess where members are at today after the improvement in the market

As noted in the June Board memo, we were collecting this information so we can better deliver our DC services and better assess if the funding status of this program has improved with the improvements in the market.

Attachment #1 is memo from Bryan with the results of the DC survey. Attachment #2 is memo from the Segal Company with the results of the updated DC study. Staff will review these reports in more detail at the Board meeting.

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>71-08-01-03. Spousal signature requirements. For purposes of the spousal signature requirements of subsection 4 of North Dakota Century Code section 54-52.6-02 and North Dakota Century Code section 54-52.6-11, extenuating circumstances alleviating the requirement of a spouse's signature are only present if the board determines the spouse is unavailable for the entire election period or the member has a power of attorney over the spouse which would legally allow the member to sign for the spouse.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-02(4), 54-52.6-11</p>	<p>Suspend to policy in plan document</p>
<p>71-08-01-04. Transfer of members with qualified domestic relations orders on their accounts. Members of the public employees retirement system under North Dakota Century Code chapter 54-52 who have a valid qualified domestic relations order on their account may only transfer to the defined contribution retirement plan if they obtain a new qualified domestic relations order from the applicable court. The account shall not be transferred unless both the participating member and the member's ex-spouse agree to transfer to the defined contribution retirement plan.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-12</p>	<p>Valid, leave as is.</p>
<p>71-08-01-05. Transfer amount of persons transferring into eligible employment after December 31, 1999. The amount the board shall transfer</p>	<p>Suspend to policy in plan document</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>for persons beginning or transferring to eligible employment after December 31, 1999, shall equal the actual employer and employee contributions plus interest, as provided in subsection 2 of North Dakota Century Code section 54-52.6-03.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-03</p>	
<p>71-08-01-06. Public employees retirement system retirees not eligible to transfer upon return to work. A member of the public employees retirement system defined benefit plan who has retired and received a retirement annuity and later returns to work in a position that is eligible for the defined contribution retirement plan is nonetheless ineligible to transfer into the defined contribution retirement plan and must remain a member of the public employees retirement system.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-02</p>	<p>Valid, leave as is.</p>
<p>71-08-01-07. Late election opportunity. An eligible member who is not provided a timely opportunity to enroll in the defined contribution plan within the first six months of employment may be provided additional time to make an election if:</p> <ol style="list-style-type: none"> 1. The executive director determines that the member was not given an election opportunity within the first six months of employment. The executive director shall then give the member a special enrollment opportunity of three months beginning from the date a new enrollment packet is mailed to the member. 2. The board determines that member was 	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>not given timely notice or the member was unable to make an election within the first six months. If the board determines that the member should have an additional election opportunity, the member shall have three months from the date a new enrollment packet is mailed to the member.</p> <p>History: Effective April 1, 2002. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-02</p>	
<p>71-08-01-08. Transfer of funds. Pursuant to subdivision a of subsection 4 of North Dakota Century Code section 15-10-17, funds may be transferred on behalf of those persons who are eligible through their employment with the state board of higher education. The following requirements apply:</p> <ol style="list-style-type: none"> 1. Applicant must file a completed application for the teachers' insurance and annuity association of America - college retirement equities fund. 2. Notice of termination and verification of teachers' insurance and annuity association of America - college retirement equities fund eligibility must be filed by either the applicant or appropriate payroll officer. 3. A participating member is eligible to transfer that person's accumulated balance in the plan upon becoming a former participating member. <p>History: Effective April 1, 2012. General Authority: NDCC 15-10-17 Law Implemented: NDCC 15-10-17</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>Chapter 71-08-02 Membership in Defined Contribution Retirement Plan</p>	<p>Chapter 71-08-02 Membership in Defined Contribution Retirement Plan</p>
<p>71-08-02-01. Membership of individuals who become employees covered under the judges' retirement plan, the highway patrol retirement plan, the law enforcement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education. If a member of the defined contribution retirement plan begins employment in a position covered under the judges' retirement plan, the highway patrol retirement plan, the law enforcement plan, the teachers' fund for retirement plan, or the alternate retirement plan of the state board of higher education, the member's status as a member of the defined contribution retirement plan is suspended and the member becomes a new member of the retirement plan for which that member's new position is eligible. The member's account balance remains in the defined contribution retirement plan, but no new contributions may be made to that account. The member's service credit and salary history that were forfeited as a result of the member's transfer to the defined contribution retirement plan remain forfeited, and service credit accumulation in the new retirement plan begins from the first day of employment in the new position. If the member later returns to employment that is eligible for the defined contribution plan, the member's suspension is terminated, the member again becomes a member of the defined contribution plan, and the member's</p>	<p>Suspend to policy in plan document</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>account shall resume accepting contributions. The contributions to the alternate retirement plan shall remain with that plan unless at the member's option, the member elects to transfer any available balance as determined by the provisions of the alternate retirement plan into the member's account in the defined contribution retirement plan.</p> <p>History: Effective July 1, 2000; amended effective April 1, 2002; July 1, 2006. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-01(3)</p>	
<p>71-08-02-02. Continuation of membership. Other than as provided in section 71-08-02-01, a former participating member of the defined contribution retirement plan who returns to state employment following a previous termination or retirement continues to be a member of the defined contribution retirement plan even if the member took one of the distributions allowed by North Dakota Century Code section 54-52.6-13.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-02</p>	<p>Suspend to policy in plan document</p>
<p>Chapter 71-08-03 Disability</p>	<p>Chapter 71-08-03 Disability</p>
<p>71-08-03-01. Disability distribution. The board will allow distribution of the participating member's vested account balance if the board determines the participating member has become totally and permanently disabled using the procedure provided in section 71-02-05-06.</p>	<p>Valid, leave as is.</p>

<p align="center">Article 71-08 Defined Contribution Administrative Rules</p>	<p align="center">Proposed Changes</p>
<p>If approved, the disabled member has the same distribution options as provided in subdivisions a and c of subsection 3 of North Dakota Century Code section 54-52.6-13. However, if the member chooses the periodic distribution option, the member will only be allowed to receive distributions for as long as the disability continues and the member submits the necessary documentation and undergoes medical testing required by the board, or for as long as the member participates in a rehabilitation program required by the board, or both. The board shall use the redetermination and recertification procedures provided in section 71-02-05-06 to determine whether the member remains disabled. If the board determines that a member no longer meets the eligibility definition, the board shall discontinue the disability retirement benefit.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1)</p>	
<p>Chapter 71-08-04 Qualified Domestic Relations Order</p>	<p>Chapter 71-08-04 Qualified Domestic Relations Order</p>
<p>71-08-04-01. Payment in accordance with qualified domestic relations orders. Retirement moneys must be paid in accordance with any qualified domestic relations order issued in compliance with North Dakota Century Code section 54-52.6-12.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-12</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>71-08-04-02. Qualified domestic relations orders procedures.</p> <p>1. Upon receipt of a proposed domestic relations order, the public employees retirement system shall:</p> <p>a. Send an initial notice to each person named therein, including the member and the alternate payee named in the order, with an explanation of the procedures followed by the fund.</p> <p>b. If a member who is not in pay status at the time the proposed domestic relations order was received makes application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be held until such time as the proposed domestic relations order is determined to be qualified and a certified copy of such order is received at the North Dakota public employees retirement system office or until the end of the eighteen-month review period, whichever occurs first.</p> <p>c. Review the domestic relations order to determine if it is a qualified order as established by the model language format specified by the board.</p> <p>The domestic relations order shall be considered a qualified order when the executive director notifies the parties the order is approved and a certified copy of the court order has been submitted to the office.</p> <p>3. If the order becomes qualified, the executive director shall:</p> <p>a. Send notice to all persons named in the order and any representative designated in writing by such person that a determination has been made that the order is a qualified domestic relations order.</p> <p>b. Comply with the terms of the order.</p> <p>c. Allow the alternate payee to choose the</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>appropriate investment options for the alternate payee's account.</p> <p>d. Allow the alternate payee to choose the same payout options allowed for the member.</p> <p>4. If the order is determined not to be a qualified domestic relations order or a determination cannot be made as to whether the order is qualified or not qualified within eighteen months of receipt of such order, the public employees retirement system shall send written notification of termination of review to all parties at least forty-five days prior to the end of the eighteen-month review period. At the end of the eighteen-month review period, the proposed order is deemed to be withdrawn and of no legal effect.</p> <p>a. If a member who was not in pay status at the time the proposed domestic relations order was received made application for a lump sum distribution due to termination of employment, the application for lump sum distribution will be processed at the end of the eighteen-month review period.</p> <p>b. If determined after the expiration of the eighteen-month period the order is a qualified domestic relations order, the qualified domestic relations order must be applied prospectively only.</p> <p>History: Effective July 1, 2000; amended effective July 1, 2006; April 1, 2012. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-12</p>	

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>Chapter 71-08-05 Review Procedure</p>	<p>Chapter 71-08-05 Review Procedure</p>
<p>71-08-05-01. Review procedure. The board shall use the same review and formal review procedures as provided in chapter 71-02-09.</p> <p>History: Effective July 1, 2000. General Authority: NDCC 28-32-02(1) Law Implemented: NDCC 54-52.6-13</p>	<p>Valid, leave as is.</p>
<p>Chapter 71-08-06 Uniformed Services Employment and Reemployment Rights Act</p>	<p>Chapter 71-08-06 Uniformed Services Employment and Reemployment Rights Act</p>
<p>71-08-06-01. Eligibility requirements. To be eligible to receive service credit with the defined contribution plan for military time under this chapter, a veteran must have had an interruption of the veteran's employment and been discharged under honorable conditions.</p> <p>History: Effective May 1, 2004. General Authority: NDCC 54-52.6-04, 54-52-02 Law Implemented: NDCC 54-52.6-09.4</p>	<p>Valid, leave as is.</p>
<p>71-08-06-02. Award of service credit. A veteran with eligible time may receive up to sixty months ' credit upon proper application. A veteran eligible to receive service credit for military time must apply for and, if required to pay any portion of the employee contribution, purchase that time within the lesser of three times the length of active duty or five years from the date of that person's return to covered employment after an honorable discharge. Service credit will not be awarded until all required documentation is received by the North</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>Dakota public employees retirement system. If payment of required employer and employee contributions is made, the service will be recognized for both benefit eligibility and benefit calculation purposes. If payment of required employer and employee contribution is not made, then the veteran's application for service will be recognized and credit will be used for benefit eligibility purposes only.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2012. General Authority: NDCC 54-52.6-04, 54-52-04 Law Implemented: NDCC 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR1002.259-262</p>	
<p>71-08-06-03. Documentation requirements. The burden of proof will be on the member for providing documentation necessary to determine what military time is eligible for service credit. At a minimum, the following documentation is required before service credit will be awarded:</p> <ol style="list-style-type: none"> 1. The member must provide a legible copy of military discharge papers indicating an honorable discharge (DD214, DD215, or NGB22). 2. The member must provide proof of the last day of employment prior to reporting for active duty and the first day of employment following the return from active duty. This information must be certified by the authorized agent of the employing agency using a "Purchase Agreement for USERRA Covered Military Active Duty" or notice of change if returning from leave of absence. 3. The members requesting service credit 	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>for extended military terms must provide a legible copy of the appropriate military papers (DD214).</p> <p>4. A member who elects to purchase military time must submit a completed purchase agreement.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006.</p> <p>General Authority: NDCC 54-52-04, 54-52.6-04</p> <p>Law Implemented: NDCC 54-52.6-09.4</p>	
<p>71-08-06-04. Cost. The cost for purchase of eligible military service in the defined contribution plan may be paid as follows:</p> <p>1. The cost for any required employee contributions to be paid by the member may be paid in a lump sum or in installments pursuant to the rules established for purchase or repurchase payment under subsection 3, 4, or 5 of section 71-02-03-02.2. If no payments have been made, no credit will be awarded for benefit calculation purposes.</p> <p>2. The employer cost will be assessed to the member's most recent participating employer. Upon being billed by the public employees retirement system, the participating employer will have thirty days in which to make payment in full. If, after sixty days, the employer has not made payment in full, a civil penalty of fifty dollars will be assessed, and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006; July 1, 2010; April 1, 2012.</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>General Authority: NDCC 54-52-04, 54-52.6-04 Law Implemented: NDCC 54-52.6-09.4; 38 USC 4318(a)(2)(A), 38 USC 4318(a)(2)(B), 38 USC 4318(b)(2); 20 CFR 1002.259-262</p>	
<p>71-08-06-05. Refund of overpayments. If an employee purchased military service at a cost higher than determined in this chapter, overpayments may be refunded. Upon verification that the previously purchased military service meets the general eligibility requirements under section 71-08-06-01, a refund may be issued according to the following guidelines:</p> <ol style="list-style-type: none"> 1. For a purchase paid in a lump sum: <ol style="list-style-type: none"> a. The overpayment will be refunded to the member. b. The refund will be calculated and issued within one hundred eighty days of receiving all necessary documentation. 2. For a purchase paid in installments: <ol style="list-style-type: none"> a. If the employee is currently making installment payments, the purchase amount will be recalculated using the percentage of salary that the member was required to pay times eligible months of military time being purchased. Any excess funds resulting from the recalculation will be applied toward the outstanding amount due. Should the payments made to date exceed the new contract amount, a refund of the difference will be issued within one hundred eighty days. b. If an eligible employee or retiree has paid the installment contract in full, the purchase amount will be recalculated using the percentage of salary that the member was required to pay times eligible months of military time being purchased. A refund of the difference between the payments 	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>actually made and what the payments should have been on the new contract amount will be made within one hundred eighty days of receiving the necessary documentation.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006. General Authority: NDCC 54-52-04, 54-52.6-04 Law Implemented: NDCC 54-52.6-09.4</p>	
<p>Chapter 71-08-07 Additional Contributions</p>	<p>Chapter 71-08-07 Additional Contributions</p>
<p>71-08-07-01. Additional employer contributions. An employer may elect to provide additional employer contributions to an employee’s account in an amount not exceeding the equivalent of a purchase of up to five years of service credit for that employee and the purchase of an employee’s unused sick leave that meets the requirements of section 71-08-07-02. Before offering such a program to its employees, an employer must create a program and document it in writing and submit a copy to the public employees retirement system. The governing authority of the employer shall also submit to the executive director of the public employees retirement system a letter indicating:</p> <ol style="list-style-type: none"> 1. The program meets all the requirements of the North Dakota Century Code. 2. The program meets all applicable federal requirements. 3. The employer agrees to remit to the public employees retirement system a lump sum payment of the cost of the purchase upon being billed. 4. The employer has not given the 	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>employee the option of a cash payment in lieu of the employer purchase.</p> <p>5. The employer shall clearly specify who is eligible for the program and indicate if the program is intended to be permanent or will be for a specific time period only.</p> <p>6. The employer agrees that all additional employer contributions will not exceed the equivalent of a purchase of service credit as determined by the public employees retirement system and all unused sick leave purchases will be based upon the computation specified in the North Dakota Century Code. The employer also agrees that all purchases will be completed no later than the fifteenth day of the month following the month of the employee's termination or sixty days from the date the employer and employee agree to the purchase, whichever comes first.</p> <p>7. The employer agrees that in offering such a program the employer will direct each employee interested in the program to first apply to the employer's authorized agent who will then certify the eligibility of the member and the amount of service credit to be purchased or sick leave to be converted and send such certification to the public employees retirement system. The employer also agrees that the employer's authorized agent will coordinate the program, authorize all purchases in writing to the public employees retirement system and be the focal point for communications between the public employees retirement system, the employer, and the employee.</p> <p>8. The employer agrees that for each employee certified to be eligible to have service credit purchased or sick leave converted, the employer will first obtain from the employee authorization for the</p>	

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>public employees retirement system to share confidential information with the employer.</p> <p>9. The employer certifies that in offering the program, the employer is making it available to all employees or a specified class of employees on a nondiscriminatory basis.</p> <p>10. The employer agrees to provide information and policies pertaining to the employer purchase program pursuant to North Dakota Century Code section 54-52-26.</p> <p>When an employer files the above letter with the public employees retirement system, the employer may offer the program to its employees. An employer may terminate this program at any time upon the governing authority of the employer sending to the executive director of the public employees retirement system a letter indicating when the program is to be canceled.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006; April 1, 2008; July 1, 2010.</p> <p>General Authority: NDCC 54-52-04, 54-52.6-04</p> <p>Law Implemented: NDCC 54-52.6-09.2</p>	
<p>71-08-07-02. Eligible sick leave. An employer may provide additional contributions equal to the purchase of an employee's unused sick leave only to the extent that it has not been previously purchased by a former employer or the member.</p> <p>History: Effective May 1, 2004; amended effective July 1, 2006.</p>	<p>Valid, leave as is.</p>

<p style="text-align: center;">Article 71-08 Defined Contribution Administrative Rules</p>	<p style="text-align: center;">Proposed Changes</p>
<p>General Authority: NDCC 54-52-04, 54-52.6-04 Law Implemented: NDCC 54-52.6-09.2</p>	
<p>Chapter 71-08-08 Temporary Employee Participation</p>	<p>Chapter 71-08-08 Temporary Employee Participation</p>
<p>71-08-08-01. Temporary employee participation. For each eligible temporary employee who elects to participate as such in the defined contribution plan, the following applies:</p> <ol style="list-style-type: none"> 1. A temporary employee must submit a completed participation agreement within six months of the date of hire as a temporary employee or within six months of a change in status from a permanent to temporary position. If no application is made and filed with the office, an irrevocable waiver of participation will occur for as long as the employee is in temporary status. 2. Contributions for temporary employees must be submitted no later than the sixth working day of the month for the previous month's salary. 3. Delinquent payments of over thirty days, for reasons other than leave of absence or seasonal employment, will result in termination of eligibility to participate as a temporary member. 4. Upon taking a refund, future participation as a temporary member is waived. 5. A member may not participate as both a permanent and a temporary member. Permanent employment has precedence. <p>History: Effective July 1, 2006. General Authority: NDCC 54-52-04, 54-52.6 Law Implemented: NDCC 54-52.6-01.3, 54-52.6-02.6</p>	<p>Valid, leave as is.</p>

<p align="center">Article 71-08 Defined Contribution Administrative Rules</p>	<p align="center">Proposed Changes</p>
<p>Chapter 71-08-09 Return to Service – Retired Member</p>	<p>Chapter 71-08-09 Return to Service – Retired Member</p>
<p>71-08-09-01. Return to service - Retired member. The benefits of a retired member of the defined contribution plan who returns to permanent employment shall be suspended except as provided in North Dakota Century Code section 54-52.6-02.</p> <p>History: Effective July 1, 2006. General Authority: NDCC 54-52-04, 54-52.6 Law Implemented: NDCC 54-52.6-01.7, 54-52.6-02.7</p>	<p>Valid, leave as is.</p>



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July 17, 2013

Mr. Sparb Collins
Executive Director
North Dakota Public Employees Retirement System
400 East Broadway, Suite 505
Bismarck, ND 58502

**Re: North Dakota Public Employees Retirement System
Updated Analysis of Defined Contribution Plan**

Dear Sparb:

At your request, we have updated our analysis of the NDPERS Defined Contribution Plan to reflect participation in the plan as of June 30, 2013.

Background

The North Dakota Public Employees Retirement System Defined Contribution Plan (DC Plan) currently requires participants to contribute 6% of compensation to an individual account in the participant's name. Employers contribute an additional 6.12% of compensation on each participant's behalf resulting in a total contribution rate of 12.12% of compensation. Based on the current statute (Chapter 54-52.6), each contribution rate is scheduled to increase by 1% to a total of 14.12% of compensation starting January 1, 2014. DC Plan benefits grow with investment earnings and are distributed upon termination.

The objective of the DC plan is to provide a benefit comparable to those provided under the North Dakota Public Employees Retirement System Defined Benefit Plan (DB Plan). In December 2011, Segal provided an analysis to evaluate whether or not the DC Plan is meeting that goal by comparing hypothetical benefit amounts under both plans. The purpose of this letter is to update that analysis using demographic data as of June 30, 2012 (projected to June 30, 2013) with actual June 30, 2013 DC Plan account balances.

Methodology/Assumptions

The June 30, 2012 demographic data included 225 active participants. Two participants terminated and four new members entered, resulting in 227 active participants. We were provided with the June 30, 2013 account balances for those 227 participants.



We projected each participant's DC balance to their assumed retirement age. This amount was annuitized and compared to the DB benefit that the participant would have received had they been a member of that program. This yielded a DC/DB percentage for each participant. For illustrative purposes, we then varied the employer and employee contribution rates to the DC Plan as detailed in the assumptions below.

The assumptions used for this analysis are as follows.

- The June 30, 2012 demographic data was projected to June 30, 2013.
- Employer contributions are 6.12% of annual pay through December 31, 2013 and 7.12% of compensation as of January 1, 2014 and later.
- Employee contributions are 6.00% of annual pay through December 31, 2013 and 7.00% of compensation as of January 1, 2014 and later.
- For illustrative purposes, we also ran scenarios that assume total contributions of either 16.12% or 20.00% of compensation as of July 1, 2015 and later. No increase in DB Plan benefits is anticipated as a result of the contribution increases.
- Retirement is assumed to occur at the earlier of age 65 or eligibility for the Rule of 85.
- The assumed rate of return on DC Plan accounts is 8.00% per year.*
- The annuity conversion of DC account balances is based on 5% interest and the 1994 Group Annuity Mortality table.**

* *The 8% return assumption was recommended by PERS. Please keep in mind that studies indicate that individually managed DC accounts typically earn up to 1% per year less than DB Plans.*

** *The 5% interest rate and the 1994 GAM mortality table are for illustrative purposes only and are likely to yield higher monthly annuity payments than currently available from an insurance company.*

Results

- Exhibit I: Shows the age and service of the 227 active members included in this analysis.
- Exhibit II: Shows a distribution of the 227 active members by age and account balance.
- Exhibit III: Shows the comparison of the DC and DB benefits by age under the current 12.12% total contribution rate that increases to 14.12% starting January 1, 2014.
- Exhibit IV: Shows the comparison of the DC and DB benefits by age under current contribution rates plus future increases to 16.12% or 20.00% starting July 1, 2015.

- Exhibit V: Shows the comparison of the DC and DB benefits by service under the current 12.12% total contribution rate that increases to 14.12% starting January 1, 2014.
- Exhibit VI: Shows the comparison of the DC and DB benefits by service under current contribution rates plus future increases to 16.12% or 20.00% starting July 1, 2015.

The projection results are summarized below:

Ratio of Projected DC to DB Benefits	Future Contribution Rate		
	Current Plan 14.12% effective <u>January 1, 2014</u>	Increase to 16.12% effective <u>July 1, 2015</u>	Increase to 20.00% effective <u>July 1, 2015</u>
Less than 50%	49	41	32
50% - 75%	149	131	106
75% - 100%	27	52	69
100% and Over	<u>2</u>	<u>3</u>	<u>20</u>
Total	227	227	227

Compared to the results calculated in December of 2011, the ratio of projected DC to DB benefits for most participants has increased. This is largely due to investment returns exceeding the assumed 8% in 2012 and the first half of 2013.

Outliers

The exhibits show two outliers with high DC/DB ratios and one outlier with a very low DC/DB ratio. The account balances for the outliers are significantly different from the account balances for others with the same age/service characteristics, which may be due to transfers and rollovers from other plans.

Conclusions

The DB Plan and the DC Plan are fundamentally different, and as a result, it is difficult to compare the value of one type of benefit to the other. For example, the DC Plan is more portable than the DB Plan, and it is difficult to quantify the value of that feature. Similarly, the DB Plan provides disability and death benefits that provide a valuable benefit that can be difficult for the average participant to measure.

Overall, this analysis shows that the majority of the current DC Plan members are projected to receive significantly less retirement income under the DC Plan than projected under the DB Plan. In particular, the ratio of DC Plan to DB Plan benefits declines somewhat as age increases, and declines dramatically as length of service increases. The DC Plan benefits are projected to be higher with an increase in the contribution rate but are still less than 100% of

the DB Plan benefits for most participants. Under existing contribution levels, the only way that DC Plan benefits would consistently reach the level of DB Plan benefits would be to earn long-term investment returns above the assumed 8%.

Projections, by their nature, are not a guarantee of future results. The modeling projections are intended to serve as illustrations of future financial outcomes that are based on the information available to us at the time the modeling is undertaken and completed, and the agreed-upon assumptions and methodologies described herein. Emerging results may differ significantly if the actual experience proves to be different from these assumptions or if alternative methodologies are used. Actual experience may differ due to such variables as demographic experience, the economy, stock market performance and the regulatory environment.

These calculations were completed under the supervision of Tammy Dixon, FSA, MAAA, Enrolled Actuary and Laura Mitchell, MAAA, Enrolled Actuary. All results are based on the assumptions in the July 1, 2012 North Dakota PERS actuarial report unless otherwise noted.

The undersigned is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Sincerely,



Brad Ramirez

Enclosures

cc: Tammy Dixon
Laura Mitchell

Exhibit I

*Census of DC Plan Members
by Attained Age and Years of Service projected to June 30, 2013*

Attained Age	Totals	Years of Service								
		Under 5	5-9	10-14	15-19	20-24	25-29	30-34	35-39	40-44
Totals	227	20	40	68	59	18	10	9	1	2
20-29	2	1	1	-	-	-	-	-	-	-
30-34	8	2	5	1	-	-	-	-	-	-
35-39	23	2	8	10	3	-	-	-	-	-
40-44	54	6	7	17	22	2	-	-	-	-
45-49	42	5	3	15	8	8	3	-	-	-
50-54	43	2	8	10	14	5	2	2	-	-
55-59	33	2	2	10	10	1	4	3	1	-
60-64	16	-	2	5	2	2	1	3	-	1
65 & Over	6	-	4	-	-	-	-	1	-	1

Exhibit II

**Census of DC Plan Members in Active Service projected to June 30, 2013
by Attained Age and Account Balance on June 30, 2013**

	Account Balance								
	Totals	Less than \$20,000	\$20,000- \$39,999	\$40,000- \$59,999	\$60,000- \$79,999	\$80,000- \$99,999	\$100,000- \$149,999	\$150,000- \$199,999	\$200,000- & Over
Totals	227	12	26	40	32	38	46	16	17
20-29	2	1	1	-	-	-	-	-	-
30-34	8	-	6	1	-	-	1	-	-
35-39	23	1	6	12	3	1	-	-	-
40-44	54	4	7	10	7	17	7	2	-
45-49	42	2	3	6	7	4	14	4	2
50-54	43	2	2	6	6	11	9	6	1
55-59	33	-	1	2	6	5	9	4	6
60-64	16	1	-	2	3	-	4	-	6
65 & Over	6	1	-	1	-	-	2	-	2

Exhibit III
Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit
by Attained Age projected to June 30, 2013
With Current Statutory Contribution Rates (12.12% increasing to 14.12% as of January 1, 2014)

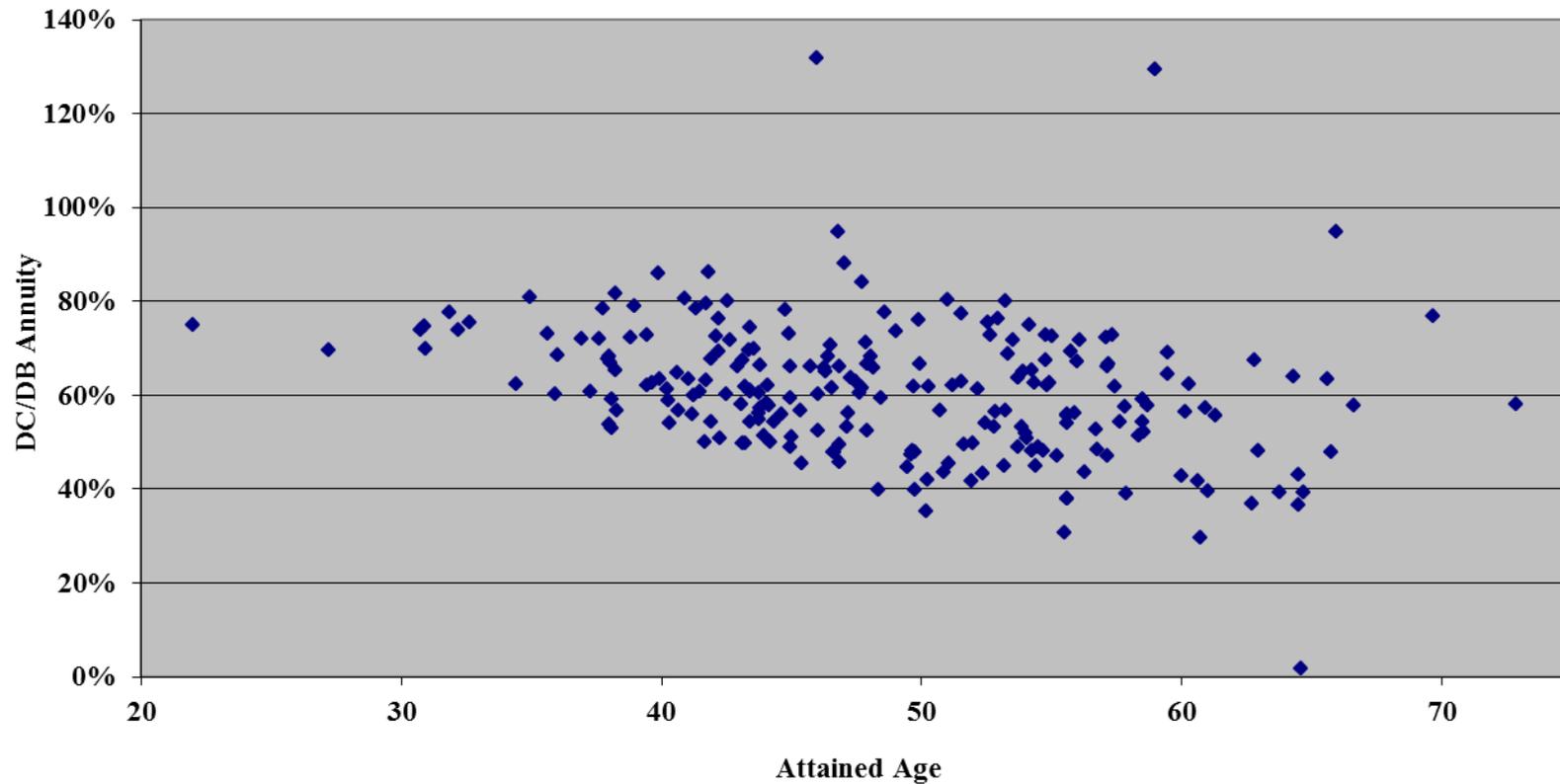


Exhibit IV
Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit
by Attained Age projected to June 30, 2013

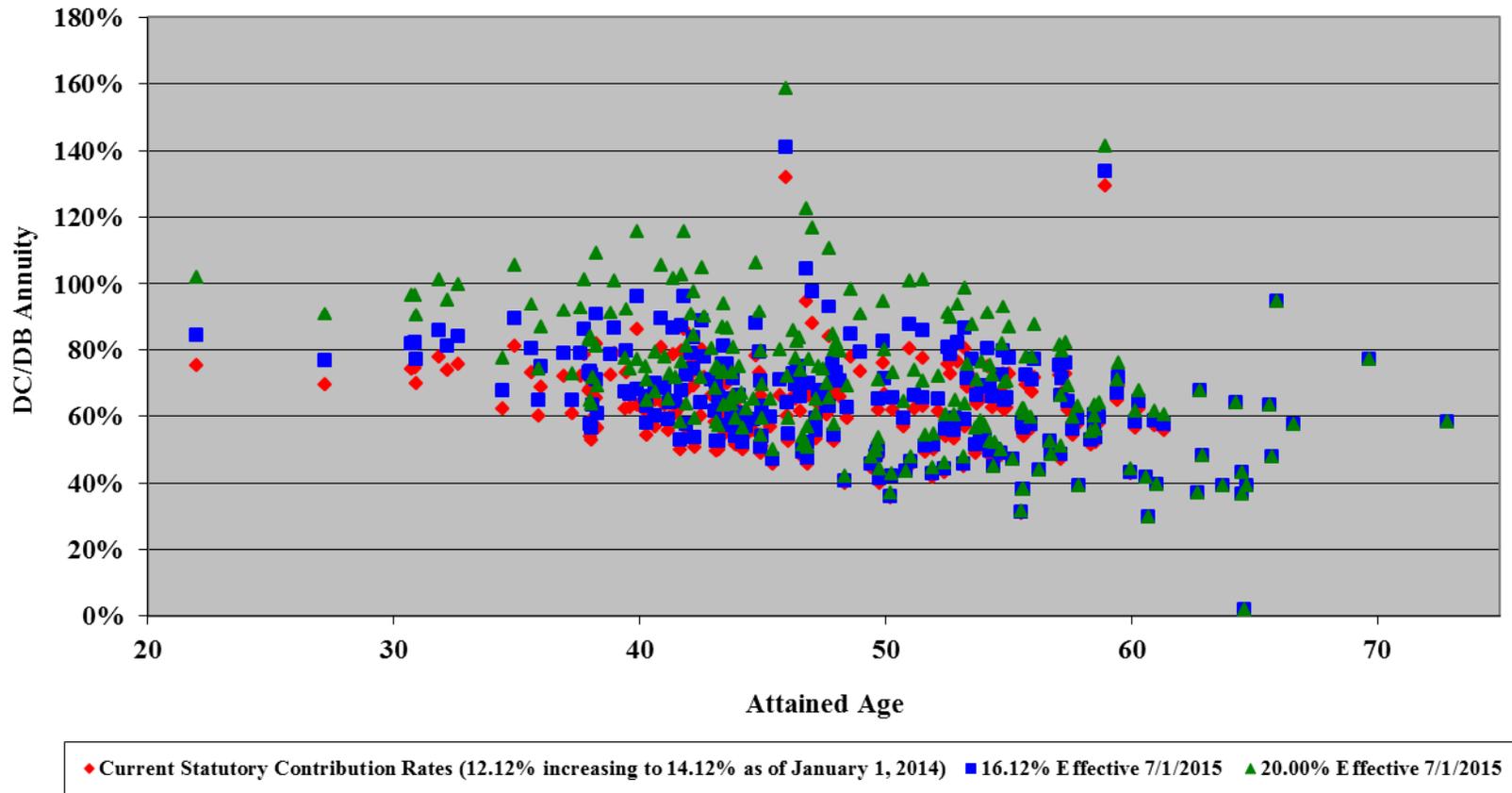


Exhibit V
Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit
by Years of Service projected to June 30, 2013
With Current Statutory Contribution Rates (12.12% increasing to 14.12% as of January 1, 2014)

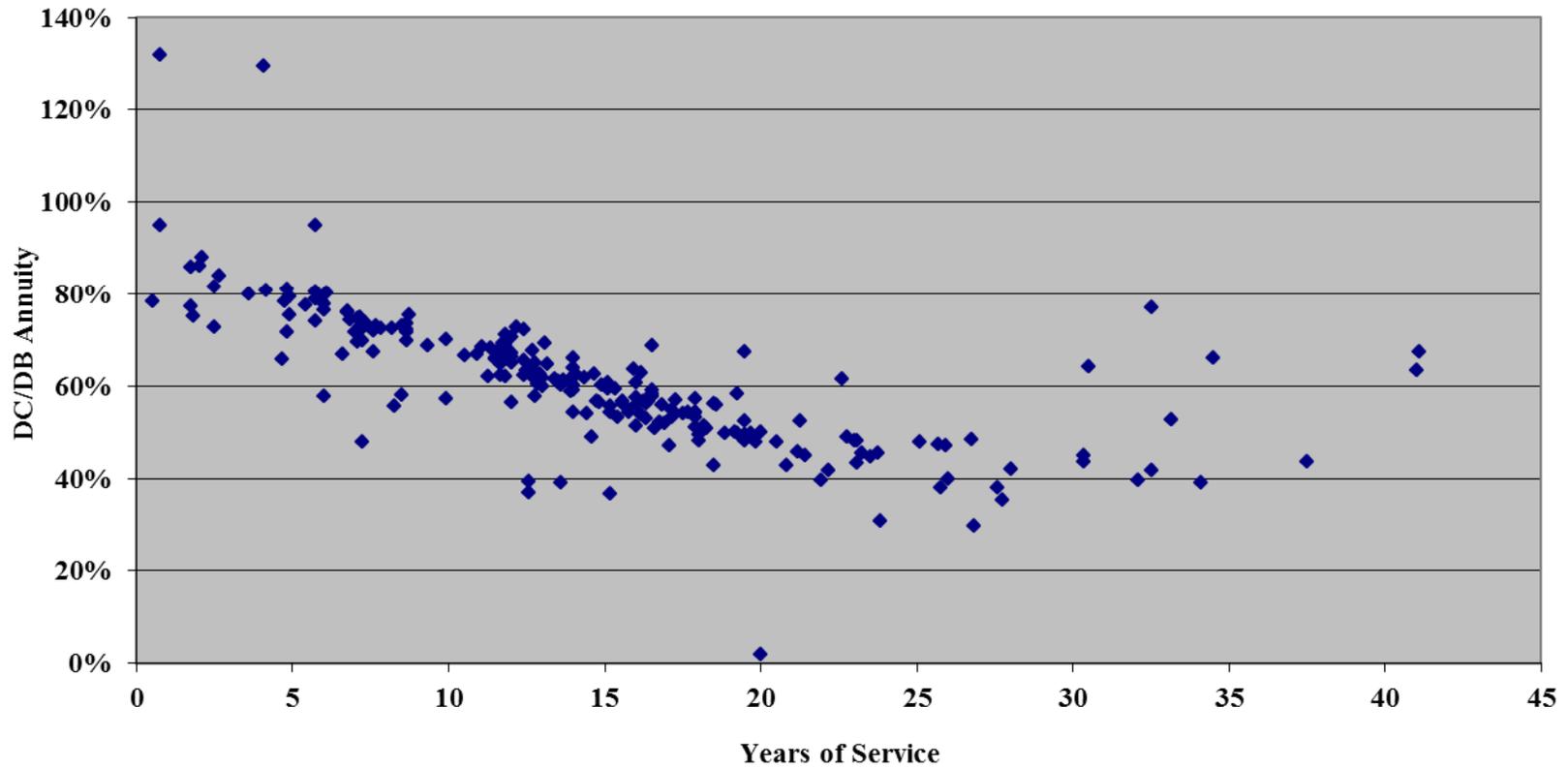
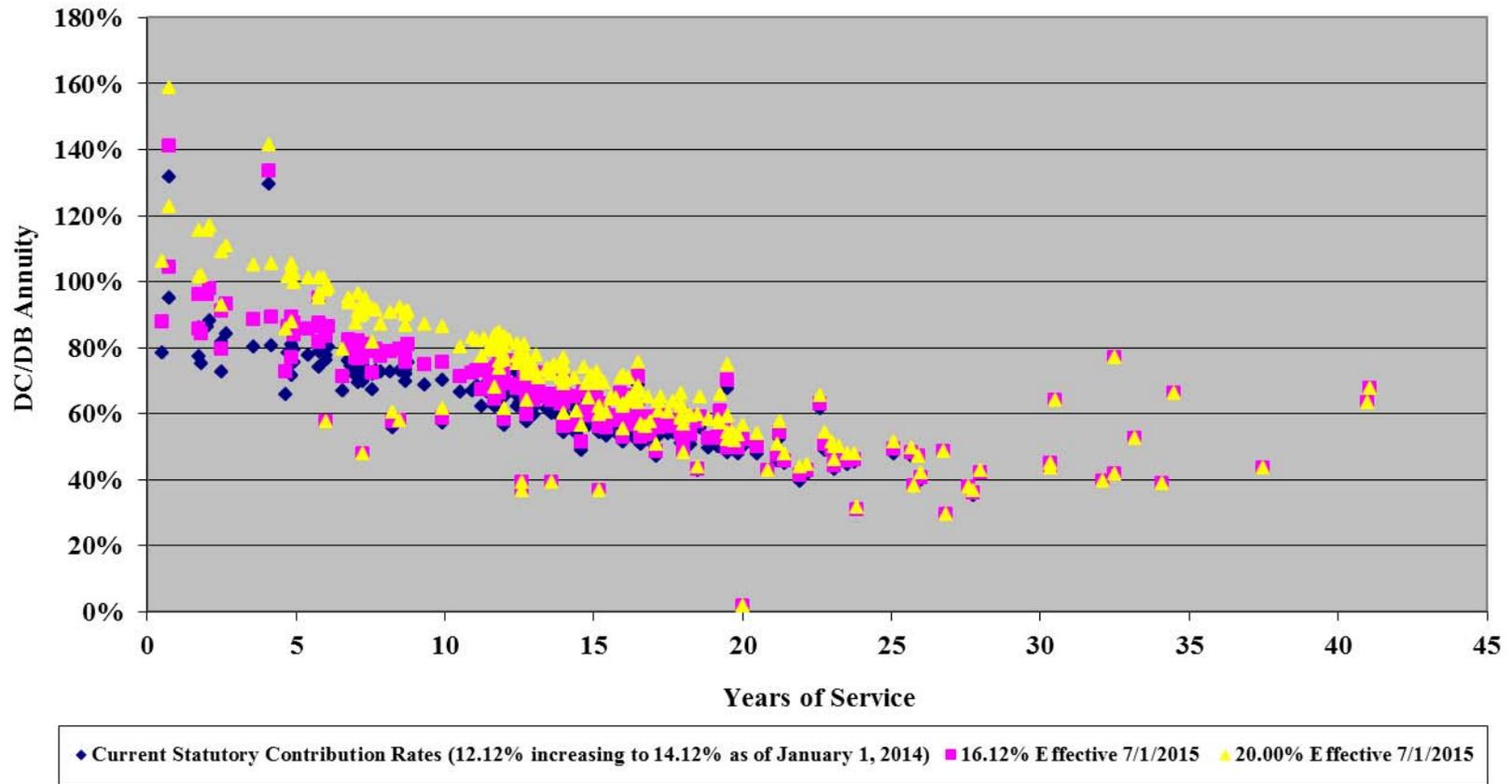
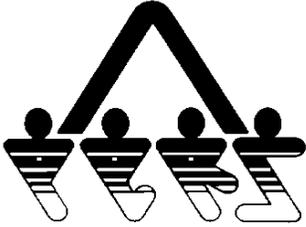


Exhibit VI
Ratio of Projected DC Account (Converted to an Annuity) to DB Benefit
by Years of Service projected to June 30, 2013





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Memorandum

TO: PERS Board
FROM: Sparb
DATE: July 16, 2013
SUBJECT: Job Service Return Assumptions

Recently the PERS Investment Subcommittee has been reviewing the asset allocation for the Job Service Retirement plan. The committee has been working with SEI reviewing alternative asset allocations and discussing how to implement a de-risking strategy in the plan. Work on this effort should be completed by this fall and will be reported back to the Board at that time for your consideration.

During the last meeting of the committee it was noted that implementation of a de-risking strategy for the plan may need to be approved by the Department of Labor in order to assure that it is not contrary to the 1999 agreement between the Department and State relating to the unfunded liability payments. It was also noted that at that time the return assumption for the plan was 8%. After discussion, the committee felt that we should develop our strategy based upon the assumptions in place when the agreement was signed back in 1999. The return assumption then was 8% but was subsequently changed to 7.5% several years ago. Consequently, the Investment Subcommittee is suggesting changing the assumption to 8% so the de-risking strategy, actuarial report and asset allocation will all be developed based upon the 1999 assumptions.

Board Action Requested

Change the return assumption to 8%.