Minutes
North Dakota Public Employees Retirement System
Thursday, June 16, 2005
ND Association of Counties, Bismarck
BCBS, 4510 13th Ave SW, Fargo
8:30 A.M.

Members Present:	Mr. Ron Leingang
	Mr. David Gunkel
	Mr. Howard Sage
	Ms. Arvy Smith
Via Video Conference	Chairman Jon Strinden
	Ms. Rosey Sand
Others Present:	Mr. Sparb Collins, Executive Director NDPERS
	Ms. Kim Humann, NDPERS
	Ms. Kathy Allen, NDPERS
	Ms. Sharmain Dschaak, NDPERS
	Mr. Bryan Reinhardt, NDPERS
	Ms. Deb Knudsen, NDPERS
	Ms. Sharon Schiermeister, NDPERS
	Ms. Cheryle Masset, NDPERS
	Ms. Rebecca Fricke, NDPERS
	Mr. Scott Miller, Attorney General's Office
	Mr. Howard Snortland, AFPE
	Ms. Onalee Sellheim, BCBSND
	Mr. Bill Kalanek, AFPE/INDSEA
	Mr. Dennis Ziemer Peske, NDPEA
	Mr. Weldee Baetsch
Via Video Conference	Mr. Larry Brooks, BCBSND
Via Conference Call	Ms. Leslie Thompson, Segal Advisors

Chairman Strinden called the meeting to order at 8:30 a.m.

MINUTES
Chairman Strinden called for any questions or comments regarding the minutes of the May 19, 2005 meeting.

MR. LEINGANG MOVED APPROVAL OF THE MAY 19, 2005 NDPERS BOARD MINUTES. MR. SAGE SECONDED THE MOTION.

HEALTH INSURANCE

Dental Renewal (Board Action Requested)
Ms. Allen reviewed the January 1, 2006 dental renewal rates for the NDPERS voluntary dental insurance plan. Ms. Allen conveyed ING was requesting a 4.5% rate increase. Ms. Allen indicated that this information was forwarded to Gallagher Benefit Services. However, due to the timing Gallagher Benefit Services was unable to do an analysis prior to the board meeting to determine if this increase was justifiable. Discussion followed.

MR. LEINGANG MOVED FOR STAFF TO CONSULT WITH GALLAGHER BENEFIT SERVICES TO DETERMINE IF THE DENTAL RENEWAL BID WAS REASONABLE AND IF SO, THAT STAFF PROCEED WITH FINALIZING THE CONTRACT. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: None

PASSED

Wellness Program Update (Informational)
The deadline for submitting the concurrence forms for the Employer Based Wellness program has passed. However, staff had been contacting employers who did not respond to initial inquiries and the internal cut-off had been established as of June 15, 2005. Ms. Knudsen provided a break down of the responses received.

BCBS Administrative Agreement (Informational)
Included with the board materials was the first draft of BCBS Administrative Agreement for review and comments. This will come back before the Board for final approval at the July meeting.

Rx Update (Informational)
Mr. Brooks from BCBS provided an update on the implementation of the mail order prescription option for the health plan. Discussion followed. As a result of the discussion, several questions arose regarding the mail order service. Mr. Brooks will provide the additional information requested to the Board.

Member Services Survey (Informational)
Included with the board materials were the results of the February 2005 survey conducted by BCBS of its NDPERS member service unit. The survey is conducted twice annually in February and August. Ms. Onalee Sellheim, BCBSND, presented the highlights of the survey to the Board.

GASB Requirement (Board Action Requested)
Mr. Bill Robinson, Gallagher Benefit Services, joined the meeting via video conferencing and reviewed the GASB 45 reporting requirements for the health plan and presented a general timeline along with a fee proposal should NDPERS retain them to do the required GASB study for the retiree healthcare subsidy. The Board discussed having an estimate of the liability prepared for the fiscal year ending this June 30. It was felt that preparing this estimate in advance of the one required for the financial statement in future years would be beneficial in getting a perspective of what this cost might be before having to report it on the financial statements. It was suggested that we should share this information when prepared with the Office of Management and Budget.

MR. SAGE MOVED TO PROCEED WITH THE GASB 45 PROJECT AND CONSULT WITH THE OFFICE OF MANAGEMENT AND BUDGET ON THIS PROJECT. MS. SMITH SECONDED THE MOTION.

Ayes: Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: Leingang

PASSED

RETIREMENT

QDRO (Board Action Requested)

Ms. Fricke indicated due to the elimination of the 5-year term as a retirement benefit option, the models used to process Qualified Domestic Relation Orders (QDRO) for the Defined Benefit Plans needed to be revised to remove this option and add the 20-year term option.

Also at this time, the models were reviewed by staff, legal counsel and Segal to determine if additional changes or notations were necessary. Due to common questions received by individuals and attorneys using the model, some modifications were suggested to provide clarification to the parties that utilize the models. The models for both active and retired members were included with the board materials for review and contained the suggested changes.

In addition, staff requested that the Board consider changing the language found under V(C) in the active model, which provides detail about what occurs in the event the alternate payee dies prior to receipt of benefits under this order. Specifically, the current language indicates that the entire amount that may be due to the alternate payee reverts to the participating member. Staff and legal counsel have received a number of inquiries, as well as, draft models that have changed this option to pay the alternate payee's estate. These draft models have been rejected as they do not comply with the current approved language and to date, the rejections have not been contested. However, staff felt that the Board should examine this issue to determine if this is the language that they would like to continue using.

Through discussions with Scott Miller, legal counsel, and Melanie Walker, Segal, an additional option has been identified for the Board's consideration. The additional option would be to allow the alternate payee's estate to receive a lump sum payment that is determined based on a percentage of the member's account balance as of the date of divorce until the distribution is paid. The calculation of this benefit would be the same as what is currently used when a member discontinues employment and withdraws the account balance found under section IV.

Also, a similar choice has been provided in the retiree model. However, due to the immediate payout to an alternate payee of a retired member once a QDRO is received, this issue has not been questioned by those preparing a retiree model. Therefore, the Board could also consider leaving the current language. If challenged, staff could bring this model to their attention at that time.

Ms. Fricke distributed revised models that incorporated additional comments from legal counsel and Segal. Staff recommended approval of the suggested model revisions and clarifications except for alternative IV.C. on the retiree model. Discussion followed.

MR. GUNKEL MOVED APPROVAL OF STAFF'S RECOMMENDATION. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: None

PASSED

Partial Lump Sum Option (Informational)

At the last meeting the Board adopted a table for calculating the Partial Lump Sum Option (PLSO) for Judges and Highway Patrol that recognized the normal form of benefits in those systems included an automatic 50% Joint & Survivor (J & S) benefit. The adoption of this table supplemented the tables adopted in March 2005 for the other NDPERS systems that calculated the PLSO based upon the normal form of benefit in those systems. The basic difference is that recognizing the automatic J & S benefit as part of the normal retirement benefit means the reduction is calculated over 2 lifetimes rather then one since the normal form of benefits in the other systems assumes only one lifetime.

During discussion at the May 2005 board meeting, the question arose whether or not NDPERS should have additional tables for those systems that do not have the automatic 50% J & S benefit to recognize in those systems a different reduction method if someone would select the J&S benefit. Ms. Leslie Thompson, Segal, provided an overview of their findings on this option to the Board. By general consensus, the Board agreed to not make any changes and continue on with the action taken at the March 2005 meeting.

FLEXCOMP

FlexComp Plan Change (Board Action Requested)

Ms. Allen conveyed on May 18, 2005, the Treasury Department and the IRS issued Notice 2005-42 which will allow employers the option to modify Flexible Spending Arrangements (FSAs) to extend the deadline for reimbursement of health and dependent care expenses up to 2½ months after the end of the plan year. Currently, employees are required to "use-or-lose" FSA funds by the end of the year. Under these rules, any unspent funds at year's end are forfeited. Under the new regulations, plan sponsors may provide for a Grace Period immediately following the end of each plan year, during which amounts may be carried-forward and used for qualified expenses incurred during the Grace Period. In addition, the new rules provide the following:

- The Grace Period must end by the fifteenth day of the third calendar month after the end of the immediately preceding plan year (i.e., "the 2 and 1/2 month rule"). For our plan this would be March 15th.

- Unused benefits or contributions relating to a particular qualified benefit may only be used to pay or reimburse expenses incurred with respect to that particular qualified benefit. For example, unused amounts elected to pay or reimburse medical expenses in a health flexible spending arrangement (FSA) may not be used to pay or reimburse dependent care or other expenses incurred during the Grace Period.

- If unused benefits or contributions exceed expenses incurred during the Grace Period, those remaining unused benefits or contributions may not be carried forward and are "forfeited" under the "use-it-or-lose-it" rule.

- Employers may continue to provide a "run-out" period after the end of the Grace Period, during which expenses for qualified benefits incurred during the cafeteria plan year and the Grace Period may be paid or reimbursed.

Ms. Allen conveyed that reprogramming of the PeopleSoft system will be required in order to administer this provision. Ms. Allen indicated because this change would be for the benefit of all users, it is most likely ConnectND would cover this expense.

Staff recommended amending the plan document to incorporate the 2½ month rule for health and dependant care expenses thereby allowing participants to submit claims incurred between January 1 and March 15 (Grace Period) of the plan year to be applied against any account balances remaining in the previous plan year. In addition allow a “run-out” period of 6 weeks or until April 30 for participants to submit these claims. Staff anticipated implementing these provisions for the 2005 plan year; however, this would be contingent on the time frame required for reprogramming and testing the system. Discussion followed.

MS. SMITH MOVED APPROVAL OF STAFF’S RECOMMENDATION. MR. GUNKEL SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: None

PASSED

DEFERRED COMPENSATION

ING (Board Action Requested
Earlier this year, the Board approved amending the Provider Administrative Agreement regarding the current procedures to authorize new agents to provide plan services and to clarify the administrative requirements for participating deferred comp plan providers to accept rollovers from other eligible plans into 457 accounts.

Ms. Allen indicated on February 23rd a certified letter along with the approved contract amendments was sent to the provider company contacts with a comment deadline of March 18, 2005. Staff received comments from five providers and for those that did not respond, staff assumed the amendments were acceptable. Therefore, the agreement was sent to all provider companies for authorization with a response deadline of May 20, 2005.

As of the board meeting date, only two providers have not returned a signed agreement; Chase Insurance and ING. Ms. Allen conveyed she had followed up with Chase and they do plan to sign and return the agreement. However, ING responded with some suggested changes to the agreement. The changes are not related to the reasons we amended the document. They are related to Section 2, items L & Q. I did point out to them that they were previously allowed a comment period. They indicated that they did not receive our February 23rd letter. However, our records indicate that a certified mail receipt was returned to our office signifying the letter was accepted by ING. A copy of INGs letter was included with the board materials. Staff referred this issue to Mr. Miller, legal counsel, for review. Mr. Miller concluded that in the past individual negotiations on the contracts with the provider companies have not been allowed and some of the items they were referring to have always been a part of the contract that they have signed previously.

Staff recommended that the Board not authorize the requested changes. In the past the Board has offered all providers a standard contract and resisted getting into individual negotiations. If the Board would authorize the changes requested, it would open the door to individual negotiations with all providers.

By general consensus, the Board agreed that staff should write to ING indicating the Board reviewed the suggestions but at this point was not considering changes to these sections and request them to sign the revised contract prior to the July board meeting.

Rollovers (Board Action Requested)

At the December meeting, the Board approved changing the deferred compensation plan provisions to allow rollover contributions from other eligible retirement plans to include 401(a), 401(k), 403(b), FERS Thrift Savings Plan and IRAs. Staff was directed to have Segal draft a plan amendment to that effect.

The plan amendment submitted by Segal provided that the participant may at any time elect to receive an in-service distribution of all or any portion of the amount held in a separate rollover account. In staff's discussion with Segal on this issue, Segal indicated that this is an option permitted under the EGTRRA provisions. This option would be in conflict with the following Articles under the Administrative Code:

- *Under N.D. Administrative Code 71-04, Chapter 71-04-01, "Separation from Service" means that term as defined under Internal Revenue Code section 402(d)(4)(A)(3i) and includes termination of employment with the employer by reason of death, disability, retirement, resignation, or discharge.*
- *N.D.A.C. section 71-04-05-06 states that "the employer shall notify the retirement board within thirty days of an employee's separation from service. The retirement board shall then notify the former employee's provider of the employee's separation from service and eligibility for payment options under the plan".*
- *N.D.A.C. section 71-04-04-07 also references the employee separation from service and eligibility for payment of benefits.*
- *NDAC sec. 71-04-03-07 states that distributions cannot begin until there has been a separation of service.*

Based on the above references, Mr. Miller, legal counsel, advised that to include this option, revisions must be made to the administrative code. In its response, Segal outlined the pros and cons of offering this option. Staff requested the Board to consider the following:

- Determine whether the rules should be revised to allow the optional provision relating to the in-service distribution of eligible plan rollovers to the 457 deferred compensation plan.
- Determine if NDPERS will require that the eligible rollover contributions must be used to satisfy a hardship before an application can be submitted for a hardship distribution from the 457 plan account.

Discussion followed.

MR. SAGE MOVED TO TREAT THE ROLLOVERS AS REGULAR 457 CONTRIBUTIONS SUBJECT TO THE HARDSHIP STIPULATIONS. MR. GUNKEL SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Smith and Chairman Strinden
Nays: Sand

PASSED

Investments Quarterly Review (Informational)
Mr. Reinhardt reviewed the 457 Companion Plan & 401(a) Plan 1st Quarter 2005 Reports with the Board. The reports were included in the board materials.

MISCELLANEOUS

Benefits Administration (Informational)
Mr. Collins indicated one of the major efforts undertaken by NDPERS staff and in particular Ms. Sharon Schiermeister has been the development and implementation of the benefits administration module relating to the PeopleSoft System for the State of North Dakota. While this effort was directed by the Legislature it is also responsive to NDPERS work plan efforts for benefits administration. Ms. Schiermeister reviewed the progress made to date and anticipated plans for the future for the benefits administration module.

Benefits Planning Process (Board Action Requested)
Mr. Collins indicated later this summer staff will begin the benefits planning process. In past years this started by getting the benefits committee together to brainstorm ideas for each of the program areas, identify the pro's and cons, get a review of them by our consultants and then forward them to the Board by December. At that point the Board reviewed the information and made a determination on what ideas should be proposed in legislation. Before beginning this process, Mr. Collins wanted to confirm that this approach was still consistent with the Boards expectations and to ask whether or not the Board would like to modify this approach by having its own meeting at the start of the process to identify ideas that could then go through the additional review steps mentioned above. Discussion followed. By general consensus, the Board agreed they would like to have a separate brainstorming meeting sometime in the early fall. Mr. Collins will put together potential dates and bring that back to the Board.

Audit Committee Minutes (Informational)
The February 16, 2005, Audit Committee Meeting Minutes were included in the board materials.

Audit Charter (Board Action Requested)
The audit committee's charter is a formal written document that defines the audit committee's purpose, authority, and responsibility. The current NDPERS internal audit charter was reviewed an approved by the audit committee and the NDPERS Board in August 1993.

The current audit committee, Chairman Strinden and Mr. Leingang, reviewed and approved the updated final draft of the audit committee charter at the May 17, 2005 audit committee meeting. This document sets forth the purpose and structure of the audit committee, meeting guidelines and the audit committee authority and scope of responsibilities. As an appointed committee by the Board, acting on their behalf in fulfilling the Board's fiduciary oversight responsibilities, the audit committee recommended approval of this document.

MR. LEINGANG MOVED APPROVAL OF THE AUDIT COMMITTEE CHARTER. MS. SAND SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: None

PASSED

<u>Appeal (Informational)</u>
Mr. Miller, legal counsel, reviewed the process that will occur for the appeal.

OTHER

Life Insurance Provider Change and Health Insurance Rate Increase Update (Informational)
Mr. Collins provided an update on the life insurance change over to Prudential and the health insurance rate increase.

NAGDCA Conference (Board Action Requested)
Ms. Sand indicated in the past the Board has approved at least one member to attend the National Association of Government Deferred Compensation Administration (NAGDCA) Annual Conference. Ms. Sand conveyed she was interested in attending the conference in September.

MR. LEINGANG MOVED APPROVAL FOR ONE BOARD MEMBER TO ATTEND THE NAGDCA CONFERENCE. MS. SMITH SECONDED THE MOTION.

Ayes: Leingang, Gunkel, Sage, Sand, Smith and Chairman Strinden
Nays: None

PASSED

Executive Director's Evaluation (Informational)
Ms. Smith conveyed that Mr. Collins evaluation is pending. She anticipated the sub-committee getting together soon to review the evaluation results.

Chairman Strinden called for any other business or comments. Hearing none, the meeting was adjourned at 11:00 a.m.

Prepared by,

Kim Humann
Administrative Assistant