

# MINUTES

## North Dakota Public Employees Retirement System

ND Association of Counties, Bismarck

Thursday, September 24, 2015

8:30 A.M.

Members Present: Senator Dick Dever  
Ms. Casey Goodhouse  
Mr. Mike Sandal  
Ms. Arvy Smith  
Ms. Yvonne Smith  
Mr. Thomas Trenbeath

Via Videoconference: Representative Pamela Anderson

Members Absent: Ms. Kim Wassim  
Chairman Strinden

Others Present: Mr. Sparb Collins, NDPERS  
Ms. Cheryl Stockert, NDPERS  
Ms. Sharon Schiermeister, NDPERS  
Ms. Kathy Allen, NDPERS  
Ms. Rebecca Fricke, NDPERS  
Ms. Mary Jo Steffes, NDPERS  
Mr. Bryan Reinhardt, NDPERS  
Ms. Jan Murtha, Attorney General's Office  
Mr. Jeff Sandene, Sanford Health Plan  
Ms. Lisa Carlson, Sanford Health Plan  
Mr. Michael Klepatz, Sanford Health Plan  
Ms. Katie Nermoe, Sanford Health Plan  
Mr. Jason Hubers, Sanford Health Plan  
Ms. Mary Selzler, WSI

Via Teleconference: Josh Johnson, Deloitte

Chairman Strinden was not in attendance. Mr. Sandal chaired the meeting and called the meeting to order at 8:35 a.m.

Mr. Sandal asked for approval of the agenda.

**MS. A. SMITH MOVED TO APPROVE THE AGENDA AS PRESENTED. THE MOTION WAS SECONDED BY MR. TRENBEATH AND CARRIED BY VOICE VOTE. THE AGENDA WAS APPROVED.**

Mr. Sandal called for any questions or comments regarding the minutes of the August 27, 2015 Board meeting.

**SENATOR DEVER MOVED APPROVAL OF THE AUGUST 27, 2015 NDPERS BOARD MEETING MINUTES. THE MOTION WAS SECONDED BY MR. TRENBEATH AND CARRIED BY VOICE VOTE. THE MINUTES WERE APPROVED.**

### **PRESENTATION**

Ms. Murtha presented information to the Board relating to the fiduciary responsibilities and Board member liability. She explained that fiduciary responsibilities include the duties of loyalty, impartiality, prudence, administration, skill, delegation, and the prudent investor rule. She gave specific references to state law and administrative rules. Ms. Murtha also reviewed the Board member liability provisions and ethical responsibility policy. The Board had questions and discussed this information. Ms. Murtha commended the Board on how they have incorporated these discussions into their decisions.

### **GROUP INSURANCE**

#### **Member Rebate Accounts**

Ms. Allen reported that at the August meeting the Board was provided information relating to the status of re-establishing the Member Rebate Program with Sanford Health Plan. At that meeting, the Board had additional questions relating to whether BCBS had the authority to terminate this program and whether any additional amount beyond that already identified is due. Ms. Murtha reported that upon review of the 2013-2015 BCBS Administrative Services Agreement, she could not find a specific provision that would permit such a termination, but whether a member was entitled to receive a refund under the program was entirely within the discretion of BCBS. Ms. Allen reviewed the options on how to allocate the lump sum payment to re-establish member accounts with Sanford Health Plan. The Board discussed.

**MS. Y. SMITH MOVED THAT PERS IMPLEMENT THE MEMBER REBATE PROGRAM EFFECTIVE JULY 1, 2016, TO NOT SET UP INACTIVE ACCOUNTS AND PLACE THE REFUND INTO RESERVES. THE MOTION WAS SECONDED BY MS. GOODHOUSE.**

The Board further discussed noting that it would be best to begin new with this program.

**Ayes:** Ms. A. Smith, Ms. Goodhouse, Representative Anderson, Ms. Y. Smith, Senator Dever, and Mr. Sandal

**Nays:** None

**Absent:** Mr. Trenbeath, Ms. Wassim and Chairman Strinden

**MOTION PASSED**

**Medical Trend Report**

Mr. Collins shared the 2016 Segal Health Plan Cost Trend Survey with the Board which provided information on health plan cost trends.

**Performance Guarantee**

Mr. Collins shared the final report on BCBS performance guarantees with the Board, noting a total of \$37,500 settlement to PERS.

**Medicare Part D Program**

Mr. Collins indicated that the Medicare Part D program is contracted on an annual basis, January 1 through December 31 each year which is different from the group health insurance contract which is July 1 through June 30 for the biennium. The annual contracting is consistent with the federal law where the subsidies are determined each year. Mr. Collins reported that Sanford Health Plan/ESI bid this plan during the group health insurance request for proposal process. ESI has updated their bid based on the refreshed data and current trends which will be a 5.8% increase. Mr. Sandene, Sanford Health Plan, indicated that the updated ESI rate is a competitive market rate. He also indicated that this bid can be used as a bundled or unbundled product and believed that a bundled product would be the least disruptive for the members due to the timing of the renewal. He reiterated their position to the Board that Sanford was awarded the PERS contract which included Part D PBM services.

Mr. Collins reported that BCBS submitted an unsolicited offer which was to renew the plan as it currently is as a bundled product at a 2.8% rate increase or an 8% rate increase for an unbundled product. The Retiree Subcommittee met and recommended to remain bundled at the lowest possible cost, and if the cost was over 15% or \$100, they recommended to unbundle the products. They recommended to not unbundle at this time because of the short period of time between now and when they have to enroll in a new Part D product. Mr. Collins reported that Deloitte conducted a formulary and network disruption analysis of the two proposals which Deloitte further reviewed with the Board.

**SENATOR DEVER MOVED THAT THE BOARD ENTER INTO EXECUTIVE SESSION PURSUANT TO NDCC 44-04-19.1(1) AND (9) AND 44-04-19.2 FOR ATTORNEY CONSULTATION RELATING TO THE MEDICARE PART D PROGRAM. THE MOTION WAS SECONDED BY MS. GOODHOUSE.**

**Ayes:** Representative Anderson, Senator Dever, Ms. Goodhouse, Mr. Sandal, Ms. A. Smith, Ms. Y. Smith, and Mr. Trenbeath

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

**MOTION PASSED**

All members named above were in attendance for the Executive Session (closed meeting, electronically recorded) which began at 10:02 a.m.

The Board returned to open session at 10:20 a.m.

Mr. Collins reviewed the group health insurance RFP provisions and external communications relating to the Prescription Drug Plan (PDP) with the Board. Mr. Sandene indicated to the Board it was their interpretation that when the contract was awarded to Sanford, it was for a bundled product with the medical and prescription drug plan including the Medicare Part D plan. The Board discussed.

**MS. Y. SMITH MOVED APPROVAL OF SANFORD HEALTH PLAN/ESI FOR A BUNDLED MEDICARE PART D PRESCRIPTION DRUG PLAN FOR THE PERIOD JANUARY 1, 2016 THROUGH DECEMBER 31, 2016. THE MOTION WAS SECONDED BY MR. TRENBEATH.**

The Board further discussed the motion.

**Ayes:** Ms. Goodhouse, Senator Dever, Ms. Y. Smith, Ms. A. Smith, Mr. Trenbeath, Representative Anderson, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

**MOTION PASSED**

Ms. Fricke indicated that with approval of the Sanford Health Plan/ESI Part D Plan, there are other decisions that had to be made. One related to administration of the low income subsidy (LIS). The current process is that upon notification of the vendor, PERS enters the individual's LIS credit into the business system. The system reduces the gross premium by the amount of the credit, of which the net premium amount is billed to the member. ESI does offer a service where they can reimburse the member directly for their LIS credit. After discussion with staff, the Board concurred that PERS maintain the current practice.

Ms. Fricke indicated that the other decision related to late enrollment penalties (LEP) creditable coverage attestation. She explained what Global Attestation and Initial Attestation provisions were. Since there are circumstances where PERS cannot verify or obtain proof of previous creditable coverage, staff would recommend signing Initial Attestation. The Board discussed the options.

**MR. TRENBEATH MOVED THAT STAFF SIGN THE INITIAL ATTESTATION WITH SANFORD HEALTH PLAN/ESI. THE MOTION WAS SECONDED BY MS. A. SMITH.**

**Ayes:** Representative Anderson, Senator Dever, Ms. Goodhouse, Ms. A. Smith, Ms. Y. Smith, Mr. Trenbeath, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **Wellness and Benefits Fair**

Ms. Fricke provided the Board with an update on the NDPERS sponsored Wellness and Benefits Fair that was held at the State Capitol during State Employee Recognition Week. She provided them with the flyer that provided details on vendor attendance, services and screenings provided, as well as presentations conducted.

### **PPO Update**

Mr. Sandene, Sanford Health Plan, reported that since the last meeting, Heartland Health Care Network agreement has been completed. Currently, 98% of all acute care hospitals and clinics are now contracted with and 90.1% of the physicians are in the PPO network. They are working with PERS to get the approximately 200 chiropractors into the network. Mr. Collins indicated he would assist by sending letters to those providers who are not in network asking them to reconsider on behalf of our members. The Board concurred. The Board had questions relating to the PPO network and requested a summary of the transition issues, how these issues have been resolved and to also include positive comments.

## **RETIREMENT**

### **Defined Contribution to Defined Benefit Transfers**

Ms. Steffes reported that Senate Bill 2015 provides eligible members a one-time 3-month special election opportunity to transfer the account balance from the DC to the DB hybrid plan no later than February 1, 2016. Ms. Steffes reviewed a few unique member situations with the Board regarding eligibility and indicated these were reviewed by legal counsel. She explained that since staff has received requests for an earlier start date, two start dates were being proposed - November 1, 2015 and February 1, 2016. TIAA-CREF financial consultants would be available to assist with member questions, review account information, and assist with completion of the transfer paperwork. The Board discussed the earlier start date, noting concerns with staff being able to handle the project during a busy time with annual enrollment and the change in vendors for the Part D plan. Mr. Collins indicated that the implementation must occur within the 3-month period (90 days) and was asking for flexibility on the actual start should staff experience any extenuating circumstances.

**MS. Y. SMITH MOVED APPROVAL OF THE NOVEMBER 1, 2015 START DATE (OR AS SOON THEREAFTER) FOR THE TRANSITION OF ELIGIBLE MEMBERS FROM THE DEFINED CONTRIBUTION PLAN TO THE DEFINED BENEFIT PLAN. THE MOTION WAS SECONDED BY SENATOR DEVER.**

**Ayes:** Ms. Goodhouse, Mr. Trenbeath, Ms. Y. Smith, Representative Anderson, Ms. A. Smith, Senator Dever, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **Roth/PEP**

Ms. Steffes explained that when the portability enhancement provision (PEP) was initiated in 2000 to allow members to vest in a portion of the employer contributions paid into the defined benefit plan, it was unclear if the Roth (after tax) contributions qualified for PEP allocation. Segal reviewed the PEP Administrative Agreement and recommended that PERS make a determination as to whether or not Roth contributions qualify for PEP allocations and revise the PEP Administrative Agreement.

**REPRESENTATIVE ANDERSON MOVED THAT PERS ALLOW ROTH CONTRIBUTIONS OFFERED THROUGH NON-NDPERS SPONSORED 403(b) AND 457(b) PLANS AS ELIGIBLE CONTRIBUTIONS FOR PEP PURPOSES AND TO UPDATE THE PEP ADMINISTRATIVE AGREEMENT ACCORDINGLY. THE MOTION WAS SECONDED BY MR. TRENBEATH.**

**Ayes:** Ms. A. Smith, Ms. Goodhouse, Mr. Trenbeath, Senator Dever, Ms. Y. Smith, Representative Anderson, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **FLEX COMP**

#### **Other Employer-Sponsored Voluntary Insurance Products**

Ms. Allen reported that the annual review of the vendors for the voluntary insurance products approved for pretax premiums was conducted. All current vendors responded, and no new products were proposed by any of the participating companies, therefore, the eligible products for all vendors will remain the same.

**SENATOR DEVER MOVED APPROVAL OF THE VENDORS FOR OTHER EMPLOYER-SPONSORED VOLUNTARY INSURANCE PRODUCTS FOR PRETAX BENEFITS FOR THE 2016 PLAN YEAR. THE MOTION WAS SECONDED BY MS. Y. SMITH.**

**Ayes:** Representative Anderson, Senator Dever, Ms. Goodhouse, Ms. Y. Smith, Mr. Trenbeath, and Mr. Sandal

**Nays:** None

**Absent:** Ms. A. Smith, Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **PLAN DOCUMENTS**

#### **Companion Plan and 457 Plan**

Ms. Allen reported that the restated Companion Plan and 457 Plan documents were provided at the July meeting for review and feedback. The updated plan documents incorporated changes as recommended by Segal and PERS staff and are currently being reviewed by legal counsel. Pending no further changes, staff would recommend updating the plan documents.

**MR. TRENBEATH MOVED APPROVAL OF THE COMPANION PLAN AND 457 PLAN DOCUMENTS. THE MOTION WAS SECONDED BY SENATOR DEVER.**

**Ayes:** Representative Anderson, Senator Dever, Ms. Goodhouse, Ms. A. Smith, Ms. Y. Smith, Mr. Trenbeath, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **MISCELLANEOUS**

#### **Administrative Rules**

Mr. Collins reviewed the proposed administrative rules with the Board. Ms. Murtha reported that relating to 71-03-05-08, it was further investigated and determined that this was not necessary to be in compliance with the ACA and added wording to give PERS flexibility in processing underpayments. Ms. Murtha also indicated that in the definition section at 71-02-01-01.22, the definition of received was indicated to be the date on which any document is date-stamped by the office. Finally, Ms. Murtha indicated she will update the General Authority and Law Implemented sections of the rules as appropriate. The Board discussed the definition of received date and the mail box rule. Staff further explained and discussed with the Board.

**MR. TRENBEATH MOVED THAT THE DEFINITION AT 71-02-01-01.22 BE ELIMINATED AND RENUMBERED ACCORDINGLY, THAT STAFF MOVE FORWARD WITH THE RULEMAKING PROCESS AND THAT LEGAL COUNSEL WILL UPDATE THE GENERAL AUTHORITY AND LAW IMPLEMENTED SECTIONS AS APPROPRIATE. THE MOTION WAS SECONDED BY MS. A. SMITH.**

**Ayes:** Ms. Goodhouse, Representative Anderson, Senator Dever, M. Y. Smith, Mr. Trenbeath, Ms. A. Smith, and Mr. Sandal

**Nays:** None

**Absent:** Ms. Wassim and Chairman Strinden

## **MOTION PASSED**

### **Board Committee Assignments**

Mr. Collins indicated this can be deferred to the next Board meeting. The Board concurred.

### **Upcoming Events**

Ms. Allen reviewed the upcoming PERS events for the months of October through December with the Board.

Mr. Sandal called for any other business or comments. Hearing none, the meeting adjourned at 12:35 p.m.

Prepared by,

Cheryl Stockert  
Assistant to the Board