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## RETIREMENT COMMITTEE

Monday, October 31, 2022  
Roughrider Room, State Capitol  
Bismarck, North Dakota

Representative Mike Lefor, Chairman, called the meeting to order at 11:00 a.m.

**Members present:** Representatives Mike Lefor\*, Rick Becker\*, Joshua A. Boschee\*, Jason Dockter\*, Austen Schauer\*, Vicky Steiner\*, Greg Stemen\*; Senators Howard C. Anderson, Jr.\*, Karen K. Krebsbach\*, Doug Larsen\*, Tim Mathern\*, Kristin Roers\*, Shawn Vedaa\*

**Member absent:** Representative Scott Louser

**Others present:** See [appendix](#)

*\*Attended remotely*

**It was moved by Senator Anderson, seconded by Representative Stemen, and carried on a voice vote that the minutes of the October 24, 2022, meeting be approved as distributed.**

### BACKGROUND AND REVIEW OF BILL DRAFTS

Mr. Levi Kinnischtzke, Senior Fiscal Analyst, Legislative Council, presented a memorandum entitled [Public Employees Retirement System Main System Defined Benefit Retirement Plan Data](#). He noted the average actuarial rate of return of the main system defined benefit (DB) plan during fiscal years 2000 through 2022 was 6.95 percent.

Ms. Jennifer S. N. Clark, Senior Counsel and Code Revisor, Legislative Council, reviewed bill drafts [\[23.0196.04000\]](#) and [\[23.0280.02000\]](#) related to the closure of the Public Employees Retirement System (PERS) main system DB plan and expansion of the defined contribution (DC) plan as of January 1, 2024, and January 1, 2025, respectively. She noted the bill drafts are identical except for the effective dates, and updates from versions of the bills presented during the October 24, 2022, meeting include:

- Section 2 was added to address dual retirement eligibility of employees under the Teachers' Fund for Retirement.
- Section 10 was revised to simplify language regarding the DB plan employee contribution rate. This section relates to section 30 of the bill draft, which would repeal North Dakota Century Code Section 54-52-06.5, relating to a reduction in employee and employer contributions when the DB plan reaches 100 percent funded status.
- Section 11 was revised to provide the unfunded accrued liability of the main system DB plan will be amortized over a period of 246 months rather than 20 years.
- Section 14 was added to provide new employees hired after December 31, 2024, who participate in the DC plan at a contribution rate between 4 percent and 7 percent may elect to contribute an additional amount of up to 3 percent in the PERS 457 deferred compensation plan and the employer must match the amount contributed by the employee up to 3 percent.
- Section 16 was revised to simplify language regarding the DC plan temporary employee contribution rate.
- Section 19 was revised regarding the DC plan direction of investments to include "the qualified default investment alternative may include an in-plan annuity."
- Section 22 was revised to require new employees participating in the DC plan to contribute 4 percent of their salary or wages but at the time of hiring may elect to contribute up to an additional 3 percent.

- Section 24 was revised to add "an employer may not pay the temporary employee's contribution. A temporary employee may continue to participate as a temporary employee until termination of employment or reclassification of the temporary employee as a permanent employee."
- Section 28 was added to clarify the use of the term "deferred member" regarding the DC plan.
- Section 31 was added to provide a general fund appropriation of \$250 million to PERS, which the Office of Management and Budget must transfer to the PERS fund on July 1, 2023, to reduce the unfunded liability of the main system DB plan during the 2023-25 biennium.

### **COMMENTS BY INTERESTED PERSONS** **Public Employees Retirement System**

Mr. Scott Miller, Executive Director, Public Employees Retirement System, provided comments regarding the bill drafts. He noted PERS has concerns:

- Section 14 may restrict employees to contribute only up to 3 percent of their salary or wages in the PERS 457 deferred compensation plan and a revision may be needed to clarify employees may contribute up to 3 percent and receive an employer match of up to 3 percent but the employee may elect to contribute more than 3 percent without an employer match.
- Section 31 provides for an appropriation to PERS to reduce the unfunded liability "of the state share" of the main system DB plan, but it is not possible to separate the state and political subdivision unfunded liability responsibilities of the plan.

Chairman Lefor requested Mr. Miller provide the committee with the estimated cost of the state paying the actuarially determined employer contribution (ADEC) for the state and political subdivisions. Mr. Miller noted:

- The July 1, 2022, PERS actuarial valuation revealed the ADEC rate is 21.70 percent for fiscal year 2023, or 7.35 percent more than the blended statutory contribution rate of 14.35 percent for state agencies.
- The bill draft includes an employer contribution rate increase of 1.00 percent for political subdivision, resulting in only an additional increase of 6.35 percent needed for the political subdivision ADEC rate in excess of the statutory contribution rate, resulting in a total ADEC increase of 13.70 percent to be paid by the state on behalf of the entire plan during the 2023-25 biennium.
- It is possible the ADEC rate may change when the DB plan is closed to new hires, contribution rates change, and funding transfers are made. An actuarial analysis is needed for further clarification but the increase may be as much as 15 percent.

### **North Dakota Association of Counties**

Mr. Aaron Birst, Executive Director, North Dakota Association of Counties, noted the North Dakota Association of Counties is neither for nor against the bill drafts and will continue to monitor the bill drafts and related public employee retirement plan activity during the 2023 legislative session.

### **North Dakota United**

Mr. Nick Archuleta, President, North Dakota United, noted North Dakota United does not support closing the DB plan for new hires but will continue to work with the Legislative Assembly on public employee retirement plan changes during the 2023 legislative session.

### **Retirement and Investment Office**

Ms. Janilyn Murtha, Executive Director, Retirement and Investment Office, noted the Teachers' Fund for Retirement Board of Trustees will review policy changes of the bill drafts in November 2022 and will continue to work with the Legislative Assembly on public employee retirement plan changes during the 2023 legislative session.

### **COMMITTEE DISCUSSION**

**It was moved by Representative Stemen, seconded by Representative Steiner, and carried on a roll call vote that bill draft [23.0280.02000] be revised on line 3 of page 22 to replace "may" with "shall" regarding the DC plan's qualified default investment alternative, including an in-plan annuity.** Representatives Lefor, Becker, Boschee, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Krebsbach, Larsen, Mathern, Roers, and Vedaa voted "aye." No negative votes were cast.

**It was moved by Representative Dockter, seconded by Representative Schauer, and carried on a roll call vote that bill draft [23.0280.02000] be revised on line 4 of page 31 to remove "of the state share."**

Representatives Lefor, Becker, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Krebsbach, Larsen, Roers, and Vedaa voted "aye." Representative Boschee and Senator Mathern voted "nay."

**It was moved by Representative Stemen, seconded by Senator Mathern, and carried on a roll call vote that bill draft [23.0280.02000] be revised on page 14 to clarify employees electing to contribute 3 percent of their wages or salary to the PERS deferred compensation program for the purpose of receiving an employer matching contribution are not restricted from exceeding the 3 percent optional employee contribution.** Representatives Lefor, Becker, Boschee, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Krebsbach, Larsen, Mathern, Roers, and Vedaa voted "aye." No negative votes were cast.

**It was moved by Senator Anderson, seconded by Senator Vedaa, and carried on a roll call vote that revisions approved by the committee to bill draft [23.0280.02000] that is effective January 1, 2025, also be made to bill draft [23.0196.04000] that is effective January 1, 2024.** Representatives Lefor, Becker, Boschee, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Krebsbach, Larsen, Mathern, Roers, and Vedaa voted "aye." No negative votes were cast.

**It was moved by Senator Roers, seconded by Representative Stemen, and carried on a roll call vote that bill draft [23.0280.02000], relating to the closure of the PERS main system DB plan and expansion of the DC plan as of January 1, 2025, as revised, be approved and recommended to the Legislative Management.** Representatives Lefor, Becker, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Larsen, Roers, and Vedaa voted "aye." Representative Boschee and Senators Krebsbach and Mathern voted "nay."

**It was moved by Senator Anderson, seconded by Senator Roers, and carried on a roll call vote that bill draft [23.0196.05000], relating to the closure of the PERS main system DB plan and expansion of the DC plan as of January 1, 2024, as revised, be approved and recommended to the Legislative Management.** Representatives Lefor, Becker, Dockter, Schauer, Steiner, and Stemen and Senators Anderson, Larsen, Roers, and Vedaa voted "aye." Representative Boschee and Senators Krebsbach and Mathern voted "nay."

**It was moved by Senator Roers, seconded by Senator Vedaa, and carried on a voice vote that the Chairman and the Legislative Council staff be requested to prepare a report and the bill drafts recommended by the committee and to present the report and recommended bill drafts to the Legislative Management.**

**It was moved by Senator Vedaa, seconded by Representative Stemen, and carried on a voice vote that the committee be adjourned sine die.**

No further business appearing, Chairman Lefor adjourned the committee sine die at 12:14 p.m.

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Jennifer S. N. Clark  
Senior Counsel and Code Revisor

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Levi Kinnischtzke  
Senior Fiscal Analyst

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