

2023 SENATE STATE AND LOCAL GOVERNMENT

SB 2164

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2164
1/19/2023

Relating to members of the public employee's retirement board.

9:30 AM Chair Roers opened the hearing. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- History
- Board makeup
- Fiduciary responsibility
- Committee action

Sen Dick Dever, District 32, is bill sponsor and testified in support with no written testimony.

Scott Miller, ND Public Employees Retirement System (NDPERS), testified neutrally. #14385.

Sen Lee moved a DO PASS.

Sen Cleary seconded the motion.

Sen Lee withdrew her motion.

Sen Cleary withdrew his second.

9:58 AM hearing was closed.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2164
1/26/2023

Relating to retirement board membership; provide an effective date; to declare an emergency.
--

9:30 AM Chair Roers opened committee work. Present: Chair Roers, Vice Chair Barta, Sen Cleary, Sen Estenson, Sen J Lee, and Sen Braunberger.

Discussion Topics:

- Committee action

Chair Roers asked for an amendment from Sen Braunberger.

Sen Braunberger moved amendment 23.0536.01001. Sen Barta seconded.

Senators	Vote
Senator Kristin Roers	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Sean Cleary	Y
Senator Judy Estenson	Y
Senator Judy Lee	Y

VOTE: YES 6 NO 0 -0- Motion PASSED

Sen Barta moved a DO PASS as Amended. Sen Lee seconded.

Senators	Vote
Senator Kristin Roers	Y
Senator Jeff Barta	Y
Senator Ryan Braunberger	Y
Senator Sean Cleary	Y
Senator Judy Estenson	Y
Senator Judy Lee	Y

VOTE: YES 6 NO 0 -0- DO PASS as Amended, PASSED

Sen Braunberger will carry the bill.

9:35 AM Meeting was closed.

Pam Dever, Committee Clerk

January 26, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2164

Page 1, line 15, replace "each" with ", in consultation with the minority leaders."

Page 1, line 15, after "shall" insert "each"

Renumber accordingly

AG
1-26-23
(1-1)

REPORT OF STANDING COMMITTEE

SB 2164: State and Local Government Committee (Sen. K. Roers, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2164 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 15, replace "each" with ", in consultation with the minority leaders."

Page 1, line 15, after "shall" insert "each"

Renumber accordingly

2023 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2164

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2164
3/3/2023

Relating to members of the public employees retirement board.

Chairman Schauer called the meeting to order at 9:13 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider present. Rep. Jeff A. Hoverson not present.

Discussion Topics:

- Public Employees Retirement System Board
- Legislators as board members
- Judiciary capacity of PERS members

Sen. Dever introduced SB 2164 speaking in favor of bill.

Chairman Schauer adjourned the meeting at 9:25 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

SB 2164
4/6/2023

Relating to members of the public employees retirement board.

Chairman Schauer called the meeting to order at 9:07 AM.

Chairman Austen Schauer, Vice Chairman Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, and Mary Schneider present. Reps. Claire Cory and Carrie McLeod not present.

Discussion Topics:

- Committee work
- Amendments

Chairman Schauer called for a discussion on SB 2164

Rep. Vetter moved to adopt amendment (#23.0536.02004) to SB 2164 (#27335).

Seconded by Rep. Bahl.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	AB
Representative Landon Bahl	Y
Representative Claire Cory	AB
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	AB
Representative Karen M. Rohr	Y
Representative Mary Schneider	N
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 9-1-3.

Rep. Vetter moved a do pass as amended.

Seconded by Rep. Bahl.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	AB
Representative Landon Bahl	Y
Representative Claire Cory	AB
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	AB
Representative Karen M. Rohr	Y
Representative Mary Schneider	N
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries 9-1-3.

Carried by Chairman Schauer.

Chairman Schauer adjourned the meeting at 9:25 AM.

Phillip Jacobs, Committee Clerk

Alt
4-6-23
(1-2)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2164

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement board membership; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
- ~~1.~~ ~~Two~~
- ~~2.~~ Four members of the legislative assembly must be appointed by the ~~chairman of the legislative management to serve on the board.~~
 - ~~a.~~ ~~If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~
 - ~~b.~~ ~~If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~
- ~~2.~~ One memberThe majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.
- ~~3.~~ Four members of the board must be appointed by the governor to serve a term of five years. TheEach appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who ~~by experience~~ is familiar with ~~money management~~retirement and employee benefit plans. The governor shall appoint one citizen member ~~to serve as~~ chairman of the board.

3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
- 5.4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
6. ~~One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~
- 7.5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- 8.6. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~six of the ~~nine~~eleven board members constitute a quorum. ~~Five~~Six votes are necessary for resolution or action by the board at any meeting.

AG
4-6-23
(2-2)

SECTION 2. EFFECTIVE DATE. This Act becomes effective June 1, 2023.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2164, as engrossed: Government and Veterans Affairs Committee (Rep. Schauer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 1 NAY, 3 ABSENT AND NOT VOTING). Engrossed SB 2164 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement board membership; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nineeleven~~ individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
1. ~~Two~~
2. ~~Four~~ members of the legislative assembly must be appointed by the ~~chairman of the legislative management~~ to serve on the board.
 - a. ~~If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~
 - b. ~~If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~
2. ~~One member~~The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.
3. Four members of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and who by ~~experience~~ experience is familiar with ~~money management~~retirement and employee benefit plans. The governor shall appoint one citizen member to serve as chairman of the board.
3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
5. ~~4.~~ Three board members must be elected by and from among the active participating members, members of the retirement plan established under

chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.

~~6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~

~~7.5.~~ The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.

~~8.6.~~ A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and ~~five~~^{six} of the ~~nine~~^{eleven} board members constitute a quorum. ~~Five~~^{Six} votes are necessary for resolution or action by the board at any meeting.

SECTION 2. EFFECTIVE DATE. This Act becomes effective June 1, 2023.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2023 CONFERENCE COMMITTEE

SB 2164

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2164
4/21/2023
CONFERENCE COMMITTEE

Relating to retirement board membership; provide an effective date; to declare an emergency.
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4:00 PM Chair Roers opened the meeting. Present: Chair Roers, Sen Davison, Sen Braunberger, Chair Kasper, Rep Steiner, and Rep Schauer.

Discussion Topics:

- Amendments
- Employee benefit plans
- Retirement plans

4:02 PM Chair Kasper explained the House amendments.

4:19 PM Scott Miller, Executive Director of ND Public Employees Retirement, answered questions. No written testimony.

4:19 PM Chair Roers adjourned the meeting.

Pam Dever, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

State and Local Government Committee
Room JW216, State Capitol

SB 2164
4/21/2023
CONFERENCE COMMITTEE

Relating to members of the public employees retirement board.

6:03 PM Chair Roers opened the meeting. Present: Chair Roers, Sen Davison, Sen Braunberger, Chair Kasper, Rep Steiner, and Rep Schauer.

Discussion Topics:

- Bill review
- Fiduciary
- Affect of Code provisions

The intern distributed provisions affecting ND Retirement program. #27811

Rep Kasper moved House recede from House amendment and amend with LC 23.0636.02005.

Rep Schauer seconded the motion.

ROLL CALL VOTE: YES – 5 NO – 1 Absent – 0 Motion PASSED

Sen Roers will carry the bill for the Senate.

Rep Kasper will carry the bill for the House.

6:15 PM Chair Roers adjourned the meeting.

Pam Dever, Committee Clerk

April 21, 2023

DR
172
4-21-23

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2164

That the House recede from its amendments as printed on pages 1588 and 1589 of the Senate Journal and pages 1780 and 1781 of the House Journal and that Engrossed Senate Bill No. 2164 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement board membership; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nine~~eleven individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
1. ~~Two~~
2. Four members of the legislative assembly must be appointed by the ~~chairman of the legislative management to serve on the board.~~
 - a. ~~If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~
 - b. ~~If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~
2. ~~One member~~The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.
3. Four members of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and ~~whoby experience, by trade or profession, is familiar with money~~

DR
272
4-26-2

~~management retirement and employee benefit plans. The governor shall appoint one citizen member to serve as chairman of the board.~~

- ~~3. One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~
- ~~4. The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
- ~~5.4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.~~
- ~~6. One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~
- ~~7.5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.~~
- ~~8.6. A board member shall serve a five-year term and until the board member's successor qualifies. Each board member is entitled to one vote, and five ~~six~~ of the nine ~~eleven~~ board members constitute a quorum. Five ~~Six~~ votes are necessary for resolution or action by the board at any meeting.~~

SECTION 2. EFFECTIVE DATE. This Act becomes effective June 1, 2023.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

**2023 SENATE CONFERENCE COMMITTEE
 ROLL CALL VOTES**

BILL/RESOLUTION NO. SB 2164 as (re) engrossed

Senate State and Local Government Committee

- Action Taken**
- SENATE accede to House Amendments
 - SENATE accede to House Amendments and further amend
 - HOUSE recede from House amendments
 - HOUSE recede from House amendments and amend as follows
 - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Rep Kasper Seconded by: Rep Schauer

Senators	4/21	4/21	Yes	No		Representatives	4/21	4/21	Yes	No
	4:00	6:00					4:00	6:00		
<i>Chair Roers</i>	x	x	X			Chair Kasper	x	x	X	
<i>Sen Davison</i>	x	x	X			Rep Steiner	x	x	X	
<i>Sen Braunberger</i>	x	x	X			Rep Schauer	x	x	X	
Total Senate Vote						Total Rep. Vote				

Vote Count Yes: 5 No: 1 Absent: 0

Senate Carrier Sen Roers House Carrier Rep Kasper

LC Number 23.0536 . 02005 of amendment

LC Number 23.0536 . 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 23.0536.02005
Senate Carrier: K. Roers
House Carrier: Kasper

REPORT OF CONFERENCE COMMITTEE

SB 2164, as engrossed: Your conference committee (Sens. K. Roers, Davison, Braunberger and Reps. Kasper, Steiner, Schauer) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1588-1589, adopt amendments as follows, and place SB 2164 on the Seventh order:

That the House recede from its amendments as printed on pages 1588 and 1589 of the Senate Journal and pages 1780 and 1781 of the House Journal and that Engrossed Senate Bill No. 2164 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement board membership; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is amended and reenacted as follows:

54-52-03. Governing authority.

1. A state agency is hereby created to constitute the governing authority of the system to consist of a board of ~~nineeleven~~ individuals known as the retirement board. No more than one elected member of the board may be in the employ of a single department, institution, or agency of the state or in the employ of a political subdivision. An employee of the public employees retirement system or the state retirement and investment office may not serve on the board.
1. ~~Two~~
2. ~~Four~~ members of the legislative assembly must be appointed by the ~~chairman of the legislative management~~ to serve on the board.
 - a. ~~If the same political party has the greatest number of members in both the house and senate, one member must be from that majority party and one member from the political party with the next greatest number of members in the house and senate.~~
 - b. ~~If the same political party does not have the greatest number of members in both the house and senate, one member must be from the majority party in the house and one member must be from the majority party in the senate.~~
2. ~~One member~~The majority leader of the house of representatives shall appoint two members of the house of representatives and the majority leader of the senate shall appoint two members of the senate. The members appointed under this subsection shall serve a term of two years.
3. ~~Four members~~ of the board must be appointed by the governor to serve a term of five years. ~~The~~Each appointee under this subsection must be a North Dakota citizen who is not a state or political subdivision employee and ~~whoby experience, by trade or profession,~~ is familiar with ~~money-management~~retirement and employee benefit plans. The governor shall appoint one citizen member ~~isto serve as~~ chairman of the board.
3. ~~One member of the board must be appointed by the attorney general from the attorney general's legal staff and shall serve a term of five years.~~

Insert LC: 23.0536.02005
Senate Carrier: K. Roers
House Carrier: Kasper

4. ~~The state health officer appointed under section 23-01-05 or the state health officer's designee is a member of the board.~~
- 5-4. Three board members must be elected by and from among the active participating members, members of the retirement plan established under chapter 54-52.6, members of the retirement plan established under chapter 39-03.1, and members of the job service North Dakota retirement plan. Employees who have terminated their employment for whatever reason are not eligible to serve as elected members of the board under this subsection. Board members must be elected to a five-year term pursuant to an election called by the board. Notice of board elections must be given to all active participating members. The time spent in performing duties as a board member may not be charged against any employee's accumulated annual or any other type of leave.
6. ~~One board member must be elected by and from among those individuals who are receiving retirement benefits under this chapter. The board shall call the election and must give prior notice of the election to the individuals eligible to participate in the election pursuant to this subsection. The board member shall serve a term of five years.~~
- 7-5. The members of the board are entitled to receive one hundred forty-eight dollars per day compensation and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due the chairman or a member, plus an allowance for expenses they may incur through service on the board.
- 8-6. A board member shall serve a ~~five-year term and~~ until the board member's successor qualifies. Each board member is entitled to one vote, and ~~nine~~^{six} of the ~~eleven~~ board members constitute a quorum. ~~Five~~^{Six} votes are necessary for resolution or action by the board at any meeting.

SECTION 2. EFFECTIVE DATE. This Act becomes effective June 1, 2023.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Engrossed SB 2164 was placed on the Seventh order of business on the calendar.

TESTIMONY

SB 2164

TESTIMONY OF SCOTT MILLER

Senate Bill 2164 – NDPERS Board Members

Good Morning, my name is Scott Miller. I am the Executive Director of the North Dakota Public Employees Retirement System, or NDPERS. The NDPERS Board has not had the opportunity to review this bill or provide direction regarding my testimony. As such, I am here to testify in a neutral position regarding Senate Bill 2164.

With that said, if House Bill 1321 passes the House, I believe it will come before this committee in the Senate. That bill seeks to replace two members of the NDPERS Board with four additional legislators, bringing the total number of legislators to six on an eleven-person board. The NDPERS Board has directed me to oppose HB 1321 for constitutional reasons, specifically the Separation of Powers doctrine.

23.0536.02004

FIRST ENGROSSMENT

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2164

Introduced by

Senator Dever

Representatives Brandenburg, Hatlestad, D. Johnson, Monson, Schauer

1 A BILL ~~for an Act to amend and reenact subsection 1 of section 54-52-03 of the North Dakota~~
2 ~~Century Code, relating to members of the public employees retirement board.~~for an Act to
3 amend and reenact section 54-52-03 of the North Dakota Century Code, relating to retirement
4 board membership; to provide an effective date; and to declare an emergency.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 ~~SECTION 1. AMENDMENT. Subsection 1 of section 54-52-03 of the North Dakota Century~~
7 ~~Code is amended and reenacted as follows:~~

8 ~~1. Two members of the legislative assembly must be appointed by the chairman of the~~
9 ~~legislative management to serve on the board.~~

10 ~~a. If the same political party has the greatest number of members in both the house~~
11 ~~and senate, one member must be from that majority party and one member from~~
12 ~~the political party with the next greatest number of members in the house and~~
13 ~~senate.~~

14 ~~b. If the same political party does not have the greatest number of members~~
15 ~~in both the house and senate, one member must be from the majority party in the~~
16 ~~house and one member must be from the majority party in the senate. The~~
17 ~~majority leaders of the senate and house, in consultation with the minority~~
18 ~~leaders, shall each appoint one member.~~

19 SECTION 1. AMENDMENT. Section 54-52-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-52-03. Governing authority.**

22 1. A state agency is hereby created to constitute the governing authority of the system to
23 consist of a board of ~~nine~~eleven individuals known as the retirement board. No more
24 than one elected member of the board may be in the employ of a single department,

1 institution, or agency of the state or in the employ of a political subdivision. An
2 employee of the public employees retirement system or the state retirement and
3 investment office may not serve on the board.

4 ~~1. Two~~

5 2. Four members of the legislative assembly must be appointed ~~by the chairman of the~~
6 ~~legislative management~~ to serve on the board.

7 ~~a. If the same political party has the greatest number of members in both the house~~
8 ~~and senate, one member must be from that majority party and one member from~~
9 ~~the political party with the next greatest number of members in the house and~~
10 ~~senate.~~

11 ~~b. If the same political party does not have the greatest number of members in both~~
12 ~~the house and senate, one member must be from the majority party in the house~~
13 ~~and one member must be from the majority party in the senate.~~

14 ~~2. One member~~ The majority leader of the house of representatives shall appoint two
15 members of the house of representatives and the majority leader of the senate shall
16 appoint two members of the senate. The members appointed under this subsection
17 shall serve a term of two years.

18 3. Four members of the board must be appointed by the governor to serve a term of five
19 years. ~~The~~ Each appointee under this subsection must be a North Dakota citizen who
20 is not a state or political subdivision employee and who ~~by experience~~ is familiar with
21 ~~money management~~ retirement and employee benefit plans. The governor shall
22 appoint one citizen member ~~is to serve as~~ chairman of the board.

23 ~~3. One member of the board must be appointed by the attorney general from the~~
24 ~~attorney general's legal staff and shall serve a term of five years.~~

25 ~~4. The state health officer appointed under section 23-01-05 or the state health officer's~~
26 ~~designee is a member of the board.~~

27 5.4. Three board members must be elected by and from among the active participating
28 members, members of the retirement plan established under chapter 54-52.6,
29 members of the retirement plan established under chapter 39-03.1, and members of
30 the job service North Dakota retirement plan. Employees who have terminated their
31 employment for whatever reason are not eligible to serve as elected members of the

1 board under this subsection. Board members must be elected to a five-year term
2 pursuant to an election called by the board. Notice of board elections must be given to
3 all active participating members. The time spent in performing duties as a board
4 member may not be charged against any employee's accumulated annual or any
5 other type of leave.

6 ~~6. One board member must be elected by and from among those individuals who are~~
7 ~~receiving retirement benefits under this chapter. The board shall call the election and~~
8 ~~must give prior notice of the election to the individuals eligible to participate in the~~
9 ~~election pursuant to this subsection. The board member shall serve a term of five~~
10 ~~years.~~

11 7.5. The members of the board are entitled to receive one hundred forty-eight dollars per
12 day compensation and necessary mileage and travel expenses as provided in
13 sections 44-08-04 and 54-06-09. This is in addition to any other pay or allowance due
14 the chairman or a member, plus an allowance for expenses they may incur through
15 service on the board.

16 ~~8.6.~~ A board member shall serve ~~a five-year term and~~ until the board member's successor
17 qualifies. Each board member is entitled to one vote, and ~~nine~~five~~eleven~~six
18 board members constitute a quorum. ~~Five~~Six votes are necessary for resolution or
19 action by the board at any meeting.

20 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective June 1, 2023.

21 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

54-52.1-04. Board to contract for insurance.

1. The board shall receive bids for the providing of hospital benefits coverage, medical benefits coverage, life insurance benefits coverage for a specified term, and employee assistance program services; may receive bids separately for all or part of the prescription drug benefits coverage component of medical benefits coverage; and shall accept one or more bids of and contract with the carriers the board determines best serve the interests of the state and the state's eligible employees. Solicitations must be made not later than ninety days before the expiration of an existing uniform group insurance contract. Bids must be solicited by advertisement in a manner selected by the board which will provide reasonable notice to prospective bidders. In preparing bid proposals and evaluating bids, the board may utilize the services of consultants on a contract basis in order that the bids received may be uniformly compared and properly evaluated. In determining which bid, if any, will best serve the interests of eligible employees and the state, the board shall give adequate consideration to the following factors:

- a. The economy to be effected.
- b. The ease of administration.
- c. The adequacy of the coverages.
- d. The financial position of the carrier, with special emphasis on the solvency of the carrier.
- e. The reputation of the carrier and any other information available tending to show past experience with the carrier in matters of claim settlement, underwriting, and services.

2. The board may reject any or all bids received under this section. If the board rejects all bids received, the board shall again solicit bids as provided in this section.

3. Under sections 54-52.1-04.1 and 54-52.1-04.2 the board may contract for health benefits coverage through a health maintenance organization or establish a self-insurance health plan.

54-52.1-05. Provisions of contract - Term of contract.

1. Each uniform group insurance contract entered by the board must be consistent with the provisions of this chapter, must be signed for the state of North Dakota by the chairman of the board, and must include the following:

a. As many optional coverages as deemed feasible and advantageous by the board.

b. A detailed statement of benefits offered, including maximum limitations and exclusions, and such other provisions as the board may deem necessary or desirable.

2. The initial term or the renewal term of a uniform group insurance contract through a contract for insurance, health maintenance organization, or self-insurance health plan for hospital benefits coverage, medical benefits coverage, or prescription drug benefits coverage may not exceed two years.

a. The board may renew a contract subject to this subsection without soliciting a bid under section 54-52.1-04 if the board determines the carrier's performance under the existing contract meets the board's expectations, the proposed premium renewal amount does not exceed the board's expectations, and renewal best serves the interests of the state and the state's eligible employees.

b. In making a determination under this subsection, the board shall:

(1) Use the services of a consultant to concurrently and independently prepare a renewal estimate the board shall consider in determining the reasonableness of the proposed premium renewal amount.

(2) Review the carrier's performance measures, including payment accuracy, claim processing time, member service center metrics, wellness or other special program participation levels, and any other measures the board determines relevant to making the determination and shall consider these measures in determining the board's satisfaction with the carrier's performance.

(3) Consider any additional information the board determines relevant to making the determination.

c. The board may determine the carrier's performance under the existing contract does not meet the board's expectations, the proposed premium renewal amount exceeds the board's expectations, or renewal does not best serve the interests of the state or the state's eligible employees and the board therefore may decide to solicit a bid under section 54-52.1-04.