

2023 Legislative Assembly Halftime Show

Scott Miller, Executive Director



NORTH DAKOTA
PUBLIC EMPLOYEES
RETIREMENT SYSTEM

PERS' Most-Watched Bills

Bill #	Description	Details	Board Position	Status
HB 1040	DB Closure with 1/1/25 effective date	Closes DB plan to new hires after 12/31/24, requires new hires enrollment in DC plan, requires state employers to pay the actuarially determined contribution rate, political sub employers to pay additional 1% ER contribution, one-time cash infusion, DB employees with less than 5 years of service incented to transfer to DC	Oppose	Passed House
HB 1183	Changes definition of Peace Officer, retirement eligibility	Expands definition of eligible employee for the State Public Safety plan	Neutral	Passed House
HB 1309	BCI benefit change, vesting change	Changes vesting schedule for new hires after 7/31/23, modifies multiplier to two-tiers for all BCI members	Neutral	Passed House
HB 1321	NDPERS Board Make-up/Contracting for health insurance (Kasper)	Changes make-up of NDPERS Board and requires legislature to approve renewal or award of health insurance carrier	Oppose	Passed House
HB 1379	Legacy interest fund/earnings fund	Modifies stream of payments to NDPERS DB plan	Support	Passed House
SB 2023	NDPERS Budget	NDPERS budget	Support	Passed Senate
SB 2164	NDPERS Board Make-up (Legislator from each chamber)	Modifies make-up of NDPERS Board to clarify that a legislator from each chamber to be named	No position	Passed Senate
SB 2171	Governor's 3 rd Health Plan Option	Requires NDPERS to offer a 3 rd health plan option to state employees that includes ACA mandated coverage, at state employee expense	Neutral	Passed Senate
SB 2239	ADEC Cont, DB Remain Open, DC option	Keeps DB plan open, provides option for new state hires enrollment in DC plan, requires employers (split between state & political subs) to pay the actuarially determined contribution rate, one-time cash infusion, 1% EE contribution	Support	Passed Senate

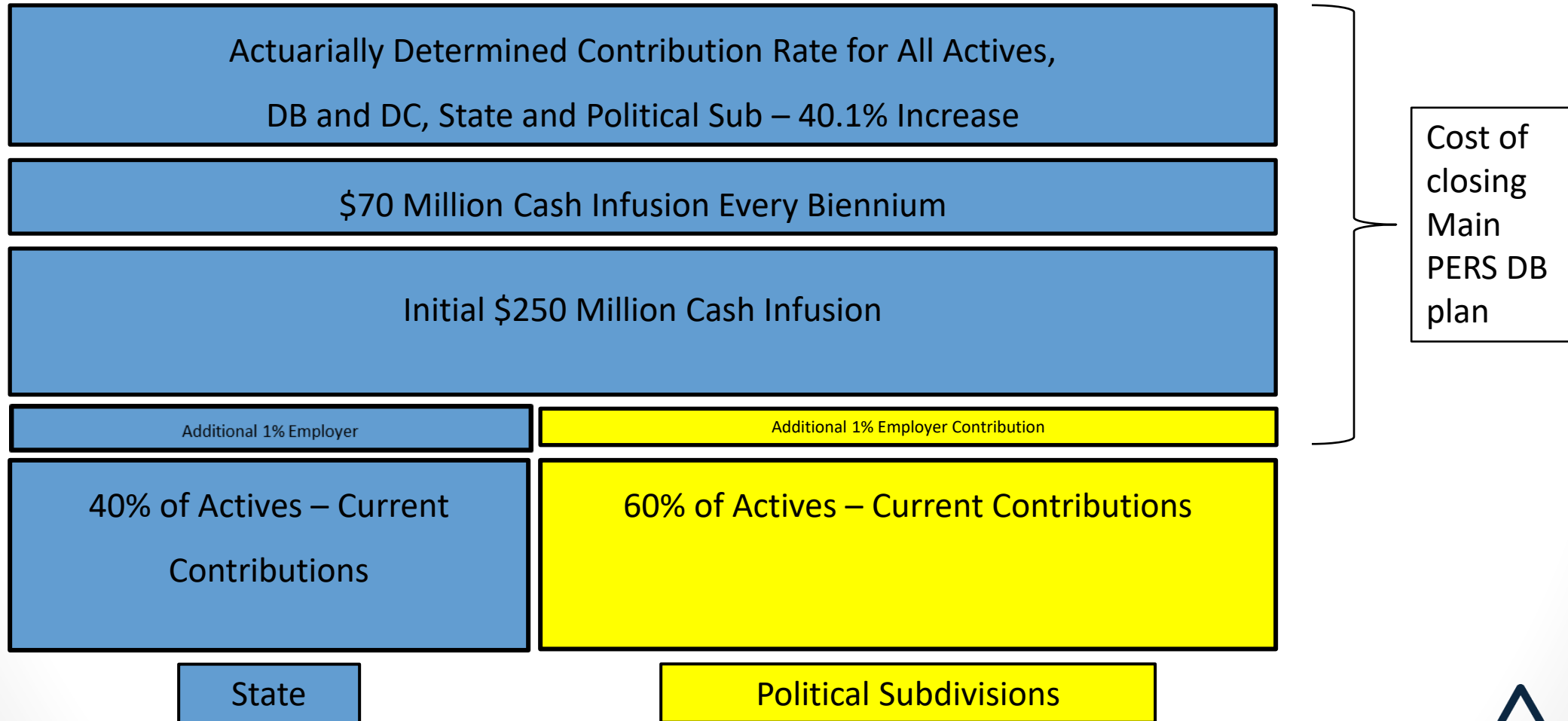


HB 1040 – DB Plan Closure

- Closes the DB plan to new members and requires all new members to go into a new DC plan on 1/1/25 (HB 1039, with a 1/1/24 effective date, failed)
- Increases state and political subdivision employer contribution by 1% on 1/1/25
- Initial \$240 million cash infusion and \$70 million/biennium
- Effective 1/1/26, increases the State's employer contribution to the Actuarially Determined Contribution (ADC) rate for all employees, including both the State and the political subdivision employees and the DB and DC members
 - ADC based on a closed amortization period of 20 ½ years
 - Increases State employer contribution by 40.1%
 - An additional \$4.6 billion over the next 23 years (excluding amendments)
- The Retirement Committee did not have their actuary, Milliman, provide a financial analysis of this bill
- The Reason Foundation has aggressively challenged our actuary's numbers



HB 1040 - Exorbitant Costs



HB 1040 – DB Plan Closure

- Significantly amended in the House Appropriations Committee
 - State employee DB plan members with less than 5 years of service credit as of 1/1/25 have the option to move to the “defined contribution plan under this chapter”
 - Approximately 4,000 employees
 - It is not clear whether this means the current DC plan or the HB 1040 DC plan
 - PERS will transfer 100% of the member’s “actuarial present value of the eligible employee's accumulated benefit obligation”
 - Given that the Main PERS Plan is 65% funded, the plan will lose 35% with every transfer
 - State will contribute an extra \$3,333 per year for three years to each transferee’s DC account – potentially \$40 million in total
 - Waiting on the actuarial analysis to determine the total cost of this amendment
 - Tax counsel has stated that giving current DB plan members the option to join the new DC plan and elect a contribution rate is a violation of the Internal Revenue Code
- Passed House 77-13
- In front of Senate State and Local Government Committee, Judicial Wing Room 216, March 9th at 10:30 am.



“Best Practice” DC Plan?

- The current DC plan has a mandatory contribution rate for new employees of 15.26%: 7% employee and 8.26% employer
- The new DC plan only has a mandatory contribution rate of 9.26%: 4% employee and 5.26% employer
 - Employee must elect to contribute more, up to 7% employee and 8.26% employer
 - In Oklahoma, which has a similar, if somewhat better, DC plan, only 43% of employees elect to contribute more than the minimum
- “The qualified default investment alternative must include an in-plan annuity.”
 - We know of only one qualifying product, from TIAA
 - This requirement basically creates a poor cash balance plan, not a DC plan
 - Yet this is the reason that TIAA gives when it says the proposed DC plan is “best practice” – because it provides a *defined benefit-like benefit*



HB 1040 – Food for Thought

- ADEC increase doesn't happen until AFTER the next session – what might change?
- Interim study on “funding options and contributions by political subdivision” - change?
- Recruitment and retention
 - The percent of new employees that elected to join the DC plan from 2013-2017 when it was open and available to all new state employees – 2.87%
 - Only 2.36% of 20-somethings elected to join the DC plan at that time
 - When given the option to leave the DC plan and go back to the DB plan, 75% of people took it, even though they have to contribute 2% more
 - Current state employees strongly prefer a DB plan:

Based on the information provided, I prefer to have a defined contribution (DC) retirement plan rather than a defined benefit (DB) retirement plan.* *As stated earlier in this survey a DC plan is similar to the well-known 401(k) and a DB plan is commonly referred to as a pension.	3840	2.18	3%
Based on the information provide, I prefer to have a Defined benefit (DB) Retirement Plan rather than a Defined Contribution (DC) Retirement Plan.* *As defined earlier in this survey a DB is commonly referred to as a pension and a DC is similar to the well-known 401(k).	3858	3.95	42%

Source: 2022 HRMS Survey of Current State Employees

Average Rating

Percent that
“Strongly Agree”



SB 2239 – Maintain DB Plan, Open DC Plan

- One-time \$250 million cash infusion
- Increases employee contribution 1%
- Increases state and political subdivision employer contribution up to the ADC
 - A 4% employer contribution increase
 - 30 ½ year amortization of the unfunded liability (100% funded in 30 ½ years)
 - Adds less than \$1 billion in cost on a present value basis over 30 ½ years, including the cash infusion
- Allows new state employees to choose the DB or the (current) DC plan



HB 1321 – PERS Board Makeup/Health Plan

- If passed, HB 1321 would make two changes to NDPERS statutes that are problematic under the Separation of Powers doctrine of the North Dakota Constitution. See N.D. Legislative Assembly, et al. v. Burgum, 2018 ND 189.
 1. Removes five members of the NDPERS Board and replaces them with four additional legislators, bringing the number of legislators on the NDPERS Board to a total of six, and three Governor appointees, on an eleven-person Board.
 2. Inserts the Legislative Assembly into the decision-making process for the State's health plan.
- PERS would have to submit a bill to approve the Board's decision, which would have to pass both houses and be signed by the Governor before we could contract with the carrier
- PERS could only contract for a two-year period, and would have to go out to bid every biennium



HB 1321 – PERS Board Makeup/Health Plan

- The timing is extraordinarily difficult
- What happens if the Assembly refuses? We will not have time to re-bid the plan, and our participants could be without health insurance

Activity	Date/Time
NDPERS publishes Request for Proposal (RFP)*	June 1, 2020
Bidder Conference**	June 16, 2020 (9am – 11am CST)
Bidder questions (in writing) due	June 18, 2020 (5pm CST)
Proposals due	Wednesday, July 15, 2020 (5 pm CST)
Finalist presentations (if requested)	September 2020
NDPERS notifies finalist of intent to negotiate	November 2020
Bidder and NDPERS begin implementation	January 2021
Bidder begins providing services	July 1, 2021



Questions?



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