



**Third Meeting**  
**2009 Interim**  
**December 8, 2009**

**Room 412**  
**State Capitol Building**  
**Pierre, South Dakota**

### Tuesday, December 8, 2009

The third meeting of the Retirement Laws Committee was called to order by Chair, Representative Tim Rounds, at 8:05 a.m. (CDT) in Room 412 of the State Capitol Building.

The meeting was held with the following members present: Senators Corey Brown and Tom Nelson (Vice Chair); and Representatives Marc Feinstein, Noel Hamiel, Tim Rounds (Chair), and Manny Steele. Senators Gene Abdallah, Sandy Jerstad, and Kathy Miles and Representative Patrick Kirschman were excused.

Staff members present included: Annie Mehlhaff, Principal Fiscal Analyst, and Lisa Shafer, Legislative Secretary.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Minutes and Agendas.")

### **Approval of Minutes**

**SENATOR COREY BROWN MOVED, SECONDED BY REPRESENTATIVE MANNY STEELE, TO APPROVE THE SEPTEMBER 16<sup>th</sup> MINUTES. The motion prevailed on a voice vote.**

### **Opening Remarks**

**Representative Tim Rounds**, Chair, told the committee that the South Dakota Retirement System (SDRS) met last week and discussed the proposals that will be submitted during the upcoming legislative session.

### **South Dakota Retirement System Board of Trustees' Legislative Considerations**

**Mr. Rob Wylie**, Executive Director/Administrator for SDRS, distributed a handout entitled "SDRS Proposals for the 2010 Legislative Session". (**Document #1**) Mr. Wylie explained the four proposed changes will help the SDRS meet the minimum funding standard, 80% funded ratio, by reducing liabilities by \$429 million.

Retirees Back to Work. The first legislative proposal is to eliminate unanticipated costs to SDRS for the return to work of members who retire after eligibility for unreduced benefits. The

proposed change should make the system cost-neutral for SDRS. Mr. Wylie explained the recommended benefit changes which include:

- Three continuous calendar months minimum termination period;
- 15% benefit reduction during reemployment;
- Continued COLA elimination during reemployment;
- No second SDRS benefit;
- Member contribution to SRP;
- Employer contribution to SDRS; and
- Class B Public Safety Member Rehired as Class A,
  - No COLA elimination and no 15% benefit reduction during reemployment, and
  - All other provisions apply.

The recommended changes would meet the IRS termination of employment rules.

Mr. Wylie noted that 22% of state employees are eligible, or will be eligible, for full retirement benefits in 2009.

**Representative Marc Feinstein** asked about the reason for the three continuous calendar months minimum termination period. Mr. Wylie stated that the primary concern for the IRS is a full and complete termination, including benefits. Typically, employers pay one month in advance for insurance and an additional sixty days after the one-month prepaid insurance for COBRA. The three consecutive months does not start until the first day the retiree would be benefit eligible.

In response to Representative Feinstein's question about having workforce issues with the current unemployment rate, Mr. Wylie said that there is not a direct correlation between workforce and unemployment issues. Workforce issues vary from profession and people are not always trained in the area of job needs.

**Senator Corey Brown** asked if people will be grandfathered in if they retire between now and when the emergency clause takes effect in April. Mr. Wylie agreed and stated a concern that there was a balloon of people that took advantage of this opportunity with the prior changes in 2004.

**Senator Tom Nelson** inquired about the "no second SDRS benefit" for rehired retirees. Mr. Wylie told the members that the change in 2004 made retirees who come back to work grow a new benefit based on the current salary. This change was not revenue neutral, and therefore the retired members who come back to work contribute to a separate plan (similar to a 401K) that would be set aside until retirement.

Optional Spouse Benefit Legislation. Mr. Wylie told the committee that SDRS is recommending an adjustment to the contribution rate for the Optional Spouse Benefit from 1.2% to 1.5% of pay and to close the program to new enrollments. It was discovered that the current contribution rate is not adequate to cover the cost of the program and the recommended changes would nearly balance the program cost. Mr. Wylie noted that the issue will be studied more this summer.

In response to Senator Brown's and Representative Rounds' questions, Mr. Wylie said that if the legislation is passed, SDRS would need to come back to the Legislature to open the program to new enrollments. The study this summer will look at all members, and there should

not be a problem to stop new enrollments. The closure will help protect the program for situations where the benefits may not be paid for years.

Senator Brown asked about an estimate of additional revenue and savings from the recommended changes. Mr. Wylie said that there currently is a shortfall of about \$350,000. The revenue is projected to increase about 20%, which will cover most (\$250,000 - \$275,000) of the shortfall. Mr. Wylie noted that enrollment in the program is optional and participants may opt out if the rates are increased too much.

Corrective Action Legislation. Mr. Wylie informed the committee that this is the first time that SDRS is below the 80% funded status. To address this issue and bring the SDRS funded status back within actuarial balance, SDRS is recommending reducing benefits that exceed competitive practices. The recommended changes include:

- Eliminate first year pro-rated COLA and all other pro-rated benefits;
- Reduce PRO employer contribution refund from 75% to 50% for non-vested members and from 100% to 85% for vested members who terminate after July 1, 2010; and
- Index the COLA and base it on SDRS funded status.

The details of the recommended changes for the COLA are outlined on page 6 of Document #1. Mr. Wylie noted that the changes do not lower the benefit but slows down the growth of the benefit.

Mr. Wylie stated that changes for retirees back to work, optional spouse coverage, and corrective actions will be a \$400 million adjustment to the liabilities.

**Representative Noel Hamiel** expressed concern that if the SDRS funded ratio is less than 80% and the COLA is at 2.1%, there could be a negative impact on the fund. Mr. Wylie said that is possible and SDRS may have to address this issue again in the future, if needed.

Senator Brown requested that SDRS produce a chart predicting the status of the fund with and without the corrective actions for the next twenty years. Mr. Wylie responded that graphs were presented to the Executive Board last month that shows the expectation of the fund for twelve years based on a couple different scenarios. He will provide the charts to the committee.

Exclusive Benefit Rule. Another legislative proposal is to amend SDCL 3-12-54 to strengthen SDRS's "exclusive benefit" rule and to specifically prohibit "social investing" of member trust funds.

## Adjourn

**REPRESENTATIVE MARC FEINSTEIN MOVED, SECONDED BY SENATOR TOM NELSON, THAT THE COMMITTEE ADJOURN. The motion passed unanimously by a voice vote.**

The meeting adjourned at 9:12 a.m.

