

HB 1064

House Government and Veterans Affairs Committee January 8, 2015

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HB 1064 was submitted by the TFFR Board. The bill includes technical corrections which are required by federal tax law in order for TFFR to maintain its status as a qualified governmental plan. The bill does not make plan design changes, and was not submitted for funding improvement purposes.

In general, the bill removes all Internal Revenue Code (IRC) date references and adds “as amended” language to clearly indicate that future IRC changes are intended to be incorporated. According to TFFR’s legal counsel from the Attorney General’s Office and Legislative Council staff, Article X, Section 3, of the ND Constitution allows adoption by reference of federal income tax laws as amended in the future.

Section 1. NDCC 15-39.1-04 (10) Definitions: Eligible Retirement Salary

Provision relates to the maximum annual compensation limit that can be used in benefit calculations (\$265,000 in 2015). No active TFFR member currently has a salary large enough to be affected by this limit.

Section 2. NDCC 15-39.1-10(4) Eligibility for benefits

Provision relates to minimum distribution requirements requiring payment of retirement benefits at age 70.5 or termination of employment, whichever is later.

Section 3. NDCC 15-39.1-10.6 Benefit limitations

Provision relates to the Section 415 maximum annual benefit limit (\$210,000 in 2015). To date, no retiree’s benefit has exceeded the annual benefit limit.

Section 4. NDCC 15-39.1-20 Withdrawal from Fund

Provision provides that a member or a member’s beneficiary may elect to have an eligible rollover distribution paid to an eligible retirement plan as allowed under IRC regulations.

Sections 5 and 6. NDCC 15-39.1-24 (8) and (11) Purchase of additional credit

Provision provides for purchase of up to 5 years of nonqualified service credit and acceptance of eligible rollover distributions and transfers from eligible retirement plans as allowed under IRC regulations.

Section 7. NDCC 15-39.1-34 Internal Revenue Code compliance

Provision requires the board to administer the TFFR plan in compliance with various sections of the IRC and regulations as they apply to governmental plans.

Actuarial Consultant and Outside Tax Counsel Review

TFFR's actuarial consultant, Segal Company, has reviewed the bill. In their letter dated October 28, 2014, they noted the bill would not have a material actuarial cost impact on TFFR. They also stated the provisions of the bill do not appear to directly or significantly impact the benefits payable from TFFR.

Additionally, outside tax counsel (Ice Miller) was hired by TFFR to review plan statutes to determine whether any changes were necessary to comply with the U.S. Supreme Court ruling in *United States v. Windsor* relating to same-gender marriages and the definition of spouse for purposes of federal tax laws. Outside tax counsel advised TFFR that revising the IRC references to automatically update as the Code sections are amended was sufficient.

Summary

The Legislative Employee Benefits Programs Committee reviewed this bill (Bill Draft No. 140), and unanimously gave a favorable recommendation.

On behalf of the TFFR Board, we respectfully request that your Committee give a "do pass" recommendation on HB1064.

Thank you.