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Nebraska Retirement Systems Committee
January 24, 2017

[LB32 LB110]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Tuesday, January 24, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB32 and LB110. Senators present: Mark Kolterman, Chairperson; Brett Lindstrom, Vice Chairperson; Kate Bolz; Mike Groene; Rick Kolowski; and John Stinner. Senators absent: None.

SENATOR KOLTERMAN: We're going to start. We do have a quorum. There will be some senators coming in. Welcome to the Nebraska Retirement System Committee hearing. My name is Senator Kolterman. I'm from Seward and represent District 24 which consists of Seward, York, and Polk Counties. My committee members are Senator Brett Lindstrom to my left; Senator Mike Groene is absent; Senator Rick Kolowski is absent from Omaha; Senator Bolz is here from Lincoln, District 29; Senator John Stinner from Gering is here from District 48. My staff, committee legal counsel is Kate Allen to my immediate left. Katie Quintero is our committee clerk. And we have Bobby over here who is our page for the day. We're here today for the hearing on LB32 and LB110. The committee will take up the bills in the order posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. The committee members will come and go during the hearing; hopefully they'll come. We have to introduce bills in other communities and sometimes we're called away. I don't know if that's going to happen today, but I don't think it will. It's not an indication that we're not interested. It's merely part of the process. To better facilitate today's proceedings I ask that you abide by the following provisions. Please silence your cell phones. Those waiting to testify should come to the front of the room, take one of the front chairs or very close to that. We will start with proponent testimony, then opponent testimony, and finally neutral testimony. And please complete a sign-in sheet and hand it to the clerk before you testify. Please state your name and spell your name before you testify. And please keep your testimony concise and try not to repeat what somebody else has covered. If you have a handout, please provide eight copies. And if you raise your hand, the page will pick them up. And if you need some copies made we can take care of that. If you don't plan to testify but you want to submit written report...written testimony that's fine as well. With that, we're going to start with LB32. Since it's my bill, I'm going to let Senator Lindstrom run the hearing. [LB32]

SENATOR LINDSTROM: And we also have Senator Kolowski representing District 31... [LB32]

SENATOR KOLOWSKI: 31. Thank you. [LB32]

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SENATOR LINDSTROM: ...out of Omaha. We will now open the hearing on LB32. Senator Kolterman...Chairman Kolterman, excuse me. [LB32]

SENATOR KOLTERMAN: Thank you, Senator Lindstrom. Good afternoon. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. As I said earlier, I represent Legislative District 24 and I'm here today to introduce LB32. The changes in this bill are at the request of the Nebraska Public Employees System and Senator Watermeier who has a county in his district that raised concerns about the current payment process for county prior service annuities. The county prior service annuity was created when the county employees retirement plan was enacted back in 1973. Prior to 1973, each county determined whether or not to offer a retirement plan and, if a plan was offered, it determined the provisions of the plan. When all the counties were brought into the statewide county plan, in order to give county employees some service credit for those county employees who had worked at least ten years in the county prior to the enactment of the statewide county plan, a prior service annuity was created. It requires a county to pay the lesser of \$1, or the employee's compensation for the last completed 12 months of prior service divided by 2,400. It is estimated that currently there are approximately 50 to 100 members or retirees in only 12 counties that are still eligible for this prior service annuity benefit. Currently, many counties are required issued monthly checks for just over \$10 which is an administrative burden. LB32 changes the calculation of the amount and frequency of the county prior service annuity payments in the County Employees Retirement Act. The bill removes the annual formula calculation and gives a county authority to pay the annuity either monthly, quarterly, semiannual, or annually which provides a flexibility for each county determine how often make these payments. The bill also eliminates Public Employees Retirement Board's obligation to provide information to county and state employees on state and federal income tax consequences of the various annuities or retirement benefit options prior to the employee's selection of any of the retirement options. PERB does not advise members on tax consequences and thus requested the elimination of this language. Phyllis Chambers and Orron are both here today and can respond to any questions regarding that. With that, I would open up to questions. [LB32]

SENATOR LINDSTROM: Thank you, Senator Kolterman. Any questions from the committee? Seeing none, thank you. We'll now have proponents. [LB32]

PHYLLIS CHAMBERS: Good afternoon, Senator Kolterman, Senator Lindstrom, and members of the committee. For the record, I'm Phyllis Chambers, P-h-y-l-l-i-s C-h-a-m-b-e-r-s, and I'm the Director of the Nebraska Public Employees Retirement Systems. I'm here to testify in favor of LB32. The PERB and NPERS supports this bill. We would like to see the elimination of the language saying that NPERS will provide federal and state income tax consequences on these various annuities and retirement benefit options. As Senator Kolterman said in his opening, we do not give tax advice. We do recommend that the members seek tax advice from their tax preparers, from their accountants, or their investment advisers before they take a distribution or

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select an annuity option and to make sure they understand what their tax liabilities will be when they start taking their retirement. But we think this language might be misinterpreted to think that we are supposed to be giving them tax advice and we don't want that to happen. Also, we do support the changes to the provisions for the county prior service annuity. We frequently get questions from the counties asking if they can give...pay these annuities out annually or semiannually rather than monthly because many of the checks are less than \$10 or \$15, \$20 a month. And so they would like to make it more efficient for them to be able to pay these payments out to these members. And also, as Senator Kolterman said, there are very few of these left but we do get questions about it. And they really are not part of NPERS at all. The money is coming from the counties, not from the NPERS retirement systems. I'd be happy to answer any questions. [LB32]

SENATOR LINDSTROM: Thank you. Senator Kolowski. [LB32]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. About how many are in the program, could you give us an idea? [LB32]

PHYLLIS CHAMBERS: For the prior service annuity? [LB32]

SENATOR KOLOWSKI: You said it wasn't many, but I just wanted to round out figures on it. [LB32]

PHYLLIS CHAMBERS: Well, I was thinking it was around 200. And I think, Senator Kolterman, you said it was 100? [LB32]

SENATOR KOLTERMAN: (Inaudible.) [LB32]

PHYLLIS CHAMBERS: In ten counties with approximately that many people that are eligible for it. [LB32]

SENATOR KOLOWSKI: Are there people in contiguous counties that have worked in maybe both counties, you know, back and forth... [LB32]

PHYLLIS CHAMBERS: They have. [LB32]

SENATOR KOLOWSKI: ...or over the years? [LB32]

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PHYLLIS CHAMBERS: They have. [LB32]

SENATOR KOLOWSKI: Or three counties or whatever it might be? [LB32]

PHYLLIS CHAMBERS: Right. And we've actually had last year--Kate is smiling--but last year we had two counties question who was responsible to pay the service annuity because the person worked in one county for ten years and then moved to the other county. So they did their career in county service, but they were just questioning who would be responsible for the annuity. [LB32]

SENATOR KOLOWSKI: Thank you. [LB32]

SENATOR LINDSTROM: Any other...Senator Groene. [LB32]

SENATOR GROENE: Now you've got me intrigued. How did that come out? [LB32]

PHYLLIS CHAMBERS: Well, the person...the county that had them in the prior service before they became...into the... [LB32]

SENATOR GROENE: The last employer? [LB32]

PHYLLIS CHAMBERS: The first employer was responsible. [LB32]

SENATOR GROENE: And why was that? [LB32]

PHYLLIS CHAMBERS: Because they were the ones that had them when they were in prior service annuity. [LB32]

SENATOR GROENE: All right. Thank you. [LB32]

PHYLLIS CHAMBERS: So they incurred the obligation when they joined the county plan. [LB32]

SENATOR LINDSTROM: Any other questions? Seeing none, thank you very much. [LB32]

PHYLLIS CHAMBERS: Thank you. [LB32]

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SENATOR LINDSTROM: Other proponents? Welcome. [LB32]

BETH BAZYN FERRELL: Thank you. Senator Lindstrom, members of the committee, for the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and I'm appearing in support of LB32. We'd like to thank Senator Kolterman and NPERS for bringing this issue together and for introducing this bill. Even though you've heard not a lot of members are involved in this, it would provide some flexibility for counties and some ability to make the recordkeeping work easier for those counties. Be happy to answer questions. [LB32]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Senator Stinner. [LB32]

SENATOR STINNER: Is this a decreasing payment stream? Is that why we're down to ten? Or has this been a level payment stream over 20 years? [LB32]

BETH BAZYN FERRELL: I am not sure. I would imagine that someone else might be better able to answer that question. I'd be happy to try to find out. [LB32]

SENATOR STINNER: My thoughts were this. If it was a decreasing one, you to get to a certain level, you just pay it out so you don't have to continue to send out checks for \$10. [LB32]

BETH BAZYN FERRELL: And I'm not sure, but I'd be happy to find out. [LB32]

SENATOR LINDSTROM: Thank you. Any other questions? Senator Groene. [LB32]

SENATOR GROENE: Thank you. How many...is this like the old defined benefit packages that went out in the '80s and some of the cities are still paying some of those folks off? How many are left and when will this finally just disappear? [LB32]

BETH BAZYN FERRELL: As I understand it, there are somewhere between 100-200 people that this would still affect based on the prior testimony. It started with...it was about 1987 I believe maybe that the retirement...okay. [LB32]

SENATOR GROENE: Was it old defined benefit plans? [LB32]

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BETH BAZYN FERRELL: Well, up until the time that counties were required to participate in the state plan if they're under a certain population, they were able to have whatever kind of plan they wanted. And so this kind of deals with those plans. [LB32]

SENATOR GROENE: All right. Whatever they were. [LB32]

BETH BAZYN FERRELL: Yeah. And I'm not sure how that would compare to what the cities had at that point. [LB32]

SENATOR GROENE: Thank you. [LB32]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you very much. Other proponents? Seeing none, any opponents? Seeing none, any neutral testifiers? Seeing none, Senator Kolterman, would you like to close? [LB32]

SENATOR KOLTERMAN: I'll try and address a couple of the questions that have been raised. First of all, appreciate you being here, Senator Groene. [LB32]

SENATOR GROENE: I am hungry. (Laughter) [LB32]

SENATOR KOLTERMAN: I know you are. As I indicated in my opening, there are approximately 12 counties that have this and approximately 50-100 people. This was established in 1972, 1973. So that's 45 years ago. Most of these people are deceased and moving off. It is a level payment. Somebody that was on the PERB Board asked me about this this summer as we were visiting. His mother was getting a check of \$10 a month and said why don't just write a check one time a year? That's what this bill tries to do. She's in her 90s and it's not like they need this...it's not a big issue to anybody. But it's a nuisance to the counties because if they have them, they're ending up paying out \$10 a month. And it's just a nuisance. So this intends to get rid of that problem. It will eventually, these hundred people or so, are going to eventually be deceased and it will wash off the books. The other side of it is just like every other retirement plan, the PERB is not asked...they're not responsible for giving tax advice and that's built into this bill as well. It's simple that...while they have some fiduciary liabilities as the PERB, it's not giving advice or investment advice either. With that, I hope that answers your questions. Clean up more than anything. [LB32]

SENATOR LINDSTROM: Any final questions for Senator Kolterman? One last thing, I apologize. (Exhibit 1) There was a letter of support from Johnson County for LB32. Seeing no

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other final questions, that will end the hearing on LB32. We will now open the hearing on LB110. Senator Kolterman. [LB32]

SENATOR KOLTERMAN: Good afternoon again. My name is Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n. I represent Legislative District 24 and I'm here today to introduce LB110. LB110 deletes the requirements for political subdivisions to file annual reports on defined contribution plans after December 31, 2017. After this date, political subdivisions are no longer required to file reports with the Public Employees Retirement Board, nor is the board required to create the form for the filing of these annual reports. Beginning of December 31, 2018 and each December 31 thereafter, only subdivisions with defined benefit plans are required to file annual reports. The annual reports must be filed electronically with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee on a form created by the Auditor of Public Accounts. And I believe my legal counsel Kate has passed out copies of that report for your...The Auditor of Public Accounts is required to post on its website all of the annual defined benefit reports submitted by the political subdivisions. These changes will continue the oversight of the Nebraska Retirement Systems Committee and the Auditor of the defined benefit plans in Nebraska and make the information accessible to any member of the public who would like to view this information. With that, I would entertain questions. [LB110]

SENATOR LINDSTROM: Any questions from the committee? Seeing none, thank you, Senator Kolterman. We will now have proponents. [LB110]

ORRON HILL: Good morning, Chair. Good morning, Chairperson Kolterman, acting Chairperson Lindstrom, and Retirement Systems Committee members. My name is Orron Hill, spelled O-r-r-o-n H-i-l-l. I am the legal counsel for the Nebraska Public Employees Retirement Board and the Nebraska Public Employees Retirement Systems. I'll refer to them as the PERB and NPERS respectively. I'm here to testify on behalf of the PERB and NPERS as a proponent to LB110. Under the current law, NPERS on behalf of the PERB collects and stores the annual reports for the named retirement systems. Neither the PERB nor NPERS use the forms for any purpose related to the plans that we administer. Further, neither the PERB nor NPERS have been tasked with reviewing the reports or providing any additional information to this committee. Also, under the current law a copy of these reports is sent to the Auditor of Public Accounts and they are granted the discretion to prepare a review of those reports should they feel it appropriate. The bill, in short, eliminates the PERB and NPERS's duty to be a storehouse of these reports and gets it into the hands of those individuals who would more likely use them for the benefit of the state of Nebraska and those plan members. For those reasons, we would support this bill. And subject to your questions, that concludes my testimony. [LB110]

SENATOR LINDSTROM: Thank you very much. Any questions? Senator Kolowski. [LB110]

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SENATOR KOLOWSKI: Thank you. Is this sort of a cleanup bill of a number of things that have been pending for quite a while? Would you describe it as that? [LB110]

ORRON HILL: We would describe this as a cleanup bill, Senator. We have been keeping track of the records. And again, we haven't had a purpose for them. They don't function for us. And so we would prefer to see these reports in the hands of those individuals who would be able to use them for the betterment of the citizens of the state. [LB110]

SENATOR KOLOWSKI: And how many would be in that pool, how many people? [LB110]

ORRON HILL: I don't know the exact population of all the different retirement plans that are covered. But you can see in the bill all those that were covered. We would have to query the specific retirement plans. But again, we don't have that information. [LB110]

SENATOR KOLOWSKI: Okay. Thank you. [LB110]

ORRON HILL: You're welcome. [LB110]

SENATOR LINDSTROM: Thank you. Any other questions? Senator Groene. [LB110]

SENATOR GROENE: So you're talking about NRDs, cities... [LB110]

ORRON HILL: Yes, Senator. Yes. [LB110]

SENATOR GROENE: Everybody but counties because they're... [LB110]

ORRON HILL: Yes, Senator. [LB110]

SENATOR GROENE: ...and schools. What about Nebraska Public Power, are they...? [LB110]

ORRON HILL: They are not one of the plans that we cover. Again, that the statutes would look at...the new bill would cover all the defined benefits as I understand it from reading the bill myself. Any of those that have defined contributions as I understand it would no longer be required to report. But under the current language there is monitoring of all the different political subdivisions that are named in the various sections of the statute. [LB110]

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SENATOR GROENE: So they're going to report to the Auditor now because the other ones that are responsible for auditing those plans when they do the subdivisions... [LB110]

ORRON HILL: They will report to the Auditor as well as to this committee. They will file electronic reports. [LB110]

SENATOR GROENE: Thank you. [LB110]

SENATOR LINDSTROM: Thank you. Any final questions? Seeing none, thank you very much. Other proponents? [LB110]

DEANN HAEFFNER: Senator Lindstrom, committee members, my name is Deann Haeffner, D-e-a-n-n H-a-e-f-f-n-e-r. I'm the assistant deputy state auditor. I'm here testifying in support of the LB. The State Auditor's Office currently receives numerous different types of local reports from local governments including budgets, audits. So it is not uncommon that we would receive local government audit...reports. We also make those available on our website. So this would just be another function of receiving and putting things on our website to make those available to the public. So we don't foresee any issues with this LB. And that concludes my testimony. [LB110]

SENATOR LINDSTROM: Thank you. Any questions from the committee? Senator Bolz. [LB110]

DEANN HAEFFNER: Yes. [LB110]

SENATOR BOLZ: Thank you. And I can ask Senator Kolterman if you're not the right person to ask this question. But I'm just curious why we would do away with the reporting for the defined contribution versus the defined benefit. What's the distinction? Why would we require reporting for one and not for the other? [LB110]

DEANN HAEFFNER: I think I would refer to the senator on that. [LB110]

SENATOR BOLZ: Okay. [LB110]

DEANN HAEFFNER: As far as we're concerned, whichever type it is, is not a problem to be filed with us. [LB110]

SENATOR BOLZ: Okay. I'll hold that question for the Chairman. [LB110]

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DEANN HAEFFNER: Okay. [LB110]

SENATOR LINDSTROM: Thank you. Any other questions? Seeing none, thank you. [LB110]

DEANN HAEFFNER: Thanks. [LB110]

SENATOR LINDSTROM: Other proponents? (Exhibit 1) I do have one letter in support from the League of Municipalities. We'll now move to opponents. Seeing none, any neutral testifiers? Seeing none, Senator Kolterman. [LB110]

SENATOR KOLTERMAN: Thank you. Good question, Senator Bolz. I'll give you a stab at it. Defined contribution plans are different than defined benefit plans. In a defined benefit plan you have to have adequate funding. You have to have actuarial reports. You have to have investment results. You have assumed rates and all those things play into that. They have to be monitored a lot closer simply because we're there to protect the people that are in the plans. When you have a defined contribution plan, it's merely a function of making the contributions and making sure that the laws are being applied. And so as...we don't get involved with any of the investments on any of those plans either. So there's just a lot more to a defined benefit or even a cash balance than there would be defined contribution type of a plan. [LB110]

SENATOR BOLZ: Very good. [LB110]

SENATOR KOLTERMAN: Does that answer your question? [LB110]

SENATOR BOLZ: That helps. I mean I guess what I'm hearing you say is that the oversight of the defined benefit plan is pretty important because of all of the factors that you articulated, and that that oversight isn't quite as intense of a need for the contribution... [LB110]

SENATOR KOLTERMAN: And in a defined benefit plan you've got actuarial studies and an actuary is really responsible for letting us know where the plan stands on an annual basis. [LB110]

SENATOR BOLZ: Thanks. [LB110]

SENATOR LINDSTROM: Thank you. Any final questions? Seeing none, thank you, Senator Kolterman. That will end the hearing on LB110 and that will end the hearings for today. Thank you very much. [LB110]