

Senate Executive Departments and Administration Committee

Cameron Lapine 271-2104

HB 130, relative to administration by the retirement system of certain health care premium deductions.

Hearing Date: April 21, 2021

Time Opened: 9:50 a.m.

Time Closed: 10:15 a.m.

Members of the Committee Present: Senators Carson, Reagan, Ricciardi, Cavanaugh and Prentiss

Members of the Committee Absent: None

Bill Analysis: This bill clarifies the deduction by the retirement system of a member's or beneficiary's health care premium costs as determined by the department of administrative services.

Sponsors:

Rep. Schuett

Rep. P. Schmidt

Rep. McGuire

Rep. S. Pearson

Who supports the bill: Marty Karlon (NHRS), Charlie Arlinghaus (Department of Administrative Services), Cassie Keane (Department of Administrative Services), Joyce Pitman (Department of Administrative Services), Representative Dianne Schuett (Merrimack – District 20), and Representative Jeff Goley (Hillsborough – District 8).

Who opposes the bill: Nicholas Houhoulis.

Who is neutral on the bill: None.

Summary of testimony presented in support:

Representative Dianne Schuett

Merrimack – District 20

- Representative Schuett said that she was requested by the New Hampshire Retirement System (NHRS) to introduced HB 130 to resolve an inconsistency in statute.
- Rep. Schuett said that HB 130 deals with a deduction for certain retirees for health care allowances. She said that HB 130 clarifies if NHRS or the Department of Administrative Services (DAS) does the deduction.
- Rep. Schuett said that she presented an amendment to HB 130 during the House Executive Departments and Administration hearing to put the DAS deduction first but that committee voted unanimously to keep the original bill as the legislative intent. She said that that

committee also removed language that could lead to deductions that exceed the medical premiums.

- Rep. Schuett said that the subject matter of HB 130 is a confusing concept and Mr. Karlon and Commissioner Arlinghaus could answer technical questions.

Charlie Arlinghaus

Commissioner, DAS

- Commissioner Arlinghaus testified with Deputy Commissioner Cassie Keane and Joyce Pitman, Director of Risks and Benefits at DAS.
- Commissioner Arlinghaus said that New Hampshire, through DAS, administers a retiree health benefit plan. He said that funding is often an issue and if there is not enough money, benefits have to be cut. He said that there have been significant changes to the revenue stream over recent years.
- Commissioner Arlinghaus said that there was a budget crisis in 2001, leading to battles between the House and Senate over the budget. He said that he specifically remembered former Senator Jack Barnes railing on the Senate floor about the importance of funding.
- Commissioner Arlinghaus clarified that there is a medical subsidy for political subdivision employees but that is entirely unrelated and not the issue at hand, despite the naming. He said that the medical subsidy is not employees' money; it has always been money that the State pays for and then the State gets back. He said that the subsidy to the retiree benefit plan is based on head count.
- Commissioner Arlinghaus said that DAS sends \$11 million to NHRS, which then "changes the color of the money" and sends it back to DAS. He said that the money goes over as 40% general fund money and comes back as 50% general fund money. He said that when the subsidy was created it covered an \$8 million budget hole; now that is more like a \$10 million or \$11 million budget hole.
- Commissioner Arlinghaus said that in 2009, some retirees were assessed a premium contribution. He said when the language was written, it said "in addition to and notwithstanding" any other premiums. He said that this was in place because the money was meant to be income for the plan. He said that it was not an issue for many years.
- Commissioner Arlinghaus said that recently NHRS has found the language confusing. He said that the DAS interpretation is that the funds should be in addition to and notwithstanding.
- Commissioner Arlinghaus said that NHRS and DAS both presented legislation and asked the Attorney General to research the issue. He said that the Attorney General's Office produced a 7-page memo on the history of the issue and the interpretation of the statute. He said NHRS did not agree with the memo's interpretation.
- Commissioner Arlinghaus said that there is parallel language in HB 2, which matches the proposed amendment Commissioner Arlinghaus had sent to the Committee.
- Commissioner Arlinghaus said that the goal is to support the retiree plan and the benefits of the plan. He said that the language of the statute is the language of the statute and the meaning is the meaning.
- Commissioner Arlinghaus said that the medical subsidy is meant to be sent on a per head basis and should be sent in its entirety. He said that it was written by lawyers and meant to be comprehensive. He said it was written at a time when New Hampshire was procuring benefits in a different way but, if you go through the language, it is relatively clear. He said that revenue streams should support what they are meant to support.
- Commissioner Arlinghaus said that there is no room for interpretation in the amendment that DAS has offered. He said that the point of a good law is to eliminate interpretative issues.

- Commissioner Arlinghaus said that he would share the memo that the Attorney General's Office provided if the Committee was interested.
- Commissioner Arlinghaus said that DAS is billing 621 retirees for the retirement benefits. He said that many people question why they are being billed; he said that they are being billed because NHRS will not do the deduction anymore. Commissioner Arlinghaus said that they have to be billed under the statute and their health benefits will be terminated if they do not pay. He said that it has come close but no one's health benefits have been terminated to this point. He said that DAS is not staffed for billing, it is not a function DAS performs, and DAS does not have a billing office. He said that DAS is currently billing a \$300 million health benefit plan by hand to 621 retirees.
- Commissioner Arlinghaus said that the budget is counting on money being available so that there is no need to make dramatic changes to benefits.
- Senator Reagan asked how this would affect individual retirees' net pay.
 - Commissioner Arlinghaus said that HB 130 would not affect net pay, as it only affects who sends the bill for it. He said that 621 retirees are currently getting a bill from DAS, while the rest are getting it deducted from their benefits.
- Senator Reagan asked if HB 130 would let NHRS make the deduction and pay what DAS is now running through a billing cycle.
 - Commissioner Arlinghaus said that that was correct for 621 people. He said that the language clears up any misinterpretations on whether the premium is in addition to and notwithstanding. He said that it was in-line with the 2001 revenue plan for the benefit.
- Speaking for a second time, Commissioner Arlinghaus said that from a State budgetary standpoint, the DAS amendment protects revenue streams. He said that there is a difference between the two approaches from NHRS and DAS. He said that there would be a growing budgetary impact if the revenue streams are not protected.

Summary of testimony presented in opposition: None.

Neutral Information Presented:

Marty Karlon

NHRS

- Mr. Karlon said that NHRS does not have a position on HB 130. He said that NHRS had asked Rep. Schuett to sponsor clarifying language on a disagreement between NHRS and DAS on the billing for a retiree premium for a NHRS medical subsidy.
- Mr. Karlon said that the medical subsidy is not part of the core pension benefit but is a supplemental benefit that is an offset to insurance premium costs from a former employer. He said that the benefit was set up for Group II members in the late 1980s and Group I members were added in the 1990s but the benefit has been closed to new members going forward. Mr. Karlon said that there is a finite amount of members eligible.
- Mr. Karlon said it has always been NHRS practice to pay the subsidy to the employer before assessing deductions to the premium. He said this year, a situation arose where the cost of the retiree insurance for Medicare eligible retirees was below the full subsidy amount. He said NHRS felt that it did not have the statutory authority to pay for 10% of the premium, which has been in statute since 2012. He said DAS has been doing monthly billing for 500 to 600 retirees.
- Mr. Karlon said that clarification was needed and they felt that the General Court was the best vehicle for clarity. He said that NHRS provided two pieces of draft legislation, one that put the

precedence before the subsidy and one that allows a bill to be sent out and then reimbursement to DAS.

- Mr. Karlon said that HB 130 puts NHRS in a position to bill all retirees the same premium under the law. He said that NHRS had been working with DAS for some time but could not reach an agreement and needed a bill to settle the situation.
- Senator Carson asked if Mr. Karlon was aware of a potential draft amendment sent to the Committee by Commissioner Arlinghaus.
 - Mr. Karlon said he was not aware of it.
- Senator Reagan asked if either method adds or subtracts from the unfunded liability of the NHRS trust fund.
 - Mr. Karlon said that medical subsidy accounts are 401(h) trusts, outside of the pension trust. He said that they do not affect the unfunded liability and employer rates fund the medical subsidy on a pay-as-you-go basis.
- Speaking for a second time, Mr. Karlon said that he is aware of the HB 2 language. He said that he believed that the HB 130 language would allow NHRS to do all billing and the language in HB 2 is supplemental and not conflicting with HB 130.
- Senator Reagan asked what the least expensive way was to accomplish the deduction.
 - Mr. Karlon said that if DAS is not set up to manage the deduction, it would take a one-time reprogramming for NHRS. He said that he did not have an estimate on the cost but clarified it would be one-time and NHRS already manages the deduction for some retirees.
- Senator Reagan asked if this was the only thing that there is a deduction for.
 - Mr. Karlon said that many prefer to have deductions taken out of their pension directly. He said NHRS usually reimburses insurance plan administrators.

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Date Hearing Report completed: April 22, 2021