

**DENNIS P. WILLIAMS**  
STATE REPRESENTATIVE  
First District



HOUSE OF REPRESENTATIVES  
STATE OF DELAWARE  
LEGISLATIVE HALL  
DOVER, DELAWARE 19901

COMMITTEES  
Appropriations, Chair  
Joint Finance, Chair  
Judiciary  
Corrections  
Public Safety & Homeland  
Security

**Appropriations Committee**  
Meeting Minutes  
May 12, 2010

Chairman D. P. Williams called the meeting to order at 1:10 p.m. Members present included Representatives Miro, Thornburg, Mitchell, George, and J. Johnson. For a list of guests present, please see attached.

After calling the meeting to order, Chairman Williams chose to address **HB 128 AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE EMPLOYEES PENSION PLAN** and recognized Rep. J. Johnson, the bill's sponsor. Rep. J. Johnson explained that the bill permits law enforcement officers and probation and parole officers to retire after 25 years of service without penalty.

Rep. Mitchell asked if the bill included the people listed on the fiscal note. David Craik, from the state pension office, said that the fiscal note included all the people under Title 11, Chapter 19 definition. Rep. Mitchell asked how much of their salary goes towards their pension now. Mr. Craik responded that 3% of their salary does. He explained that this amendment includes officers employed by the Department of Correction because they seemed to be excluded originally.

Rep. George asked if this legislation takes into account the fact there might be a deluge of people retiring. Rep. Johnson explained that he was told that there would be 100 correctional officers retiring if this legislation was enacted. He also said that he is not sure about the other professions. Mr. Craik expressed that these professions can leave after 25 years and incur a penalty. This legislation just takes away that penalty.

Terry Spence, former Speaker of the House, wanted to clarify that there is only a possibility of 100 people retiring if this legislation goes through. Mr. Craik articulated that this legislation throws people into this plan that were not originally in it. He also explained that there has been a Senate bill every year to do this for all state employees that has never been passed. Rep. George asked if the IRS would let them carve out these groups. Mr. Craik said the IRS would not let them do this.

Rep. Williams asked if this legislation is illegal. Mr. Craik stated that it can be done, but there can be consequences from the IRS. Rep. Mitchell asked what the consequences would be. Mr. Craik said if the plan is found to not qualify then the contributions that the state puts in will be taxable income and the investment returns will be taxable income.

Mr. Spence expressed his support of this legislation and wants the bill to move out of committee with the promise that that pension office will ask the IRS if this will cause problems for the State of Delaware before it is debated on the floor. Mr. Spence explained that these professionals have the right to have this debated by the General Assembly.

Rep. George asked if the fiscal note attached to the bill takes into consideration what could happen with the IRS. Mr. Craik said it does not. Rep. George asked what kind of costs this could cause. Mr. Craik said that this would cause the employer cost to be higher than the assumption. Rep. George respectfully asked for a revised fiscal note. She also made it very clear that she was in support of this legislation.

Russ Larson, Controller General, said that it is not illegal to pass this legislation. If they did this without creating a separate plan, it would have great consequences on other state employees, but it is still legal. Rep. George stated that legislators would not want to do that. Mr. Larson agreed, but his point was that it was still legal.

Rep. D. P. Williams asked for a ball park figure of how much this legislation would cost. Mr. Craik was not sure. Rep. Miro asked Mr. Craik to go into a little more detail about item five of the fiscal note. Mr. Craik said that the total cost to the pension fund and increased health insurance costs was \$75,000 dollars per retiree. Rep. Miro expressed his concerns about the cost of the first year because if 100 people retire in the first year the cost is significant. Rep. Miro asked Rep. J. Johnson if there had been any kind of survey done to see how many people might retire. Rep. J. Johnson said that no survey had been done, but he was told by that there would be a 100 correctional officers retiring. Rep. Miro stated there is a significant discrepancy here because the fiscal note only shows the costs if 10 people retire.

Mr. Spence tried to clarify again that the potential number of retirees is only a possibility. He also stated that the FOP is behind the legislation 100%. Mr. Spence also explained that down the road when the officers see that people are retiring after 25 years without penalty, the officers will be willing to put in 3% of their salary to help off-set the cost to the state. He also expressed that this legislation will offer more jobs for people who want to pursue this line of career. Mr. Spence encouraged the committee again to release this bill.

Rep. Miro stated his support of the legislation, but is worried about what the potential cost could be. He asked Mr. Craik if this legislation would cause significant erosion to the reserve. Mr. Craik explained that the state has 35,000 active state employees. If 10 or 100 go, it would not have an impact. He went on to say that the employer pension rate would be increased to make up for what would happen in the first year.

Rep. Mitchell stated his support for the legislation because this is the last group of law enforcement personnel in Delaware that still has a 30-year pension requirement. He expressed that something needs to be done, but it needs to be done the right way.

Rep. D. P. Williams stated that the Department of Correction has had quite few suicides in the past years. He also discussed his concerns about the costs. Rep. D. P. Williams explained that he did not want to pass the bill and not be able to fund it. He also agreed with Rep. Mitchell about this being done the right way.

Rep. Thornburg said that no one can debate the merit of this bill, and she fully supports it. She expressed that she wants to get the legislation right before putting it on the floor.

Mr. Spence requested that the committee take some time and within the next couple of weeks review the cost and have it worked out a little better.

Rep. J. Johnson motioned to table the bill. Rep. Mitchell seconded the motion to table. The bill was respectfully tabled.

Lastly, Chairman D. P. Williams chose to address **HB 343, AN ACT TO AMEND TITLE 18 OF THE DELAWARE CODE RELATING TO HEALTH INSURANCE CONTRACTS** and recognized Rep. Brady, the bill's sponsor. Rep. Brady explained that this act assures prosthetic parity for Delaware citizens who have experienced limb loss by requiring all individual and group health insurance policies provide orthotic and prosthetic devices at a reimbursement rate equal to the federal reimbursement rate for the aged and disabled.

Dan Ignaszewski, from the Amputee Coalition of America, spoke in support of the bill. He explained that there are about 4,500 individuals in Delaware that are amputees. Right now federal programs do cover prosthetics, but with this bill they are asking the state to cover them on par with the federal model of 80/20. This bill will make prosthetics much more affordable. There are cap restrictions placed within insurance companies, which affect people from being able to get the equipment they need. Mr. Ignaszewski gave an example of an insurance company that offered just one limb per life time. He also explained that the most common cap is \$2,500.

Rep. Miro asked if there was a \$2,500 cap in Delaware. Mr. Ignaszewski explained that it was just the most common one. Rep. Miro asked if the cap was based on the federal government. Mr. Ignaszewski clarified that the \$2,500 cap was what the insurance companies offered. He went on to say that Medicare/Medicaid cover 80% of the cost and the individual pays the remaining 20%. Rep. Miro asked why there was a fiscal note attached to this bill if it addressed the private companies. Mr. Ignaszewski explained that this bill is for the state employee plan.

Rep. Miro asked Mr. Larson if Delaware's state plan covers prosthetics. Mr. Larson explained that the state plan does, but there are caps. He also stated the typically with any legislation that passes that changes these kinds of benefits, the state will adopt it.

Rep. Thornburg reiterated that what this bill does is bring the state up to par with federal levels.

Rep. Brady explained the fiscal note. He stated that there would be no costs for 2011 but there would be for 2012 and 2013. Mr. Larson explained that actually if the state decided to adopt this legislation, then they would have to pick up the full cost.

John Horne, of Independence Prosthetics – Orthotics Inc., gave an example of a patient he had whose insurance did not cover the cost for his limbs. He wanted to do this to highlight the function of what they are trying to do with this bill.

Mr. Ignaszewski explained that 19 states have already passed similar legislation. Some examples of the states are: Arkansas, California, Colorado, and New Jersey. He also discussed how some states have

commissioned studies to see how the cost would affect them. The results show that it would cost the state an average of 14 cents per individual.

Rep. Brady talked about the scientific advantages that have been made and how the individuals who need to use prosthetics can not afford to. He also discussed veterans' needs of this equipment.

Rep. Miro asked if veterans were under a separate plan. Rep. Brady explained that unfortunately some veterans have been turned away.

Gloria Price, from the Amputee Support Group, said she advocates amputees to live their lives to the fullest, and the way for them to be able to do this is by getting a prosthetic arm or leg. She stated that she does not like to but advises people to get on Medicaid and Medicare because this shifts the costs off the insurance company and puts it on the tax payers.

Stephen Fine, from Independence Prosthetics and Orthotics, Inc., explained his battle to obtain the equipment he needed to keep working as full time. He said that once the parity bill was passed in New Jersey, he was able to get a limb and that this bill was the best thing that could happen to him.

Rep. Thornburg explained how her stepfather needed a limb and could not get one. She went on to say that he died of a heart attack and because of her personal experience, she was very much in support of this bill.

Rep. Thornburg moved to release the bill. Rep. Mitchell seconded the motion. The bill was released from committee on a 1-5-0 vote.

Chairman D. P. Williams adjourned the meeting at 2:01 p.m.

Respectfully submitted by,

Morgan DiGravina