PUBLIC EMPLOYEES' RETIREMENT BOARD
100 N Park, Rm 201
Helena MT 59620

Board Legislative Committee Minutes
Tuesday, January 29, 2013

Chairman Terrence Smith called the PERB Legislative Committee meeting to order at 1:05 p.m. on Tuesday, January 29, 2013. Board Members that participated in the meeting:

Committee Members:
Terrence Smith, Chair
Scott Moore
Dianna Porter
Timm Twardoski

Staff:
Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Barbara Quinn, Fiscal Services Bureau Chief
Hollie Koehler, Internal Auditor
Kate Talley, Attorney
Patty Davis, Member Services Bureau Chief
Jenny Weigand, Education Supervisor
Kris Vladic, Program Specialist
Joshua Crone, Executive Assistant

Public:
Mike O'Conner, MPERA
Sheryl Wood, MACo
Tom Schneider, MPEA
Doug Neil, MSFA
Kurt Bushnell, MSFA
Diane Fladmo, MEA-MFT

OPEN MEETING

I. Roll Call

Roll call was taken. Chairman Terrence Smith and Members Dianna Porter, Scott Moore, and Timm Twardoski participated via telephone. Board members absent: Bob Bugni, Darcy Halpin and Melissa Strecker.

II. Public / Member Comment

There was no public comment.

III. Approve Minutes – January 22, 2013

The minutes from the January 22, 2013 Legislative Committee meeting were presented.

Motion: *Chairman Terrence Smith made a motion to approve the January 22, 2013 minutes as presented.*

Second: *Member Scott Moore*
No public comment.
Vote: 4/0

IV. Executive Director Report

a. Review Introduced Legislation

1. HB 96 & Fiscal Note – Provide actuarial funding for PERS, GWPORS, SRS, HPORS

HB 96 provides for the improvement of the actuarial funding status of certain public employee retirement systems by temporarily increasing employer contributions to the Public Employees' Retirement System(PERS), the Highway Patrol Officers 'Retirement System(HPORS), the Sheriffs' Retirement System(SRS), and the Game Wardens' and Peace Officers' Retirement System(GWPORS). This bill was heard on the morning of January 29 by the Joint Select Committee on Pensions. Representative Franke Wilmer introduced the bill.

Roxanne Minnehan then summarized the Joint Select Committee hearing of January 29, 2013. Ms. Minnehan was questioned by Senator Jent regarding the Board meeting its fiduciary responsibility in supporting this bill. Senator Jent also inquired whether the increase in the employer contribution would bring the affected retirement systems to actuarial soundness. Ms. Minnehan responded that it would not. Senator Arthun also asked whether the other systems would be actuarially sound and Ms. Minnehan answered that they would not.

Senator Lewis stated he would like to hear all the bills first, and then possibly combine some of the ideas from them into a new bill. Senator Lewis further stated that the Pew Foundation would be giving a presentation on February 12 or 14, 2013. LC0655, sponsored by Representative Regier, provides funding for pension debts and moves all new hires to the Defined Contribution Retirement Plan, is ready for him to pick up. House Bills 95, 175 and 234 will be heard by the Joint Select Committee on Pensions on January 31, 2013.

2. HB 234 – Revise definition of compensation in MPORS & FURS

Roxanne Minnehan reported that HB 234 has been referred to the Joint Select Committee on Pensions. During the interim, the police had an actuary perform a study on the proposal and the Board supported the concept. Prior to going before the Joint Select Committee on Pensions on January 31, 2013, Ms. Minnehan asked the Board for a final position now that HB 234 is in final bill form and the firefighters have signed on.

Mike O' Conner stated that when the fiscal note was done, it was noted that an amendment would be needed saying that lump sum payments of that compensation prior to retirement similar to what exists in the PERS system.

Doug Neil advocated Board support of HB 234, the firefighters' are advocating for a level playing field to the Legislature. They would like to be in line with other systems, such as PERS.

HB 234 revises the definition of compensation used for calculation of retirement contributions and benefits under the Municipal Police Officers' Retirement System (MPORS) and the Firefighters' Unified Retirement System (FURS). The definition of compensation will now include compensatory leave, sick leave, annual leave, banked holiday time, or a leave of absence before any pretax deductions allowed by state or federal law are made. The unfunded actuarial liability will increase $28 million for MPORS and $12 million for FURS. The compensation will increase which in turn will cause an increase in employer contributions. The budget office has inquired as to what the increase in benefit will be.

The amortization period will decrease for both and the normal cost will increase. For MPORS the aggregate compensation used to calculate benefits is anticipated to increase by 19.3% and FURS aggregate compensation is anticipated to increase by 10.2%. The reason for the significant difference is that MPORS members historically have more overtime.

Motion: *Chairman Terrence Smith made a motion to support HB 234 with the amendment discussed.*
Second: *Member Dianna Porter*
No Public Comment.
Vote: ***4/0 Approved***

3. HB 282 – Constitutional amendment regarding public employee retirement systems

Sponsored by Representative Kirk Wagoner, HB 282 forbids the State's biennial general fund expenditures to increase from one biennium to the next beyond inflation unless the public retirement systems are funded on an actuarially sound basis. This would require a two-thirds vote of all the members of the legislature. It would also be put to the public in the form of a referendum in November 2014.

Mike O' Conner stated that the bill was more of a statement than anything else, meaning that the actuarial funding of the systems need to be addressed. It was noted that there is already a Constitutional provision for this. This bill does not actually appropriate money to address the shortfall.

Motion: *Member Dianna Porter made a motion that the Board remains neutral on HB 282.*
Second: *Member Scott Moore*
No Public Comment.
Vote: ***4/0***

4. HB 311 – Revise what educational and retirement savings is exempt from civil judgment.

Introduced by Representative Tom Jacobson, HB 311 clarifies and expands the types of retirement and educational savings accounts that are exempt from the execution of a civil judgment.

Melanie Symons is in support, in that it is good to have Federal law moved into Montana state law. This bill is primarily clarifying language for what would be exempted from judgment. The spirit of this bill reflects Federal law.

Motion: *Member Dianna Porter made a motion that the Board be in support of HB 311.*
Second: *Member Timm Twardoski*
No Public Comment.
Vote: 4/0

5. SB 82 & Fiscal Note – Requires PERS new hires to be in DCRP

Introduced by Senator Dave Lewis, SB 82 would place all new hires in the DC plan, allow certain DB members to switch to the DC plan, and require the Governor to include in the executive budget the funding necessary to amortize the unfunded liability of the DB plan. This bill was heard by the Joint Select Committee on Pensions on January 29, 2013.

Ms. Minnehan summarized what occurred at the committee meeting. Senator Lewis does not believe that a 7.75% ROR, which is needed by the DB plans, is realistic. Through reducing the GABA and other ideas, the Senator believes the unfunded liabilities can be paid. Further, we have 30 years to pay the UAL once the DB plans are closed. Senator Lewis argues public employees should not be any different than private employees, who largely do not have DB plans. Dan Villa spoke in opposition, based on cost. Mike O' Conner addressed the committee on the Board's behalf, stating DC plans are more expensive than DB plans. He also noted further drawbacks to SB 82. AARP; Tom Schneider, MPEA and AFSCME; Diane Fladmo, MEA-MFT Research Director; Leo Berry, Helena attorney; Sheryl Wood, MACo; Mark Murphy, MCAA; and Rebecca Barker, Teamsters Union all spoke in opposition to SB 82.

Mike O' Conner believes most employers would prefer to have employees in DB plans. Employees pay 7.9% of the cost, leaving the employer portion of normal cost at 2.02%. Chairman Terrence Smith similarly expressed how inexpensive the employer contribution rates for employees are under this plan.

Member Dianna Porter asked about a bill on a public referendum on pension reform by Senator Lewis. There is a bill draft request for a referendum on pension reform. LAWS lists Senator Dee Brown as the sponsor. Melanie Symons tried to speak with Senator Brown, but there was no interest in speaking on that matter at that time from Senator Brown. Chairman Terrence Smith asked about the procedures related to a referendum and whether it could be vetoed by the Governor.

Having already voted to oppose SB 82 in the Legislative Committee meeting of January 8, 2013, no further action was taken by the Board.

No Public Comment.

b. Review Unintroduced Legislation

1. LC 0112 – Eliminate pension eligibility for legislators

Requested by Senator Edward Walker (R), LC0112 will be introduced shortly in the Senate and will prohibit new legislators from receiving membership service or service credit in any public employee retirement system.

Chairman Terrence Smith does not believe that it is the right path for this Board to exclude people who work for the state. Melanie Symons very strongly urges the Board to support the bill. Teachers' Retirement is not in support of this bill. Mike O' Conner said optional membership should always be disallowed, that it creates qualification issues with the IRS, especially with legislators. Member Dianna Porter could go either way in supporting or opposing the bill. Mike O' Conner reiterated that this was only a bill draft and that he really think the Board take a position on early versions of legislation. Ultimately, no action was taken on this bill draft

2. LC0337 – Generally revise highway patrol retirement system laws

Introduced by Representative Steve Gibson (R), LC0337 is an attempt to aggressively address the unfunded actuarial liabilities in HPORS. Through a mixture of increasing employee contributions by 2% for every increased employer contribution of 1%, reducing the GABA by 1.5%, and requiring a ten year vesting period, LC0337 will be sent to the actuary once it becomes a final bill draft.

This proposed legislation is coming forth from the Association of Montana Troopers. The agency wishes to fix the problem of unfunded actuarial liabilities now and not have to revisit the issue in the future.

3. LC0655 – Provide funding for pension debts, all new hires to DC plan

Sponsored by Representative Keith Regier (R), this bill draft would change the Board from 7 to 11 members and would define the composition of the board itself. Further, all new hires would become a part of the defined contribution plan with increased employee contribution rates.

4. LC0732 – Revise legislator membership in the public employee retirement system

Requested by Sue Malek (D), this bill draft has been delivered to her.

5. LC1124 – Assess a fee for PowerPoint presentations to fund retirement system

Requested by Jim Keane (D), this bill draft requires that any PowerPoint presentation made to the legislature be accompanied by a fee of $250 for a presentation of up to 5 minutes in length and $500 for a presentation more than 5 minutes in length. The fee must be deposited in the state special revenue fund and must be appropriated to the pension trust funds.

6. Return to discussion of LC0655 & January 29 Joint Select Committee meeting

Ms. Minnehan conveyed that 6 bills would be heard by the committee next week by Senator Lewis. LC 0655 has been read through many times by MPERA staff and changes have been submitted. It

differs from SB 82 in that it includes all pension funds. Mike O' Conner expressed concern that it suspends the GABA for everyone, including retirees. Chairman Terrence Smith stated that it appears to violate existing contract rights for state employees. At over 150 pages in length, the bill redefines the Board membership and creates one huge defined contribution plan. Mike O' Conner reiterated that this was still only a bill draft and that we have a good relationship with the bill drafters, helping them draft bills that are free of structural problems.

7. SB 193 – Increase game warden pay with increased nonresident wildlife conservation fee

Sponsored by Larry Jent (D), SB 193 has been referred to the Fish & Game Committee. MPERA has been asked for a fiscal note on this, but cannot begin until FWP comes back with what those salary increases would be. Chairman Terrence Smith stated there was not enough information to take a position, at least until the fiscal note is completed.

c. Other

Ms. Minnehan stated that the Joint Select Committee on Pensions meetings are held Tuesday and Thursday mornings from 8:30 a.m. to noon for the remainder of the session. Consequently, she asked the Board if they were willing to start their monthly meeting in the afternoon, instead of 8:30 am. Member Porter anticipated an accelerated Board meeting, to which Ms. Minnehan replied that she had the tentative adjournment at 3pm in the agenda.

Motion: *Chairman Terrence Smith made a motion to amend the Board meeting schedule to begin at noon for the duration of the Legislative Session and that there may be a quorum of the Board at the Joint Select Committee on Pensions on those Thursdays.*
Second: *Member Scott Moore*
Mike O' Conner clarified that the Select Committee meets at 8:30am.
Vote: ***4/0***

Ms. Minnehan stated that the 2012 CAFR has been mailed out to the Board. The Legislature will receive their copies when the printer is finished with the job.

Ms. Minnehan stated that HB 175 and HB 95 are up for a hearing Thursday, January 31 by the Joint Select Committee on Pensions. HB 175 would add dispatchers into SRS.

Public Comment: Sheryl Wood presented the Board with a quandary regarding HB 175. If HB 175 is supported, we are adding more people to an already unsound system. If HB 175 is opposed, we are not supporting our dispatchers and the stress they are under. She then asked the Board what its thought process was on supporting a bill that goes against the fiduciary duties of the Board.

Chairman Terrence Smith explained that Board is supporting HB 175 because it is working to strengthen the Sheriffs' system and that it was an equity issue for the Sheriffs' employees.

Public Comment: Sheryl Wood then asked how the Board could endorse a plan that caused further actuarial unsoundness given that SRS is in a worse financial position than in 2009 or 2011. Continuing to support this bill as the system continues to decline places us in an ethical quandary

and defies the basic constitutional premise of a duty to the actuarial soundness of the retirement plans.

Chairman Terrence Smith then responded that it is best to go for funding in gradual phases. Given that it is a long term system, things change from year to year. The prudent path to actuarial soundness is for employers to gradually increase contributions, so that the immediate cost is not put on them in one year. This gives employers time to adjust to the increased cost and also allows time to see what the investment markets are doing.

Member Scott Moore concurs.
Member Dianna Porter concurs.
Member Timm Twardoski concurs.

Member Dianna Porter stated that the Sheriffs themselves wholeheartedly endorsed including the dispatchers in SRS.

d. Bill Status

1. HB 53 will be heard on February 1, 2013
2. HB 80 was tabled in committee
3. HB 91 and HB 122 both passed 2nd reading and 3rd reading in the House
4. HB 95 will be heard on January 31, 2013
5. HB 96 was heard January 29, 2013
6. HB 97 will be heard February 4, 2013 by the House State Administration Committee
7. HB 105 will be heard February 4, 2013 by the House State Administration Committee
8. HB 234 was referred to the Joint Select Committee on Pensions
9. HB 282 was referred to the Joint Select Committee on Pensions

Ms. Minnehan then concluded her remarks concerning the status of pending bills. Member Dianna Porter then thanked MPERA for the legislative guide books that were sent out.

ADJOURNMENT:

There being no further business before the Legislative Committee, Chairman Terrence Smith adjourned the meeting at approximately 2:43 p.m.