

PUBLIC EMPLOYEES' RETIREMENT BOARD

100 N Park, Rm 201 ~ Helena MT 59601

Legislative Committee
Tuesday, March 5, 2013, 1:00 pm

MINUTES

Chairman Terrence Smith called the Public Employees' Retirement Legislative Committee meeting to order at 1:05 p.m. on Tuesday, March 5, 2013.

Committee Members:

Terrence Smith, Chairman
Scott Moore
Darcy Halpin
Dianna Porter
Timm Twardoski
Bob Bugni

Staff:

Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Barbara Quinn, Fiscal Services Bureau
Chief
Patricia Davis, Member Services Bureau
Chief (via telephone)
Hollie Koehler, Internal Auditor
Kate Talley, Legal Counsel
Jenny Weigand, Education Supervisor (via
telephone)
Joshua Crone, Executive Assistant

Public:

Mike O'Connor, MPERA
Tom Schneider, MPEA, AFSCME
Diane Fladmo, MEA-MFT
Beth Long, GWRS
David Senn, TRS
Ed Cleary, MSFA
Kurt Bushnell, MSFA

I. Roll Call

Roll call was taken. Chairman Terrence Smith and Members Dianna Porter, Timm Twardowski, Darcy Halpin and Scott Moore participated via telephone. Member Bob Bugni was present. Member Melissa Strecker was excused.

II. Public / Member Comment

There was no public comment.

III. Approve Minutes – February 19, 2013 and February 26, 2013

The minutes from the February 19, 2013 Legislative Committee meeting were presented.

Motion: *Member Dianna Porter made a motion to approve the February 19, 2013 minutes as presented.*

Second: *Member Scott Moore*

No public comment.

Vote: *5/0, Member Bob Bugni abstained*

The minutes from the February 26, 2013 Legislative Committee meeting were presented.

Motion: *Member Dianna Porter made a motion to approve the February 26, 2013 minutes as presented.*

Second: *Member Scott Moore*

No public comment.

Vote: *5/0, Member Bob Bugni abstained*

IV. Executive Director Report

a. Review Introduced Legislation

1. HB 329 – Prohibit state employees from being lobbyists

HB 329, primarily sponsored by Representative Randy Brodehl (R), provides that a state employee is prohibited from lobbying on state time on state agency policy matters before a legislative standing committee.

Roxanne Minnehan, Executive Director, stated that HB 329 passed the House 52 to 46 and has been transmitted to the Senate. Dan Villa, Budget Director, was asked what he thought of the bill; he believes it is a bad bill. HB 329 has 16 sponsors.

Melanie Symons, Chief Legal Counsel, added that “state employees” are defined as either permanent or temporary.

Member Dianna Porter asked what the rationale for this bill was; whether there had been a state employee who had not worked out so well.

Ms. Minnehan replied that last session she had testified against Representative Brodehl’s bill to add non firefighters to fire departments. Representative Brodehl was not happy with Ms. Minnehan.

Chairman Smith asked whether this bill would preclude MPERA staff from testifying on Board bills.

Ms. Symons stated that staff could go in as informational, but what would happen is that if the issue of unfunded liabilities was brought up, staff would likely be asked to sit down. Staff would have to be very careful about how to testify.

Chairman Smith asked whether this bill limited free speech; is this bill constitutional?

Ms. Minnehan replied Dan Villa stated it was unconstitutional.

Public Comment: *Tom Schneider, MPEA, AFSCME, said this bill has been around the Capitol for 40 years. This bill has been brought up many times before.*

Member Porter opposes the bill based on constitutionality and that it suppresses expertise. She is in favor of the Board opposing HB 329.

Member Halpin inquired whether there was still time to testify against the bill. Ms. Minnehan stated that it would be possible to testify against it in the Senate.

Motion: *Member Scott Moore made a motion to oppose HB 329.*

Second: *Member Darcy Halpin*

No public comment.

Vote: *6/0*

b. Review Unintroduced Legislation

1. LC 1776 (SB 376) – Executive budget proposal to include actuarial funding for pension systems

Requested by Senator Larry Jent (D), SB 376 revises the actuarial funding for the public employee retirement systems; requires that any shortfall in the annual required contributions to ensure that public employee retirement systems are actuarially sound must be included in the Governor's budget.

SB 376 was introduced in the Senate on March 5, 2013.

Chairman Smith asked how SB 376 correlates with the Governor's bill, HB 454.

Ms. Minnehan stated that SB 376 requires the Governor to fund any retirement system shortfall in the budget. HB 454 returns PERS to actuarial soundness by 2019; the shortfalls in the intervening years would have to be made up by the Governor under SB 376.

Mr. O'Connor stated that this bill would not take effect until the next budget cycle in 2015. SB 376 would not affect the current Governor's budget.

Ms. Minnehan stated that Dan Villa was not fond of the bill; the bill does not do enough. The bill does not increase the contributions or provide the funding that HB 454 does.

Ms. Symons reported that SB 376 transfers local liability to the state.

Mr. O'Connor added that Senator Jent is an attorney. He is frustrated by the inaction of the legislature and drafted SB 376 to force the legislature to fund the pension systems. Six years have passed without paying the actuarially required contributions; the legislature has ignored them.

Member Porter opts to remain neutral. Member Bugni views SB 376 as a turf war between the executive and legislative branch; he is unsure what the Board can contribute to it. Chairman Smith prefers to remain neutral. Member Twardoski prefers to remain neutral.

Motion: *Member Dianna Porter made a motion to remain neutral on SB 376*

Second: *Member Darcy Halpin*

No public comment.

Vote: 6/0

c. Other Legislative Action items

None.

d. Stable Value RFP Reconsideration

Patricia Davis, Member Services Bureau Chief, believes that it would be in MPERA's best interest to not do a Request for Proposal (RFP). We need to have PIMCO as our Qualified Professional Asset Manager (QPAM), contract with other wrap providers on our behalf. The biggest problem in the current contract with Transamerica is the "Evergreen Clause"; this is unusual in the stable value environment. MPERA wishes to avoid this; it devalues the fund, as the book and market value would merge. To avoid the "Evergreen Clause" in the future, we will not go through the state procurement process.

Ms. Davis stated it is important to be the owner of the assets. If we were to go with an insurance company, we would be an unsecured creditor with very little security.

Member Bugni stated that currently the assets are with a custodian, so if something happens to the manager or the wrapper, we have access to the assets. We can move them to a different manager and get them wrapped again. Ms. Davis is trying to insure that we do not face an unsecured creditor loss with an insurance company.

Ms. Davis stated that our stable value fund is going to change; how the fund is structured will change. If we cannot find a single wrap provider, we might have to make significant changes to our State Street accounts. Our stable value fund could look more like a mutual fund; the value of the fund would be struck every day.

Member Bugni stated that the wrap providers are trying to take the least risk as

possible. Since there are a lot of “moving parts” here, this is the best place to start by having PIMCO go out and talk to other wrap providers.

Motion: *Member Bob Bugni made a motion to not post an RFP for the Stable Value Fund.*

Second: *Member Dianna Porter*

Public Comment: *Tom Schneider stated that as an EIAC Committee member, he would support the motion. It is the best way to start the process.*

Vote: *6/0*

e. Bill Status Reports

1. HB 53 – Revise SAVVA statutory duties – *No Position*
2. HB 80* – Authorizing peace officer status for corrections criminal investigators – *Neutral*
3. HB 97 – Cap highest/final average compensation in MPERA retirement systems – *Support*
4. HB 175 – Include dispatchers in the SRS – *Support*
5. HB 234 – Revise definition of compensation in MPORS & FURS – *Support with amendment*
6. HB 282* – Constitutional amendment regarding public employee retirement systems – *Neutral*
7. HB 311* – Revise what educational and retirement savings is exempt from civil judgment – *Support*
8. HB 336 – Generally revise HPORS laws – *Neutral*
9. HB 338 – Provide funding for pension debts, all new hires to DC plan – *Oppose*
10. HB 382 – Provide coal tax funding for actuarially unsound retirement systems – *Support*
11. HB 454 – Public funding for the PERS-DBRP – *Support*
12. HB 461 – Increase pension for certain volunteer firefighters – Relief Assns – *Neutral*
13. HB 476* – Add cost of living adjustment for volunteer firefighters – *Oppose*
14. HB 482 – Generally revise laws related to the BOI to create a state bank – *Oppose*
15. HB 532 – Revise income tax using a flat tax rate and a tie to federal taxable income – *Neutral*, unless impacts IRS qualification
16. SB 82 – Require PERS new hires to be in DC plan – *Oppose*
17. SB 193 – Increase game warden pay with increased nonresident wildlife conservation fee – *Neutral*
18. SB 227* – Eliminate pension eligibility for legislators – *Oppose*
19. SB 261* – Require legislator election each term concerning participation on PERS – *Oppose*
20. SB 333 – Establish cash balance benefit tier in TRS & PERS for new hires – *Oppose*
21. SB 353* – Establish qualifications for PERB/TRB – *Oppose*

*Tabled and or missed deadline for General Bill Transmittal

f. Board Directives to Staff – remainder of session

Ms. Minnehan asked if the Board had any great ideas, strategies, or suggestions going forward into the second half of the legislative session.

Member Bugni suggested MPERA get the participants to help. Sending out an alert and getting members involved could help prevent bad legislation from moving forward.

Member Porter supports the use of the Executive Director's blog on the MPERA website to reach out to members.

Chairman Smith asked Jenny Weigand, Education Supervisor if she had any ideas about getting our membership to help in promoting good legislation.

Ms. Weigand stated that newspaper editorials would be good. We could also solicit help on Facebook from our members, asking them to be our voice.

Member Porter suggested finding members who are willing to be quoted in news releases speaking up on behalf of the pension system.

Ms. Weigand added that there would be upcoming Lunch and Learns with Ms. Minnehan and Ms. Symons. Hopefully, there will be a greater turnout than earlier in the session. Also, it would be great if members spoke up and said how great their pensions are to them.

Member Moore stated it would behoove the Board at this juncture in the legislative session to be quick and act decisively.

Member Bugni stated that should legislation come up quickly in the next few weeks, it is good that Ms. Minnehan and President Moore will be keeping in touch via telephone. After all, the President represents the Board. If President Moore needs something from the Board, he can come to us.

Chairman Smith asked Tom Schneider and Mr. O'Connor what the Republican leadership was looking for in regard to pension reform.

Mr. O'Connor stated that the bills that have merit will come out of committee so that they have time to meet the deadline for transmittal of appropriations bills. "The Republicans realize they have to address the actuarial shortfall. Whatever legislation arises will address the shortfall. What that will be, I do not know yet. They are holding their cards pretty close. I would suspect by the end of the session, there would be a combination bill put together with the solution."

g. Other Legislative Discussion Items

Ms. Minnehan stated the hearing on HB 97 went pretty smoothly in the House Joint Select Committee on Pensions. Senator Lewis stated that the Committee would be doing something about “spiking,” but was unsure whether HB 97 would be the vehicle. In speaking with Mr. Villa on March 5, 2013, it was suggested to Ms. Minnehan that future 125 plans be disallowed. Mr. Villa suggested that an amendment be drafted to HB 97 that would allow all existing 125 plans to remain but disallow any new plans.

Member Moore commented that an amendment should not come from the Board. Member Porter concurred with Member Moore.

Member Moore added that this issue has been discussed ad nauseum. The Board has spoken in the past. If the Governor or a committee wishes to make an amendment to HB 97, that is fine, but such an amendment should not come from the Board.

Motion: *Member Scott Moore made a motion to not propose an amendment regarding the 125 plans.*

Second: *Member Darcy Halpin*

Public Comment: *None*

Vote: *6/0*

Ms. Minnehan stated that SB 333 was heard on March 5, 2013 by the House Joint Select Committee on Pensions. Senator Arthun spoke in support of his sponsored bill. Many spoke in opposition to the bill, including David Senn, TRS; Mike O’Connor, MPERA; Tom Schneider, MPEA, AFSCME; Diane Fladmo, MEA-MFT; Kirk Miller, School Administrators of Montana; Dan Rask, MSSA; Mark Murphy, MCAA; and Jim Smith, MSPOA.

Member Bugni asked whether the employee contribution rates would remain the same as the currently are. He then asked if the employer contribution rates would change.

Mr. O’Connor said that in PERS, the employee contribution rate is 7.9% and the employer contribution rate is 7.17%. With SB 333, an employer match would happen at age 60, sending the employer contribution up to 7.9%. Somewhere along the line, the difference is going to have to be made up between the 7.9% and the 7.17% contribution rate. The actuary noted that that the shortfall in the DB plan would double in 30 years; this is an unintended consequence. This cash balance plan would apply to PERS and TRS.

Member Bugni asked if it was likely that a committee bill would be constructed.

Mr. O'Connor stated that there would not be enough time to draft the bill and get it out. The House will be spending much time on the general appropriations bills starting on March 11, 2013. There is not a lot of time left.

Member Bugni believes Senator Lewis will come out with his own bill.

Public Comment: Tom Schneider announced the House passed HB 336 95 to 3. He asked what that will do with this whole thing.

ADJOURNMENT:

There being no further business before the Legislative Committee, Chairman Smith adjourned the meeting at approximately 2:30 p.m.

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