PUBLIC EMPLOYEES' RETIREMENT BOARD

100 N Park, Room 201
Helena MT 59601

Board Legislative Committee Minutes
Tuesday, March 19, 2013

Chairman Terrence Smith called the PERB Legislative Committee meeting to order at 1:05 p.m. on Tuesday, March 19, 2013. Board Members that participated in the meeting:

Committee Members:
Terrence Smith, Chair
Scott Moore
Darcy Halpin
Bob Bugni
Dianna Porter
Melissa Strecker
Timm Twardoski

Staff:
Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Barbara Quinn, Fiscal Services Bureau Chief
Patricia Davis, Member Services Bureau Chief
Kate Talley, Legal Counsel
Jenny Weigand, Education Supervisor
Joshua Crone, Executive Assistant

Public:
Mike O'Connor, MPERA
Tom Schneider, AFSCME, MPEA
Diane Fladmo, MEA-MFT

OPEN MEETING

I. Roll Call

Roll call was taken. Member Bob Bugni was present. Chairman Terrence Smith and Members Dianna Porter, Darcy Halpin, Melissa Strecker, Timm Twardoski and Scott Moore participated via telephone. Board members absent: none.

II. Public / Member Comment

None.

III. Approve Minutes – March 12, 2013

The minutes from the March 12, 2013 Legislative Committee meeting were presented.

Motion: *Member Dianna Porter made a motion to approve the March 12, 2013 minutes as presented.*
Second: *Member Scott Moore*
No public comment.
Vote: ***7/0***

IV. Executive Director Report

a. Legislative Action Items

SR 22

Sponsored by Senator Ron Arthun (R), SR 22 confirms the Governor's appointees to the Public Employee Retirement Board. Members Bob Bugni and Melissa Strecker, appointed by Governor Schweitzer, would be confirmed.

Roxanne Minnehan, Executive Director, stated SR 22 will be heard on March 20, 2013 by the Senate State Administration Committee. Senator Arthun has asked for biographicals on the two appointees. The bios were delivered to Senator Arthun electronically on March 19, 2013. Members Bugni and Strecker may be called to testify before the committee.

Chairman Smith stated that the Board consensus was that Members Bugni and Strecker are supported; no vote is necessary.

HB 454

Ms. Minnehan stated HB 454 has two amendments. Unsuccessful calls have been placed to Tim Burton, Governor Bullock's Chief of Staff, and Dan Villa, Budget Director, enquiring whether the Governor is still in support of HB 454 as amended. Kevin O'Brien, Governor Bullock's Deputy Chief of Staff, explained to Ms. Minnehan that Mr. Villa is the point person on HB 454.

Mike O'Connor stated there are two different amendments to HB 454 added by two legislators:

- The first amendment addresses the GABA for new hires hired after July 1, 2013. If the amortization period is over 25 years, then the 1.5% GABA would need to be reduced by 0.1% for each year that the amortization period is over 25 years.
- The second amendment addresses all members, both active and retired. If a system's liabilities are less than 90% funded, the GABA is reduced to 1% for a member hired before July 1, 2007. For members hired on or after July 1, 2007, but before July 1, 2013, the GABA is reduced to 0.5%.
- If a system is at least 90% funded, the Board is authorized to raise the GABA to as much as 3.0% for members hired before July 1, 2007, so long as the funded ratio does not drop below 85%. For members hired on or after July 1, 2007, but before July 1, 2013, the Board is authorized to raise the GABA to an amount between 0.5% and 1.5%.

Mr. O'Connor added we received HB 454 updates for coal tax revenue estimates.

Barbara Quinn, Fiscal Services Bureau Chief, explained that due to SJ 2, sponsored by Senator Bruce Tutvedt (R), contributions from coal tax revenue available for HB 454 decreased by approximately $2 million. There are no changes in the new fiscal note for FY 2014 as amended from the old fiscal note, but for the reduction in coal tax money.

Mr. O'Connor stated that the actuary was asked when a 90% funded ratio would be achieved for PERS. The actuary determined the plan would be 90% funded in 2024. The actuary was also asked to determine the effect of increasing the GABA from 1.0% to 1.5% for those people hired prior to July 1, 2007 and increasing the GABA from 0.5% to 0.75% for those hired on or after July 1, 2007 but before July 1, 2013. The actuary determined that the funded ratio would decrease by 3%. Members hired after July 1, 2013 would not be affected by the amendment.

Melanie Symons, Chief Legal Counsel, clarified the amendments:

- The people who now get 3.0% annual increases in the GABA would get 1.0%
- The people who now get 1.5% annual increases in the GABA would get 0.5%

Member Bugni enquired whether the 1.0% increase in employee and employer contribution would melt away quickly.

Mr. O'Connor confirmed that if the amortization period were to fall below 25 years, the increased contribution rates would be eliminated; this would occur by 2014.

Member Moore asked if the severance clause remained in HB 454.

Mr. O'Connor replied affirmatively. He added the only other two retirement system funding bills are HB 338 and SB 333, neither of which funds the DB plan.

Member Moore explained he did not like HB 454 as amended, but it is the only remaining bill that shores up the DB plans.

Ms. Symons asked whether the fact that HB 454 is the only bill funding the DB plans is enough to make the Board support legislation which very much violates contract rights.

Members Bugni and Halpin stated their opposition to HB 454 as amended was due to the decrease of the GABA.

Member Moore asked what the courts were likely to hold should the bill be litigated.

Ms. Symons stated that the legislation would likely be struck down given its violation of contract rights.

Member Porter stated that HB 454 is the best we are going to get. The other two funding bills, HB 338 and SB 333, are very bad bills. HB 454 has some Republican support; it is important for the Board to think strategically as well.

Member Bugni stated he will oppose HB 454 because it is bad policy to support anything that violates the contract right—especially with the GABA. The GABA affects retirees and existing workers who are going to be retiring; the bulk of the funding for the DB plan is coming at the expense of the GABA.

Member Strecker stated she is in agreement with Members Bugni and Halpin; the Board is here to look out for our stakeholders and this is not a good policy to endorse.

Public Comment: *Tom Schneider, AFSCME, MPEA, stated that a real issue should be made that the employer/employee contribution is going to drop off so quickly. These contributions were the main source of funding for both the Board's bill as well as the Governor's bill to begin with. To turn this thing around and now fund the unfunded liability out of the GABA is a totally different direction. From my standpoint, I intend to make an argument about amending that somehow in the bill and I'd be happy to hear anybody's ideas. It seems that we would be better off to have a time-certain on increased contributions rather than the trigger that we currently have that disappears in a two year period.*

Member Moore suggested that these amendments are a well thought out strategic move to get the Board to oppose this bill.

Public Comment: *Diane Fladmo, MEA-MFT, commented she was not so sure the committee was trying to be strategic. The legislators were trying to get the bill out of committee; amending the GABA was the only way to move the bill.*

Mr. O'Connor added the majority of the members of the Joint Select Committee on Pensions were looking for language that reduced the GABA; the legislators insisted on that.

Motion: *Member Dianna Porter made a motion to support HB 454 as amended.*
Second: *Member Scott Moore*
Public Comment: *Mr. Schneider added he believes the game plan is that they don't think it can withstand a court test. They just want to get this bill through; the only way they can get this bill through is to put all of this into it so that it can get the votes to get out of the House. We think the Senate may take a little different view when it gets to the Senate; there may be a chance for some amendments there.*
Vote: ***3/4, Motion Fails***

Roll Call:	***Chairman Smith***	***Nay***
	Member Moore	***Aye***
	Member Twardoski	***Aye***
	Member Bugni	***Nay***
	Member Strecker	***Nay***
	Member Halpin	***Nay***
	Member Porter	***Aye***

Chairman Smith stated the Board opposes HB 454 as amended. It might be helpful to speak with the sponsor and Representative Rob Cook (R), author of one of the amendments, to find out if there is any flexibility with these amendments.

Member Bugni stated it would be nice for Mr. O'Connor to have discussions with the Governor and see what they might say about it.

Mr. O'Connor added it was necessary to speak with the Governor's office as HB 454 is the Governor's bill.

HB 338

Mr. O'Connor explained HB 338, sponsored by Representative Keith Regier (R), converts all members into a DC plan. Two amendments were added by the Joint Select Committee on Pensions.

- The first amendment, by Representative Regier, states rather than suspend the GABA entirely; it would be reinstated once all plans are 100% funded, including TRS.
- The second amendment, by Representative Regier, states if HB 338 is litigated and the GABA provision found to be unconstitutional, the funding mechanism is eliminated. The GABA is reinstated for JRS since the plan is 100% funded.

Ms. Quinn stated there is less revenue coming into the plan because the coal tax revenue has been revised downward. There will be a savings for employers, since they will not be paying as much. When PERS is funded within 25 years, there is a rate reduction for the employers. The employers have a savings over the current plan. There is less money contributed into the plans compared to the first fiscal note.

Chairman Smith stated he opposed the bill as originally written and remains in opposition to it as amended.

Member Porter declared HB 338 was a bad bill to begin with and the amendments failed to improve it.

Motion: *Member Dianna Porter made a motion to oppose HB 338 as amended.*
Second: *Member Darcy Halpin*
No public comment.
Vote: ***7/0***

SB 333

Mr. O'Connor explained SB 333, sponsored by Senator Ron Arthun (R), affects TRS and PERS, turning these plans into a cash balance system. Two amendments were added by the Joint Select Committee on Pensions.

- The first amendment is to reduce members' guaranteed interest rate which is credited to their account from 4.5% to 4%.
- The second amendment is to allow members to receive a vested cash balance if under 60 years of age. Members age 60 or greater have the option of annuitizing the cash balance.

- The third amendment addresses the reemployment of retirees. If a retiree goes back to work, their annuity payment is terminated. The amendment does not address what occurs when the member retires a second time.

Ms. Minnehan reported that SB 333 was passed 12 to 0 by the committee. It will be heard on March 25, 2013 by the Senate State Administration Committee.

Chairman Smith stated he opposes SB 333 as amended.

Member Porter suggested that the Board maintain its original stance in opposition to SB 333.

Motion: *Member Dianna Porter made a motion to continue to oppose SB 333 as amended.*
Second: *Member Darcy Halpin*
Public comment: *Mr. Schneider asked how the pension systems' unfunded liability was going to be funded. The Board has opposed all the bills that are still alive. Just thought I'd bring that up.*
Vote: ***7/0***

c. Board Bills

Ms. Minnehan summarized the current status of pending bills.

1. HB 91 – Modify and expand public employee 457 deferred compensation program – was heard on March 15, 2013 by the Senate State Administration Committee; it passed 7 to 0. Senator Scott Sales (R) will carry this bill on the floor of the Senate.
2. HB 95 – Require contributions on working retiree compensation – we are still waiting for executive action from the Senate State Administration Committee.
3. HB 96* – Provide actuarial funding for PERS, HPORS, GWPORS, SRS
4. HB 97 – Cap highest/final average compensation in MPERA retirement systems – passed 2nd reading in the House 99 to 1and was transmitted to the Senate on March 18, 2013.
5. HB 105 – Generally revise MPRA retirement system laws concerning plan administration – was passed 7 to 0 on March 15, 2013 by the Senate State Administration Committee. Senator Dee L. Brown (R) will carry this bill on the floor of the Senate.
6. HB 122 – Ensure federal IRS qualification of MPERA retirement systems – we are still waiting for the Senate State Administration Committee to take executive action.
7. HB 329 – Prohibit state employees from being lobbyists – will be heard on March 20, 2013 by the Senate State Administration Committee.
8. HB 336 – Generally revise HPORS laws – there has been no movement since it was transmitted to the Senate on February 28, 2013.
9. SB 193 – Increase game warden pay with increased nonresident wildlife conservation fee – has not moved since January 26, 2013, when it was re-

referred to the Senate Fish and Game Committee.

10. SB 376 – Executive budget proposal to include actuarial funding for pension systems – Passed 3rd reading in the House 49 to 0 on March 15, 2013 and was referred to the Senate State Administration Committee on March 19, 2013.
11. LC 2059 – Referendum on pension reform – the bill draft went to the requester, Senator Brown, for review on March 15, 2013.
12. HB 474 – Authorize a Montana state bank – there has been no action taken since February 18, 2013.
13. HB 158 – Require agencies to present proposed rules to interim committees – was heard on March 13, 2013 by the Senate State Administration Committee

Member Moore left the meeting via telephone at 2:07 p.m.

d. Other Legislative Discussion Items

Public Comment: *Ms. Fladmo stated as we work through the legislative session, the Board is left without a bill to support. This concerns me that your lobbyists have to stand up and oppose everything and that gives you no options. Could you spend a few minutes perhaps talking about what amendments might be presented or what might happen to let you support the Governor's bill for example?*

Chairman Smith thanked Ms. Fladmo for her comments and stated that it was a very good idea to discuss options.

Public Comment: *Mr. Schneider suggested to Ms. Minnehan that she, at a minimum, talk about the trigger language and why it does not work the way the bill is currently written and what we could do in that area to at least make the bill into something that at least would not be fraught with a bunch of holes in it if it would pass this way.*

Ms. Minnehan asked the Board what amendment it would be amenable to to cause it to support the Governor's bill.

Chairman Smith stated that consistency in the bill would help it tremendously. It would be great to amend into HB 454 the SRS and GWPORS for funding as well. Ms. Minnehan was asked whether she had discussed this possibility with any legislators.

Ms. Minnehan replied that the Joint Select Committee on Pensions only seems to be concerned with PERS and TRS.

Mr. O'Connor noted that such an attempt would be limited by the title of HB 454. The title specifically addresses PERS. Amendments to other systems probably would not be allowed.

Chairman Smith enquired whether there are any other bills that fund GWPORS, SRS or any of the other underfunded systems.

Member Bugni stated that Senator Lewis mentioned the other underfunded systems early on in the morning of the Joint Select Committee on Pensions hearing, but nothing afterward was discussed.

Ms. Symons commented that when the Board is criticized for not supporting a bill, that it is mentioned that everything that had been supported is gone.

Mr. O'Connor suggested that the coal tax bill could be taken off the table and amended to fund the smaller systems.

Chairman Smith outlined a plan to speak with Senator Lewis about convening the Joint Select Committee for the purpose of trying to fund GWPORS and SRS; Mr. O'Connor agreed to speak with Senator Lewis about it.

Member Twardoski stated he is disappointed to not be supporting the Governor's bill. There is still time for people to work on amendments. As Ms. Fladmo stated, it is unfortunate that we do not currently have a bill. It would be hard to tell the Governor that the Board does not support his bill and simultaneously ask for something, such as adapting HB 454 to also focus on GWPORS and SRS.

Chairman Smith reiterated approaching Senator Lewis as well as the Governor about help with funding all plans. HB 382 might be such a vehicle to help all plans.

Ms. Symons stated that since HB 382 is currently dead, it would be necessary to blast it out with a minimum of a 60 to 40 vote in the House to use coal tax revenue. This is very unlikely. The better process is to find a legislator to add the funding for the smaller systems to appropriations bills.

Member Porter acknowledged there is a 0% chance of success blasting out HB 382.

Member Bugni stated it is necessary to work on HB 454 with the Governor's office and the sponsors of its amendments, to make it livable for all.

Member Strecker left the meeting via telephone at 2:35 p.m.

Chairman Smith asked Ms. Minnehan if she felt comfortable with the Board's direction for the next week and a half. The deadline for bills to be transmitted to the other house is March 28.

Ms. Minnehan stated she felt comfortable going to speak with the Governor's office and the sponsors of the amendments to HB 454 about a legislative compromise. We will also investigate obtaining funding for GWPORS and SRS within remaining unpassed legislation.

Chairman Smith added it was necessary to speak with Senator Lewis to remind him that GWPORS and SRS were not addressed and to ask him if he had legislation planned.

Ms. Minnehan enquired whether informational postcards should be sent only to retirees or all active members. With so many last minute legislative changes, it may be wise to explain the final three bills remaining and each would affect members' GABA.

Member Bugni stated the postcards should be sent to everyone.

Motion: *Member Bob Bugni made a motion to send postcards via US Mail to current membership regarding current legislation on the table and how it affects the membership.*
Second: *Member Darcy Halpin*
No public comment.
Vote: ***5/0***

Public Comment: *Mr. Schneider suggested that the postcards should very clearly delineate what each bill does so that it does not turn them off of one bill and turn them on to another bill. You know, 454, 338, cut GABA, suspend GABA, 333 does not affect GABA. We just want to be sure that that would be very clear.*

Ms. Minnehan reported she would be conducting Lunch & Learns March 20 through March 22, 2013.

e. Board Position on Reviewed Bills

1. HB 53** – Revise SAVA statutory duties – *No Position*
2. HB 80* – Authorizing peace officer status for corrections criminal investigators – *Neutral*
3. HB 158 – Require agencies to present proposed rules to interim committees – *Oppose*
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 329 – Prohibit state employees from being lobbyists – *Oppose*
9. HB 336 – Generally revise HPORS laws – *Neutral*
10. HB 338 – Provide funding for pension debts, all new hires to DC plan – *Oppose*
11. HB 382* – Provide coal tax funding for actuarially unsound retirement systems – *Support*
12. HB 454 – Public funding for the PERS-DBRP – *Oppose*
13. HB 461– Increase pension for certain volunteer firefighters – Relief Assns – *Neutral*
14. HB 476* – Add cost of living adjustment for volunteer firefighters – *Oppose*
15. HB 482* – Generally revise laws related to the BOI to create a state bank – *Oppose*
16. HB 532 – Revise income tax using a flat tax rate and a tie to federal taxable

income – *Neutral*, unless impacts IRS qualification

17. SB 82* – Require PERS new hires to be in DC plan – *Oppose*
18. SB 193 – Increase game warden pay with increased nonresident wildlife conservation fee – *Neutral*
19. SB 227* – Eliminate pension eligibility for legislators – *Oppose*
20. SB 261* – Require legislator election each term concerning participation on PERS – *Oppose*
21. SB 333 – Establish cash balance benefit tier in TRS & PERS for new hires – *Oppose*
22. SB 353* – Establish qualifications for PERB/TRB – *Oppose*
23. SB 376 – Executive budget proposal to include actuarial funding for pension systems – *Neutral*

*Dead – tabled and/or missed deadline for General Bill Transmittal
**Passed

ADJOURNMENT:

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