

PUBLIC EMPLOYEES' RETIREMENT BOARD
100 North Park Avenue, Room 201
Helena MT 59620

LEGISLATIVE COMMITTEE MEETING
Thursday, March 13, 2014

MINUTES

Committee Members

Terrence Smith, Committee Chairman
Bob Bugni, Committee Member
Timm Twardoski, Committee Member

MPERA Staff

Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Barbara Quinn, Fiscal Services Bureau Chief
Patricia Davis, Member Services Bureau Chief
Hollie Koehler, Internal Auditor
Kate Talley, Legal Counsel
Sarah Skubinna, Disability Examiner
Cynthia Pearson, Executive Assistant

Public

Tom Schneider, MPEA
Mike O'Connor, AMRPE
George Golie, Steven Vinnedge, MGWA
Rick Ryan, Rick Hansen, Blaine Cowen, Doug Neil, MSFA
Sheryl Wood, MACo
K. V. "Ginger" Aldrich, Sheri Scurr, Legislative Services Division
Yvette Englert, Department of Administration – Human Resources

Call to Order

Chairman Terrence Smith called the meeting to order at 1:30 p.m.

Roll Call

All committee members were present. President Scott Moore and Board Member Sheena Wilson also attended.

Public/Member Comment

There was no public/member comment.

Legislative Committee Minutes

***Motion:** Member Bob Bugni moved to approve the Legislative Committee's January 9, 2014 open session minutes, as written.*

***Second:** Member Timm Twardoski*
No public comment.

***Vote:** 3/0*

Workplan for 2015 Legislation

Roxanne Minnehan, MPERA Executive Director, gave an overview of the 2015 Legislative Session workplan. She noted that Melanie Symons, MPERA Chief Legal Counsel, had assisted with preparation of the workplan.

Input was requested from those Board members in attendance. Chairman Terrence Smith said it was a well prepared workplan that puts the committee “well on our way” to getting legislation prepared. Member Bob Bugni said he did not think the public was informed enough about MPERA’s legislation in the last legislative session, and he recommended more communication in the future through newsletters, updates, and other methods of public outreach.

Funding and Benefit Policy

Roxanne Minnehan, MPERA Executive Director, discussed the Funding and Benefit Policy (Policy# BOARD Admin 01). MPERA reviews the policy each legislative session to ensure it is still applicable and does what it’s intended to do. This is especially important now with the new GASB accounting rules. She said MPERA will review the policy internally, then bring it to the Board for approval.

Chairman Terrence Smith said he had reviewed the policy and did not see any necessary changes. He asked the other committee members to review the policy as well.

Legislative Concepts

The Legislative Committee recommended the following concepts be brought forward to the full Board for approval. It was noted that the committee would be working closely with the Governor’s Office on development of the concepts.

GWPORS Funding

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for GWPORS funding.*

Second: *Member Bob Bugni*

No public comment.

Vote: 3/0

SRS Funding

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for SRS funding.*

Second: *Member Timm Twardoski*

Mike O’Connor of AMRPE stated that he felt coal tax money could be an option for funding.

Vote: 3/0

Transfer PERS 911 Dispatchers to SRS

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for transferring PERS 911 dispatchers to SRS.*

Second: *Member Timm Twardoski*

Barbara Quinn, MPERA Fiscal Services Bureau Chief, asked for clarification regarding whether the Board would propose this legislation, or would it be another entity. Chairman Terrence Smith said it would be the Board. Ms. Quinn expressed concern regarding MPERA staff time for the bill.

Melanie Symons, MPERA Chief Legal Counsel, asked if the Board would still propose the bill if the actuary reported that adding this group to SRS would have an adverse effect on the funding of SRS. Chairman Terrence Smith said the committee would wait to see the numbers, then determine what course to take.

Vote: 3/0

Pay Off the DCRP Plan Choice Rate Unfunded Actuarial Liability

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for paying off the DCRP Plan Choice Rate unfunded actuarial liability.*

Second: *Member Bob Bugni*

Member Bob Bugni said he would like to see better justification developed for this concept, and suggested that MPERA staff could help. Chairman Terrence Smith noted that the concept is complicated; however, he has revised the original materials to include only facts and data.

Vote: 3/0

MUS-RP and DCRP Additional Employer Contributions and PERS-DCRP Disability Fund Allocation

Motion: *Chairman Terrence Smith moved to proceed with the legislative concepts for (1) MUS-RP and DCRP additional employer contributions and (2) PERS-DCRP disability fund allocation.*

Second: *Member Bob Bugni*

Sheri Scurr, Legislative Services Division, said she thought it would work best if there was only one legislative bill that included the DCRP Plan Choice Rate unfunded actuarial liability, MUS-RP and DCRP additional employer contributions, and PERS-DCRP disability fund allocation. Chairman Terrence Smith agreed, and he revised his motion to reflect the idea of combining all three concepts into one bill.

Vote: 3/0

General Revisions Bill

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for the general revisions bill.*

Second: *Member Timm Twardoski*

No public comment.

Vote: 3/0

Qualifications Bill

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for the qualifications*

bill.

Second: *Member Bob Bugni*

No public comment.

Vote: 3/0

Other Legislative Concepts

Patricia Davis, MPERA Member Services Bureau Chief, and Kate Talley, MPERA Legal Counsel, discussed a variety of concepts for changing the disability retirement process. They provided a handout showing data on disability retirements, noting several specific trends. In addition, they offered the following legislative concepts for the committee's consideration:

- Add earnings limit (currently in PERS) or similar to other systems to limit disability benefits, when combined with earnings, to compensation at the time of retirement adjusted for inflation
- Delegate determination of eligibility for disability benefits to staff
- Limit eligibility for disability benefits to 1 system only OR limit eligibility for disability benefits if eligible for early retirement or service retirement (issue - disabilities now granted at 57 w/ 25 YOS, or 60 w 14 YOS etc.)
- Amend disability definition (19-2-303(20), MCA) to match federal definition (26 USC 72(m)(7))
 - Current MCA definition of disability (from current job) is lower threshold than federal definition (permanent and total), which creates significant 1099 coding problems and tax questions
 - DC 3 conversion to DC 7 would eliminate current requirement to issue 3 forms 1099 for disabled members (now DC 2) who attain age 59.5 (DC 7) then convert to service retirement (DC 7 w/ change in tax status) in the same calendar year; 2 forms (DC 3 then DC 7) would suffice
- Amend disability definition otherwise - allow 24 months of benefits based on current definition, then measure eligibility for disability by ability to participate in any occupation
- If member deemed no longer disabled (HPORS, SRS, GWPORS, MPORS, FURS) terminate benefits rather than cancelling benefit only when member is reinstated
- Note: vesting is not required for non-duty (or duty) disabilities in MPORS + FURS and statute provides same calculation for both benefits (tax issue)
- Require earlier notification of potential disability to MPERA and increase emphasis on ADA compliance

Ms. Davis and Ms. Talley asked if the Board would want to pursue any or all of these concepts in the next legislative session, noting that none of these concepts would be an easy system change. They indicated the earnings limit would likely be the most beneficial concept to move forward. Member Bob Bugni said he felt it was important for MPERA staff to bring these concepts forward, and it was worthwhile for the Board to discuss and consider the concepts.

Representatives of the Montana State Fireman's Association expressed that disabilities in their retirement system were down, and they did not feel these concepts were worth pursuing.

Motion: *Chairman Terrence Smith moved to proceed with the legislative concept for disability benefits that would add an earnings limit similar to PERS.*

Second: *Member Bob Bugni*

Several members of the Montana State Fireman's Association made comments opposing the concepts, saying they would like to see changes that would make their retirement system progressive and more attractive, not regressive and less attractive. They provided examples of personal situations where these changes would be detrimental. They stated they would prepare a written response for the Board that

would address each individual concept and help clarify MSFA's perspective.

Member Timm Twardoski said he was concerned that these concepts could have the effect of shifting the burden from the retirement system to the beneficiaries. He also stated that, on the flip side, he understood the need for changes in how disability retirements are administered.

Ms. Davis said the overriding purpose of these concepts would be to ensure disability benefits were going to those who truly were permanently disabled, and not to those who could re-enter the workplace in a productive capacity.

Vote: 2/1. Member Timm Twardoski opposed.

CLOSED MEETING SUMMARY

The following portion of the meeting relates to matters of litigation strategy. The Legislative Committee determined that the demands of attorney/client privilege clearly exceed the merits of public disclosure. As such, this portion of the meeting was closed from 3:05 - 3:10 p.m.

Correction to Minutes

At the request of Chairman Terrence Smith, the Legislative Committee's closed session minutes of January 9, 2014, were amended to more clearly reflect that Stuart Segrest, Assistant Attorney General, and Melanie Symons, MPERA Chief Legal Counsel, both accepted the concept of pursuing the paying off the DCRP Plan Choice Rate unfunded actuarial liability.

Motion: Chairman Terrence Smith moved to approve the minutes, as amended.

Second: Member Bob Bugni

Vote: 3/0

Adjournment

There being no further business before the committee, Chairman Terrence Smith adjourned the meeting at 3:10 p.m. The next committee meeting will be April 10, 2014, immediately following the full Board meeting.