



REGULAR MEETING
PUBLIC EMPLOYEES' RETIREMENT BOARD

March 10, 2011

President John Nielsen called the regular meeting to order at 8:35 am Thursday, March 10, 2011. Roll call was taken and five members of the Board were present; Member Darcy Halpin participated via telephone and Member Patrick McKittrick was absent. Board members and staff present were:

John Nielsen, President
Terry Smith, Vice President
Scott Moore, Member
Dianna Porter, Member
Timm Twardoski, Member
Roxanne Minnehan, Executive Director
Melanie Symons, Chief Legal Counsel
Flora Sebens, Executive Assistant

Other's present: Don Kinman, AFSCME; Mike O'Connor, MPERA; Ed Cleary, Rick Ryan, Dax Fraser, George Richards, Doug Neil and Jason Baker, members of the Montana State Firefighter's Association; Jill Hindoien, MRPEC; Representative Randy Brodehl, House District 7; Perry Christie and Stephanie Flint, GWL; Tom Schneider, MPEA; Karla Smerker, MTSBA; Tony Kloker and Candy Linguista, Montana City Schools; Barbara Quinn, Fiscal Services Bureau Chief; Patricia Davis, Member Services Bureau Chief; Kate Talley, Legal Counsel, Diann Levandowski, Assistant Fiscal Services Bureau Chief, Dave Swenson, Computer Systems Developer and Ursula Hatfield, Pay Benefits Technician, joined the meeting.

OPEN MEETING

- I. Roll Call**
- II. Public/Member Comment** - No comments were given.

Action items

III. Approval of Board Meeting Minutes

The minutes of the open meeting of February 10, 2011, were presented.

Motion: Vice President Terrence Smith moved to approve the minutes of the February 10, 2011, PERB Regular Open Meeting with corrections.

Second: Member Dianna Porter

No public comment.

Vote: 5/0

IV. Executive Director's Report – Roxanne Minnehan, Executive Director

A. 2011 Legislative Session (Dianna Porter/Roxanne Minnehan)

House Bill 231

Ms. Minnehan reported that the hearing for House Bill 231 was scheduled in Senate Local Government on March 7, 2011. At the Board's direction she testified in opposition of this bill. Ms. Minnehan noted that Representative Randy Brodehl, bill sponsor, was present at today's meeting and wished to address the Board. Representative Brodehl explained that House Bill 231 would eliminate a mandate that cities with 10,000 or more people cannot use volunteer firefighters, forcing these communities to only use paid firefighters, regardless of the community's desires and also regardless of the community's budget. The law also prohibits cities with between 5,000 and 10,000 people from using an all-volunteer fire department. According to Representative Brodehl, Montana is the only state that mandates the use of paid firefighters and there are many American cities that have much larger populations than Montana's biggest city and they use volunteer firefighters or combinations. The law states that you have to have paid firefighters but it does not state how many, which means that for a city the size of Billings, for example, you could have one paid firefighter and be in compliance with the law. Representative Brodehl went on to explain that House Bill 231 would allow fire departments to supplement paid firefighters with fully trained personnel and still allow the cities a responsible and effective way to manage their budgets. It will also give the ability for the municipalities to make local decisions regarding local issues, unhampered by the state mandate. Representative Brodehl stated that he had recently presented this bill to the State Senate Local Government and was surprised to discover that Ms. Minnehan was opposing the bill on behalf of the Board. He stated that there is no fiscal note attached to the bill so little to no fiscal impact is anticipated. He went on to state that he was surprised that Ms. Minnehan did not speak to him about the bill ahead of time and instead provided information to the Committee that suggested that cities would lay off paid firefighters and replace them with volunteers, therefore putting the retirement system in jeopardy. Representative Brodehl felt this bill would allow citizens to make choices about how they provide fire protection based on their budgets, their insurance costs, and the desires of their voters. He mentioned that he felt that the testimony given by Ms. Minnehan has jeopardized firefighter and community safety and should be rescinded. He indicated that he fully supports paid firefighters when it is the choice of the community, and that he has no desire to encourage municipalities to reduce or eliminate paid firefighters. However, without the ability to use volunteers, Montana fire departments often do not have sufficient resources to provide safety and secondary coverage in their communities and he feels that this puts firefighters at higher risk for injury or death and reduces the department's ability to adequately respond to residential and commercial fires.

Vice President Terrence Smith asked Representative Brodehl if he had done any research on when the original statute was written that required Montana to only use paid firefighters and also asked if he knew why that mandate was put in place. Representative Brodehl responded that he knew the mandate was put in place in 1895 and it originated in Butte. He was not sure why it was originally written. President John Nielsen stated that even though he believes that the intent of this bill is not so that volunteer firefighters will replace career firefighters, he still feels that this bill is going

to have an effect on the pension system through attrition and explained that as the firefighters retire it is a high probability that communities will want to retain more volunteer firefighters; thus, affecting the pension system. President Nielsen also noted that a problem he foresees with volunteer firefighters is getting them to commit to training, as well as respond to emergency fire situations. This is a huge risk to the safety and well-being of the local citizens.

While Representative Brodehl acknowledged that the commitment of volunteer firefighters is definitely an issue, he also felt that the availability of off-duty firefighters is an issue and that it is sometimes difficult to get career firefighters to come in on their days off to assist with emergency situations. He felt that the decision to have volunteer versus career firefighters should be a local decision and not one made by the Board or by the State of Montana. He went on to state that communities save a lot of money in insurance costs if they are able to utilize volunteer firefighters and he felt that is what drives a community's ability to provide good quality fire protection. He also stated that Kalispell is going to be laying off firefighters in the very near future and pointed out that although the Board has nothing to do with this decision that it is still going to impact the firefighter's pension system.

Member Dianna Porter stated that the Board has a fiduciary responsibility to the retirement systems that they oversee and part of that fiduciary duty is that they have to protect the future actuarial soundness of the systems and that is also a part of why the Board chose to oppose this bill. Representative Brodehl responded that he is a member of the firefighter's retirement system and he does not want to jeopardize it in any way and he does not believe this bill is going to have a negative impact on this system. He reiterated that his main concern was the lack of communication with him about this bill and assumptions that were used without an understanding of the contents of the bill. He felt this should be a concern for the Board, as well. This concluded Representative Brodehl's presentation to the Board and he left the meeting.

President John Nielsen stated that while he appreciated Representative Brodehl's comments and concerns, he did not feel the Board was responsible for how the communities were going to react to the bill and agreed with Member Porter that the Board has a fiduciary responsibility to ensure that the retirement systems are protected and actuarially sound. House Bill 231 would jeopardize the system. Member Porter stated that it was also not the Board's obligation or responsibility to contact the sponsor of a bill beforehand to let them know what our testimony is going to be.

Motion: President John Nielsen moved to continue opposition of House Bill 231.

Second: Member Scott Moore

No public comment.

Vote: 6/0

House Bill 70

This bill was heard in Senate State Administration on March 9, 2011. The hearing went well. No executive action was taken.

House Bill 119

This bill is scheduled for second reading today, March 10, 2011.

House Bill 122

This bill is scheduled for hearing in Senate State Administration on March 14, 2011.

House Bill 134

This bill is scheduled for hearing on March 11, 2011.

House Bill 135

This bill is scheduled for hearing on March 14, 2011.

House Bill 192

Ms. Minnehan is still monitoring this bill and noted that it has been in House Appropriations since March 8, 2011.

House Bill 317

Nothing has happened with this bill since the hearing January 26, 2011.

House Bill 508

This bill is scheduled for hearing on March 24, 2011.

House Bill 552

No executive action has been taken on this bill yet.

House Bill 585

Ms. Minnehan noted that House Bill 585 requires state agencies to get approval of outside legal counsel through Interim Committee, SAVA (State Administration and Veterans' Affairs). Approval is currently accomplished by the Board approving the contract and sending it to the Agency Legal Services' subcommittee. The subcommittee has appointed personnel from the Governor's Office and Agency Legal Services who review and approve the contracts. The current process is fast and efficient, but House Bill 585 would prolong the process by mandating that other people review the contracts. Ms. Minnehan noted that this bill is in hearing today in Local Government and stated that we were asked by the Governor's Office to oppose this bill, but she had not had time to receive direction from the Board. If the bill passes to the Senate we could testimony then. President John Nielsen asked Ms. Melanie Symons if we currently send out an RFP for our outside legal counsel. Ms. Symons responded that we haven't in quite some time. We have just renewed the contract every five years. President Nielsen stated that the way the bill currently reads that it could initially take the committee up to sixty days to review a proposed contract and if they do not accept it, it is returned and we will have fourteen days in which to respond, after which the committee will then have another sixty days in which to review the proposed contract. This could leave us with a large amount of time that we are not represented.

Member Dianna Porter felt the bill was unduly burdensome and created a very long and unnecessary drawn out process.

Motion: President John Nielsen moved to oppose House Bill 585.

Second: Member Dianna Porter

No public comment.

Vote: 6/0

Senate Bill 113

This bill has been referred to House State Administration but no hearing has been scheduled yet.

Senate Bill 120

A hearing has been scheduled in House State Administration for this bill on March 4, 2011. No executive action has been taken yet.

Senate Bill 223

A hearing is scheduled for this bill on March 11, 2011 in House Business and Labor.

Senate Bill 229

This bill was referred to House State Administration on March 5, 2011. No hearing has been scheduled yet.

Senate Bill 328

This bill is scheduled for hearing in Senate Finance and Claims on March 15, 2011.

B. 401(a) and 457 Plan Recommendations (Patricia Davis)

The Employee Investment Advisory Council (EIAC) met on Thursday, February 17, 2011. They had a full agenda. Topics included an Economic Discussion, Fund Performance Review, Target Date Funds, Investment Policy Statements and Roth 457.

1. Fund Replacements – 401(a)

401(a) - Ms. Patricia Davis, Member Services Bureau Chief, reported that based on a recommendation from Wilshire Investment Consultants, EIAC recommends replacing the Vanguard Growth & Income fund (VGIAX) with JP Morgan Asset Management Fund (JUSRX) in the DC plan effective August 1, 2011. The rationale is that the Vanguard Growth & Income fund has been on probation status for several quarters due to poor performance and failure to meet standards outlined in the DCRP investment policy statement. After a brief discussion the following motion was made:

Motion: Vice President Terrence Smith moved to accept EIAC's recommendation to replace the Vanguard Growth & Income fund with the JP Morgan Asset Management fund in the DC Plan.

Second: Member Scott Moore

No public comment.

Vote: 6/0

Fund Replacements – 457

Based on a recommendation from Wilshire Investment Consultants, EIAC recommends replacing the Munder Mid-Cap Growth Fund (MGOAX) with the T Rowe Price Mid-Cap Growth Strategy (RPMGX) in the DC plan and 457 plan effective August 1, 2011. The rationale is that the Munder Mid-Cap fund has been on probation status since December 2009 due to poor performance and failure to meet standards outlined in the DCRP & 457 plan investment policy statements.

Motion: Vice President Terrence Smith moved to accept EIAC's recommendation to replace the Munder Mid-Cap fund with the T Rowe Price fund in the DC & 457 Plans.

Second: Member Dianna Porter

No public comment.

Vote: 6/0

2. ***Board Policy Amendments – BOARD Admin 08 DC Plans Investment Option Overlap Policy***

Ms. Davis reported that this policy specifically states the number of investment options and asset classes and categories to be offered in the 401(a) and 457 Plan. Staff is recommending changes to this policy in order to offer target date funds.

Motion: Member Scott Moore moved to approve recommended changes to the Board Admin Policy 08.

Second: Member Timm Twardoski

No public comment.

Vote: 6/0

3. ***Target Date Funds 401(a) & 457 Plans***

Ms. Davis noted that this type of fund falls outside of our investment policy statement because it is not a traded fund. It is a collection of funds inside a customized portfolio. There is no ticker, so we would have to change how we evaluate this plan in our policy. Target date funds have only been around for about five or six years. They reacted very well during the economic down turn. If the Board approves adding target date funds to both the DC and 457 plans we will have to look at the policy statement and how we benchmark these funds.

Vice President Terrence Smith voiced his concern that by not changing the investment policy statement first we might be violating it by approving the addition of JP Morgan SmartRetirement funds to the DC and 457 plans. Vice President Smith asked Ms. Melanie Symons, Chief Legal Counsel, how she felt about adding target date funds before changing our investment policy. Ms. Symons indicated that she had discussed at length with Ms. Davis changing the policy to add target date funds but agrees the investment policy should be changed first. Ms. Davis suggested that the Board hold onto this recommendation until EIAC makes recommendations to change the policy to reflect how the Board will monitor target investment funds. EIAC will meet to discuss the investment policy changes in April. Ms. Davis suggested that the Board vote on this again at the May Board meeting.

Motion: Vice President Terrence Smith moved to postpone Agenda Item IV.B.3. until the investment policy statements have been reviewed.

Second: Member Dianna Porter

No public comment.

Vote: 6/0

C. Informal Consideration – VFCA, Broadwater County (Diann Levandowski)

Ms. Diann Levandowski, Assistant Fiscal Services Bureau Chief, reported that the Broadwater Rural Fire Department is requesting acceptance of late filed Annual Certificates. Fiscal Year 1985 and Fiscal Year 1994 were filed on July 21, 2010. After some clarification staff recommends one member receive credit for Fiscal Year 1985 and four members receive credit for Fiscal Year 1994.

Motion: Vice President Terrence Smith moved to uphold staff recommendation to approve the credited service year of FY1984-1985 for one (1) member and the credited service year of FY1993-1994 for four (4) members of the Broadwater County Rural Fire Department.

Second: Member Timm Twardoski

No public Comment

Vote: 6/0

Educational item

D. MPERA Website (Dave Swenson)

Mr. Dave Swenson, Computer Systems Developer, provided a demonstration of our new website, which is expected to be available by May 1, 2011. The Board felt the new website looked very nice and was very easy to navigate and very user-friendly.

Discussion items

E. Center for Mental Health, Great Falls (Melanie Symons)

Ms. Melanie Symons mentioned this case was being brought to the Board's attention because it was a fairly significant issue involving an employer that has been in the headlines for other reasons, so there is a possibility that this issue might attract some public interest. The 1975 Montana Legislature created regional mental health centers. The Legislature provided that although the centers were not state agencies, they could participate in PERS. The 1999 Legislature ended PERS participation by the centers effective July 1, 1999. Only center employees who were PERS members as of June 30, 1999 were allowed to continue PERS membership.

MPERA and the Center for Mental Health (CMH) discussed PERS reporting issues in 2008, reiterating the understanding that only CMH employees who were both employed by CMH and members of PERS on June 30, 1999 could continue PERS membership. Subsequently, two CMH employees hired after June 30, 1999 contacted MPERA. They had been given optional membership election forms by CMH and wished to join PERS. While responding to these inquiries, MPERA learned that several employees hired after the June 30, 1999 date were being reported to MPERA as members of PERS.

The incorrect contributions were immediately stopped.

MPERA then contacted tax counsel for advice on the appropriate way to correct the situation. We received lengthy instructions in January explaining the process that must be implemented to correct the reporting errors. Essentially, we are required to refund contributions and interest to the incorrectly reported employees, credit employers with employer contributions paid on incorrectly reported employees, and recoup any retirement benefits that were based on incorrect reports.

There are four distinct groups of employees affected by this error.

- 1) Current employees – initially hired or terminated and rehired after June 30, 1999. No contributions allowed after June 30, 1999. Return employee contributions and interest to employee and credit employer contributions to employer.
- 2) Previous employees with money on account – initially hired or terminated and rehired after June 30, 1999. No contributions allowed after June 30, 1999. Return employee contributions and interest to employee and employer contributions credited to employer.
- 3) Previous employees – refunded PERS. Initially hired or terminated and rehired after June 30, 1999. Employee's contributions were previously refunded. Retain employer contributions from time prior to June 30, 1999 and credit employer contributions back to employer.
- 4) Retirees
 - (a) Hired before July 1, 1999 but terminated from employment. Rehired after June 30, 1999. Reduce benefit and offset overpaid benefit with overpaid contributions and interest. Credit employer with overpaid employer contributions.
 - (b) Hired after June 30, 1999 – no retirement benefit. Offset benefit and interest with contributions and interest. Credit employer with employer contributions.
- 5) As of March 2, 2011, we have identified all impacted employees of CMH and determined the impact of this issue on each of those employees. One retiree has been

notified. We are in the process of correcting that situation. The other impacted individuals will be notified prior to the March 10, 2011 Board Meeting.

F. 401(a) & 457 Plan Survey – Preliminary Information (Patricia Davis)

Ms. Patricia Davis gave a brief report on the preliminary findings of the 401(a) and 457 plan survey that was recently conducted. The survey targeted State of Montana employees because we were able to access their email addresses to send them the survey. This survey was sent to over 3,000 employees and Barb Wagner from EIAC donated her and her staff's time from the Department of Labor's Research and Analyst Department to compile the data. Typically on surveys you want to have at least a 30% response and we were able to obtain 50% responses. The full survey report will be made available within the next month.

Member Darcy Halpin asked how the information that was obtained from the survey was going to be used. Ms. Davis responded that it would be primarily for educational purposes and she felt it would help improve upon our educational outreach efforts. One of the things the survey revealed was that even though people are in the DC Plan, they don't understand anything about the plan, so this survey will assist us in educating them more about what the plan is and what it offers. Member Dianna Porter commented that she felt it was interesting that the survey revealed that over a third of the people did not even know what plan they were a member of. She also pointed out that it was interesting that those members who were in the DC Plan seemed to know what plan they were in, but those in the DB Plan did not. Ms. Davis agreed that this survey is definitely going to help target specific groups of people who need more education and information on their retirement plans.

G. MPERAtiv Project Update (June Dosier)

Ms. Minnehan mentioned that the Provalient project manager is scheduled to start on Monday, March 14, 2011. Ms. June Dosier is the MPERA project manager for the MPERAtiv Project. The core team members were introduced to the Board as follows: Ms. Shelly Pardis is currently the Active Database Manager and will retain her supervisory responsibilities, but she will be the subject matter expert for payroll reporting and collection of the contributions and membership data. Ms. Marjorie Rowley is currently the Benefits Supervisor and she will also be retaining her supervisory duties but will be offering her subject matter expertise in retirement estimates and service purchases in preparation for retirement. Ms. Donna Coman was a long time MPERA employee before retiring and was hired back as a working retiree. Ms. Coman was brought back to work on the MPERAtiv project and to help with the on-going training of the new Retiree Database Manager. To honor Ms. Coman's years of service to MPERA, President John Nielsen presented her with a gift on behalf of the Board and thanked her for her years of service and dedication and for coming back to assist with the MPERAtiv project.

Ms. Dosier reported that four Provalient staff members will be arriving on Monday to begin working on the project and there is a "Kick Off" party scheduled for Thursday, March 24, 2011 in the Board Conference Room for the MPERA staff. Cubicles for the project room are due to be assembled on Monday, March 14, 2011, and it is expected that staff will be moved to their new locations by March 18, 2011. The Provalient staff members will be present at the April Board meeting for Board introductions. Contract

negotiations with Provalient Retirement, LLC are complete and the contract is now fully executed.

H. Committee Reports (Committee Chairs)

Legislative Committee – Member Dianna Porter reported that since the Board last met the Legislative Committee has made numerous motions in regards to some of the Legislative bills. The Committee opposed House Bill 231. Senator Zinke proposed Senate Bill 223 and the committee originally opposed this bill, but Senator Zinke incorporated an amendment that we requested so the Committee changed their position from being oppositional to being informational. Senator Lewis proposed Senate Bill 328 and the Committee opposed this bill. Senator Reichner's bill, LC0820, has not been assigned a bill number yet. The Committee voted to oppose this bill because it was deemed unconstitutional. Representative Stahl proposed LC0492 and the Committee voted to oppose this bill. The Committee continued their support of House Bill 122, House Bill 134 and House Bill 135, even though they have been amended to remove the employer increases. The Committee agreed to be informational for Senate Bill 229 until an amendment has passed which provides for IRS approval. A motion was passed to release the White Paper to the public that Ms. Melanie Symons had drafted for the Board.

Motion: Vice President Terrence Smith moved to approve the Legislative Committee's report.

Second: Member Scott Moore

No public comment.

Vote: 6/0

Ms. Minnehan asked that the Board make an individual motion agreeing to release the document to the public because they had originally moved not to release the White Paper to the public.

Motion: President John Nielsen moved to release the White Paper to the public.

Second: Member Dianna Porter

No public comment.

Vote: 6/0

The next Legislative Committee meeting is scheduled for March 15, 2011, at 12:30 p.m. instead of 10:30 a.m. due to the hearing for Senate Bill 328 that morning.

Personnel Committee – Member Darcy Halpin indicated that this committee has not met recently and she would like to schedule a meeting in conjunction with the April Board meeting.

Policy Committee – Member Scott Moore did not have anything new to report.

Audit Committee – Vice President Terrence Smith did not have anything new to report.

I. Executive Director Verbal Update (Roxanne Minnehan)

Ms. Minnehan reported that Kris Vladic accepted the position of Member Services Support on March 7, 2011. The File Clerk position is now vacant and is being advertised. The backfill positions for the core team members that are assisting with the MPERAtiv Project are still open, as well.

J. Verbal Update – Litigation (Melanie Symons, Kate Talley)

Ms. Melanie Symons reported that we filed our Answer to Amended Complaint for the case involving Mr. Ober Spear on February 25, 2011. It appears that this case is going to proceed to trial. There is a Scheduling Conference set for March 16, 2011, and the judge has permitted Ms. Symons to participate via telephone so that she can avoid travel to Billings. The Department of Justice has also responded to the wrongful termination suit that Mr. Spears filed against them.

Informational items

K. Next Board Meetings – April 14, May 12, June 9

CLOSED MEETING

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceed the merits of public disclosure. As such, this portion of the meeting will be closed.

OPEN MEETING

President Nielsen called the regular meeting back to order at 11:30 a.m.

ADJOURNMENT

There being no further business before the Board, President Nielsen adjourned the regular meeting at approximately 11:30 a.m. The next regular meeting will be Thursday, April 14, 2011, at 8:30 am.

John Nielsen, President

ATTEST:

Roxanne M. Minnehan, Executive Director