

## **PUBLIC EMPLOYEES' RETIREMENT BOARD**

100 North Park Avenue, Room 201

Helena MT 59601

Thursday, September 13, 2012

### **BOARD MEETING MINUTES**

President Scott Moore called the regular PERB Meeting to order at 8:30 a.m. on Thursday, September 13, 2012. Roll call was taken. Seven Board members present. Board members and staff present were:

Scott Moore, President  
Terry Smith, Vice President  
Bob Bugni, Member  
Darcy Halpin, Member  
Dianna Porter, Member  
Melissa Strecker, Member  
Timm Twardoski, Member  
Roxanne Minnehan, Executive Director  
Melanie Symons, Chief Legal Counsel  
Flora Sebens, Executive Assistant

Others present: Don Kinman, AFSCME; Tom Schneider, MPEA; Mike O'Connor, AMRPE; Rick Hansen, Rick Ryan, Ed Cleary, George Richards, Dax Fraser, Doug Neal, Kurt Bushnell, Jason Baker, MSFA; Diane Fladmo, MEA-MFT; Jerry Williams, MPPA; Jill Hindoien, MRPEC; Mark Murphy, MCAA, MPPA, MACOP; Jessica Luther, AMT; Beth Long, GWRS; *MPERA staff*: Barbara Quinn, Fiscal Services Bureau Chief; Patricia Davis, Member Services Bureau Chief; June Dossier, Information Systems Manager; Kate Talley, Attorney; and Jenny Weigand, Education Supervisor, joined the meeting.

#### **OPEN MEETING**

##### **I. Roll Call**

Seven members of the Board were present.

##### **II. Public/Member Comment**

No public comments.

##### **III. GFOA Award Presentation**

The Board's Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2011, has been awarded the Government Finance Officers' Association Certificate of Achievement for Excellence in Financial Reporting. This is the fourteenth consecutive year we have received this prestigious award. The Accounting Department compiles the report each year. President Scott Moore presented Barbara Quinn, Diann Levandowski, Donna Bley, Ali Sturm and Ann Reber with the award.

*Action Items*

**IV. Approval of Minutes**

A. Board Meeting – August 9, 2012

The minutes of the August 9, 2012, PERB Regular Meeting were presented.

*Motion: Member Dianna Porter moved to approve the minutes of the August 9, 2012, PERB Regular Meeting.*

*Second: Member Timm Twardoski*

*No public comment.*

*Vote: 7/0*

**V. Executive Director's Report**

A. *PERS-DCRP/457 Emerging Markets Investment Option – Patricia Davis*

The Employee Investment Advisory Council (EIAC) recommends the Board add an emerging markets investment option to the investment line-up in the PERS-Defined Contribution Retirement Plan and the Deferred Compensation (457) Plan. This recommendation comes from Wilshire's recent gap analysis. Wilshire Consultants completed a gap analysis of both the 401(a) and 457 plans in January 2012. Wilshire's review found that although neither plan is missing any major asset class in the current investment options, the addition of the following fund types Emerging Market Equities, High Yield Fixed Income and REITS could satisfy participant demand. Based on committee discussion and Wilshire's recommendation the addition of an Emerging Market fund type emerged as the priority among the three options.

*Motion: Vice President Terrence Smith moved to accept EIAC's recommendation to add Oppenheimer's Developing Markets Y Fund to the DC and 457 plans effective November 1, 2012.*

*Second: Member Bob Bugni*

*Vote: 7/0*

B. *PERS-DCRP/457 Contract Extensions – Patricia Davis*

The following contracts expire June 30, 2013. Staff recommends the Board extend the following contracts for one year. Staff will begin working on the RFP process next fall to have vendors in place when the contracts expire in 2014.

1. Wilshire Investment Consultants is the investment consultant for the defined contribution plans. Wilshire reports to the Employee Investment Advisory Council four times per year on the economic outlook and investment line-up. They recommend fund retention, termination and probation. They also perform fund searches; provide education to EIAC, Board and staff; and perform other services upon request.

2. Great-West Retirement Services is the administrative record-keeper of the defined contribution participants' accounts. They sign-up new participants, process salary deferrals and distributions. They also provide participant education services.

***Motion: Member Darcy Halpin moved to renew Great-West and Wilshire contracts for an additional year under contract renewal options. Under extension provision Great-West contract will expire July 31, 2014 and Wilshire contract will expire July 31, 2014.***

***Second: Member Melissa Strecker***

***Vote: 7/0***

C. 2013 Legislation

1. Bill Drafts – *Melanie Symons*

Staff continues to draft Board legislation. Drafts included in this board packet available for Board review are Working Retiree, General Revisions, and increase HAC period. The Board's Legislative Committee ~~will~~ meet Monday, September 10. SAVA ~~meets~~ Tuesday, September 11. Committee bill drafts to address the funding in the PERS, SRS, GWPORS, and HPORS ~~we~~are on the SAVA agenda. The Board retreat ~~wai~~s Wednesday, September 12.

Highest Average Compensation

President Moore opposes the proposal. He sees no reason to meddle with the systems that are actuarially sound. It is not good for members and goes against the Board's mission statement. Member Bob Bugni is totally opposed. Vice President Smith stated it was considered due to salary spiking, long-term plan sustainability, and national trends. He stated the intent was good but there has been a change of heart on the Board.

***Motion: Vice President Terrence Smith moved to not move forward with the Highest Average Compensation draft legislation.***

***Second: Member Timm Twardoski***

***Vote: 7/0***

Working Retiree

***Motion: Member Darcy Halpin moved to approve draft legislation to require that employer and state contributions be paid on working retirees in PERS, SRS and FURS.***

***Second: Member Dianna Porter***

***Vote: 7/0***

### 457 ROTH

The bill draft is not ready. Statutes stated 457 deferrals are pre-tax. ROTH deferrals are already taxed. An exception is needed; however, Chapter 50 applies to all 457 plans not just the States. It was discussed to ask MACO if they would like the ROTH option as well.

### General Revisions

Two sections of this bill were discussed: 1) newly confirmed police officers hired before 1975 no longer exist; 2) when survivors cannot be found after five years contributions will revert to the trust fund.

#### 2. Governor's Proposal – *Scott Moore/Terrence Smith*

The Board discussed the Governor's Proposal at the Board Retreat on September 12, 2012. The Board admits to having reservations about the 1% increase in employee contributions as an impairment of contract rights, but overall support the Governor's bill.

Member Bob Bugni stated the threat of a DC bill is real. DC are not retirement plans. If the contract right is challenged and wins only that portion of the bill is removed. The bill also includes a trigger to decrease the contribution rates when the system is sound.

Vice President Terry Smith expressed concern over the contract right issue and the fact that employers are not treated equally.

***Motion: President Scott Moore moved to support the Governor's proposed bill as written with it noted that the Board has reservations about the 1% employee contribution as an impairment of contract rights.***

***Second: Member Timm Twardoski***

#### ***Public comments:***

Jerry Williams, MPPA, mentioned the Board voted in January to protect the contract rights of all of its members. He questioned if supporting the Governor's proposal isn't in direct conflict with that decision. President Scott Moore responded that he felt more comfortable with supporting this proposal after listening to the Governor's Office staff presentation at the Board Retreat. Because of the sunset clause and the support from the unions he does not feel there is an impairment of contract rights.

Mark Murphy, County Attorney's Association, urged all of the Board members to watch the SAVA Committee meeting from last week. Then, compare the rescue plan for PERS with the rescue plan for TRS. He pointed out that there are substantial differences between the two bills and he does not think that happened by accident. There is no employer contribution as a part of the TRS rescue because the state has assumed liability for the unfunded liability. In the Governor's Plan the

State is not acting as the guarantor; they are only meeting their portion of the unfunded liability. Mr. Murphy further stated that comments made by a SAVA employee indicate they feel the State is only one employer - a member of the system - and they are not responsible for the unfunded liability. Mr. Murphy asked if they aren't, who is? He feels they purposely excluded PERS because they want this Board to be independent; therefore making PERS responsible for the unfunded liability. He pointed out David Niss is no longer there, as he retired, and none of the current Governor's staff is will be there starting in January. Mr. Murphy suggested the PERB word their motion very carefully with the fact that the Governor's Office is hanging PERB out to dry.

Melanie Symons stated that since the SAVA Committee meeting she has received several communications from SAVA asking about PERS contracts with local governments and funding issues and whether or not anyone has any responsibility for unfunded liability. Ms. Symons also stated the Governor's proposal is not in the best interest for our members. Viv Hamill's role is not to protect members.

Tom Schneider, MPEA, stated he heard a totally different message at the SAVA Committee meeting. He pointed out there is only one bill going forward to the LFC meeting on the 27<sup>th</sup> - the Governor's Bill. Local governments have obligations to fund the systems. They also make decisions that impact the systems. He said that if they vote against the Governor's Bill, they should then file a suit due to the constitutional requirement that the systems be actuarially funded. The unfunded status has gone on for enough – action needs to be taken.

Diane Fladmo, MEA MFT, stated this is a hard decision. We are not going to get perfection. The Governor's Bill offers a compromise. We have tried to push other bills through the legislature and have failed. There are a lot of people who would like to turn everything into a DC Plan and that is a risk to our members. It's a time to circle the wagons. The Governor's Plan is the only plan that really has any momentum right now.

***Vote: 6/1***

3. Senator Lewis' Information Request – *Terrence Smith/Roxanne Minnehan*  
Senator Lewis would like a memo from the Teachers' Retirement Board and the Public Employees' Retirement Board that states the actual investment return for each pension fund for FY 2012 along with a statement from each board articulating the board's position or policy with respect to this return. An outline of Roxanne Minnehan's response to Senator Lewis is as follows:

- Rates of Return for FY 2012 and FY 2011
- Smoothing Method for Valuing Assets
- Process for Determining the Actuarial Assumed Rate of Return
- Actuarial Required Contributions
- Plan Design Changes for Long-term Plan Sustainability

- 2011 Legislative Session
- Board's Funding Policy
- Investing Board Assets is the Board of Investments' Responsibility

In Ms. Minnehan's draft response she provided the rates of return for each system for 2012; but she also gave him 2011 rates. This year it was approximately 2.4% and last year was 21.8%. Ms. Minnehan stressed that there is a lot of volatility in the market and that it was important that we stay the course and not react to short-term returns. Ms. Minnehan also took the opportunity to reiterate the information we have been continually providing as outlined above.

***Motion: Vice President Terrence Smith moved to adopt the Executive Director's draft response to Senator Lewis' request from the PERB articulating the Board's position or policy with respect to the actual investment return for FY 2012.***

***Second: Member Darcy Halpin***

***Vote: 7/0***

***D. Retreat Discussions Requiring Board Action (if any) – Scott Moore***

President Moore made the decision to expand the Legislative Committee to include the entire Board for the Legislative Session. Terry Smith will remain as Committee Chair.

***E. Out-of-State-Travel Authorization – APPFA Conference, November 4-7, 2012, Redondo Beach, CA, Hollie Koehler – Roxanne Minnehan***

APPFA is the Association of Public Pension Fund Auditor, Inc. This conference provides Ms. Koehler the opportunity to network with a very focused peer group, obtain information on emerging issues, and share audit techniques and programs. This is Ms. Koehler's first APPFA conference. Because she is an audit department of one this conference is critical to her career development and to MPERA.

***Motion: President Scott Moore moved to approve the travel authorization for Hollie Koehler to attend the APPFA professional development Conferences in Redondo Beach, California, from November 4-7, 2012.***

***Second: Member Timm Twardoski***

***Vote: 7/0***

***Education Item***

**VI. Education – New Member Orientation Phase II – Retirement Plans**

**A. Overview – Roxanne Minnehan**

This is the second phase of the new member orientation. New member orientation also provides a refresher for seasoned members. This phase provides an overview of

the plans administered by the Board and a discussion of the unique provisions of each of the plan.

- B. Retirement System Distinctions – Green Sheets – *Melanie Symons*
- C. PERS-DCRP/457 – *Patricia Davis*
- D. DCRP Fees – *Patricia Davis*

## VII. Discussion

### A. MPERAtiv Program Update – *June Dosier*

#### **Current Status**

- The MPERAtiv Project is green and moving ahead as scheduled.

#### **Activities completed since last status report**

- Line of Business – Legacy Process Review (LPR) and Legacy Data Application Review (LADR) sessions were held. The SharePoint team site was implemented and many project management documents were submitted, reviewed and accepted.
- Data Cleansing – Work continues as planned. Data was extracted, loaded and queries ran to refresh the staging database, the project team completed data cleansing tasks and Ventera wrote scripts to cleanse data.
- Imaging – Informatix accepted MPERA's offer to close out the contract between Informatix and MPERA for approximately 76.5% of the contract price. The contract was officially closed on August 10, 2012.

#### **Activities to be completed in next month**

- Line of Business – The first three project phases are running concurrently and work is scheduled in all three areas. Phase 4 Joint Application Design sessions are planned to start the beginning of October.
- Data Cleansing – The project team will continue with data cleansing activities including manual processes and by developing programs to cleanse the data. Ventera will continue with writing scripts to cleanse and will baseline the project schedule to align with the Line of Business project schedule.
- Imaging – Provaliant will complete project closure activities and project documents will be archived. This project will not appear on the October MPERAtiv status report.

### B. SAVA Verbal Update – *Roxanne Minnehan*

- a. SAVA agreed to maintain EIAC, require actuary reports to Legislature, and experience studies.
- b. The next SAVA Meeting is September 11, 2012.

### C. MACO Stakeholder Meeting Verbal Update – *Roxanne Minnehan*

- a. Comments made regarding revising the PERB structure.

- MACO (employers) state they are being held accountable for something they have no control over.
- MACO believes the Board should have equal member and employer representation.
- Roxanne Minnehan stated the fiduciary responsibility is to the members and beneficiaries and has concerns about employers bringing “own agendas” to the table.
- Senator Lewis supports expansion of the Board.
- Tom Schneider stated that he was not opposed to this idea. He agreed the Constitution is clear regarding fiduciary responsibility. He further stated this proposal is not going to fund the retirement systems.
- Dan Villa was asked if stakeholders are interested in maintaining DB plans. He attempted to get the stakeholders to agree to 1% EE & 1% ER increase so we can move forward.
- Jim Reno asked Dan Villa if he considered the budget balanced with the systems not sound. Dan replied yes. He also stated the State has no control over local government pay, etc.
- Alec Hanson, MLCT, stated that cities have agreed to make a reasonable contribution, but they can’t afford a 5% increase.
- Rosebud County stated that 1% of their payroll is only \$9,000; not an impossible contribution to make.
- Senator Lewis felt that the unfunded liability was based on the assumption earning 7¾%, which was unrealistic. He feels we should move to a DC system like the private sectors are. He states the Legislature won’t walk away from liability, but they won’t address it unless they can see the light at the end of the tunnel by moving to a DC plan. We need to be realistic and recognize the true liability; there will never be enough money, there will never be an end, and we will need to convert sometime in the future.
- Dan Villa responded that the DC Plan costs more in short-term. Montana is not California or Wisconsin and we need to expect shared sacrifice, maintain the DB program, and in the very near future we will get to 100% funding.
- Scott Turner mentioned he has watched the deterioration of the pension plans over the past several years. He does not feel that 7¾% is attainable and that the complexity of this situation is beyond a lot of people’s capacity to understand. It is important for Board structure to understand the need for substantive fixes. Investment return is critical and we need to design a plan not unlike workers’ comp where the actuaries tell you what you need. We need to design a multi-faceted solution.
- Sheryl Wood feels the Board needs to be enhanced with people who understand, and have more knowledge and expertise.
- Alec Hanson stated he was not interested in expanding the Board (didn’t even realize who was on it, no bad publicity) and instead wants to find a solution to stabilize the pension systems. Sustained economic growth is needed. If we do not do something we will be sorry down the road.

- E. Committee Verbal Updates – *Committee Chairs*
- F. BOI Verbal Update – *Bob Bugni*
- G. Executive Director Verbal Update – *Roxanne Minnehan*

*Staffing Update*

- a. Member Services Administrative Clerk – Closed August 31, 2012. We received 23 applications which are under review.
- b. Benefit Analyst – Job profile is being reviewed.

*HR Services*

- c. DOA-HR has limited resources for us.
- d. DOA suggests we look at hiring our own Human Resource Manager.
- e. MPERA now has 46 staff.
- f. MPERAtiv will result in organizational changes, requiring new job profiles, etc.

*Audit Report*

- g. The Audit Committee met August 9, 2012. Ms. Koehler provided a summary of the audits completed to date and the audit plan for FY 2013.
- h. A recommendation for the Board Policy Committee to review and update older policies.
- i. She will report her recommendations to the Policy Committee and assist them as needed.

- H. Litigation Verbal Update – *Melanie Symons*

Kate Talley reported on the Briese case. The case originated in 2008. David Briese was a member of the Sheriff's Retirement System (SRS) and changed his beneficiary designation in 2001 naming his spouse as the beneficiary. In 2004 he filed a petition for dissolution of his marriage, triggering an automatic temporary economic restraining order (TRO) prohibiting both parties from changing the beneficiaries on their insurance policies and other coverage held for the benefit of either party or their children. Mr. Briese changed his SRS beneficiaries from his wife, to their two children and because MPERA was not aware of the TRO ~~nor~~ a party to it, they accepted the beneficiary change.

In November 2006 Mr. Briese passed away in a work-related accident. In 2008 Mrs. Briese made a claim for benefits. We communicated with her that her children were the beneficiaries. Statutes state the most recent beneficiary card is the one recognized. The latest membership card was filed in 2006 naming the ~~parties' children~~ parties' children. She filed the appropriate paperwork and started receiving benefits on behalf of the children. In 2009 she contacted us again, asking us to reconsider the 2006 change in beneficiary information based on ~~the 2004~~ the 2004 TRO. The case became contested, went to a hearing examiner, who issued his decision, which the Board adopted, finding the 2006 designation to be valid. Mrs. Briese contested that decision. The case went to the District Court which upheld the Board decision in May 2011. It then went to the Supreme ~~Court, which~~ Court, which issued a decision on September 4, 2012, reversing the District Court's decision.

*Informational Items*

- I. SAVA – November (TBD)
- J. LFC – September 27-28, November 13
- K. Board Meetings – October 11, November 8, December 13

**CLOSED MEETING SUMMARY**

The following portion of the meeting relates to matters of individual privacy. The Board President determined that the demands of individual privacy clearly exceeded the merits of public disclosure. As such, this portion of the meeting was closed as of 1:50 p.m.

Meeting Minutes

***Motion: Member Dianna Porter moved to approve the minutes of the August 9, 2012, PERB Closed Meeting with correction.***

***Second: Member Darcy Halpin***

***Vote: 7/0***

Disability Report (*Patricia Davis/Sarah Skubinna*)

- *Disability Reviews* – The Board continued six disability claims without annual review and three with bi-annual review.

Contested Cases (*Kate Talley/Patricia Davis*)

- *Informal Consideration – Retirement System Membership, PERS* – The Board moved to uphold a staff decision made June 21, 2012 following a member requesting to be transferred from PERS to another retirement system. Member will remain in the PERS system.
- *Informal Reconsideration – Retirement Calculation, PERS* – The Board moved to deny member's renewed request to increase his retirement benefit based on his age and the benefit calculation in his retirement estimate rather than the final calculation.
- *Petitioners (VFCA) Exceptions to Proposed Findings of Fact, Conclusions of Law & Order* – The Board moved to adopt the Hearing Examiner's July 17, 2012 Proposed Order.

Finalized Service Retirements/Death Benefits (*Patricia Davis*)

***Motion: Vice President Terrence Smith moved to approve the finalized service retirements/death benefits.***

***Second: Member Timm Twardoski***

***Vote: 7/0***

**ADJOURNMENT**

There being no further business before the Board, President Scott Moore adjourned the regular meeting at approximately 2:20 a.m. The next regular meeting will be Thursday, October 11, 2012, at 8:30 am.

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Scott Moore, President

ATTEST:

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Roxanne M. Minnehan, Executive Director