PUBLIC EMPLOYEES' RETIREMENT BOARD
100 N Park, Rm 201
Helena MT 59620

Board Legislative Committee Minutes
November 1, 2012 - 1:00 pm

Chairman Terrence Smith called the PERB Legislative Committee conference call to order at 1:00 p.m. on Monday, November 1, 2012. Members Dianna Porter and Melissa Strecker were excused. Board members and staff present were:

Committee Members:
Terrence Smith, Chair
Bob Bugni
Darcy Halpin
Scott Moore
Timm Twardoski

Staff:
Roxanne Minnehan, Executive Director
Patty Davis, Members Services Bureau Chief
Melanie Symons, Chief Legal Counsel
Hollie Koehler, Internal Auditor
Kate Talley, Attorney
Flora Sebens, Executive Assistant

Public:
Jerry Williams, MPPA
Jessie Luther, AMT
Tom Schneider, MPEA
Sheryl Woods and Shantil Siaperas, MACO
Mark Murphy, MCAA, MPPA, MACOP
Doug Neil, MEA-MFT

I. Roll Call

Roll call was taken. Chairman Terrence Smith, Members Darcy Halpin, Scott Moore, and Timm Twardoski participated via telephone. Member Bob Bugni attended in person. Members Dianna Porter and Melissa Strecker were excused.

II. Public/Member Comment

Doug Neal, MEA-MFT, had it brought to his attention by a member who was on disability that not all disabilities are tax free. MEA-MFT was under the impression that there they. Mr. Neal wanted to make everyone aware that the firefighters are going to work on changing this during the upcoming Legislative Session.

III. Approval of Legislative Committee Meeting Minutes – October 1, 2012.

Chairman Terrence Smith had not received the October 1, 2012, meeting minutes; therefore, he has not reviewed them. It was agreed the minutes would be put on the next agenda for approval.

IV. 2013 Board Bill Drafts

A. Funding

The Board determined to attempt to increase funding of the employer's contributions by a ¼ of a percent per year for four years. Staff was unclear if the Board wanted it to be a permanent increase or a temporary one until the funds were actuarially sound again. PERS already has a .27% temporary contribution. Each system that is actuarially

unfunded has the .25% added either solo, temporary solo, or added to the existing temporary.

Motion: Member Scott Moore moved to send the Funding Bill to Legislative Services Division to review.

Second: Member Darcy Halpin

No public comment.

Vote: 5/0

B. General Revisions
Ms. Symons reviewed the modifications made to the General Revisions bill (see attached document).

Motion: Member Darcy Halpin moved to accept the modifications to the General Revisions Bill as outlined by Ms. Symons.

Second: Member Scott Moore

No public comment.

Vote: 5/0

Member Darcy Halpin left the conference call.

C. 125 Plan Premiums
A bill has been drafted to cap the 125 Plan contributions that can be included as compensation for retirement benefits. The bill proposes to cap the amount of the individual who is receiving this benefit at the rate at they are currently receiving. The bill also proposes an immediate effective date, because there is concern that there may be a rush to increase premiums.

Member Scott Moore stated he has never been in agreement with this concept and feels it imposes on member's collective bargaining abilities. Often times wages, which would normally go toward retirement, are forfeited in order to keep insurance benefits from being paid out of pocket. This is why the IRS sees them as allowable. Member Moore feels this bill would restrict any other enrollment. Ms. Melanie Symons recapped that the staff was instructed by the Board to draft this bill. Ms. Minnehan stated that even if employers already have a 125 Plan they are still cutting off new enrollees at the same rate. We are not proposing to cut off enrollment if a 125 Plan already exists. Member Moore agreed, but still felt that we would be restricting other cities that are without a 125 Plan, which would prohibit collective bargaining for those funds to be used towards retirement purposes.

Ms. Kate Talley stated that one can still collectively bargain for those benefits and receive that amount in compensation; this bill would exclude that compensation for retirement purposes only.

Mr. Mark Murphy, MCAA, MPPA, MACOP, asked if we have considered that the way this bill is drafted that it will limit the amount of the cafeteria plan that can be used. Are the local government unit and the local members limited to a particular year's contribution? Ms. Symons responded that their premium can be whatever they want that premium to be. The amount that is counted towards their retirement compensation for retirement purposes would be capped for the amount that it is at the time the bill passes. We only anticipate collecting contributions on the capped amount. The people who are currently in the plan would be capped at the time this bill passes. New members would be capped at the same premium amount as other employees.

Mr. Doug Neal, MEA-MFT, stated that Bozeman used to pay $729 in monthly 125 plan contributions that counted towards retirement purposes. They recently cut back and now only contribute $530 a month, with the agreement that next year they will increase it to $555 and eventually work back up to $729. Great Falls contributes $820 per month. Mr. Neal feels that someone is going to make the case for the highest amount that has been capped.

Mr. Jerry Williams, MPPA, stated he opposes this type of legislation. He has not seen any numbers on negative impacts to the system in order to justify this bill. If it is negotiated in a collective bargaining unit then we need to see the actuarial costs to justify this type of bill. He agrees with President Moore in that we are imposing on collective bargaining rights and feels that data to prove this proposed change is necessary is needed and that if the numbers justify this bill then why not change this legislation to say that this is necessary to make the system actuarial sound and then notify the cities and bargaining units that this is going to happen. Capping the costs would also create a bookkeeping nightmare. They are already paying the cost. It's been accepted by the bargaining units. If the cost goes up they will pay the increased cost on all of those dollars. Mr. Williams stated he believes that this bill offers no benefit to the system, whatsoever, and that the actuarial costs if any to the retirement systems associated with 125 plan contributions, at least for participants of new plans, could or should be the responsibility of local governments.

Member Bob Bugni felt the issue at hand was salary spiking and questioned if we could possibly address this issue better in the HAC Bill. He asked how we could draft language in any bill that would require the employers to pay the actuarial costs. Ms. Minnehan indicated she would have to discuss this with our actuary. Ms. Talley stated that it would be extremely difficult to do this because everyone's situation is different. The actuary would almost have to do an evaluation on each person and this would be very costly.

Chairman Terry Smith stated that anyone who considers adding a 125 Plan would have to pay the cost for our actuary to come up with what it is going to cost them to include it. It would possibly help put an end to the 125 Plans being added as compensation towards retirement.

Ms. Patty Davis felt the staff needed direction from the Board about how this would apply. We attempted to preserve the plans currently in place and cap it at what is currently in place because there seemed to be a drive to move towards a 125 Plan in order to increase a member's retirement benefit. If we look at the actuarial costs, are we still looking to preserve the other plans that are currently in place at whatever premiums are there, or are we looking at making the local governments pay the actuarial costs for every plan or just new plans coming in? Chairman Smith responded that if we are going to draft legislation like that it would be for the 125 Plan only. Any new 125 Plans negotiated after the passage of this bill would require the employer to pay the actuarial costs.

Motion: Member Scott Moore moved to discontinue moving forward with the draft of the 125 Plan Compensation Exclusion Bill.

Second: Member Timm Twardoski

Public Comment: Doug Neal commented that he felt it seemed that this is being perceived as an attempt at defrauding the system and in the case of Bozeman it has been since July 1, 1996, that this has been in place. We have a generation of employees that have been paying 10.7% into the FURS system and the employers have been paying 14.36%. The State's contribution has been 32.61%. If an employee signed on in 1996 and retired in 2016 he will have paid the whole cost. The system is whole. There have been some new departments that have signed up and some of their employees have only been paying for the past 3 years, so admittedly, they are getting a good deal. But, the person who just started last year will pay for it for the whole course of their career and he believes that eventually everything will even out.

Vote: 3/1

D. HAC

There are only 3 substantial changes.

- Page 8 subsection 28 – definition: defining excess earnings because we needed a name for that amount of money, which is the difference between the amount of compensation that is reported to us and the compensation used for calculating highest average or final average compensation.
- Page 16 subsection (2)(a) proposing to cap the amount of compensation that is included in the highest average or final average compensation and apply that cap to members hired on or after July 1, 2013, for all systems. This is similar to the TRS cap except they apply it to all members; we are only proposing to apply it to new members so as to avoid contract right issues.
- Page 16 subsection (2)(a)(ii) – proposes the percentage of the cap at 115% - TRS uses a 110% cap.

Chairman Smith asked if staff perceived this as a violation of contract rights. Ms. Symons responded that staff has had many lengthy discussions about this and felt that if the issue of contract rights being violated was not such a hot issue these days it might not be a big deal, but because it is Ms. Symons thinks it would definitely draw attention.

Patty Davis provided two examples of different scenarios of how this would affect a member. (Please see attached.)

Member Timm Twardoski left the meeting. There was no longer a quorum to make a decision on this bill. Therefore, it was decided to add it to the November 8, 2012, Board meeting agenda for further discussion.

Mark Murphy spoke against the bill.

V. Other Items

A. Governor's Bill

The Governor's Bill made some modifications regarding not leaving the entire liability for them to pick up. It allowed for local governments to have time to add this liability to their budgets.

B. Proposed Retirement Bills

No discussion.

C. Other?

No discussion.

VI. Adjournment

There being no further business before the Legislative Committee, Chairman Terrence Smith adjourned the meeting at approximately 3:30 p.m.

DRAFT