

TEACHERS' RETIREMENT BOARD MEETING

MAY 9, 2008

CALL TO ORDER

Chairman Ryan called the meeting to order at 8:30 A.M. in the Hilton Garden Inn, Treasure State Ballroom B, 2465 Grant Road, Billings, Montana.

BOARD MEMBERS PRESENT:

Tim Ryan, Chairman
Scott Dubbs
Mona Bilden
Kari Peiffer
James Turcotte
Darrell Layman

STAFF PRESENT:

David Senn, Executive Director
Tammy Rau, Deputy Executive Director
Denise Pizzini, Legal Counsel
Bill Hallinan, Information Technology Manager - Conference Call
Dan Gaughan, Accounting Fiscal Manager - Conference Call

OTHERS PRESENT:

Tom Bilodeau, MEA-MFT
Charlene A. Suckow, MREA
Pamela Wedum
Neal Wedum

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for May 9, 2008. Mr. Ryan requested they move the TRS 2008-2009 Budget Report before the financial statements and move Legal Counsel Report after disabilities. Seeing no other changes, he requested a motion to adopt the Agenda.

MOTION/VOTE: Mrs. Kari Peiffer moved that the agenda be approved as amended. Mrs. Mona Bilden seconded as amended, the motion passed unanimously.

PUBLIC COMMENT – Chairman Ryan called for public comment on Board related items. No public comments were made.

APPROVAL OF MINUTES - Chairman Ryan called for changes to the February 8, 2008 Board Meeting Minutes.

Mr. Scott Dubbs would like the minutes to reflect that although he was at the meeting via conference call, he did not participate during the disability discussions.

MOTION/VOTE: Mr. Darrell Layman moved the February 8, 2008 Board Meeting Minutes be approved as amended. Mrs. Mona Bilden seconded as amended, the motion passed unanimously.

LEGISLATIVE RECAP - Mr. Senn asked what participation the Board would like to see regarding a Legislative Committee. What direction do they want staff to take regarding researching retirement

systems? What areas could the Board do more to facilitate the decision to actuarially fund the system? The new TRS Legislative Committee will be looking at administrative rules, statutory changes, and housekeeping as well.

The Board discussed their position of representing the members, to keep them informed on how decisions made by the Board are made in good faith. They reiterated how important it was for members to realize it was the Board's goal to make decisions that will create positive impacts for all TRS members.

The Board further discussed the importance of well-announced meetings, sharing information in newsletters, etc., and publicly sharing items being discussed that affect the TRS. It is important to give members a reason to have confidence in the Board. The Board needs to inform members there are some good ideas out there for their benefit and impress that change can be a good thing.

Mrs. Kari Peiffer suggested a good place to create more awareness about changes being considered by the Board would be the Educators' Conference. Mr. Senn added this was a great idea, since the Board's Legislative package would be available in October. Those speaking at Montana Conference of Education Leadership (MCEL) and the Teachers' Conference could outline the TRS Legislative points.

The Board discussed the importance of getting information regarding problems confronting members. The Board should know where the problems are coming from and discuss any complaints, whether it be cost of living increases, family law orders, Roth IRAs, funding issues, hiring back retirees, or even splitting contracts. Mr. Senn pointed out the major problem here might be recruitment and retention and how to use the retirement system to address employment issues. The Board was in agreement that when the System is used to address employment issues that the legislation must include a sunset.

Chairman Ryan suggested the Board appoint a Legislative Committee. The meetings will be public, with opportunities for input, with as many meetings as the committee needed to have for constituents to participate. Board members will be notified of all conference calls and meetings.

Mr. Ryan asked Scott Dubbs and Darrell Layman if they would be willing to be on the Legislative Committee. Both accepted the position. Mr. Senn proposed, and it was accepted, to have the first Legislative Committee conference call meeting on Wednesday, May 28, 2008, at 3:00 p.m. at the TRS conference room.

EXECUTIVE DIRECTOR'S REPORT

Funding and Benefit Policy - It is policy for the TRS Board to review the Funding and Benefit Policy each year prior to Legislative session. Mr. Senn informed the Board there are no major changes in the policy, however, he has struck some of the language that was put in two years ago, to address unfunded issues that the TRS was taking to the Legislature at that point in time.

The Board discussed additional funding sufficient to amortize unfunded liabilities for 25 years.

MOTION/VOTE: Mr. James Turcotte moved to adopt the amended Funding and Benefits Policy. Seconded by Mrs. Kari Peiffer, the motion passed unanimously.

Contracted Services Agreements - Mr. Senn presented two addendum contracts for legal services. The addendum for Ice Miller would extend the original legal services contract with the TRS until July 1, 2009. It would include an IRS compliance review and request for a "Determination Letter." All other terms and services of the agreement would remain unchanged. Services for the term shall not exceed \$25,000.

The second contract was for Alfred Munksgard and Associates. The retainer is \$48,000 per year, plus additional charges for any enhancements made to the system; such as providing automatic emails to members, finalizing processes on automated wage and contribution, electronic funds transfer, electronic fund transfers for insurance agencies process, and/or give active and inactive members increased web access to their account.

MOTION/VOTE: Mr. Darrell Layman moved that both Contracted Services Agreements be approved. Seconded by Mr. Scott Dubbs, the motion passed unanimously.

SAVA Interim Committee Report - Mr. Senn reported The State Administration and Veterans' Affairs (SAVA) committee met on April 28, 2008, to hear retirement proposals from interested persons. The MEA-MFT presented the 2.0% Professional Retirement Option effective July 1, 2011, for any member at least age 55 with 30 or more years of service. The School Administrators have indicated that they will not have any Legislative proposals until after the November elections.

Mr. Senn summarized proposals heard at the SAVA meeting regarding The Police Officers' Association, The Association of Retired Public Employees, and the MEA-MFT. Mr. Senn added the SAVA Committee will meet again on June 30, and July 1, 2008, to hear legislative proposals from the retirement boards, and other state agencies.

Executive Summary - In April the TRS notified all employers they could now update TRS members' addresses on their monthly wage and contribution reports. If they provide the TRS with current mailing addresses in the future, we will not ask them to distribute annual statements, newsletters, and other materials to the TRS member.

OPI Request for PERS Membership - Mr. Senn asked Attorney Denise Pizzini to address questions Legal Counsel had at the last Board meeting, concerning equal protection.

Attorney Denise Pizzini expressed there are two issues regarding OPI's request to move more of their people to PERS eligibility as opposed to TRS. Their proposal initially was to set a particular point in time and only going forward for new hires at OPI. That raised issues of 'equal protection' if there were members whose current positions were substantially similarly situated in OPI who should be reported to TRS. What about people in other agencies, other educational type institutions who might have people in similar positions and would there be an 'equal protection' issue there?

Attorney Pizzini reported the Supreme Court Case Law has been very defensive of the protective Legislative features for retirement plans. The February 2008 Beam decision, which came from the Supreme Court, was related to the National Guard Fire Fighters in Great Falls. Apparently the Legislature passed a statute allowing National Guard Fire Fighters to participate in Fire Fighters' Retirement System, which had richer benefits and was favorable to fire fighters. Legislation offered participation only to new hire fire fighters and not to the existing ones. Although, the existing fire fighters working in the window of opportunity could elect to move to the new system as opposed to remaining in PERS. Thus we had two classes of individuals, those hired before the effective date of the legislation, and those hired after the effective date.

In the National Guard Fire Fighters case the only difference in their situation was their date of hire. The Supreme Court decided there was a compelling distinction between these two classes of people, since it was the intention of the Legislature that the benefits be different from this point forward in time and not necessarily reach back in time to the people previously hired.

With respect to all the employees in OPI, attorney Pizzini suggested the legislation needs to be clear that any changes apply only to a certain date going forward in time, not reaching back, and it pertained only to OPI. She added that the TRS will very likely still have to address the issue then of the 'equal protection argument' by people in other agencies. The TRS may still have to address it within OPI as well.

The Board discussed whether the TRS Board wanted to support OPI's Legislation to move all of OPI's membership to the PERS, or does the Board feel strongly this is an educational community that should be part of the TRS. Mr. Senn pointed out the equal protection issue and actuarial costs will need to be answered before the Board will get to a decision point. The Board further discussed how the term 'instructional services' was not defined in the statutes; therefore, without a clean definition it creates a loophole. Until this loophole is closed, there is too much room for people to continue to put the TRS in a position of having to take legal action to solve it.

IRS Qualification Filing - Mr. Senn informed the Board that Ice Miller is on schedule to file the request for a 'Determination Letter with the IRS, which will confirm the TRS remains a 'qualified plan.' The primary advantage of remaining a qualified plan is that our investment earnings and member benefits are not subject to taxation as they are earned. Our goal is to complete drafting of any required administrative rules and proposed legislation by September 15, 2008, and file with the IRS in October 2008.

OTHER BUSINESS

Interest Rate Credited to Member Accounts - Each May the Board is required to set the rate of interest that is credited to active member accounts and service purchase contracts. Historically, the interest rate has been set close to the Short-Term Investment Pool (STIP) rate earned by the Board of Investments. Mr. Senn informed the Board the STIP on April 30, 2008, was 2.845%, and shared it has been steadily dropping since September last year. Staff recommended the interest rate credited to member accounts for the period July 1, 2008 to June 30, 2009, be reduced from 5.0 percent to 2.0 percent.

MOTION/VOTE: Mr. Turcotte moved to adopt a 2.0% interest rate credited to member accounts. Seconded by Mr. Darrell Layman, the motion passed unanimously.

Out-of-State Travel Requests – Mr. Senn reviewed out-of-state travel requests for the Executive Director and two board members to attend the National Council on Teacher Retirement (NCTR) Annual Conference to be held in Washington, DC, October 11-17, 2008. Board members scheduled to attend this year's conference are Mona Bilden and Darrell Layman. Mr. Senn shared a list of future conferences and the Board members scheduled to attend each, together with a list of past conferences.

MOTION/VOTE: Mrs. Peiffer moved that the out of state travel be approved. Seconded by Mr. Turcotte, the motion passed unanimously.

Alternative Work Schedule Policy - Last fall the Board approved an alternative summer work schedule for June, July, and August. Mr. Senn explained the updated Alternative Work Schedule Policy included the summer schedule.

MOTION/VOTE: Mr. Layman moved to approve the Alternative Work Schedule Policy. Seconded by Mr. Dubbs, the motion passed unanimously.

Investment Report – Mr. Jim Turcotte presented the Investment Report, indicating the market appears to be heading for a period of adjustment. He referred to the end of the year, June 30, 2008, and indicated the TRS would be fortunate to break even.

The Board discussed the economic situation and the overall sense was by the end of December they would be seeing significant improvements. They also discussed the importance of STIP and how it was used in the retirement system.

TRS 2008-09 Budget - Via conference call, Mr. Dan Gaughan shared the proposed budget and justification for the fiscal year beginning July 1, 2008 through June 30, 2009. The proposed FY 2009 budget includes a \$27,752 increase over FY 2008 anticipated expenditures.

MOTION/VOTE: Mrs. Bilden moved that the budget be accepted as presented. It was seconded by Mrs. Peiffer, the motion passed unanimously.

Financial Statements - Mr. Gaughan reviewed the financial statements.

Delinquent Agency & Travel Reports - Mr. Gaughan reported Rocky Boy is delinquent and he is working with them on getting their account up to date.

Next Meeting Dates: - Mrs. Peiffer asked if the September Board meeting could be changed to September 12, 2008. The Chair directed the next meeting dates be scheduled for September 12, 2008, and November 14, 2008.

DISABILITY APPLICATIONS -

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 11:13 a.m. to discuss and review disability applications since the individual's right to privacy of information pertaining to benefits clearly exceeds the merits of public disclosure.

Approval of Applications for Disability Retirement Benefits

MOTION/VOTE: Mr. Turcotte moved to approve the disability application for Rebecca Alvarado. Seconded by Mr. Layman, the motion passed unanimously.

MOTION/VOTE: Mrs. Bilden moved to approve the disability application for Kathleen Fuhrman. Seconded by Mrs. Peiffer, the motion passed unanimously.

MOTION/VOTE: Mrs. Peiffer moved to approve the disability application for Darlene Cook. Seconded by Mr. Layman, the motion passed unanimously.

MOTION/VOTE: Mrs. Bilden moved to approve the disability application for Pamela Wedum. Seconded by Mr. Dubbs, the motion passed unanimously.

MOTION/VOTE: Mr. Layman moved to approve the disability application for Johann Yarlott. Seconded by Mrs. Peiffer, the motion passed unanimously.

LEGAL COUNSEL REPORT

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 12:21 p.m. for Attorney Pizzini to discuss strategies on a contested case.

OPEN MEETING – Chairman Ryan reopened the meeting to the public at 12:46 p.m.

ADJOURNMENT

There being no further business, the meeting was adjourned at 12:48 p.m.

Chairperson _____

Executive Director _____