

# TEACHERS' RETIREMENT BOARD MEETING

September 12, 2008

## CALL TO ORDER

Chairman Tim Ryan called the meeting to order at 8:30 a.m., in the Board of Investments Conference Room, 3<sup>rd</sup> Floor, 2401 Colonial Drive, Helena, Montana

## BOARD MEMBERS PRESENT:

Tim Ryan, Chairman  
Kari Peiffer, Vice Chairman  
Scott Dubbs  
James Turcotte  
Darrell Layman  
Denise Pizzini, Legal Counsel

## ABSENT

Mona Bilden

## STAFF PRESENT:

David L. Senn, Executive Director  
Tammy Rau, Deputy Executive Director  
Bill Hallinan, IT Manager

## OTHERS PRESENT:

Tom Bilodeau, MEA-MFT  
Charlene A. Suckow, MREA

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

**MOTION/VOTE:** Member James Turcotte moved that the agenda be approved. Seconded by Mr. Darrell Layman, the motion passed unanimously.

APPROVAL OF MINUTES – Chairman Ryan called for any changes to the May 8 & 9th, 2008 Board Meeting Minutes as well as the Legislative Committee Meeting of August 19, 2008.

**MOTION/VOTE:** Mr. Layman moved approval of the Minutes of May 8, May 9, and the Legislative Committee Meeting of August 19, 2008. Seconded by Member Scott Dubbs, the motion carried unanimously.

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

LEGISLATIVE COMMITTEE REPORT AND PUBLIC COMMENT ON PROPOSED LEGISLATION

Funding/Return to Work Proposal - Executive Director David Senn distributed a letter to the Board from Superintendent Bruce Messinger, Helena Public Schools, regarding the Funding and Return to Work legislative proposal. Dr. Messinger objected to the proposal to increase the break in service to six months and to the additional employer contributions. Mr. Senn also shared an e-mail he received from Darrell Rud, Executive Director, School Administrators of Montana, stating he could not support the proposed changes.

In addition, Mr. Senn reported that at the August Legislative Committee meeting, Mr. Bob Vogel and Mr. Rud stated they could not support the 6 month break in service but neither mentioned any objection to the suggestion that employers contribute the combined contribution rates on all wages paid to working retirees. During the August meeting MEA-MFT stated they could not support the change to allow retirees to earn more than 1/3 of the final average salary.

Mr. Senn continued to review each section of the proposed bill draft.

Mr. Tom Bilodeau stated that MEA-MFT opposes increasing the post-retirement earning limits from 1/3 to 1/2. The only change that MEA-MFT would tend to support would be an introduction of employer contributions.

Mr. Senn recommended the Board strike Section 1 of the Bill Draft, eliminating the 6 month waiting period, the contributions on working retiree wages, and the increased post-retirement earning limits from 1/3 to 1/2. He recommended the Board add a provision to require employers contribute the normal employer contribution rate on all wages paid to retirees working part-time. Mr. Senn explained the normal employer rate would be the percentage they would have contributed on the salaries paid to any member except for the fact that they hired a retired member. Mr. Senn commented that when the Actuarial Report is completed and presented to the Board in November, we would be able to estimate if this rate increase would help offset the adverse impact of retired members returning to active membership.

Mr. Bilodeau, MEA-MFT said that first, they are not convinced that expanding the post-retirement earning limits from 1/3 to 1/2 will effectively accommodate school district needs. They believe that the marginal increase does not accomplish the stated objective. Secondly, it is good and proper that we bring in an employer contribution. Mr. Bilodeau also expressed MEA-MFT's support for their proposal to increase the multiplier to 2% for members at least age 55 with 30 or more

years of service explaining that their proposal would encourage people to stay in the profession and extend their careers.

Mr. Dubbs voiced his concern that other than Dr. Messinger's letter that there have been no discussions what so ever relating to the proposal that employers make contribute on wages paid to working retirees.

Mr. Turcotte, Mr. Senn, and Mr. Dubbs all commented that the committee received objections and criticism to the Board's proposal but no constructive input from the education community as to what they would like to see in terms of improvements to the return to work provisions.

Mr. Layman stated that it is frustrating that TRS put forth its idea after having studied 30 other states and having an open forum every time the committee met, and that no one comes forward with any suggestions. He was disappointed with the input from the various groups.

Chairman Ryan recognized that everyone is frustrated with the lack of input but is encouraged that there is recognition that the TRS cannot be the solution to the employment issues. Mr. Ryan thanked the committee and those who spent so much time doing the research. There are real issues facing education in Montana and if we do not work together those issues will not be resolved in a satisfactory manner. TRS has done all that it can do to mitigate some of these circumstances keeping in mind the fiduciary duty to the retirement trust. We need to understand each others issues so we may work together because we are all in this for the same purpose.

Mr. Dubbs acknowledged that Mr. Bilodeau and his association have been very upfront with TRS. It is obvious that we need to change how a retiree can step back into the system but now all we have left is a proposal to change how benefits are calculated when a retired member returns to active service. Mr. Dubbs stated he would like to attach this recommendation to the MEA-MFT 2.0% multiplier proposal. He believes going in with two proposals right now gives people a choice. Otherwise the Legislature will leave a good proposal on the table that we have endorsed in two previous legislative sessions that helps address a huge part of the problem.

Mr. Senn suggested the Board proceed with the recommended legislative proposal pending additional information on the cost of retired members return to active status. Mr. Senn pointed out that the deadline is to have a draft bill to the Budget Office by Monday.

**MOTION/VOTE:** Member Kari Peiffer moved that Section 1 of the draft bill be struck and to add a section requiring employers to pay the employer contribution rate on all wages paid to working retirees. Seconded by Mr. Turcotte, the motion passed unanimously.

Housekeeping Proposal –Mr. Senn explained the proposal was necessary to comply with the Pension Protection Act of 2006; clarifying definitions, who must be a member of the system, family law orders, and optional retirement allowances; and to requiring certification of termination of employment in compliance with the Internal Revenue Code.

Chairman Ryan questioned if we have heard anything back from OPI. Mr. Senn replied no, but he has talked with OPI and they are working on getting the Board further explanations regarding their proposal.

Mr. Senn continued to review each section of the draft proposal.

**MOTION/VOTE:** Mr. Turcotte moved to approve the draft Housekeeping Bill. It was seconded by Mr. Layman. Chairman Ryan asked for Public Comment, finding none, the motion passed unanimously.

Mr. Bilodeau, MEA-MFT thanked the TRS staff and Members of the Board that worked over 15 months on the return to work issues generally. Everyone did make a very good effort. On the Housekeeping Bill, Mr. Bilodeau stated there has been a lot of discussion on all of the issues with all interested parties and thinks they are solidly behind the bill and looks forward to the State Administration Committee Meeting when it is presented.

Other Legislative Proposals - Mr. Senn stated that he had invited Montana Retired Education Association, MEA-MFT, School Administrators of Montana, Montana School Boards Association, Montana Rural Educators Association (MREA) to present their proposals.

Charlene A. Suckow, on behalf of the MREA, stated that the retired teachers association would not have any legislation this session. She added the housekeeping package that was proposed is good and is acceptable to MREA.

Mr. Bilodeau, MEA-MFT presented two pieces of legislation affecting TRS. The first proposal is the 2.0% Professional Retirement Option (PRO) proposal. This is the same PRO proposal that has been introduced in previous legislative sessions. It would provide a 2% formula for those individuals age 55 or older who work 30 years or more. The proposal will include a two year delayed effective date. The cost is expected to be in excess of 2.0% of payroll or approximately \$12 to \$13 million per year. As previously proposed, MEA-MFT is suggesting the State General Fund pick up the full cost, rather than the County retirement levy.

Mr. Bilodeau stated the MEA-MFT second legislative proposal would increase the employer contribution paid into the Optional Retirement Plan (ORP) for university faculty enrolled in the TIAA-CREF program. This proposal is identical

to the legislation that was presented in the past legislative session that took the employer contribution from 5% to 6%.

Mr. Senn then discussed LC2222, a statewide pay schedule for teachers and specialists presented to the Education Subcommittee on September 4, 2008. Mr. Senn's concern is not with the pay schedule but that there would be an immediate windfall for teachers who work under the new schedule for 3 years and then retire. In addition the proposal has a salary spike built into it at 20 years at which time the member receives an additional 5% of salary and at 25 years when the member receives an additional 3%. The result is a shorter period in which to collect contributions and earn investment earnings required to fund that higher benefit.

On the positive side, the increase in pay would increase the contributions TRS would be collecting to pay off the unfunded liability, which would reduce the amortization period. The bill was heard by the committee but was not moved forward.

Mr. Bilodeau commented that LC2222 would establish a \$40,000 starting salary indexed for inflation with a maximum salary of \$80,000. The estimated cost the first year to implement the schedule would be approximately \$130 million.

Critical Shortage Exceptions - Mr. Senn explained the Legislative Committee had asked that this issue be placed on the September agenda in order to have an open discussion with the organizations most interested in hiring retired TRS members. Seeing no one in attendance interested in this issue, the item was not discussed

## EXECUTIVE DIRECTOR'S REPORT

Proposed Administrative Rule Changes to Comply with the Pension Protection Act of 2006 –Mr. Senn presented the proposed Administrative Rule additions and changes required to comply with the Pension Protection Act of 2006. Mr. Senn thanked Ms. Denise Pizzini for her excellent work in compiling the required federal amendments into the format required for Administrative Rules.

**MOTION/VOTE:** Mr. Turcotte moved to proceed with posting the Administrative Rule changes. It was seconded by Mrs. Peiffer. Chairman Ryan asked for public comment, finding none, the motion passed unanimously

Agency Legal Services – Mr. Senn reported that the Department of Administration had advised him that they are no longer able to provide adequate legal services to cover the TRS legal requirements. Mr. Senn commented that Denise Pizzini has done a great job in covering the critical issues. However, TRS requirements for legal services are increasing with a substantial amount of legal work that needs to be completed over the next several months. Mr. Senn

recommended hiring a full time in-house attorney, and increasing the budget for fiscal year 2009 by \$65,000, to cover the additional salary, supplies and start-up cost of the new position.

Chairman Ryan commented that he felt it was the Board's preference to contract for legal services with a private firm. Mr. Senn replied that he has asked the Legal Review Committee about this option and was told that they would only approve a contract for outside legal counsel on a short-term basis.

**MOTION/VOTE:** Mr Layman moved to authorize staff to hire a full time in-house attorney and to increase the budget for Fiscal year 2009. Seconded by Mr. Dubbs, the motion passed unanimously.

Mr. Senn asked if any Board members wanted to be included in the interview process. Chairman Ryan stated that he would like to be involved.

Executive Order 35-2008 - Mr. Senn summarized Executive Order 35-2008 which asks all state agencies and boards to use technology when holding meetings to conserve energy as much as possible. Conference calls have been utilized to this end and TRS will continue to conserve energy through the use of technology as much as possible.

OPI Membership Proposal – Mr. Senn reported that he had been working with Madalyn Quinlan to clarify their request to move positions from TRS to PERS and had asked her to document what positions they have moved, why they were moved, and what had changed. Mr. Turcotte asked if TRS can require the positions remain as currently classified until the issue is resolved. Chairman Ryan questioned how long TRS should let this go on if they do not hear from OPI by November. Mr. Senn will advise Madalyn Quinlan of the Board's preference that any new hires to a position remain in the system where the position had been previously reported.

Executive Summary – Mr. Senn informed the Board that Rita Karnopp has moved onto the Department of Health and that the Executive Assistant position has been advertised with a closing date of September 11, 2008.

Mr. Senn commented that the summer work schedule was used this year worked well, with some exceptions on Mondays and Fridays when we were sometimes very short staffed. He recommended that the alternative schedule be used again next summer.

The Market Value Liabilities issue was reported on by Mr. Senn. If public systems were required to use a short-term bond rate to value unfunded liabilities, amortization periods would greatly increase. This method is not supported by the NCTR or any other organization representing public retirement plans. In addition the TRS Actuary, Mark Olleman, does not support this method.

## OTHER BUSINESS

Board of Investments Report – Mr. Turcotte presented the Board of Investment Report. TRS is down 4.68%, gross, for the year end which impacted the actuarial valuation.

Next Board Meeting - The next Board Meeting has been scheduled for November 14, 2008.

Government Finance Officer Association (GFOA) Conference Report – Deputy Executive Director Tammy Rau reported on the GFOA conference that she attended and thanked the Board for allowing her to attend. Mrs. Rau attended a management & policy class that dealt with communicating with employees and the public. There is software called Camtasia that TRS is considering and Tammy felt what she had learned from the class could be applied to that software. Another class attended was a pension and benefit class that addressed the future of public sector retirement plans and inferred that the US money supply link to oil prices will ultimately create a greater credit crunch. The class suggested that future plan design should reflect longevity and should be something similar to Social Security. The budget and financial planning class that Mrs. Rau attended dealt with performance management which included a briefing on the Joint National Advisory Commissions progress. What the committee is trying to do is develop a comprehensive performance measurement framework that can be used across state agencies. Performance measurements are something that TRS should be looking at adopting in the future. She also attended a class that dealt with disaster management and resiliency which focuses on building enhanced capabilities which allows government to both respond and recover quickly to a disaster.

Mrs. Rau informed the Board that TRS management has talked about these issues and needs to start a budget and build a plan for disaster management. The importance of being able to effectively deal with a possible mass loss of life is critical. TRS also needs to have staff involved not only by having their personal data updated but reviewing their areas of work and suggesting what would be necessary or helpful in a disaster scenario.

Public Retirement Information Systems Managers (PRISM) Conference Report – IT Manager Bill Hallinan thanked the Board for the opportunity to attend the conference and reported on the conference. At the conference Mr. Hallinan attended a roundtable discussion regarding management of change in the business and IT environment. Mr. Hallinan went over several key suggestions that had been presented for achieving a comfort level for change. A presentation by Futurist David Zach gave suggestions in dealing with upcoming trends and what to look forward to. Four different retirement systems gave presentations.

California PERS spoke to their experience in restructuring their organization. Ohio SERS spoke about organizational change and suggestions for facilitating change. The Denver ERS is in the process of revising their antiquated system and spoke about their experience and gave suggestions regarding doing a risk and needs analysis for a new line of business. The City of Milwaukee ERS gave suggestions for project planning and implementation.

Mr. Hallinan presented an overview of the need for new equipment, as well as development of a disaster recovery plan. The current system is redundant and maintenance agreements are expiring. After May 2010 the current equipment will no longer be covered by maintenance. Mr. Hallinan presented a synopsis of what will be needed and the approximate costs. Mr. Hallinan reviewed the capabilities of the HP3000 which is an option he is investigating. This is a proposal for the 2010 budget but he wanted the Board to be aware of the need by advising them in advance as it is a major expenditure in terms of equipment that is needed.

#### LEGAL COUNSEL REPORT

#### CLOSED MEETING

Chairman Ryan directed the meeting be closed at 1:45 p.m. to discuss legal strategy which is protected by attorney-client privilege.

#### OPEN MEETING

NAPPA (National Association of Pension Plan Attorneys) Conference Report – Denise Pizzini thanked the Board for the opportunity to attend the conference. Mrs. Pizzini reported the conference was one of the best organized and legally intensive conferences she has attended and was excellent. The portion she attended on issues coming up in the Federal Legislative Session expected to see some technical corrections of the Pension Protection Act. Mrs. Pizzini did not feel that any of the proposed corrections particularly pertained to the TRS. Mrs. Pizzini stated that there was a lot of discussion and a session devoted to Market Value Liabilities, or Financial Economics. They expect to see legislation at the federal level in this area.

The session on service provider contracts discussed the very broad indemnification provisions for limited liability provisions in actuarial contracts. Actuarial firms are strictly limiting their liability to gross negligence or willful misconduct. The suggestion was that it should be an issue for the RFP and expectations for indemnification be placed in the RFP or at least ask for favored nation's status, which is a request for the best indemnification language that is given to any client. The big topic at the NAPPA conference was tax issues and the IRS involvement. There is a group in NAPPA that is working with the IRS to give them an understanding of the public plans' needs and requirements.



ELECTION OF OFFICERS

Chairman Ryan called for election of officers.

**MOTION/VOTE:** Mr. Dubbs moved to maintain the chair relationship with Mr. Ryan. Seconded by Mrs. Peiffer, the motion passed unanimously.

**MOTION/VOTE:** Mr. Layman moved to maintain the vice-chairman relationship with Mrs. Peiffer. Seconded by Mr. Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:30 p.m.

Chairperson \_\_\_\_\_

Executive Director \_\_\_\_\_