

**TEACHERS' RETIREMENT BOARD MEETING
FEBRUARY 20, 2009**

CALL TO ORDER

Chairman Tim Ryan called the meeting to order 8:30 AM in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

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

STAFF PRESENT:

Janet Cooper – Benefits Officer
Bill Hallinan – IT Manager
Denise Pizzini – Chief Legal Council
Tammy Rau – Deputy Executive Director
Johnelle Sedlock – Benefits Officer
David Senn – Executive Director

OTHERS PRESENT:

Tom Bilodeau – MEA-MFT
Elizabeth Karen Kaleva – Legal Council for Wes Young

ADOPT AGENDA - Chairman Ryan asked for additions or changes to the Agenda for February 20, 2009. Finding none, Chairman Tim Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Kari Peiffer moved to adopt the agenda. Seconded by Member Darrell Layman, the motion passed unanimously.

APPROVAL OF MINUTES - Chairman Ryan called for changes to the November 14, 2008, Board Meeting Minutes.

Ms. Tammy Rau commented that on Page five under the Office of Public Instruction paragraph the grammatical error the word “weather” needs to be changed to “whether” and it needs to read “that position determines whether it is”.

MOTION/VOTE: Chairman Ryan moved to correct the word weather to whether and add the word determines into the paragraph and adopt the minutes as amended. Seconded by Member Mr. Scott Dubbs, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS:

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

ADMINISTRATIVE BUSINESS:

Out of State Travel Authorization – NAPPA & PRISM Conferences:

Mr. David Senn presented out-of-state travel requests for Ms. Denise Pizzini to attend the 2009 National Association of Public Pension Attorney (NAPPA) conference June 23-26, 2009, in Portland OR, and for Mr. Bill Hallinan to attend the 2009 Public Retirement Information Systems Management (PRISM) annual conference April 26-29, 2009, in Portland OR.

MOTION/VOTE: Member Layman moved to approve the out of state travel requests for Ms. Pizzini and Mr. Hallinan. Seconded by Member Peiffer, the motion passed unanimously.

Office Space:

Mr. Senn recommended remodeling an office space located in the basement to divide a larger room into two offices. The estimated cost was approximately \$18,000.00. Mr. Senn suggested an alternative option would be to remodel the meeting room next to his office.

MOTION/VOTE: Member Peiffer moved to approve the remodel of the office in the basement into two separate offices. Seconded by Member Dubbs, the motion passed, 3 to 2.

Chairman Ryan suggested that the Board may want to have a contractor evaluate the current office space situation; meet with the staff, and draw up a design that would best use the office space available to accommodate our present staff and the Communication Officer position.

Investment Report:

Member James Turcotte commented it is very difficult to make money in this market. Some managers expect fixed income to return 4% over the next year, with 8% in equity which will not meet the actuarial assumption of 7.75%. The Bond managers expect Bonds are going to be the place to be, because of the big discounts.

Financial Statements, Budget, Delinquent Agency, and Travel Reports:

Ms. Rau reviewed for the Board the Financial Statements, budget, Delinquent agency, and travel reports. Chairman Ryan asked for further explanation of the amount expended to date for contract service. Ms. Rau explained that contracted services included actuarial services and that the number of legislative proposals has driven up the cost.

IT Status Update:

Mr. Hallinan reported that a year from now the support and warranty will run out on 4 of 6 of our servers and gave a brief update on his research to replace the servers. The cost estimate for two boxes, one box would replace all 6 of our servers and all our computers in the office and the second box would be used for back up as necessary, would be housed at the Miles City data center, the estimated cost is \$150,000. More definite costs would be available by the May board meeting

Internal Control Policy:

Mr. Senn reviewed a draft internal control policy compiled by Mr. Gaughan. In the TRS audit for fiscal year 2008 the Legislative Auditor recommended that the Board adopt an Internal control Policy. The Auditors found the TRS had good internal controls; they were concerned the Board had not adopted a policy documenting procedures to monitor and test internal controls in accordance with state policy. The final policy will be presented to the Board for formal approval at the May board meeting. Mr. Senn asked if the Board had any comments or questions regarding the draft policy.

Chairman Ryan called for any comments from the Board on related items. No Board comments were made.

Next Meeting Dates:

Member Layman reported that he had a conflict with the September 11 and asked if this date could be changed. Chairman Mr. Ryan suggested the May meeting be scheduled for the afternoon of May 7 for the purpose of continuing to work on the strategic plan and the regular meeting be held on May 8, 2009, and the September meeting be moved to September 18, 2009. Mr. Dubbs suggested starting the May 7th meeting at 2:30 pm. There being no objection, it was so ordered.

DISABILITY APPLICATIONS -

CLOSED MEETING - Chairman Ryan directed the meeting be closed at 9:20 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.

OPEN MEETING: DISABILITY APPLICATION BENEFITS

Approval of Applications for Disability Retirement Benefits

MOTION/VOTE: Member Turcotte moved for approval of Katherine H. Martin disability. Seconded by Member Peiffer, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Phyllis A. Massar disability. Seconded by Member Dubbs, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Gwen E. Bolstad disability. Seconded by Member Dubbs, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved for approval of Suzanne H. Donnelly disability. Seconded by Member Layman, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved for approval of Laura C. Kessner disability. Seconded by Member Peiffer, the motion passed unanimously.

MOTION/VOTE: Member Peiffer moved for approval of Sarita L. Kuhn disability. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Layman moved for approval of Deva M. Trebas disability. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved the disapproval for Renae L. Dorward disability. Seconded by Member Turcotte, the motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT:

Bonus Payments that are a Part of a Series of Annual Payments:

The statutory definition of Earned Compensation, §19-20-101(6)(e)(iii), MCA excludes incentives or bonus payments paid to a member that are not part of a "series of annual payments". The Rau School District and MEA-MFT asked the Board for guidance on the type of bonus payments or incentives that would be considered part of a series of annual payments. Mr. Bilodeau explained the Rau School District, through collective bargaining, uses 25 percent of the total Gas and Oil revenues they receive each year to pay a bonus to each teacher based on the number of years of service they have in the District.

Mr. Senn commented that staff questioned if these types of payments constituted a series of annual payments, because the amounts were dependent on available oil and gas revenues and because the payments were based on years of service with the District, thus leading to the larger payments being made to those most likely to retire in the near future.

Chairman Ryan asked if we know the amount of money that is available, is it a significant amount?

Mr. Senn and Mr. Tom Bilodeau reported they have been working on this question, and we believe in 2007 it was around \$4,000.00 paid to each teacher with 20 or more years with the District.

Mr. Bilodeau stated that it is the position of the District and MEA-MFT that the bonus is part of a series of annual payments. It was the intent of the parties when bargaining to use a share of total oil and gas revenues to pay bonuses to all bargaining unit members such that they would have an ongoing calculable dollar amount that would fluctuate according to revenue received. Mr. Bilodeau suggested that the staff and Board work to draft proposed rules and examples of how this would work in a broad range.

Member Turcotte asked how many other schools have this same issue. Mr. Bilodeau responded that there are about 80 oil and gas revenue districts. Members Turcotte and Peiffer commented that what if the money no longer exists and what is this going to do to their base salaries.

Member Turcotte commented that maybe the payments should be treated like a profit sharing plan and not reported to TRS.

Chairman Ryan agreed that what needs to be done is a discussion of draft administrative rules at the May Board meeting. Member Layman suggested the rules cover all bonuses regardless of the funding source, not just the oil and gas, but the coal, and windmills.

MOTION/VOTE: Chairman Ryan moved to study the bonus issues and draft administrative rules for the May board meeting. Seconded by Member Layman, the motion passed unanimously.

2009 Legislation:

Mr. Senn reviewed the retirement and general government bills he was following for the 2009 Legislation.

Ms Pizzini commented several bills had been introduced this session to address concerns Legislators had with the rule making process. Some of the bills would be more onerous to comply with than others, but she did not believe the bills that appeared to be moving forward were particularly problematic.

CHIEF LEGAL COUNSEL REPORT:

Report on Frazer School District's Post-Retirement Contract:

Mr. Mavencamp joined the meeting via telephone conference at 11:05 a. m. Ms. Pizzini introduced herself as Chief Legal Council for the TRS and informed Mr. Mavencamp she would be leading this portion of the board meeting. Mr. Mavencamp requested that the board meeting be closed.

Ms. Pizzini advised Mr. Mavencamp that a closed meeting could not happen unless the Board Chair made a determination that Mr. Mavencamp's privacy interest outweighs the public's right to know and recommended the Chairman close the meeting to give Mr. Mavencamp an opportunity to explain his personal privacy interest.

CLOSED MEETING:

OPEN MEETING:

Ms. Pizzini informed Mr. Mavencamp he must submit a written request to the Board requesting a closed meeting and that the letter must include a description of his privacy interest justifying why the meeting should be closed. Mr. Mavencamp was informed of his right to have Legal Council, or other representation present at the meeting. Mr. Mavencamp agreed to provide the Board with a written statement of his reasons for his request for a closed meeting.

Chairman Ryan directed that the issue be rescheduled for the next May 2009 Board meeting and listed as an action item on the agenda.

Executive Summary:

Mr. Senn reported the application for Actuarial RPF was almost completed. Mr. Senn asked the Board when they would like to schedule interviews with potential Actuaries. Following a brief discussion, it was agreed to schedule the interviews for mid June.

Mr. Senn and Ms. Rau reported the National Institute of Retirement on Security (NIRS) recently released a report on Pensionomics measuring the economic impact of state and local pension plans. For fiscal year 2005-06 each benefit dollar paid by state and local pension plans supported \$2.36 in total economic activity. Each dollar invested by taxpayers supported \$11.45 in total economic activity.

Ms. Pizzini and Mr. Senn will be participating in a Family Law CLE for Montana Attorneys in Billings on March 20, 2009, to present information regarding requirements for family law orders submitted to TRS.

Mr. Senn reported that in 2006 the Congress passed legislation which will require all employers to withhold 3.0% of payments made for goods and services beginning in 2011, as a federal income tax withholding. On behalf of the Board, Mr. Senn wrote Senator Baucus asking the Senator to support an amendment to exempt State and Local governments from the withholding requirement. However, the Senate passed the American Recovery and Reinvestment act before the amendment could be acted on. .

In late February 2009, the Internal Revenue Service (IRS) released the Pilot Governmental Plan Questionnaire to 25 governmental plans. Based on the results of this pilot, and feedback from the governmental plan community on the form itself, the

IRS intends to revise the questionnaire and survey an additional 200-250 plans later this year, followed by a public report based on their findings.

Chief Legal Counsel Report:

Calculation of Benefits – Merle Farrier:

Ms Pizzini advised the Board Mr. Merle Farrier was unable to attend the meeting today and requested he be rescheduled for the May 8, 2009, meeting.

Ms. Pizzini briefly reviewed the pending issue before the board stating that at the May meeting we expected Mr. Farrier to clearly define his settlement offer or methodology for paying the amount owed the TRS.

Other Cases:

Ms. Pizzini advised the Board the Bowman case is in district court in Helena on a petition for declaratory judgment action to determine which of two persons, his widow or his former spouse is the appropriate beneficiary. A hearing is scheduled for September 8, 2009.

Mr. Ronald Fuller continues to be employed by the Department of Corrections in a position reportable to TRS. We recently provided him with estimates of benefits and actuarial reduction that would be necessary to recover the benefits he received in error.

Ms. Pizzini suggested to the Board that she working on drafting administrative rules and/or proposed legislation that puts some of the repayment obligation on the employers who are responsible for erroneously paid benefits caused by improper reporting of employee wages.

LUNCH:

Frontier School District – Re-employment of Retired Principal:

Mr. Wesley Young could not be present and was represented by Legal Counsel Elizabeth Karen Kaleva. Ms. Kaleva does not represent the school district in this matter.

Mr. Young retired as the Principal of Frontier in June 2008 and was subsequently rehired by the district as a part-time Dean of Students; part-time Maintenance Director, and part-time Transportation Supervisor. In November the Board requested additional information regarding the reemployment of the former Principal into the three positions and that Mr. Young and Counsel be invited to attend the February meeting. Ms. Pizzini provided a brief summary of the facts as staff understood them and thanked Ms. Kaleva for providing copies of the job descriptions and supporting documentation.

Member Peiffer asked if there is a principal at school presently. Ms. Kaleva responded that there is a part-time Superintendent and part-time Principal currently filled by Christine Eggars, it is based on the student enrollment, and they can't afford two full-time positions. Member Dubbs asked if there were two full time positions last year. Ms. Kaleva responded yes. Member Dubbs asked how many buses are there. Ms. Kaleva responded that they have 4 buses. Chairman Ryan asked what Mr. Young made as a full time principal. Ms. Pizzini responded he made around \$56,000.00 per year. Mr. Senn asked how long had Mr. Young been a Principal at Frontier school. Ms. Kaleva responded that it was his first year back and previously he was a Superintendent at Charlo, and prior to Charlo, he was Superintendent at Frontier school.

Member Layman commented that Mr. Young retired; the Superintendent and Principal positions go to half time, due to reduction of enrollment, the Board creates the Dean of Students position, and Mr. Young retires and is rehired for all three positions. Mr. Senn responded the school Board had the Dean of Students position created as early as February 2008. Member Layman asked when the other two positions were created. Ms. Kaleva responded that those positions were created in June 2008.

Member Peiffer asked what the salaries are for the Maintenance and Transportation Supervisor. Ms. Kaleva responded that both those positions are \$16, 000.00 a year for each. Member Peiffer commented that they didn't have the money to keep him hired as a full time administrator, but created three 1/3 time positions and hired him that basically equate to the \$56,000.00 (\$53,000.00), and they can use the retirement to supplement his income. Ms. Kaleva said no, that because of declining enrollment they didn't need two full time administrators.

Member Layman asked if Mr. Young keeps track of the hours that he performs in each of his 3 positions. Ms. Kaleva said he documents all his hours while performing each of the different tasks.

Mr. Senn suggested that if the Board feels inclined to take action on this issue, that they schedule an actionable item in May, and invite Ms. Kaleva and Mr. Young to discuss this with the Board at that time.

Chairman Ryan directed that the issue be scheduled for the May board meeting as an actionable item. Mr. Senn suggested staff work with Mr. Young and Ms. Kaleva to make sure the information is complete and accurate.

EDUCATION CO-OPS:

Mr. Senn and Ms. Pizzini advised the Board they are working on the question of TRS membership eligibility for certain employees of Education Cooperatives, and depending on what we learn, there may be a need for additional administrative rules and/or legislation.

MOTION/VOTE: Member Peiffer moved to adjourn the meeting. Seconded by Member Turcotte, the motion passed unanimously.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:48 p.m.

Chairperson _____

Executive Director _____