

TEACHERS' RETIREMENT BOARD MEETING
May 8, 2009

CALL TO ORDER:

Chairman Tim Ryan called the meeting to order at [8:34 AM](#) in the Teachers' Retirement System Conference Room, 1500 East 6th Avenue, Helena, Montana.

BOARD MEMBERS PRESENT:

Tim Ryan - Chairman
Scott Dubbs – Via-Phone conference
Jeff Greenfield – New Board Member
Darrell Layman – Board Member
James Turcotte – Board Member

ABSENT:

Kari Peiffer – Board Member

STAFF PRESENT:

Natalie Chamberlain – Retired Benefits Specialist
Karla Scarf – Retired Payroll Manager
Johnelle Sedlock – Benefits Officer
Janet Cooper – Benefits Officer
Dan Gaughan – Accounting/Fiscal Manager
Bill Hallinan – Information Technology Manager
Denise Pizzini – Chief Legal Counsel
Tammy Rau – Deputy Executive Director
David Senn – Executive Director

OTHERS PRESENT:

Tom Altmaier - MREA
Tom Bilodeau – MEA-MFT
Merle Farrier – Retired TRS Member
Ronald Fuller – Retired TRS Member
Lynn Mavencamp – Retired TRS Member
John Vellutson - MREA
Colleen White – Legal Counsel DOC - Ronald Fuller case

ADOPT AGENDA - Chairman Tim Ryan asked for additions or changes to the Agenda of May 8th. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member Darrell Layman move to adopt agenda. Seconded by Member Jeff Greenfield, the motion passed unanimously.

ADOPT MINUTES - Chairman Ryan asked adoption of February 19th & 20th Minutes. Finding none, Chairman Ryan requested a motion to adopt the Agenda.

MOTION/VOTE: Member James Turcotte moves for approval. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT ON BOARD RELATED ITEMS Chairman Ryan called for public comment on Board related items. No public comments were made.

LEGAL COUNSEL REPORT

Repayment of Benefits paid in Error – Merle Farrier

Mr. Farrier addressed the Board requesting that his benefits be recalculated to include the years when he was in employment with the University System and participating in the Optional Retirement Plan.

MOTION/VOTE: Member Scott Dubbs moved to not recalculate Mr. Farrier's benefits. Seconded by Member Turcotte, the motion passed unanimously.

Repayment of Benefits paid in Error – Ronald Fuller

Ms. Pizzini gave a brief update on the Mr. Ronald Fuller case. Mr. Fuller is employed with the Department of Corrections (DOC) in a position that was reported to the TRS; however, for a number of years he was erroneously reported to the Public Employee Retirement System. Mr. Fuller was receiving retirement benefits from TRS during this period and has been overpaid benefits in the amount of \$94,131.44. As of July 1, 2009, the amount owed by Mr. Fuller to repay the benefits received in error, plus interest, is \$138,653.57. Mr. Fuller and the DOC, through its legal counsel, Colleen White, have submitted a settlement offer, which includes that DOC will contribute \$50,000.00 towards the amount owed to TRS. The settlement offer, though, is conditional upon a request by Mr. Fuller that the TRS Board agrees to waive some or all of the accrued interest. The settlement offer does not specify either the specific amount of interest requested to be waived, or any specific basis upon which the waiver should be granted.

Both Mr. Fuller and Ms. White were present to provide information and answer questions. Mr. Fuller commented that he would not sign any agreement with the DOC until he knows what the Retirement Board would be willing to do, related to the interest. Mr. Fuller questioned the calculation of interest and asked that the Board waive the interest that is owed.

Chairman Ryan asked for questions or comments from the Board. Member Greenfield commented that the Board should not waive the interest.

Member Turcotte stated he would abstain from discussion or any comments as he has a conflict of interest.

MOTION/VOTE: Member Layman moved to deny the request to waive interest. Seconded by Member Greenfield, the motion passed unanimously, with Member Turcotte abstaining.

Chairman Ryan asked the Board if there was a motion to waive a portion of the interest if a full settlement proposal was available. Member Dubbs commented that the Board would need to see some sort of justification, right now it is about waiving all of the interest. Member Greenfield agreed with Member Dubbs that a complete proposal is needed before the Board considers waiving the interest. Member Layman had made the motion to deny waiving the interest and still stands behind the motion. Member Layman asked Legal Counsel, Ms. Pizzini, if the Board accepts the \$50,000.00 from the DOC does that jeopardizes the collection of the remainder of interest balance.

Mr. Senn suggested he and Ms. Pizzini work with Ms. White and Mr. Fuller to clarify the calculation of interest for a settlement proposal. Chairman Ryan, so directed and asked that any corrections or settlement offer be presented to the Board when they meet in June, 2009.

Calculation of Retirement Benefits – Lynn Mavencamp Chairman Ryan determined that Mr. Mavencamp's privacy interest outweighs the public's right to know. The meeting was closed at 9:23 am.

Closed Meeting

Open Meeting **10:40 AM**

Break **10:40 AM**

Chairman Ryan called the meeting back to order at 10:51 am.

MOTION: Member Layman moved the Board to direct Mr. Senn and with the advice of Legal Counsel, Ms. Pizzini, to recalculate Mr. Mavencamp's benefits. Seconded by Member Turcotte.

DISCUSSION: Mr. Senn asked if the recalculation was to be based upon the assumption the 2 years with Frazer Public Schools were full-time? Mr. Layman responded that was the intent of his motion.

Member Greenfield requested clarification of the particular issue of the motion. Chairman Ryan responded the motion is to recalculate Mr. Mavencamp's benefits to include the two years with Frazer Public schools, and to recover the \$55,000.00 in benefits he received during his first year with the District.

Member Greenfield asked how the 10% cap on salaries affected the calculation of benefits. Mr. Senn responded that under the Administrative Rules that the Board has adopted, the cap does not apply to the first year's salary when a retiree returns to work in a full-time position. Therefore, the 10% cap was not applied in Mr. Mavencamp's case.

Chairman Ryan asked for Public comment, Mr. Mavencamp clarified his understanding of the motion that it was the decision of the Board that the two contracts are one large contract and benefits will be calculated as such.

VOTE: The motion passed unanimously.

Mr. Mavencamp commented to the Board that he would need to appeal this decision and wanted to know what his monthly benefit would be while waiting for the appeal. Ms. Pizzini recommended to the Board the benefits continue at the current level until the administrative hearing is completed.

Chairman Ryan suggested Mr. Mavencamp be given the option to have the benefit recalculated immediately, or to continue to receive the current benefit amount, with the understanding that if he loses the appeal, any overpayment he received would have to be repaid with interest. Mr. Mavencamp stated that he would need to maintain the current benefit level, and asked for the recalculated benefit amount.

Case Update

Lawrence Bowman – Mr. Bowman was a retired member who elected to retire under option C, designating his wife at the time he retired in 1999 as his beneficiary. However, at the time we were processing his application for retirement benefits he was also in the process of getting a divorce. Shortly after his death in December 2007, his current wife claimed she should have been his designated beneficiary. To settle this issue, we filed a petition for declaratory judgment asking the Court to determine the appropriate beneficiary of Mr. Bowman under Option C. A settlement conference is mandated by the court and has been scheduled for June in Great Falls.

EXECUTIVE DIRECTOR'S REPORT

Mr. Senn reported Offerors had until May 19, 2009 to submit proposals for actuarial services. He asked the Board to decide on the date for oral presentation by the selected Offerors and topics required to be addressed in their presentations, and to approve the scoring matrix for the interviews and the due date for submitting financial data.

MOTION/VOTE: Member Turcotte moved that interviews be held on June 11, with financial data submitted no later than June 5. Offers would be asked to

provide a general overview of the actuarial firm, their experience designing retirement plans for public educators, and if they could build the ideal pension plan for public educators, what would the plan look like, how would the plan control cost, and if anyone was currently offering a plan similar to their ideal plan. Seconded by Member Greenfield, the motion passed unanimously.

It was agreed that 600 points would be available for the quality of presentation, 375 points for quality of presentation materials, 500 points for validity and substance of presentation, and 400 points for primary actuary's quality of communication.

Draft Administrative Rules Defining Series of Annual Payments

Mr. Senn reviewed the proposed administrative rule defining when bonuses and incentives would qualify as a series of annual payments and be reportable to TRS. He explained that current law excludes from the definition of earned compensation bonuses and incentives that are not part of a "series of annual payments". The question to be address in administrative rule is what would constitute a "series of annual payments". The Rau School District has used a percentage of available oil and gas revenues to pay bonuses to their teachers, the question is whether they are considered a series of annual payments. Mr. Senn distributed a letter from Ryan Bull, Rau School Board Chair.

Member Dubbs asked if the rule needed to require school districts and the employee to pay for the contribution rate on those bonuses. Mr. Senn responded that the rule did not need to because statute required contributions be contributed on all wages meeting the definition of earned compensation.

Mr. Bilodeau commented contracts exist that have a specified fixed bonus amounts. The Rau contract is unusual due to a percent of gas and oil revenue received. Special language needs to be written to specify each of the different years do not fluctuate because of the revenues available from year to year.

MOTION/VOTE: Member Layman moved to notice the proposed administrative rule as drafted for public hearing. Seconded by Member Dubbs, the motion passed unanimously.

2009 Session Recap

Mr. Senn updated the Board on the legislation we have been following that has been signed by the Governor, or are awaiting his signature.

Executive Summary

Mr. Senn advised the Board that an alternative summer work schedule for staff has been approved for June, July, and August.

OTHER BUSINESS

Interested Rate Credited to Member Accounts – Mr. Senn explained that each year the Board is required to set the rate of the interest that is credited to active members' accounts. Historically, the interest rate has been set close to the Short-Term Investments Pool (STIP) rate earned by the Board of Investments. As of March 31, 2009, the STIP return was 2.03% and has been steadily dropping since October last year. Staff recommended the interest rate credited to member accounts for the period July 1, 2009 – June 30, 2010 be reduced from 2.0% to 1.00%.

MOTION/VOTE: Member Layman moved that the interest rate be set to 1.0% effective July 1, 2009. Seconded by Member Turcotte, motion passed unanimously.

Investment Report Member Turcotte reviewed the report that was produced by the BOI showing the market has come up about 30%, but we are still behind the November 2007 highs. The long-range recovery assumptions still have a full recovery out several years.

Next Meeting Dates Tentatively scheduled for September 18 & November 13, 2009.

LUNCH 12:15 PM

The Board Meeting reconvened at 1:32 PM and Member Dubbs was re-connected via phone.

TRS 2009 Budget – Accounting/Fiscal Manager, Mr. Gaughan reviewed the Fiscal year 2009-2010 budget request, and the projected expenses through the end of FY 2009. Mr. Gaughan reviewed in detail the budget requested for Fiscal Year 2010.

Bill Hallinan IT Manager reviewed possibilities for purchasing an updated computer system in FY2010. A new system was necessary to replace an aging system and to provide for better disaster recovery. Mr. Hallinan reviewed three possible solutions for purchasing a new computer system and suggested the Board wait until their September Meeting to approve a request to update the current system.

MOTION/VOTE: Member Layman moved to approve the budget for fiscal year 2009-2010 as presented. Seconded by Member Greenfield, the motion passed unanimously.

Out of State Travel Requests

It was agreed that the out of state travel request would be postponed until the June 11, 2009 meeting.

Internal Control Policy

Mr. Gaughan reviewed the final internal control policy and the changes made since the draft was presented at the November's board meeting.

MOTION/VOTE: Member Greenfield moved to adopt the internal control policy and procedures. Seconded by Member Layman, Chairman Ryan asked for further discussion and comments from the public. Seeing none, the motion passed unanimously.

Financial Statements, Budget & Delinquent Agency Reports

Mr. Gaughan reviewed the current year financial statements and other reports and answered questions from the Board.

ADJOURNMENT

There being no further business, the meeting was adjourned at 2:24 p.m.

Chairperson _____

Executive Director _____