

TEACHERS' RETIREMENT BOARD MEETING
November 13, 2009

CALL TO ORDER

Chairperson Kari Peiffer called the meeting to order at 8:32: AM in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana.

BOARD MEMBERS PRESENT:

Kari Peiffer - Chair
Scott Dubbs
Darrell Layman
James Turcotte
Jeff Greenfield
Robert Pancich

STAFF PRESENT:

David Senn – Executive Director
Tammy Rau – Deputy Executive Director
Denise Pizzini – Chief Legal Counsel
Dan Gaughan – Accounting / Fiscal Manager
Bill Hallinan – Information Technology Manager
Charlene Welch – Executive Assistant

OTHERS PRESENT:

Charlene Suckow – MREA
Ed Macdonald – CAV/MAC
Todd Green – CAV/MAC
Marco Ferro – MEA-MFT
Nancy Hill – OBPP
Roxanne Minnehan – MPERA
Darrell Rud – SAM
Cliff Sheets – MBOI
Rachel Weiss – Legislative Services

ADOPT AGENDA:

Chairperson Peiffer asked for additions or changes to the Agenda for November 13, 2009. David Senn requested the Executive Session to Discuss Disability Applications be heard after the Executive Director's Report. Mr. Senn also asked that the Action Item, Out of State Travel Requests, be changed to a Discussion Item. Chairperson Peiffer asked for a motion to adopt the revised agenda.

MOTION/VOTE:

Member Greenfield moved to adopt the revised agenda. Seconded by Member Layman, the motion passed unanimously.

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APPROVAL OF MINUTES:

Chairperson Peiffer called for changes to the September 18, 2009 Board Meeting Minutes. Finding none, Chairperson Peiffer requested a motion for approval of the September 18 board minutes.

MOTION/VOTE:

Member Greenfield moved to approve September 18, 2009 board minutes. Seconded by Member Layman, the motion passed unanimously.

PUBLIC COMMENT:

Chairperson Peiffer called for public comment on Board related items. No public comments were made.

ACTUARIAL VALUATION:

Ed Macdonald and Todd Green from the Cavanaugh Macdonald Consulting Firm presented the July 1, 2009 Actuarial Valuation.

MOTION/VOTE:

Member James Turcotte moved to adopt the July 1, 2009 Actuarial Valuation. Seconded by Member Scott Dubbs, the motion passed unanimously.

Break 10:00: AM

EXECUTIVE DIRECTOR'S REPORT:

Mr. Senn reported the Rau School District had amended the bonus language in their collective bargaining agreement to comply with the administrative rule adopted by the Board in October to provide for an annual payment limit of 15% of the member's contract. Mr. Senn recommended the Board approve a settlement agreement, agreed to by the School District, to accept previously paid bonuses as limited by the Board adopted Administrative Rule and the District's amended collective bargaining language.

MOTION/VOTE:

Member Turcotte moved the Board accept the retroactive applications for Rau school district bonus payment. Seconded by Member Darrell Layman, the motion passed unanimously.

OCTOBER 29 & 30 SAVA COMMITTEE MEETING:

Mr. Senn informed the Board that during the Oct. 29th and 30th meeting the SAVA committee heard the actuarial reports for the TRS/PERS systems. The SAVA committee also heard from Mr. Carroll South regarding what happened to the financial markets and the impacts on the pension funds.

During the HB 659 discussion, the SAVA committee decided to issue an RFP for plan design services and to use the system's actuaries for all cost calculations. The committee also discussed the issue of whether or not they needed to employ an actuary or plan design consultant. The Committee decided to hire a plan design consultant.

Marco Ferro from MEA-MFT stated he was standing in for Tom Bilodeau who was at a retirement conference in Washington D.C. Mr. Ferro handed out to the Board copies of a modified TRS PRO Bill. Mr. Ferro commented on some of the items MEA-MFT was very concerned about that have been discussed before in SAVA committee meetings, and which particular items they would not support. Mr. Ferro stated specifically any imposition of a defined contribution plan for future employees or any option for new TRS hires to elect a defined contribution rather than a defined benefit plan. Mr. Ferro also thanked the TRS staff for coming to the MEA-MFT retirement seminars.

2011 LEGISLATIVE CONCEPTS:

Mr. Senn report that as part of the biennial Executive Planning Process after the first of the year the Board would be asked to submit "legislative concepts" to the Governors Budget office by mid April 2010, with draft legislation due by mid September 2010. Historically, the Board's legislative concepts include housekeeping and funding proposals that focused on recent changes in federal laws and/or regulations.

The Board discussed the funding proposals of requiring all (new hires) school district employees to be members of TRS, and to include all compensation paid to a working retiree by a TRS employer in the one-third earnings limit, this would include PERS, and TRS positions.

Mr. Senn suggested a legislative committee be appointed to discuss and advise him on upcoming issues with regards to the SAVA committee and legislation. Member Dubbs and Member Greenfield stated they would be interested in taking part. Chairperson Peiffer appointed both Member Dubbs and Member Greenfield to sit on the legislative committee.

Roxanne Minnehan, Executive Director, MPERA discussed the PERS Board's opposition to requiring all (new hires) school district employees to be members of TRS because transferring new employees would reduce the funding available to PERS to amortize current unfunded liabilities.

ANNUAL PER DIEM ELECTION FORM:

Mr. Senn explained that each year members of the TRS Board that are also public employees (teachers and administrators) who receive both the \$50 per diem while serving as a Board member and their regular salary for an overlapping period, must file a Multiple Public Employment Disclosure Form by

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December 15. He asked any board member needing to complete the disclosure form to contact him as soon as possible.

EXECUTIVE SUMMARY:

The Legislative Auditor's office is in the final stages of completing their financial audit of the Teachers' Retirement System. TRS expects they will issue an unqualified opinion on financial statements with one audit recommendation that the Board seek funding to ensure the system is actuarial funded.

Mr. Senn made available to the Board a copy of the memo from Governor Schweitzer specifying the requirements for public participation in agency decisions.

EXECUTIVE SESSION TO DISCUSS DISABILITY APPLICATIONS:

CLOSED MEETING

Chairperson Peiffer directed the meeting to be closed at 11:30: AM 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:

APPLICATIONS FOR DISABILITY RETIREMENT BENEFITS:

MOTION/VOTE:

Member Layman moved to approve Marilyn K. Capron's disability. Seconded by Member Turcotte, the motion passed unanimously.

Member Turcotte moved to approve Ann P. Hall's disability. Seconded by Member Layman, the motion passed unanimously.

Member Dubbs moved to approve Verlin C. Salois' disability. Seconded by Member Greenfield, the motion passed unanimously.

Member Dubbs moved to approve Kelly Shaw's disability. Seconded by Member Greenfield, the motion passed unanimously.

OTHER BUSINESS:

2010 MEETING DATES – FEBRUARY 19, MAY 14, SEPT 10, & NOVEMBER 19:

JOINT TRS, PERS, & BOI MEETING – FEB. 19, 2010:

Mr. Senn explained the Board of Investments has changed the date of their February meeting to February 9 and 10, 2010; therefore, he proposed since the

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Actuaries were going to be at the May 14th TRS Board meeting a joint TRS, PERS, and BOI meeting could be scheduled to coincide with the May meeting. The consensus of the Board was to have a joint TRS, PERS, and BOI meeting on May 13, 2010, and the TRS Board meeting May 14th.

MOTION/VOTE: Member Dubbs moved the 2010 meeting dates be February 19, May 13 and 14, September 10, and November 19, 2010. Seconded by Member Pancich, the motion passed unanimously.

2009-10 GOALS AND OBJECTIVES:

Mr. Senn reviewed the revisions made to the 2009-10 goals and objectives discussed at the May board meeting, and the changes made following that meeting and recommend the Board adopted the 2009-10 Goals and Objective as amended. Mr. Senn also remarked on the Board's Commitment Worksheet which assigned tasks to be completed over the next year. One of the tasks discussed hiring a Communication Officer; however, because the Board decided to postpone hiring a Communication Officer some of the tasks, including writing and developing newsletters, would need to be reassigned.

MOTION/VOTE:

Member Layman moved to adopt Goals and Objectives as amended. Seconded by Member Dubbs, the motion passed unanimously.

BOARD MEMBER COMMUNICATION POLICY AND POLICY ON POLICIES:

Mr. Senn reminded the Board that these draft policies were first reviewed by the Board in May 2009 and that the policies are now being recommended for formal adoption. TRS staff made minor editorial changes which were highlighted in the Board packet.

MOTION/VOTE:

Member Turcotte moved that the Board adopt the Policy Governing Policy on Policies. Seconded by Member Greenfield, the motion passed unanimously.

MOTION/VOTE:

Member Dubbs moved to adopt the Board Member Communication Policy. Seconded by Member Greenfield, the motion passed unanimously.

LUNCH 12:00 PM

FINANCIAL STATEMENTS, BUDGETS AND DELINQUENT AGENCY REPORTS:

Dan Gaughan summarized the Financial Statements, Budgets and Delinquent Agency Reports and reviewed with the Board how the financial statements were compiled utilizing the State's accounting system (SABHRS). Mr. Gaughan reminded the Board that one particularly big number that does not flow through the interim process or show up on the financial statements is the Market

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Appreciation or Depreciation of Investments. Mr. Gaughan commented that this number could make a big difference in the financial statement.

Mr. Turcotte asked a question regarding the definition of Uncleared Collections. Mr. Gaughan explained that when the employer contributions are collected they are deposited in the State Treasury System and labeled Uncleared Collections until the payroll is edited and balanced.

UPDATE ON IT STATUS:

Bill Hallinan reported the new system had been purchased and delivered to the TRS. However, it was decided to wait on buying the secondary backup system until there was a place for it in the State's data center. The delay will also give TRS time to learn the new system and take advantage of any future reduction in price. Mr. Hallinan stated that the new primary system was up and running and doing well. He offered to give the Board a tour in February when the full system would be online and fully operational.

NCTR ANNUAL CONFERENCE REPORT:

Mr. Senn and Member Layman reported on the 2009 NCTR conference held in Washington D.C.

INVESTMENT REPORT:

Member Turcotte gave a brief summary which mentioned that the Board of Investments is still considering Hedge Funds but not in the near future. No near term inflation was expected in the next year and a half and interest rates would probably stay low for 9 months or so.

PERSONNEL COMMITTEE REPORT:

Board Members Dubbs and Layman meet with Jim Kerins to complete Mr. Senn's performance evaluation. Mr. Dubbs reported that the Committee gave Mr. Senn mostly outstanding ratings, as our Executive Director he is doing an excellent job. He also thanked Mr. Kerins for assisting with the evaluation process.

LEGAL COUNSEL'S REPORT:

SETTLEMENT OFFER – WESLEY YOUNG:

MEETING CLOSED:

Chairperson Peiffer directed the meeting to be closed at 2:06: PM to receive advice from counsel and discuss strategy in a legal matter.

MEETING OPEN:

MOTION/VOTE:

Member Greenfield moved that the board approve settlement of this issue upon the material terms as set forth in the proposed settlement agreement before the Board today, with TRS staff authorized to make only clerical changes necessary to finalize the settlement agreement, without varying the material terms of the proposed agreement.

Member Greenfield also further moved that, should Mr. Young ultimately not execute the settlement agreement as approved by this Board, that TRS is directed to take all necessary steps to give effect to the original determination of the Board in this matter.

Seconded by Member Robert Pancich, the motion passed unanimously.

LEGAL SUMMARY:

Bowman

Ms. Pizzini informed the Board that the final settlement agreement in the Bowman matter had been fully executed and approved by the District Court as the Court's final determination of the appropriate beneficiary of Mr. Bowman. Ms. Pizzini advised the board that, based on the designation of the appropriate beneficiary, a benefit adjustment was being made to recover the TRS overpaid benefits from the date of Mr. Bowman's retirement, and that future administration of the benefits by TRS would be no different than for any other retired member's beneficiary – any terms of the settlement agreement requiring distribution of benefits beyond normal payment to the designated beneficiary are terms entirely within the responsibility of the two defendants to administer.

Fuller

Ms. Pizzini informed the Board that Mr. Fuller had executed a settlement agreement with the Montana Department of Corrections (DOC) whereby the DOC would remit \$50,000 to TRS to be credited to the principal amount owed by Mr. Fuller for overpaid benefits. The \$50,000 payment has been received from DOC. TRS is not a party to the agreement. TRS staff will send a letter to Mr. Fuller acknowledging receipt of the \$50,000 payment and updating the information to Mr. Fuller regarding the amount now owed, including interest that continues to accrue until fully repaid.

Mavencamp

Ms. Pizzini informed the Board that discovery continues in the contested case with Mr. Mavencamp until December 31, 2009, and that hearing is scheduled for March 25, 2010. Ms. Pizzini reminded the Board that ex parte communications between TRS staff or any other party and any Board member pertaining to the Mavencamp matter are prohibited pending the Board's final decision in the matter.

Farrier

Ms. Pizzini reminded the Board that Mr. Farrier's petition for judicial review based on TRS' refusal to recalculate his retirement benefit to include service credit for his time under the ORP will be heard in oral argument before the District Court (Judge Seeley) on December 1, 2009, at 10:30 a.m.

BOARD FIDUCIARY DUTY AND LEGISLATIVE PROPOSALS:

Ms. Pizzini discussed with the Board some of the issues related to the Board's fiduciary duties in light of the work being done by the SAVA Committee to review and recommend legislative changes to the retirement system. Ms. Pizzini reminded the Board that its fiduciary duty of loyalty may bear upon the Board's ability to "participate in" or "support" a process that may have an objective of reducing benefits to current members.

Ms. Pizzini reminded the Board members most of them are also members of constituencies that have substantial interests in the benefits provided by TRS, and that people will be interested in their knowledge and views of the SAVA Committee process and recommendations.

Ms. Pizzini cautioned that Board members should be thoughtful in communicating their viewpoints and positions pertaining to issues that may implicate their fiduciary duties - "the Board should speak with a single voice." To the extent that a Board member is presenting his/her personal views, he/she should take care to make clear that they are not speaking on behalf of the Board or the retirement system. Ms. Pizzini indicated that the issue of the Board's fiduciary duties on this point will be considered further if necessary as the work of the SAVA Committee progresses.

SUMMARY OF ISSUES:

Mr. Senn presented a quick review of the topics discussed. One of the subjects discussed was where, in the future, would supplemental funding for retirement benefits come from. Some of the choices that could be considered, which would certainly be reviewed by the courts, might be removing the GABA and or raising contributions for both employer and employee by ten percent. Mr. Senn wanted to bring this to the attention of the Board so this topic could be discussed in advance with an expectation the issue could possibly be raised during the 2011 Legislation session.

RETIREMENT REPORTS:

SERVICE RETIREMENTS AND SURVIVOR BENEFITS:

Mr. Senn proceeded to give the Service Retirements and Survivor Benefits report for the last quarter.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 2:58: PM.

Chair: _____

Executive Director: _____