

**Teachers' Retirement Board Meeting
Board of Investment Conference Room
2401 Colonial Drive
Third Floor Conference Room
Helena, Montana**

Friday, September 24, 2010

BOARD MEMBERS PRESENT

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

ABSENT

None

STAFF PRESENT

David Senn, Executive Director
Tammy Rau, Deputy Executive Director
Denise Pizzini, Chief Legal Counsel
Bill Hallinan, Information Technology Manager
Dan Gaughan, Accounting/Fiscal Manager
Melissa Michalk, Executive Secretary

OTHERS PRESENT

Tom Bilodeau, MEA-MFT
Rachel Weiss, Legislative Services
Jon Moe, Legislative Fiscal Division
Ross Johnson, Legislative Audit Division
Matt Gouras, Associated Press
David Ohler, MT Dept. of Transportation Legal Counsel
Kevin McRae, MUS HR
George M. Dennison, UM President
Daniel Johns, Crowley Fleck
Todd Green, Cavanaugh Macdonald Consulting, LLC
Ed Macdonald, Cavanaugh Macdonald Consulting, LLC

CALL TO ORDER

Chairperson Kari Peiffer called the meeting to order at 8:40 AM, in the Board of Investments Conference Room, 2401 Colonial Drive, Helena, Montana.

Adopt Agenda

Chairperson Peiffer asked for additions or changes to the Agenda for September 24, 2010. Finding none, Chairperson Peiffer requested a motion to adopt the Agenda.

MOTION/VOTE: Member Turcotte moved to adopt the agenda as presented. Seconded by Member Layman, the motion passed unanimously.

Approval of Minutes

Chairperson Peiffer called for changes to the May 13 & 14, 2010 and August 3, 2010 Board Meeting Minutes. Finding none, Chairperson Peiffer requested a motion to adopt the May 13 & 14, 2010 and August 3, 2010 Board Minutes.

MOTION/VOTE: Member Layman moved to adopt the May 13 & 14, 2010 and August 3, 2010 Board Meeting Minutes as presented. Seconded by Member Dubbs, the motion passed unanimously.

Public Comment on Board Relation Items:

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

ACTUARIAL VALUATION

Mr. Ed Macdonald and Mr. Todd Green were present to review the July 1, 2010 Actuarial Valuation for the Montana Teachers' Retirement System. Mr. Macdonald began by reviewing the key findings, stating that there is a declining funded status, which was somewhat positively impacted by the revised assumptions for rates of withdrawal, retirement, and disability, and methodology changes on how benefits are calculated, and the present value of ORP Contributions. Mr. Green continued the review, affirming that the Employer Contribution is not sufficient to meet the funding policy of the Board. Mr. Green recommended an increase of 2.20% for the 2012 Fiscal Year and an additional 2.02% for the 2013 Fiscal Year. Mr. Green also confirmed that without additional contributions to the system, it will run out of funds at some time in the future.

Member Turcotte questioned the Actuaries about the market factors over the last ten years, asking if they had any proposal to lower the actuarial assumption regarding investment returns from the current 7.75%. Mr. Cavanaugh responded that the Actuaries believe the current rate of 7.75% is still reasonable for TRS.

The Actuaries recommend the following actuarial factors/tables be updated:

- Life Annuity Factors
- Optional Allowance Factors
- 10 & 20 Year Term Certain Factors
- Actuarial Cost to Purchase Service Formula

MOTION/VOTE: Member Jeff Greenfield moved to accept the Actuarial Valuation as presented by Cavanaugh and Macdonald. Seconded by Member Robert Pancich, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved to accept the recommendation on the Life Annuity Tables effective October 1, 2010. Seconded by Member Layman, the motion passed unanimously.

MOTION/VOTE: Member Turcotte moved to adopt the recommended Optional Retirement Allowance and 10 & 20 Year Term Certain factors effective with retirement benefits effective after July 1, 2011. Seconded by Member Greenfield, the motion passed unanimously.

MOTION/VOTE: Member Greenfield moved to accept the Actuarial Cost to Purchase Service Formula effective July 1, 2011. Seconded by Member Layman, the motion passed unanimously.

BREAK

INDIVIDUAL PETITIONS

Dr. George M. Dennison – Exception Requested to the 10% Cap

Dr. Dennison is the retiring President of the University of Montana who received compensation in his final year of employment exceeding 110% of his preceding year's compensation. Dr. Dennison's raise was the result of the hiring of a new president at Montana State University, and the Board of Regents' application of its long-standing policy to maintain parity in the salaries paid to its two university presidents, such that after the new president was hired at MSU, the newly negotiated salary rate for that position was adopted as the new salary rate for Mr. Dennison's position. TRS staff determined that the "10% cap" set forth in 19-20-715, MCA, would apply to limit the amount of the compensation paid to Dr. Dennison in his last year of employment that could be included in the calculation of Dr. Dennison's average final compensation by the retirement system. TRS staff determined that none of the exceptions provided by ARM 2.44.518 applied in this case. Dr. Dennison requested that the TRS Board review the staff determination.

Dr. Dennison and the University asserted that ARM 2.44.518(1)(b) provides an exception to the 10% cap that provides an exception for a change or adjustment in a salary schedule covering a certified group of employees not covered under a collective bargaining agreement. Dr. Dennison and the University asserted that the two presidents employed by the Board of Regents constitute a group of employees and that the Board of Regents long-standing policy of maintaining parity of salary

between those two positions was "as close to a salary schedule" as the University System was going to have pertaining to those positions.

TRS staff determined that a "policy of maintaining parity" did not constitute a "salary schedule" as anticipated by the administrative rule. Member Greenfield drew a distinction between a salary schedule as commonly understood, by which employees advance in salary on pre-determined and relatively predictable bases, and circumstances where a salary negotiated at arms' length with a new employee is then used as a salary point against which another employee's salary is raised. Member Turcotte pointed out that deeming the application of such policies to maintain parity as "salary schedules" would open the door to substantial potential increases of average final compensation for some TRS members where the employer has not actually committed to paying salaries and funding retirement benefits on the basis of periodic, incremental increases in salary. In such cases, the retirement system has not received the periodic, incremental increases in funding through employer and employee contributions, but in some circumstances would be called upon to provide substantially increased retirement benefits that are not adequately funded. Member Dubbs pointed out that deeming a salary increase to maintain parity to be a salary schedule, as asserted by Dr. Dennison and the Regents, would establish a precedent that would have to be applied equally to every other TRS employer and member who would choose to make similar adjustments in employee salaries to maintain parity with one employee's freely negotiated salary.

MOTION/VOTE: Member Greenfield moved that the TRS Board affirm the staff's determination in the Dennison case of the 10% cap. Seconded by Member Turcotte, the motion passed unanimously.

EXECUTIVE DIRECTOR'S REPORT

2011 LEGISLATIVE PROPOSALS

Funding Proposals

Mr. Senn reported that the SAVA Committee authorized drafting of the TRS funding proposal with a preference that the increase in the employer contribution rate be drafted as a separate proposal from the benefit adjustments. Mr. Senn went through the substantive provisions of the proposed bill draft, section by section.

Mr. Senn raised the possibility of adding language to the bill to require and define a more substantial "break in service" than is currently set out in statute for a retired member to be eligible to return to work. The Board discussed the advisability of various lengths for a break in service. The Board members all agreed that this issue required additional research and requested follow-up by staff at the November Board meeting.

Chairperson Peiffer called for public comment on any of the proposals.

Mr. Tom Bilodeau, of the MEA-MFT, stated that he fully supports all efforts of PERS and TRS to actuarially fund the systems. Mr. Bilodeau affirmed that the MEA-MFT supports the TRS legislation and the Modified Pro plan for new hires. The MEA-MFT also supports the 5-year vesting and the 3 year Average Final Compensation, as well as the other proposals that were discussed earlier. Mr. Bilodeau remarked that there are funds held in reserve by each district for the purpose of paying retirement costs that are in excess of 35% of what is needed to cover expenses. Mr. Bilodeau suggested that this 35% of reserves can be cut down to 20%, and use the additional money to help offset the proposed State supplemental contribution increase of 0.5% each year. Mr. Bilodeau estimated the freed-up reserves would be sufficient to cover the State's cost in the next biennium.

Member Pancich commented that some school districts do not have reserves in the amount of 35% and that some districts have above and beyond that amount. There are 420 school districts across the State, 350 of them are at the 35% mark, some, like in Great Falls, are at 20%, and very few are below 20%. Mr. Bilodeau mentioned that this money was raised exclusively for TRS, PERS, unemployment insurance, and Social Security. Mr. Bilodeau pointed out that there is no other legal basis for the money being raised or spent except for these retirement costs.

TRS Housekeeping

Mr. Senn provided a section by section review of the proposed housekeeping bill draft for the Board.

ORP Supplemental Contribution Rate Increase

Mr. Senn discussed proposed legislation regarding the ORP supplemental contribution rate. He indicated that a preliminary valuation report of the university system's supplemental contribution rate, effective July 1, 2010, found that the ORP supplemental contribution rate needs to increase from 4.72% to 8.52% of ORP member salaries. This represents an increase of 3.80% from the current rate of 4.72%, or approximately a \$7.7 million increase per year. This valuation is based on July 1, 2009 data. This report will be updated and finalized once the July 1, 2010 valuation is complete. The final report will also reflect any investment gains or losses for FY 2010 and any recommendations from the experience study that will be completed and presented to the Board at this meeting.

Mr. Senn discussed with the Board the need for a statute authorizing TRS and MPERA to cross-match membership data to ensure public employees are reported to the appropriate retirement systems and for appropriate administration of the

retirement systems. He went through the proposed bill draft for such information sharing.

SAVA Committee Recommendations under HB 659

Mr. Senn reported, that in response to House Bill 659, passed in the 2009 session, the SAVA committee moved to draft legislation for two money purchase plan options and a variation of the professional retirement plan proposed by MEA-MFT. Mr. Senn reviewed a high level summary of the proposals prepared by Legislative Services Staff.

Mr. Senn advised the Board that the SAVA committee was also given two proposals by the Legislative Fiscal Division that would eliminate the General Fund employer contribution subsidy to TIAA-CREF, and reduce by 10% of the supplement State General Fund contribution to all pension funds.

Public comment was requested but none was received on any of these topics.

APPLICATIONS AND BENEFIT ADJUSTMENTS

Regular, Survivorship, Adjustment, and Corrections

The Board reviewed the list of members who had recently retired.

CLOSED MEETING

DISABILITY APPLICATIONS

Executive Session to Discuss Disability Applications

Chairperson Peiffer directed the meeting to be closed at 1:27 PM to discuss and review disability applications since the individual's right to privacy information pertaining to their application for disability benefits clearly exceeds the merits of public disclosure.

OPEN MEETING

Chairperson Peiffer reopened the meeting to the public at 1:32 PM. Ms. Pizzini noted for the record that Member Layman has a conflict of interest with respect to participating in Board actions related to consideration of the Disability of Bruce B. Bainbridge. Member Layman knows Mr. Bainbridge, and has prior knowledge of the circumstances giving rise to his application for disability benefits. Due to the conflict of interest, Member Layman abstained from discussion and voting in this matter.

Approval of Applications for Disability Retirement Benefits

MOTION/VOTE: Member Turcotte moved to approve Bruce B. Bainbridge's disability application. Seconded by Member Greenfield, the motion passed unanimously.

MOTION/VOTE: Member Pancich moved to approve Patricia L. Kahre's disability application. Seconded by Member Turcotte, the motion passed unanimously.

MOTION/VOTE: Member Pancich moved to approve Carol A. Mielke's disability application. Seconded by Member Dubbs, the motion passed unanimously.

MOTION/VOTE: Member Pancich moved to approve Kirk D. Hamman's disability application. Seconded by Member Layman, the motion passed unanimously.

Member Pancich made a request that additional information be included on the retirement report in regards to a member's Average Final Compensation, the calculation of the benefits, and the monthly benefit amount. Mr. Senn responded that that information was considered confidential, private information and could not be put on a public document. Ms. Pizzini stated that the Board could be provided with the requested information if necessary but only in circumstances in which the information would not be made public.

Request for Public Information

Ms. Pizzini informed the Board that a request has been received by TRS for the names, employers, and job titles of the TRS retirees being paid the 10 highest annual benefit amounts. The request was received from Montana Watchdog related to a list the SAVA committee made public of the 100 highest paid benefit amounts. Ms. Pizzini indicated the retirees at issue were contacted regarding their willingness to waive any privacy rights they may have in the information, and to authorize TRS to disclose the information. One retiree authorized disclosure, the others declined to authorize disclosure. Ms. Pizzini informed the Board that current law does not clearly establish whether the requested information must be publicly disclosed, but that the retirement system must err on the side of protecting the members, so would request an Attorney General opinion in the matter.

OTHER BUSINESS

Board of Investments Asset/Liability Study – Data Request

Mr. Senn informed the Board that the Board of Investments, through its investment consultant, is requesting actuarial information from TRS in order to conduct an asset/liability study. Mr. Senn recommended that the Board authorize the disclosure of the necessary information to RV Kuhns, subject to an appropriate confidentiality agreement, and authorization of expenditure of funds for the information transfer from Cavanaugh Macdonald to RV Kuhns and follow-up consultation to complete the study. Mr. Senn estimated a total cost to TRS of \$4500 to \$5000.

MOTION/VOTE: Member Turcotte moved to authorize the release of the information to RV Kuhns to do the asset/liability study and to authorize expenditure of the requisite payments to the actuary. Seconded by Member Dubbs, the motion passed unanimously.

Investment Report – James Turcotte

Member Turcotte gave the Board of Investments report. The TRS Board expressed their interest in having a copy of the BOI report emailed to them. Member Turcotte went over the current asset allocation for TRS as stated in the BOI report and noted that the allocations are still in the ranges that have been prescribed for the various investment classes. Member Turcotte reviewed the investment returns reported by the Board of Investments, and indicated that the difference between the net amount and the gross amount was the cost of having the investment accounts managed by contracted managers. Investment returns, net of expenses for TRS, were 12.84%, and the benchmark was 15.95%. Gross investment returns for TRS were 13.51%, and the benchmark was 13.33%. Member Turcotte stated that TRS outperformed the gross benchmark and underperformed the net benchmark.

Mavencamp Contested Case Hearing

This matter was on the agenda for the Board's consideration of the Hearing Examiner's Findings of Fact, Conclusions of Law, and Proposed Decision; TRS' exceptions to the Hearing Examiner's proposed decision; and Mr. Mavencamp's responses to TRS' exceptions. Neither party requested oral arguments. Mr. Mavencamp was present with legal counsel, Michael Green (representing Mr. Mavencamp at this meeting in place of Daniel Johns). Because Ms. Pizzini represented the retirement system in the contested case matter, David Ohler was engaged by the Board to advise the Board in its decision-making process in this matter.

CLOSED MEETING

Chairperson Peiffer closed the meeting at 2:04 PM to discuss legal strategy. Present in closed session were the Board members and Mr. Ohler.

Mr. Mavencamp, through his legal counsel Michael Green, objected to the Board having a closed session.

OPEN MEETING

Board Consideration of Findings of Fact, Conclusions of Law, and Proposed Decision of the Hearings Examiner and Exceptions

Chairperson Peiffer reopened the meeting to the public at 3:04 PM.

The Board considered each of TRS' filed exceptions to the Hearing Examiner's Findings of Fact and Conclusions of Law:

The Board considered Exception #1 regarding the Hearing Examiner's conclusion of law that the term provision of the original 2006-2007 employment contract was ambiguous.

MOTION/VOTE: Member Greenfield moved that the Teachers' Retirement Board reject the Hearing Examiner's conclusion of law with respect to part-time/full-time and 200 days. Seconded by Member Layman, the motion passed unanimously.

The Board considered Exception #2 pertaining to the Hearings Examiner's finding of fact that Lynn Mavencamp worked fewer than 180 days under the 2006-2007 contract.

MOTION/VOTE: Member Greenfield moved that the Board find the finding of fact was not supported by substantial evidence in the Hearings Examiner's report. Seconded by Member Pancich, the motion passed unanimously.

The Board considered Exception #3 pertaining to the Hearing Examiner's finding of fact that Lynn Mavencamp did not make a salary demand for his employment with the school district for the 2007-2008 school year. The Board found that there was substantial evidence on the record to support the Hearing Examiner's finding of fact.

The Board considered Exception #4 pertaining to the Hearings Examiner's conclusion of law that the salary paid to Mr. Mavencamp in 2007-2008 did not include compensation deferred from 2006-2007.

MOTION/VOTE: Member Greenfield moved that the TRS Board reject the conclusion of law by the Hearings Examiner on this issue. Seconded by Member Pancich, the motion passed unanimously.

The Board considered Exception #5 pertaining to the Hearings Examiner's conclusion of law that Mr. Mavencamp was not unjustly enriched.

MOTION/VOTE: Member Dubbs moved that the TRS Board reject the Hearings Examiner's conclusion of law that Mr. Mavencamp was not unjustly enriched. Seconded by Member Layman, the motion passed unanimously.

The Board, with its legal counsel in this matter, David Ohler, discussed that other provisions of the Hearing Examiner's proposed decision would need to be rejected or amended based on the Board's decisions on the filed exceptions, and that the findings of fact put forward by the Hearing Examiner that were not in conflict with the Board's determinations should be adopted by the Board.

MOTION/VOTE: Member Turcotte moved that the Board reject the Hearings Examiner's conclusion of law and that the Board does have the right to recalculate benefits upon discovery of errors or omissions, and may collect any enhanced benefits. Seconded by Member Pancich, the motion passed unanimously.

MOTION/VOTE: Member Dubbs moved that the Board accept all other findings of fact and conclusions of law by the Hearings Examiner, except those modified or rejected. Seconded by Member Turcotte, the motion passed unanimously.

Chairperson Peiffer directed that a proposed final order be drafted in conformity with the Board's determinations. The Board scheduled a follow-up telephonic Board meeting to take action on a final order for 8:30 a.m. on October 26, 2010.

OTHER BUSINESS

Financial Statements, Budget, & Delinquent Agency

Dan Gaughan, TRS Account/Fiscal Manager reported on TRS' current financial status. Mr. Gaughan noted that the annual financial audit of TRS by the Legislative Audit Division would begin within the week, and adjustments to the reports may be made in the future if recommendations for adjustments are made by the auditors. Mr. Gaughan particularly pointed out an adjustment reported in the current financial statements necessary due to an accounting error by the Board of Investments found in March 2010, related to BOI's real estate investment pool. The Board of Investments has had to make adjustments for over-distributed income, which then had to be reflected in TRS' financial statements. Mr. Gaughan reviewed the budget status report with the Board.

Update on Review of the Pension Administration System

Bill Hallinan reported on his review of potential pension administration system updates for TRS. He also shared general information with the Board regarding applicable State IT standards for management of a project if TRS determines it is necessary to substantially update its pension administration system. He updated the Board on the process currently being undertaken by MPERA to update its pension administration system, including its review of potential vendors, in which TRS is participating for informational purposes. He will update the Board on this issue at the November Board meeting, which will follow a vendor fair being sponsored by MPERA at the end of October.

Next Meeting Dates

The next meeting of the Board is scheduled for November 19, 2010.

In addition, Mr. Greenfield gave a report about the NCTR Conference that he attended in Portland, Oregon. Mr. Greenfield discussed how Montana is doing better than some other states in regards to the retirement systems.

LEGAL COUNSEL'S REPORT

Adopt Administrative Rule Revisions – Notice 2-44-442

Ms. Pizzini reported on the administrative rule process to amend rules pertaining to the qualifications of TRS' actuaries and the requirement for disability retirees to annually report employment income to TRS. She indicated that the proposal notice was published, no hearing was requested or held, and that one comment was received. Ms. Pizzini informed the Board that the necessary amendment was made based on the public comment and presented the Board with the proposed adoption notice for their consideration and action. She indicated that the adoption notice would be filed with the Secretary of State's office on October 4, 2010, if approved by the Board.

MOTION/VOTE: Member Layman moved that the Board approve the amendments as outlined by Denise Pizzini. Seconded by Member Greenfield, the motion passed unanimously.

NAPPA Conference Report

Ms. Pizzini summarized that there were conversations at the conference about vested rights and benefits changes. Ms. Pizzini mentioned the presentation by Colorado PERA, who is trying to modify their cost of living adjustment in order to change benefits for new and current members. Ms. Pizzini updated the Board regarding the Class Action suits against various public pension plans in other states arising from benefit changes or contribution increases affecting current members/retirees.

Summary of Legal Issues

No other legal issues were presented.

ELECTION OF OFFICERS

Election of Chair and Vice-Chair

Chairperson Peiffer called for a nomination of Chair.

MOTION/VOTE: Member Greenfield moved that Member Kari Peiffer remain as Chairperson of the TRS Board. Seconded by Member Pancich, the motion passed unanimously.

Chairperson Peiffer called for a nomination of Vice Chair.

MOTION/VOTE: Member Dubbs moved that Member Darrell Layman remain Vice-Chair. Seconded by Member Greenfield, the motion passed unanimously.

Board Meeting Minutes
Teachers' Retirement System
September 24, 2010

ADJOURNMENT

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

There being no further business, the meeting was adjourned at 4:27 PM.

Chairperson_____

Executive Director_____