

Teachers' Retirement Board Meeting
Teachers' Retirement Board Room
1500 East 6th Avenue
Helena, MT
February 21, 2014

BOARD MEMBERS PRESENT

Robert Pancich, Chair (via teleconference)
Kari Peiffer, Vice Chair
Lisa Cordingley
Scott Dubbs
Janice Muller
Marilyn Ryan

STAFF PRESENT

Shawn Graham, Executive Director
Tammy Rau, Deputy Executive Director
Denise Pizzini, Legal Counsel

Nolan Brilz, Accounting/Fiscal Manager
Rick Bush, Information Technology Manager
Johnelle Sedlock, Benefits Officer
Karla Scharf, Retired Payroll Supervisor
Other TRS staff

OTHERS PRESENT

Curt Drake, Drake Law Firm
Diane Fladmo, MEA-MFT
Mike Kauffman, Drake Law Firm
Sheri Scurr, Legislative Services Division
John Semmers, Jackson Murdo & Grant
Scott Smee, Jackson Murdo & Grant
Dan Zorn, TRS member

Call to Order

Vice Chairperson Kari Peiffer called the meeting to order at 8:33 a.m., in the Montana Teachers' Retirement Board Room 1500 E 6th Ave Helena MT.

Adoption of Agenda

Vice Chairperson Peiffer asked for any additions or changes to the agenda. Finding none, the chair requested a motion to adopt the agenda as written.

Motion/Vote: Member Scott Dubbs moved to adopt the agenda and Member Lisa Cordingley seconded it. The motion passed unanimously.

Adoption of Minutes

Vice Chairperson Peiffer asked for any changes or corrections to the minutes of December 6, 2013. Finding none, the vice chair requested a motion to adopt the minutes as presented.

Motion/Vote: Member Marilyn Ryan moved to adopt the minutes and Member Cordingley seconded it. The motion passed unanimously.

Public Comment on Board Related Items

Vice Chairperson Peiffer asked for public comment on any public matter not on the agenda and within the jurisdiction of the Board. There was no public comment.

Executive Director Shawn Graham introduced to the board new staff members: Imaging Technician, Jeannie Schmidt; Accounting/Fiscal Manager, Nolan Brilz; Benefits Officer, Rachelle Spatz; and Benefits Technician, Daisy Wiseman.

Board/Staff Training

Mr. Graham introduced John Paveo from the Department of Administration State Human Resources Division. Mr. Paveo led the training for the TRS staff and Board on the Non-Discrimination of Employment and Provision of Services. There was a discussion about potential updates to the TRS policy of Nondiscrimination of Employment and Provision of Services.

Executive Director's Report

Executive Summary

Experience Study

Mr. Graham said Cavanaugh Macdonald was in the process of conducting the experience study and the results would be announced at the May 16, 2014 Board meeting.

2015 Legislative Concepts

Mr. Graham stated the concepts for legislative proposals for the 2015 session are due to the Budget Office by April 18, 2014. Mr. Graham said TRS has ten housekeeping items for the next legislative session and drafts of the items would be presented at the May 16, 2014 Board meeting. There was a discussion about various concepts for the housekeeping bill, including changes for Tier 2 members in regards to their death benefits.

SAVA, LFC & LAC Interim Committee Meetings

Mr. Graham gave an update on the SAVA, LFC and LAC Interim Committee meetings. Mr. Graham said the plan choice rate for PERS defined contribution members was the main topic at the SAVA Committee meeting. Mr. Graham said Sherri Scurr of Legislative Services gave a presentation about the assumed rate of return and how the TRS and PERS boards determine the assumed rate of return to the SAVA Committee. Mr. Graham said he assisted Ms. Scurr in researching the history of the ORP and how it was created. Mr. Graham said Senator Brown asked him to report back to the SAVA Committee on any recommended changes from the actuaries as a result of the experience study.

Mr. Graham announced that the Legislative Audit Division presented an unmodified opinion of TRS to the Legislative Audit Committee. Mr. Graham said the committee asked about the rate of return, the GABA lawsuit, the amortization period, and prior audit recommendations. Mr. Graham said there was no update on the GABA lawsuit at this time.

Staffing Update

Mr. Graham gave an update on staffing and new staff positions.

Recent Outreach

Mr. Graham reviewed the outreach materials sent to TRS members and employers. There was a discussion about mailing the new handbooks to current members and the costs associated with the mailing.

Administrative Business

Draft Policy on Electronic/Facsimile Signatures for Correspondence

Teachers' Retirement System Board Meeting
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Mr. Graham presented the draft policy on electronic/facsimile signatures for correspondence for board approval. Vice Chairperson Peiffer asked for a motion to approve the policy on electronic/facsimile signatures.

Motion/Vote: Member Ryan moved to approve the policy and Member Dubbs seconded it. The motion passed unanimously.

Out-of-State Travel Requests

Mr. Graham presented the request for out-of-state travel for Legal Counsel, Denise Pizzini, to attend the National Association of Pension Public Attorneys (NAPPA) Conference in Nashville, TN from June 24 – 27, 2014.

Motion/Vote: Chairperson Bob Pancich made a motion to allow Ms. Pizzini to attend the NAPPA conference. Member Janice Muller seconded the motion. The motion passed unanimously.

Mr. Graham presented the request for out-of-state travel for Information Technology Systems Administrator Rex Merrick to attend the ColdFusion Training in Denver, CO from June 23 – 27, 2014.

Motion/Vote: Member Ryan made a motion to allow Mr. Merrick to attend the ColdFusion training. Member Cordingley seconded the motion. The motion passed unanimously.

Mr. Graham presented the request for out-of-state travel for Information Technology Manager Rick Bush to attend the Public Retirement Information System Management (PRISM) Conference in Orlando, FL from May 11-14, 2014.

Motion/Vote: Member Muller made a motion to allow Mr. Bush to attend the PRISM conference. Member Dubbs seconded the motion. The motion passed unanimously.

Investment Report

Member Ryan gave her presentation about the Board of Investments and some of the issues the Board of Investment is discussing.

Financial Statements and Budget Reports

Accounting/Fiscal Manager Nolan Brilz discussed the financial statements, budget and delinquent agency reports. There was a discussion about the one-time reserve sweep and issues relating to a small number of districts that had not yet remitted their retirement reserve sweep payment.

Update on M-Trust Project

Information Technology Manager Rick Bush gave an update on the M-Trust project. Mr. Bush said the project was running a little behind schedule. Member Muller asked if TRS was pleased with the project and Mr. Bush said yes. Member Ryan thanked Mr. Bush and his staff for their hard work.

Next Meeting Date

Vice Chairperson Peiffer asked the board if May 16, 2014 still worked for the next meeting date. There were no requested changes to the meeting date.

Personnel Committee Report

Vice Chairperson Peiffer gave her report on the Personnel Committee meeting with Mr. Graham and Deputy Executive Director Tammy Rau. The Personnel Committee met to review and approve the 2014 performance appraisal for the Executive Director position. The committee also reviewed the history and current status of the TRS pay plan. Vice Chairperson Peiffer briefed the Board on their discussions; including that the Personnel Committee would bring forward recommendations at the next Board meeting. These recommendations will include adoption of the 2012 State HRD Market Survey and re-implementation the target market ratio mechanism that allows for Board approved pay adjustments based on years of service and progression criteria that are built into the TRS pay plan guidelines. These recommendations will result in pay adjustments ranging from 1.02% to 5.45% for six staff members if approved by the full Board at the May 16th meeting.

Retirement Report

Service Retirements, Adjustments, and Survivors Benefits

Mr. Graham and Ms. Rau reviewed the January 31, 2014 report of Service Retirements, Adjustments and Survivors Benefits.

Informal Board Review

Informal Board Review

TRS Member Dan Zorn presented his request for informal board review of a TRS final staff determination that amounts paid to him as cash in lieu of health insurance premiums are converted fringe benefits and do not constitute earned compensation reportable to TRS. Mr. Graham and Ms. Pizzini explained the TRS staff determination and application of TRS law in excluding converted fringe benefits as earned compensation unless the converted fringe benefits meet the criteria set forth in law. Vice Chairperson Peiffer thanked both sides for their time. Member Ryan noted that the exclusion of converted fringe benefits as earned compensation is a long-standing one. Mr. Zorn asked about the possibility of a contested case hearing, and Member Dubbs told Mr. Zorn that he does have the right to appeal the board's decision. Vice Chairperson Peiffer announced that she would be abstaining from voting in this matter as Mr. Zorn is assistant superintendent of the school district that employs her. Vice Chairperson Peiffer asked for a motion.

Motion/Vote: Member Ryan made a motion to uphold the staff determination regarding Mr. Zorn's reportable earned compensation. Member Cordingley seconded the motion. The motion passed unanimously.

Legal Counsel's Report

Summary of Legal Issues

Legal Counsel Denise Pizzini gave an update on the GABA litigation. She said no scheduling order has been issued in the case and there has been no appeal of the preliminary injunction.

In the contested case with Mr. Adam Priquette, Ms. Pizzini said discovery has closed and the depositions in the case have been completed. Ms. Pizzini said the deadline for filing for summary judgment motions was the middle of March.

Ms. Pizzini announced that there had been no determination in the judicial review of the Lynn Mavencamp case.

Meeting Break

The meeting broke for lunch at 11:52 a.m. Vice Chairperson Peiffer called the meeting to order at 12:35 p.m.

Contributions on Working Retirees

Mr. Graham said in the review of working retirees' issue, it was discovered that TRS had overlooked the supplemental 1% contribution in regards to the percentage rate employers were paying for working retirees. Mr. Graham said employers were paying 9.85% on working retirees instead of the correct rate of 10.85%. Mr. Graham presented to the board three options for them to consider:

- (1) Inform employers of the error and try to collect the contributions owed retroactive to July 1, 2013;
- (2) Inform employers of the error and try to collect the contributions owed retroactive to January 1, 2014;
- (3) Inform employers of the error and begin collecting the contribution at the new rate of 10.95% starting July 1, 2014.

Mr. Graham said the annualized cost of the error to the system was approximately \$70,000. Member Ryan asked if there were legal issues or precedence regarding the retroactive contributions. Ms. Pizzini said there was no case law or precedence regarding retroactive contributions. Vice Chairperson Peiffer did not think it would be an issue to collect the retroactive payments since the amounts the school districts

would pay were minimal. Member Dubbs said school districts were already unhappy with the reserve sweep payment and if districts would have budgeted for the additional 1% contribution for working retirees, it would have reduced the amount of the retirement reserve payment by a like amount. Ms. Rau said the lower rate of 9.85% had been communicated to the school districts going all the way back to May of 2013. Chairperson Pancich suggested TRS try to collect the retroactive payments in an attempt to make TRS fiscally sound. Member Dubbs disagreed, stating the public relations problem this would generate was not worth it. There was a discussion about the potential public relations problems.

Motion/Vote: Member Dubbs made a motion for TRS to start collecting the new rate of 10.95% on July 1, 2014 and not ask for the retroactive payments. Member Cordingley seconded the motion. Member Muller asked if the rate was going up already, and the answer is yes. The motion passed unanimously.

Contested Case

Board Consideration of the Hearing Examiner's Proposed Order and Oral Arguments on the Exceptions Filed – Edward Zabrocki

Attorneys Curt Drake and Michael Kauffman of the Drake Law Firm were present to represent and advise the TRS Board in this matter. The board heard oral arguments on the exceptions to the Hearing Examiner's proposed order filed by Edward Zabrocki, and to consider the Hearing Examiner's proposed order. Attorney Scott Svec represented Mr. Zabrocki and Legal Counsel Denise Pizzini represented TRS. Court Reporter, Cheryl Romsa, was present to make a transcript of this contested case proceeding. Vice Chairperson Peiffer announced that Curt Drake and Michael Kauffman would review the proposed order and exceptions in light of the oral arguments presented in order to advise the Board. Vice Chairperson Peiffer announced that the Board's discussion and final determination on the motions for summary judgment would be scheduled for the May 16, 2014 Board meeting unless an earlier telephonic Board meeting could be scheduled for the purpose.

Adjournment

Having no more business before them, Vice Chairperson Peiffer requested a motion to adjourn the meeting.

Motion/Vote: Member Cordingley moved to adjourn. Member Muller seconded the motion. The motion passed unanimously.

The meeting adjourned at 1:40 p.m.

Chairperson: /s/ Robert Pancich

Executive Director: /s/ Shawn Graham