

**BOARD OF TRUSTEES FOR THE
MARYLAND STATE RETIREMENT AND PENSION SYSTEM
MINUTES OF MEETING**

October 15, 2013

The Board of Trustees for the Maryland State Retirement and Pension System met in the Board Room of the SunTrust Building, 120 East Baltimore Street, Baltimore, Maryland beginning at 10:05 a.m.

The Trustees present included:

Nancy K. Kopp, Chairman, Presiding	Kenneth Haines
Peter Franchot, Vice Chairman	James Harkins
David Blitzstein	Linda Herman
James Bush, Jr.	F. Patrick Hughes
John Douglass	Major Morris Krome
T. Eloise Foster	Theresa Lochte
Robert Hagans	Thurman Zollicoffer

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

Anne Budowski	Anne Gawthrop (via telephone)	Kenneth Reott
Robert Burd	Michael Golden	Janet Sirkis
Margaret Bury	Ira Greenstein	Toni Voglino
Melody Countess	Angie Jenkins	Patricia Wild
Patricia Fitzhugh	A. Melissa Moye	

Assistant Attorneys General present included: Deborah Bacharach, Rachel Cohen, and Melissa Warren.

Also attended by: Phillip Anthony, Nathan Bowen, Randy Mickens, Brian Murphy, Rick Norman, Leon Richardson, Michael Rubenstein, Dana Tagalicod and Amy Williams.

Consent Agenda

On a motion made by Mr. Hagans and duly seconded, the Board approved the consent agenda, which included:

- › September 13, 2013 Special Open Meeting Board Minutes
- › September 17, 2013 Open Meeting Board Minutes
- › October 1, 2013 Administrative Committee Report

**GRS - FY 2013
Valuation Final
Results**

Mr. Brian Murphy and Ms. Amy Williams of Gabriel Roeder & Smith (GRS), the System's actuary, presented the final results of the State Retirement and Pension System's Actuarial Valuation for the period ending June 30, 2013 and the recommended employer contribution rates for the Fiscal Year 2015 budget.

On a motion made by Mr. Zollicoffer and seconded by Ms. Lochte, the Board certified the following Fiscal Year 2015 contribution rates:

Fiscal Year 2015	
Teachers	15.47%
Employees	15.53%
State Police	83.06%
Judges	42.74%
LEOPS	41.37%

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In addition, the Board requested that GRS provide an analysis of reinvested savings policy, its impact on funding of the System and the effect if the policy is modified such that contributions are reduced below \$300 million each year. Mr. Kenderdine stated that such a report is being prepared in response to a request from the General Assembly. This report will be shared with the Board.

The Board also requested that Mr. Kenderdine obtain information as to the date that the State Police will be 80% funded.

Mr. Blitzstein requested that GRS provide to the Board, if available, the historical data regarding the ratio of active members to retirees.

Mr. Kenderdine responded that the ratio is 1.4 to 1.

Mr. Blitzstein will provide to the Board, a copy of a twenty-two page document, produced by the CalPERS Board. This report was developed to assist the CalPERS Board of Administration in assessing the funded status of the Public Employees Retirement System and its overall soundness and sustainability. It focuses on the funding levels and risks associated with the funding of the system. Mr. Blitzstein feels it would be of value to the Board.

At Mr. Kenderdine's request, GRS provided an update on the projected impact of the new GASB Statements 67 and 68 and the changes they will bring to future pension accounting and financial reporting.

Treasurer Kopp suggested that a board ad hoc committee be created to oversee the Agency's implementation of the new standards and communication efforts with System members, employers and other stakeholders.

Board Requested
Legislation

Mr. Kenderdine presented the following proposals for the Board's consideration for inclusion in its 2014 legislative proposals to the Joint Committee on Pensions:

Code Simplification – Technical Changes

- *Reemployment – Earnings Limitation* – In 2010 legislation was enacted to raise the cap on average final compensation from \$10,000 to \$25,000 under which retirees of the Employees' Retirement System (ERS), Teachers' Retirement System (TRS), Employees' Pension System (EPS), Teachers' Pension System (TPS) or Correctional Officers' Retirement System (CORS) are exempt from the reemployment earnings limitation. Additional legislation was enacted in 2011 and 2012 to reduce the period of time a retiree of the ERS, EPS, TRS, TPS, CORS or the State Police Retirement System (SPRS) is subject to the earnings limitation from nine full calendar years to five full calendar years.

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The Local Fire and Police System (LFP) currently includes a cap on average final compensation of \$10,000 and a nine-year limitation provision similar to the provisions that were previously included in the ERS, EPS, TRS, TPS, CORS and SPRS. Because the LFP closed in 2004, it was inadvertently overlooked when the board requested legislation to address the cap on average final compensation and the earnings limitation period was presented to the Joint Committee on Pensions over the past several years.

Staff recommends legislation to amend the cap on average final compensation and the nine-year limitation in the LFP to five years in order to be consistent with the ERS, EPS, TRS, TPS, CORS and SPRS.

- ▶ *Law Enforcement Officers' Pension System and State Police Retirement System DROP – Special Disability Retirement Allowance* – Current law provides that if a retiree of the State Police Retirement System (SPRS) or Law Enforcement Officers' Pension System (LEOPS) is participating in the Deferred Retirement Option Program (DROP) and is awarded a special disability retirement from the SPRS or an accidental disability retirement from the LEOPS, that retiree may elect to receive the disability retirement allowance or continue participating in the DROP. However, State Personnel and Pension (SPP) Article §§ 29-109 and 29-111 states that a member shall be granted an accidental or special disability retirement if the medical board has certified that:
 - i. the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
 - ii. the incapacity is likely to be permanent; and
 - iii. the member should be retired.

Inasmuch as provisions of the SPP Article state that in order to receive a special or accidental disability, an individual must be certified to be permanently mentally or physically incapacitated for the further performance of normal duties, staff would recommend removing the language in §§ 24-401.1(k)(2) and 26.401.1(k)(2) that allows the DROP member to choose whether to accept the disability or continue working and participating in the DROP. This recommendation is supported for SPRS and LEOPS retirees participating in the DROP through an administrative agency regulation for the Department of Budget and Management, COMAR 17.04.03.16E.

- ▶ *Pension Systems – Withdrawn Contributions* – An individual, who withdraws his or her accumulated contributions from the pension system, forfeits all rights to future benefits in that system. Section 29-302 of the State Personnel and Pensions Article governs vested allowances for members of the retirement systems (ERS,

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TRS, CORS, SPRS, and JRS). Specifically, § 29-302(f) addresses the consequences of a former member withdrawing his or her accumulated contributions before the payment of the vested allowance begins stating:

(f) (1) If a former member who elected a vested allowance requests the return of accumulated contributions before payment of the vested allowance begins, the Board of Trustees shall return the accumulated contributions to the former member.

(2) ***When accumulated contributions are returned to a former member, the former member is not entitled to further benefits on account of the former member's previous membership.***

Section 29-303 governs vested allowances for members of the pension systems (EPS, TPS, and LEOPS). However, this section of the State Personnel and Pensions Article is silent when addressing the consequences to a former member of the pension system who withdraws his or her accumulated contributions. To avoid any ambiguity with regard to these consequences when a former member of the pension systems considers withdrawing his or her accumulated contributions from one of the pension systems, staff recommends adding to § 29-302, similar clarifying language currently included in § 29-302(f). (*Recommended new language – bold*).

- ▶ *Teachers' Pension System – Purchase of Service Credit* – The pension simplification bill sponsored by the joint committee in 2005 (Chapter 493 of the Acts of 2005) provided in part that purchases of service credit in each of the several systems made on an installment basis would no longer be permitted. This provision was included in Chapter 493 at the request of the board because at that time no individual had requested to purchase service credit on an installment basis for several years prior to 2005. The joint committee agreed to include this provision in the 2005 pension simplification bill under the condition this particular provision would have a 6-month delayed effective date to allow any member considering this buyback method additional time to elect this method before the provision was removed from the law.

Chapter 493 removed five references to installment payments throughout the provisions of the several systems. However, staff recently discovered that § 23-308(c)(1) continues to include language that would permit a purchase of service credit on an installment basis. Accordingly, staff recommends this provision be repealed. In addition, in recognizing the General Assembly's previous intent to grant any individual who was a member of one of the several systems in 2005, a six-month window to elect to purchase service credit on an installment basis, before repealing those sections in Chapter 493, staff would also recommend a six-

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month delayed effective date for the repeal of § 23-308(c)(1).

- ▶ *Former Non-Vested Members – Interest on Accumulated Contributions* - In accordance with various provisions of the State Personnel and Pensions Article, a non-vested member of the ERS, EPS, TRS, TPS, CORS, SPRS, or LEOPS who leaves employment with a participating employer remains a member of his or her system for four additional years following the member's termination of employment. If the non-vested member does not resume employment with a participating employer within four years, provisions of the State Personnel and Pensions Article state that membership in that individual's system is terminated. In addition, provisions of the State Personnel and Pensions Article also provide that a member shall earn regular interest on the individual's member contributions. However, current law is silent as to whether regular interest is earned on member contributions for more than four years after a non-vested member leaves employment with a participating employer. Nevertheless, inasmuch as a former non-vested member's membership is terminated after four years of leaving employment with a participating employer, it has been the practice of the State Retirement Agency to stop any future interest from accumulating on these contributions at the end of the four-year period.

Staff recommends codifying this practice.

- ▶ *Rollover Employee Contributions to Roth IRA's* – Section 21-602 states that a non-spouse designated beneficiary may roll over an eligible rollover distribution to an individual retirement account or individual retirement annuity established for the purpose of receiving that distribution. Legal counsel for the SRPS has advised staff for the SRA that it should interpret "individual retirement account" to include Roth individual retirement accounts. Accordingly, staff is recommending amending §§ 21-602 to clarify "individual retirement account" to include both "traditional and Roth" individual retirement accounts.
- ▶ *Pension Reform Technical Correction* – Chapter 397 of the Acts of 2011 enacted the 2011 Pension Reform (Reform). Within the Reform, two provisions were included that staff for the SRA believes should be clarified. Section 23-215.1 of the State Personnel and Pensions Article provides that an individual who was a member of the Alternate Contributory Pension Selection (ACPS) prior to July 1, 2011, and separates from employment for four years or less returning to employment with a participating employer that participates in the ACPS, may resume membership in the ACPS and is not required to join the Reformed Contributory Pension Benefit. (RCPB). However, the language in § 23-215.1 is vague insofar as it only states that an individual who is rehired into a position that is included in the EPS or TPS, shall resume

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participation in the ACPS. As this reads, it could be interpreted to mean that an individual who was a member of the ACPS prior to July 1, 2011, left employment, and returned to work for Prince George's County within four years of leaving, is entitled to resume membership in the ACPS. The result of this interpretation would be that Prince George's County, an employer participating in the Non-Contributory EPS, is now required to pay employer contributions for an ACPS benefit. Staff does not believe this was the intent of the legislature when it included § 23-215.1 in the Reform. Accordingly, § 23-215.1 should be amended to clarify that an individual who was a member of the ACPS prior to July 1, 2011, separates from employment for four years or less returning to employment with a participating employer that participates in the ACPS, may resume membership in the ACPS and is not required to join the RCPB if the individual is rehired into a position that is included ***in the ACPS*** of the EPS or TPS. *(Recommended new language – bold)*.

- The second provision included in the Reform that staff believes should be clarified, is found in § 23-225(b) of the State Personnel and Pensions Article. This provision was intended to clarify that a participating governmental unit (PGU) participating in the Non-Contributory or Contributory EPS prior to July 1, 2011, is not subject to the RCPB. Yet, as it is written, § 23-225(b) creates an ambiguity for all PGUs, since it only states that the RCPB does not apply to an employee of a PGU participating the EPS that has not elected to participate in the ACPS. As it currently reads, § 23-225(b) suggests that a PGU joining the system today would not be subject to the RCPB given that it has not elected to participate in the ACPS. To correct this ambiguity, staff recommends amending § 23-225(b) to state that the RCPB does not apply to an employee of a PGU, ***that prior to July 1, 2011*** is participating in the EPS but has not elected to participate in the ACPS. *(Recommended new language – bold)*.

Reemployment – Late or Non-Reporting Penalties

A local school system that reports to the State Retirement Agency (SRA) and the Maryland State Department of Education (MSDE) that a retiree is eligible to participate in the Retire/Rehire program under §§ 22-406 and 23-407 of the State Personnel and Pensions Article, when, in fact, that retiree is not eligible, is required to pay to the SRA the reemployment earnings offset that would have been taken from that retiree if that individual had not been reported as exempt. Sections 22-406 and 23-407 also provide a similar penalty for a local school system that fails to report, or reports late, an individual who is participating in the Retire/Rehire program and is eligible to participate. For example, §§ 22-406 and 23-407 provide that if a retiree is reemployed in a

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position that qualifies as exempt under the Retire/Rehire program, but the local school system reemploying that retiree fails to report, or reports late, the retiree's eligible status to the SRA and MSDE, that school system is required to pay a penalty to the SRA equal to the earnings offset the retiree would have been subject to if the retiree were not exempt under the Retire/Rehire program. In accordance with these provisions of the State Personnel and Pensions Article, the SRA has charged local school districts as much as \$25,000 for failing to report an eligible reemployed retiree who is not subject to the earnings limitation and no offset has been made to that retiree's benefit.

The SRA recognizes that when a local school system fails to report, or reports late, that a reemployed retiree is eligible to participate in the Retire/Rehire program, the SRA will assume the retiree is subject to the earnings limit when comparing the retiree's earning limit against the annual wage files reviewed by staff each year. If it appears that the retiree is going to exceed his or her earnings limit, the SRA will begin correspondence with the intent of notifying the retiree that the retiree's benefit will be offset in the following calendar year. It is at this point that the retiree will inform the SRA that he or she is exempt from the earnings limit and SRA will then confirm this with the retiree's local school district.

Because there is no offset that should be received by the SRA, staff believes charging a local school district the full amount of any offset that could have been taken if the retiree was not eligible, is punitive in nature. Staff believes a more reasonable penalty for failure to report, or late reporting, should be \$50 for each month the local school system fails to report, or reports late, not to exceed \$1,000.

On a motion made by Mr. Harkins and seconded by Major Krome, the Board approved the Board Requested Legislation for inclusion in its 2014 legislative proposals to the Joint Committee on Pensions.

Options for Securities
Class Action
Monitoring Services

Mr. Kenderdine and Rachel Cohen, Assistant Attorney General presented to the Board a memorandum prepared by Ms. Cohen, which summarized the Board's recent discussions regarding securities class action monitoring services and outlined the recommendation that the Board of Trustees approve the use of monitoring services through outside counsel on a trial basis, in addition to the services currently provided by Institutional Shareholder Services ("ISS").

The Office of the Attorney General ("OAG") would view a demo of any monitoring services provided by the eight law firms in the OAG's Securities Evaluation and Litigation Counsel Pool, and select at least one of the firms to provide these services. This would require a modification of the existing contracts between the OAG and the firm(s). The

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Investment Division would continue to receive and review loss notifications from ISS and participate in any decision to seek a case evaluation based on the loss estimates received from any source.

If it is determined that the law firm(s) can provide a superior service, the OAG could assume responsibility for procuring and supervising these services on a long-term basis by issuing a new request for proposals (RFP.)

On a motion made by Mr. Zollicoffer and seconded by Mr. Blitzstein, the Board approved the recommendation to use monitoring services through outside counsel on a trial basis, in addition to the services currently provided by Institutional Shareholder Services ("ISS").

CIO Report

Dr. A. Melissa Moye reported that the total market value of the fund, as of September 30, 2013, increased to \$41.7 Billion.

Dr. Moye reported that, even though the federal government has shut-down and there is debate over raising the federal debt limit, the System has chosen not to transition any assets, but will continue to closely monitor Congressional actions.

Executive
Director's
Report

Mr. Kenderdine reported that the Agency's Chief Internal Auditor, Toni Voglino, accepted a position with the Agency's Investment Division as a Senior Compliance Officer.

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Trustee Herman commented that there was a lack of understanding of how certain expenses are reported or accounted for in the budget.

Mr. Kenderdine suggested that he, Counsel and the Chief Investment Officer review current policy on the accounting and budgeting of all investment expenses. Specifically, the review will consider how these expenses are placed in the Agency operating budget or treated as "off budget". For example, HEK is an "on budget" expense; however, specialty consultants PCA and Albourne are "off budget".

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Mr. Kenderdine informed the Board that COMAR 22.06.07.07E, requires that as Secretary to the Board, he notify the Board of the action taken in default cases.

Mr. Kenderdine reported on the appeal of Sabrina Brown and the actions taken by Mr. Kenderdine in regards to this appeal.

- On June 20, 2012, Sabrina E. Brown filed an appeal as a result of the Medical Board denying her request to receive accidental disability benefits.
- The Office of Administrative Hearings mailed a Notice of Hearing to Ms. Brown notifying her that a hearing was scheduled for May 8, 2013 at 9:30 a.m. in Hunt Valley. That hearing was postponed at the request of Ms. Brown. Ms. Brown agreed to have the

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hearing rescheduled for August 26, 2013 at 9:30 a.m. in Hunt Valley.

- On May 22, 2013 OAH mailed a Notice of Hearing to Ms. Brown, which stated that a hearing was scheduled for Monday, August 26, 2013 at 9:30 a.m. at the Office of Administrative Hearings.....Hunt Valley, Maryland and further, that failure to attend the hearing might result in the dismissal of her case or a decision against her.
- On August 26, 2013, Administrative Law Judge Geraldine Klauber convened a hearing as scheduled, at which time neither Ms. Brown nor anyone authorized to represent Ms. Brown appeared. Jill Leiner, Assistant Attorney General, representing the State Retirement and Pension System, made a Motion for Default against the Claimant.
- As a result of Ms. Brown's failure to appear, ALJ Geraldine Klauber issued a Proposed Default Order.
- Ms. Brown had until September 25, 2013 to file, with me, a motion to vacate the proposed default order.
- Having received no motion to vacate the proposed default order from Ms. Brown, on October 3, 2013, as Secretary to the Board of Trustees, I issued a Final Default Order, that all further proceedings in this case are terminated and the case is dismissed and that the decision to deny Ms. Brown accidental disability retirement benefits be affirmed.

CLOSED SESSION

On a motion made by Mr. Zollicoffer and seconded by Mr. Hughes, the Board voted to meet in a Closed Session (12:15 p.m.) in the Board Room of the SunTrust Building at 120 East Baltimore Street for the purpose of:

1. approving the closed session minutes, pursuant to State Government Article § 10-503(a)(1)(i), the exercise of an administrative function;
2. approving the Medical Board reports, pursuant to State Government Article § 10-508(a)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter; and
3. consult with counsel to obtain legal advice, pursuant to State Government Article § 10-508(a)(7).

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Robert Hagans

Kenneth Haines
James Harkins
Linda Herman
F. Patrick Hughes
Major Morris Krome
Theresa Lochte
Thurman Zollicoffer

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary
Margaret Bury Michael Golden Janet Sirkis
Melody Countess Angie Jenkins Toni Voglino

Assistant Attorneys General present included: Deborah Bacharach, Rachel Cohen, Carla Goldman Katzenberg, Jill Leiner and Melissa Warren.

OPEN SESSION

The Board returned to open session at 12:43 p.m. in the Board Room of the SunTrust Building at 120 East Baltimore Street.

Dawn Watkinson

The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Dawn Watkinson for ACCIDENTAL DISABILITY retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Robert H. Silberman, Esq. appeared before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Carla Goldman Katzenberg, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Closed Session.

Joseph Johnson

The Board considered the recommendation of the Administrative Law Judge in connection with the claim of Joseph Johnson for ACCIDENTAL DISABILITY retirement benefits. The Administrative Law Judge's report, a report by the Medical Board, and all related documents submitted by the parties were presented.

Mr. Johnson appeared before the Board to oppose the Agency's position and the Administrative Law Judge's recommendation. Ms. Jill R. Leiner, attorney for the Agency, addressed the Board and argued that the Board should adopt the Administrative Law Judge's recommendations. Following discussion, the Board deferred further consideration to Closed Session.

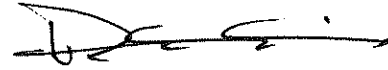
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Adjournment

There being no further business before the Board, the meeting adjourned at 1:40 p.m.

Respectfully submitted,



R. Dean Kenderdine
Secretary to the Board

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**ADMINISTRATIVE COMMITTEE MEETING REPORT
OCTOBER 1, 2013**

2014 Proposed
Meeting Schedule

The Administrative Committee approved the 2014 Administrative Committee meeting dates.

February 4, 2014	March 4, 2014
April 1, 2014	June 3, 2014
August 5, 2014	September 2, 2014
October 7, 2014	December 2, 2014

2014 Board
Requested
Legislation

THIS MATTER WILL BE DISCUSSED OUTSIDE OF THE CONSENT AGENDA IN OPEN SESSION.

Ms. Anne Gawthrop presented to the Committee an overview of the 2014 Board requested legislation proposals for the Administrative Committee's consideration to present to the Board of Trustees for inclusion in its 2014 legislative proposals to the Joint Committee on Pensions. *See Attachment A.*

After further discussion, on a motion made by Major Krome and seconded by Ms. Brogan, the Administrative Committee **approved** the Board Requested Legislation for **recommendation to the Board of Trustees**, with one revision that the language in the Reemployment – Late or Non-Reporting Penalties legislation be amended to include an "up to" penalty amount.

Member Services
Update

Ms. Anne Budowski updated the Committee on the performance of the Member Services Unit.

Ms. Budowski reported that for the month of August 2013, the unit was slightly over the average speed of answer averaging 1:14.

Ms. Budowski reported that carrying two vacancies and having two employees out on FMLA, the Unit's ability to meet the performance goals continues to be a challenge.

Ms. Budowski also reported that of the survey responses received, 98.2% felt that the service provided to them was satisfactory or above.

Mr. Romans asked as to how does the Agency compare to other state retirement systems? Ms. Budowski answered that staff could look into that and get back to the Administrative Committee with that information.