

**NEW MEXICO  
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION**

**Board Meeting  
January 28, 2021**

1. This PERA board meeting was held on the date cited above via Zoom tele/videoconferencing. John Melia, Chair, called the meeting to order at approximately 9:12 a.m. and adjourned at 12:23 p.m.

2. **Roll Call**

Trish Winter, Executive Assistant, undertook the roll call. Meeting attendance met quorum, with the following members present:

**Members Present:**

John Melia, Chair  
David Roybal, Vice Chair  
Paula Fisher  
Steve Neel  
Diana Rosales Ortiz  
Lawrence Davis  
Shirley Ragin  
Roberto Ramirez  
Loretta Naranjo Lopez  
Francis Page  
Maggie Toulouse Oliver (Left at 12:15 p.m.)  
Tim Eichenberg

**Staff Members Present:**

Wayne Propst, Executive Director  
Greg Trujillo, Deputy  
Susan Pittard, General Counsel  
Anna Williams, ASD Director/CFO  
Dominic Garcia, CIO  
Kristin Varela, Deputy CIO  
Misty Schoeppner, Deputy General Counsel  
LeAnne Larranaga Ruffy, Investment Portfolio Manager  
Frank Mihail, Investment Portfolio Manager  
Angela Romero, Alb. Office Manager  
Karyn Lujan, SmartSave plan Manager  
Jessica Perea, IT  
Isaac Olayoye, Investments  
Jessie Godfrey, Refunds Customer Service Manager  
Marlena Riggs, Budget Manager  
Joaquin Lujan, Investment Portfolio Manager  
Deborah Vigil, IT  
Mark Montoya, Investments

**Others Present:**

Ernie Marquez, AES  
Elliot Quin, Firefighters Union

Robert Sanchez, IAFF  
Charlie Marquez, Broad Spectrum Government Affairs Consulting  
Tom Toth, Wilshire Consulting  
Cait Gutierrez, REDW  
Arlene Jacobius, Pensions & Investments Magazine  
Justin Cheney, IAFF  
Maga Ben, FundMap

### **Pledge of Allegiance**

Loretta Naranjo Lopez led the Pledge of Allegiance.

Mr. Melia noted Former PERA Board member Oscar Arevalo was recently lost to cancer. Mr. Page was asked to say a few words about the member.

### **3. Approval of Agenda**

Tim Eichenberg moved to amend the agenda by moving item 6.C.3 and 6.C.4 to the beginning of agenda; removing the Executive Session from the agenda and removing Item E from the agenda. Roberto Ramirez seconded the motion.

Ms. Loretta Naranjo suggested leaving the Executive Session on the agenda so the appointment could be discussed. Mr. Tim Eichenberg stated this was unnecessary as it was already an agenda item, so he did not see the need to go into Executive Session to discuss an item on the agenda.

Ms. Susan Pittard, General Counsel, indicated the Executive Session was placed on the agenda to allow the Board to discuss any administrative issues related to appoint the Deputy Director Acting Executive Director, as well as salary issues that may arise from the appointment. Mr. Eichenberg asked how Item B on the agenda would be affected if Mr. Trujillo was not selected as the successor.

Ms. Pittard explained if the Board chooses not to appoint the Deputy as Acting Executive Director, Item B would fail for lack of a motion on the current Item B and that the item could be revisited at the next Board meeting on February 9th.

The Chair called the vote. The motion to amend the agenda passed by a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

### **4. Approval of Consent Agenda**

Ms. Loretta Naranjo Lopez asked to remove the January 12, 2021 minutes from the consent agenda, Item 5B. Item 5B was moved to the regular agenda in the designated space on the agenda. Mr. Roberto Ramirez moved

approval of the agenda as amended. Ms. Loretta Naranjo Lopez seconded. The motion to approve the agenda was passed by unanimous consent as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

## 6. **New Business**

### 1. *Board Chair Election*

The Chair called for any other nominations for Board Chair to come forward. No new nominees came forward and nominations were closed. Loretta Naranjo Lopez, Paula Fisher and David Roybal were all nominated, accepted the nominations and gave their presentations at the last meeting.

Ms. Loretta Naranjo Lopez stated she has faithfully served on the PERA Board for 15 years, she represents retirees and fulfils her fiduciary duties for all PERA members, not just retirees. She further stated her goal for this year for PERA was to invest up to 20 hours a week of her time with a focus on improving investment oversight controls. Ms. Naranjo Lopez indicated she would follow the rules and procedures of 2.61 for the role of the Board Chair.

Ms. Paula Fisher stated that in addition to her stated goals at the previous meeting, she would pursue collaboration in leadership because of a need to heal as a board. She further stated the importance of teamwork and the need to have an agreement for the purposes of the fund, our Members, and realize all individuals have a duty that needs to be fulfill. She asked that everyone work together as one in order to come to a consensus at the end of the day.

Mr. David Roybal indicated the reason he wanted to be Chair for 2021 was to maintain decorum and respect, and indicated the respect he extended to Members to listen to other's thoughts and ideas and indicated that he would continue to do so. Mr. Roybal reiterated the need to work together as a Board to develop the strategic plan and vision moving forward, as well as discussions about strategic asset allocation and ensuring that all members have a voice to help make sure the Board is successful.

The Chair asked for clarification on the process for doing a roll call vote with three candidates. Ms. Pittard indicated past practice had been to take the candidates one by one and see who gets the most votes via a roll call vote. No formal process or methodology for voting exists.

Ms. Maggie Toulouse Oliver suggesting the methodology of taking the nominations in the order they were received and hold a roll call vote. If someone achieves a majority of the vote at any point in the process then they are elected. Mr. Tim Eichenberg suggested each Member state the name of the person they are voting for. The Chair decided to go through the roll call and have each Member state who they are voting for.

The Chair called for a roll call vote to elect a new Board Chair. The results of the vote were David Roybal, 6 votes; Paula Fisher, 5 votes; Loretta Naranjo Lopez, 1 vote. Majority of 7 needed, vote fails.

John Melia	David Roybal
David Roybal	David Roybal
Paula Fisher	Paula Fisher
Steve Neel	David Roybal
Diana Rosales Ortiz	Paula Fisher
Lawrence Davis	David Roybal
Shirley Ragin	David Roybal
Roberto Ramirez	Paula Fisher
Loretta Naranjo Lopez	Loretta Naranjo Lopez
Francis Page	Paula Fisher
Maggie Toulouse Oliver	David Roybal
Tim Eichenberg	Paula Fisher

The Chair asked for clarification on the rules as the vote did not result in a majority. Ms. Susan Pittard indicated the Board policies and procedures were silent on election of nominations, so the requirement would be a majority. Mr. Eichenberg indicated that the election would require seven votes. Ms. Fisher concurred.

Mr. Roybal asked consideration of Ms. Naranjo Lopez if she would support him in becoming chair for the PERA Board. Ms. Naranjo Lopez indicated since she voted for herself she could not vote for anyone else, as she feels she is the most qualified for the position, so would not be changing her vote.

The Chair asked if any Board Members would like to change their vote in a way that would alter the current results. No member came forward. The Chair asked Ms. Toulouse Oliver if she had any thoughts on the matter.

Ms. Toulouse Oliver indicated if no one self-selects to rescind their nomination, options would be to proceed with a revote with the top two vote getters, Members could decide to allocate their vote to one of the names on the ballot or could abstain; a second option suggested would be to consider the plurality of the initial vote. Mr. Tim Eichenberg requested clarification from Robert's Rules, indicating since there was no result from the election, they Board should simply move to the next item on the agenda, allowing the agenda item to roll over to the next meeting, leaving Mr. Melia as the Chair. Mr. Eichenberg asked to move to the Vice Chair election, indicating this would allow for a motion to do a slate of Chair and Vice Chair and if that would get the majority of the vote. The Chair indicated he would like to have a run-off vote of the top two candidates and continue. Mr. Eichenberg indicated this would be a violation of Robert's Rules.

The Chair asked Ms. Pittard for clarification on Robert's Rules. Mr. Roybal indicated page 66 of Robert's Rules a majority vote is defined as more than half of the votes cast by persons entitled to vote, excluding blanks or abstentions at a regular or properly called meeting, so more than half of votes cast.

Mr. Roybal moved Deferral of Item 6 C, Election of 2021 Board Officers to after Item D, Consideration of 2021 Legislation, seconded by Loretta Naranjo Lopez. The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	Yes

Tim Eichenberg                      Yes

**5.      Unfinished Business**

***A. Approval of Amended Resolution No. 21-04 Calling for Nominations of State and Municipal Member Positions for a Four-Year Term***

Ms. Loretta Naranjo Lopez moved to amend Resolution 21-04 to allow for electronic signatures, seconded by Ms. Toulouse Oliver. Mr. Neel asked for an explanation on internal controls that would protect from fraud on this amendment.

Ms. Pittard explained the amended resolution was provided to address the Board's concerns regarding electronic signatures on nominating petitions. Automated Election Systems (AES) can handle electronic signatures that come in to a dedicated email address. Ms. Pittard noted Ms. Rosales Ortiz's concern that a control measure could be limiting those email addresses to a government-assigned email address such as a state or municipal address. Ms. Pittard stated she did not know whether that causes problems for individual Members who may run afoul of their own agency's email policies or not. Ms. Pittard stated the Board needs to be mindful that this is a departure from their historic practices of requiring original signatures and that she was unclear if the Board intends to use electronic signatures permanently or just during this election cycle during the public health emergency. If the Board wants to accept electronic signatures permanently, she recommended clarification in the Administrative Code related to that.

Mr. Ernie Marquez, of AES indicated he felt the rule would have to be amended, as the rule currently states that it would be a petition form and does not refer to electronic signatures. Ms. Pittard stated that a signature was not defined under the Board's administrative rules, so if this resolution passed it would be acceptable, and noted that she recommended that in the future, if this was a permanent rule change, to do that.

Ms. Toulouse Oliver indicated that it made sense to do this, particularly in the COVID-19 environment and indicated a process could be worked out for this year and would like to pursue more permanent rule changes on this front. Ms. Toulouse Oliver was in agreement that the Board has the authority to make this change temporarily for purposes of this upcoming election, and the Board should look at doing a more permanent rule change.

Mr. Neel highlighted the importance of having the appropriate internal controls in place so there was no ambiguity around an election. Ms. Fisher asked if there would be a way to verify the email signatures as there would be different types of people with emails from different areas that may or may not be recognizable in terms of a governmental email.

Mr. Ernie Marquez, of AES indicated all of the petitions were received, and then they get the data from PERA and verify that the signatures on the hard copies are in fact members of the state, municipal or retired officials. AES verifies who they are working form, their last four digits of the social, their date of birth, and they include the PERA ID.

Mr. Davis asked if AES' checking of the electronic signatures also tracked the IP address of the machine that the electronic signatures were coming from. Mr. Marquez indicated IP addresses can be tracked, and that IP addresses change from location to location, and indicated he would obtain more detailed information for the Members.

Mr. Greg Trujillo indicated when talking about electronic signatures, setting up a portal for somebody to go log on and provide who they want to sign a petition for. Mr. Trujillo still anticipates this process as being somebody filling out the nominating petition with the relevant information, and whether it's handed in hardcopy or emailed, it would still be valid as long as AES determines that all the validating factors are accurate, thus he did not feel tracking IP addresses is all that helpful in this process. Mr. Trujillo further stated that strictly moving to an online process could be worked out with AES, but he did not feel the IP tracking to be relevant.

Mr. Neel asked if all PERA members have email, and if there were PERA employees who did not have email. Mr. Trujillo indicated 99% of them have emails and know what their email address is. Mr. Trujillo stated that as far as validation, there was not access to all municipalities' email addresses. Access would be available for state email addresses, however, some of the elected officials like the State Auditor as well as Office of the Attorney General, the Legislature, the Administrative Office of the Courts are all separate from the state email system so it would be difficult to validate an email address accurately. PERA ID, Date of Birth and last four of the social is something PERA has data on and is used by AES to validate these signatures.

Mr. Page asked if this applied to a personal email or work email, and if it would be appropriate to use a work email for this purpose. Ms. Pittard indicated this was a question she also had. On the State side it is likely permissible regarding an election, but she was unaware on the municipal side whether, if the Board limits it to that, there may be some entities that prohibit such email use. Alternatively, if it runs afoul of their employer's email policies, they could then just mail in a nominating petition. Ms. Pittard said the thought was that by using a government-issued, employment-issued email address is another level of security for us that multiple nominating petitions aren't provided; however, PERA does have the other four identifiers that are used for that purpose.

Mr. Page asked about the retiree election, where retirees no longer have a work email. Ms. Pittard indicated the language would have to be crafted to allow them to use a personal email. Ms. Pittard further stated this resolution would only be for active employees on the municipal and state races.

Member Rosales Ortiz thanked everyone for their input and indicated she brought this issue to the front due to the pandemic, just for this election cycle this year, for the call for nominations. She indicated that originally, she did not intend to change administrative statutes and there was no definition of signature. With that in mind, the fundamental elements are there and having those identifiers should be sufficient for a nomination. Moving forward to the 21st century, PERA should create a subcommittee to properly craft this process, and encouraged Members to support the amended solution. Mr. Neel indicated he was generally in support of this and felt it was prudent in the COVID environment.

Mr. Page called Question. The Chair called the vote to approved Amended Resolution 21-04. . The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

***B. Items Removed from Consent Agenda if Necessary***

Ms. Loretta Naranjo Lopez indicated she wished to amend the January 12, 2021 minutes with a written statement she had prepared, as she did not feel the Board Minutes accurately represented the debate and discussion, notably surrounding Resolution 21-50. Ms. Naranjo Lopez moved to amend the minutes of Special Meeting of 1/12/21 be amended to reflect the fact the first vote against Resolution 21-05 was valid and the revote was invalid

under Robert's Rules and Board policies and procedures, and also that this invalid vote on Resolution 21-05 was a tie and Resolution 21-05 failed.

The Chair sought clarity, as the item being discussed is the minutes of the meeting and if they accurately reflect what was said and happened in the meeting. Ms. Naranjo Lopez indicated that since one vote failed, the second vote needed to be removed as it was not legal under Robert's Rules of Order.

Ms. Toulouse Oliver stated that she respected Ms. Naranjo Lopez's point of view and wanted to state for the record that the discussion she raised and the motion she made during the meeting on January 12, 2021 was made in good faith based on her understanding of Robert's Rules and her understanding of the issue.

Ms. Fisher seconded the motion. The Chair called for a vote to approve the minutes as amended by Ms. Naranjo Lopez. The motion failed 7-3 by roll call vote as follows:

John Melia	No
David Roybal	No
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	ABSTAIN
Roberto Ramirez	No
Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	No
Tim Eichenberg	ABSTAIN

Mr. Page moved to approve the minutes as is, seconded by Mr. Davis. The motion passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	ABSTAIN
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	ABSTAIN

Mr. Roybal moved Deferral of Item 6 C, Election of 2021 Board Officers to after Item D, Consideration of 2021 Legislation, seconded by Loretta Naranjo Lopez. The motion was passed by roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes

Loretta Naranjo Lopez	Yes
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

**6. New Business**

***A. Dedication/Naming of Albuquerque Office Board Room to Erika Chavez Board Room***

Mr. Wayne Propst, Executive Director, paid tribute to Erika Chavez, a dedicated PERA employee who was tragically killed in a car accident on September 12, 2020. Mr. Propst said he had never seen anybody with a smile that could like up a room more than Erika, and it would mean a great deal to the staff of PERA for the PERA Board give consideration of this item. Mr. Eichenberg expressed his condolences and support of the motion. Mr. Page expressed a concern about naming things after specific individuals in the current political environment.

Ms. Naranjo Lopez moved to dedicate the Albuquerque Office PERA Board Room to the Erika Chavez Board Room. Ms. Fisher seconded. The motion was passed by unanimous consent in a roll call vote as follows, with members expressing their condolences:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

***B. Appointment of Greg Trujillo as Acting Executive Director Effective February 13, 2021***

The Chair explained that Executive Director Wayne Propst will be stepping down to take on a new challenge in his life, so the Board needs an Executive Director to conduct business in an acting capacity while a permanent search is conducted. Mr. Steve Neel moved to appoint Deputy Director Greg Trujillo as Acting Executive Director effective February 13, 2021. Mr. Tim Eichenberg seconded the motion.

Mr. Page suggested Mr. Trujillo take over the legislative functions immediately. The Chair stated that this appointment could only take place when Mr. Propst ceases to be the Executive Director. Mr. Page indicated he was concerned about a conflict of interest.

Mr. Propst indicated he had no concerns with what Mr. Page was proposing, as Mr. Trujillo was more than ready to take over as Executive Director, and he had no concerns with Mr. Trujillo taking over representation of PERA in the Legislature until his official departure.

The Chair asked Ms. Pittard if this was possible under PERA's rules, policies and the authority and the discretion of the Executive Director. Ms. Pittard indicated that the Board can request that Mr. Trujillo step in. On the staff side, Mr. Propst, Mr. Trujillo and herself work as a team to deal with the Legislative process, and indicated there was only an HAFC hearing and one other bill where Greg would be in attendance representing PERA anyway, so she did not see it being an issue.



Mr. Davis indicated he found Ms. Pittard's statement accurate. Mr. Eichenberg expressed his disagreement with Mr. Page's suggestion, and stated Mr. Trujillo should spend as much time doing whatever time he feels is most necessary while Mr. Propst is available for mentoring, and it would be micromanaging if the Board start telling Mr. Trujillo what he needs to do while Mr. Propst is still in the Director's role. The Chair agreed with Mr. Eichenberg's statement. Ms. Naranjo Lopez agreed with Mr. Page's position that there was a conflict of interest, and expressed her own concerns that Mr. Propst would conduct in lobbying, and called for an investigation into Mr. Propst's resignation and conduct at the Legislature as she found it alarming.

Mr. Francis Page moved to amend the motion to only allow Mr. Trujillo to deal with the Legislature until Mr. Propst leaves, seconded by Ms. Naranjo Lopez. The motion fails on a 6-6 tie vote a roll call vote as follows:

John Melia	No
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	No
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	No
Tim Eichenberg	No

The Chair called a vote on the original motion to appoint Deputy Director Greg Trujillo as Acting Executive Director effective February 13, 2021, moved by Mr. Neel, seconded by Mr. Tim Eichenberg seconded the motion. The Motion passed 10-2 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	Yes
Steve Neel	Yes
Diana Rosales Ortiz	Yes
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

**D. Consideration of 2021 Legislation**

*1. HB 65 - Increase Certain PERA Member Contributions*

Mr. Propst outlined that PERA currently has three pieces of legislation that have been filed, HB 65, SB 90, and this week, HB 162 indicated the Board could dispense with action on HB 65. As reported to the Board, it was tabled in the House Labor, Veterans and Military Affairs Committee two days ago on a unanimous vote so there's not really any action for the Board to take on it at this time.

*2. SB 90- Certain Overtime Pay as Salary in PERA*

Senate Bill 90 relates to inclusion of certain overtime hours under the FLSA public safety exemption as salary under the definition of salary and the Public Employees Retirement Association Act. It's been introduced by Senator Munoz and an identical bill was introduced last year. It received an endorsement from the Board at that time. Senate Bill 90 passed two Senate Committees and passed the Senate but it did not make it through the House of Representatives before the conclusion of the 2020 session.

Mr. Propst indicated there is an impact to the fund and indicated a request for a review of the analysis was provided during the 2020 legislative session, and the updated analysis was received.

Passage of Senate Bill 90 will impact in particular the municipal fire plan by about 1.12% and would add approximately \$30 million to the unfunded liability for the municipal fire plan. Some of that impact will be offset not only because these hours will be included as salary for calculating pensions, but it also means that both the employee and their employer will begin making the contributions, so the impact over time will be offset but it's difficult to determine going forward how much of an offset that would be. These are required hours, voluntary hours which is one of the reasons why it is believed that even though there's an impact to the fund, this is an appropriate approach to take in terms of this legislation. Mr. Propst indicated there was background information in the packet for the Members.

Mr. Propst stated the options before the Board today are to endorse the bill, oppose the bill, or remain neutral. If the Board wanted more time to study this issue, consideration could be deferred until the September 9th Special Board Meeting anticipated.

The Chair invited Robert Sanchez and Elliot Quin from the New Mexico Professional Firefighters Association to address the Board. Mr. Quin indicated Senate Bill 90 is to essentially make in line with all the other PERA plans that are out there for all of the working class individuals that are allowed to have 100% of their salary reported. The reason for this offset is firefighters work very unique schedules. This is a public safety situation because firefighters do work 24-hour days and most departments work 40-hour shifts and this is just a necessary language change of the definition of salary. These are regularly scheduled hours. These are not voluntary hours. The final average salary will never be calculated more than 90% of the member's annual salary. This is not a pension spiking bill. This is essentially a bill to make us in line and equal with the rest of other PERA plans.

Mr. Davis asked how many hours were in a normally scheduled work schedule and how many overtime hours occurred during that time period. Mr. Quin indicated annually, the average 40-hour workweek employee works 2,080 hours per year. The fire service, because they work 48-hour shifts, they work an annual workweek of hours of 2,920 hours. Out of that, PERA is only able to accept 2,756, which is roughly 164 hours. This equates to 8% to 16% not being reported. If the hours were simplified down to a weekly amount, fire services are required to work 56 hours a week. Under the Fair Labor Standards Act which governs overtime hours, after working 53 in a week, it has to be paid time-and-a-half. Firefighters do not have the option of working those extra three hours, it is the job expectation and not working them would result in discipline. If one were to call in sick those extra three hours, they would PERA contributions on all, but if one shows up to work, PERA contributions are only paid on 53 of those 56 hours.

Mr. Sanchez, President of the New Mexico Professional Firefighters Association indicated that traditional 40-hour workweek employee can report 100% of their straight hours as salary to PERA and firefighters are not able to do that and all he is asking is that it be fair. Firefighters are not trying to pension spike in order to get more out of retirement, they are simply trying to do what's fair.

Mr. Ramirez asked Mr. Propst to clarify the \$30 million unfunded liability if Senate Bill 90 passed. Mr. Propst indicated that was correct. Mr. Ramirez noted that last year the Solvency Bill, Senate Bill 72 was passed to eventually get to 100% solvency. Mr. Propst confirmed this endorsement of the Board of SB 72, with the purpose of paying off PERA's unfunded liability within 25 years. Mr. Ramirez indicated that the funded status of the New Mexico PERA divisions with the fire department funded at 60%, which is one of the lowest funded in the PERA system. Mr. Ramirez asked how one bill to get rid of unfunded liability could be endorsed and passed when the

current bill does the exact opposite. Mr. Ramirez also asked if there was any other employee in PERA that this impacts besides firefighters.

Mr. Propst indicated there are other PERA members who would be eligible to have hours counted as pensionable wages, and therefore have their employer and employee make contributions on them. He indicated there is a city in New Mexico who is thinking about changing to a similar work schedule for its police officers. If they do that, they would find themselves in the same situation as the firefighters who have just testified on this will find themselves in, which is, as Mr. Melia indicated, if they just call in sick for these hours, their employer is going to make the employer contribution, the employee is going to make the employee contribution, and they're going to get credit for those hours. But if they actually work them, they don't. This seems counterintuitive.

In terms of the impact of the unfunded liability, Senate Bill 72 will have a significant positive impact on the funded status of all of our divisions, including municipal fire. It's projected that municipal fire will pay off its portion of the unfunded liability within a 30-year period, under the provisions of Senate Bill 72. Mr. Propst, speaking for himself as an employee, stated if PERA required him to work these required hours and he didn't get PERA service credit for them, he indicated he would be in front of this committee making some of the same arguments as Mr. Sanchez.

In terms of the impact to the unfunded liability it is \$30 million. Mr. Propst stated it was important to keep in perspective that it's less than a 1% increase to the unfunded liability of the municipal fire division, it is \$30 million in relation to the \$16.5 billion fund and stated it was a fairness issue. Mr. Propst indicated this is a fairness issue and if the Board decides that this is something that it doesn't want to support for whatever reason, that will be the marching orders for staff and for Mr. Marquez and that opposition will be expressed to the Legislature.

The Chair indicated the definition of a fiduciary is to do what's in the best interests of our fund and of our members. As far as what's in the best interests of PERA members, he stated that when we require public safety people to put their lives on the line, and it's mandatory that they show up to work and do that, that while they're there on a required forced shift, that all the hours that they're forced to work, they get credit for in their retirement.

Ms. Naranjo Lopez indicated she would vote no on this item, stating "Under 120, a Retirement Board shall have the sole and exclusive power and authority to adopt actuarial assumptions for its system, based on the recommendations made by an independent actuary with whom it contracts. The Legislature shall not enact any law that increases the benefits paid by the system in any manner or changes the funding formula for a retirement plan unless adequate funding is provided."

Ms. Naranjo Lopez agreed with Mr. Ramirez's statement that it is already one of the most unfunded liabilities PERA has. Ms. Naranjo indicated the \$700 million that would be added to the fund did not come from investments, but she thought it came directly from the members that increased it to 16.5, and indicated the reporting given to the Legislature placed it at a negative for last year. Ms. Naranjo Lopez found this disturbing when PERA only made 5% yet the market made 19%. Ms. Naranjo Lopez wanted to know why the plans that are unfunded receive the most benefits that they can't afford, and this would add more.

Ms. Naranjo Lopez commended and praised the firefighters, and stated every public servant has a responsibility and takes on jobs that don't pay very good pay, but they're either dealing with irate customers or out in the field in detrimental situations. She stated government cannot be giving benefits that it can't afford and it needs to be equal. Ms. Naranjo Lopez wants the multiplier, years of service, everything to be the same.

Mr. Ramirez had some significant issues on the FIR for Senate Bill 90, and read a portion of the FIR aloud to the Board. Mr. Ramirez indicated this is totally adverse. The Chair asked Ms. Pittard to read the definition of salary for clarity and pointed out that since this bill was brought up last time, the firefighters now understand that this is part of their regular work schedule, which under the definition of salary, those hours must be counted. Also under the definition of salary, if you call in sick or use vacation in lieu of your regular designated work schedule, those hours are part of your salary. What firefighters are doing is not paying those three hours every week into the PERA fund until they get to their final 36 months of service, and then they're taking three hours of sick or vacation

each week and getting those hours in. They're getting the full amount in their retirement, but only paying contributions on it for the final three years. In reality, it would actually be a positive impact to the fund compared to what the trend is right now.

Mr. Ramirez indicated there is an option annually for firefighters to pick 40-hour shifts. The Chair indicated that was not possible. Ms. Naranjo Lopez stated that these bills shouldn't be going to the Legislature until they're reviewed by the Board, and these decisions should not be made without the actuary sending them, and that this was not the proper process.

Mr. Justin Cheney, President of the Albuquerque Area Firefighters representing about 880 firefighters commented that he agreed with Ms. Naranjo Lopez that this does need to be a fair thing for all the PERA contributors. Unfortunately, right now, it isn't fair for the firefighters. Every other PERA entity can put into their retirement 100% of salary except for those that are on a 24-hour shift as firefighters. As firefighters, the hourly pay is converted and those on a 24-hour shift are not getting all of their pay counted towards PERA. He indicated by doing this change, members would have to contribute more of their salary into PERA.

Mr. Cheney indicated that for the firefighters that are below the funded liability, to not allow them to contribute would be like saying the municipal general fund is only at 75% so we need to cut back some of their contributing factors and say that they're only allowed to put in 90% and when they retire, only be able to recoup 90% of what their original pay was.

Ms. Fisher stated that corrections officers also have mandates of eight hours, and if they don't work the eight hours mandated for they get disciplined as well but they also have a 40-hour workweek. She indicated the way this particular bill is written, there are only specific entities that it identifies which is fire, and not corrections officers, so Ms. Fisher cannot support this bill. Mr. Page fully agreed with Ms. Fisher, Mr. Ramirez and Ms. Naranjo Lopez and indicated this bill could not be supported unless PERA changes its policies.

Mr. Eichenberg asked for a typical breakdown of the 24-hour shift worked by firefighters, in terms of a boring work shift or an exciting work shift.

Mr. Cheney indicated that it is a very difficult question. Firefighters are on a 48-hour shift and it can range from taking 48 calls in one day to some stations taking as little as 12 calls. Those calls differ. A citizen who falls and breaks their leg could take 45 minutes. A fully engulfed three-alarm fire could take 12 hours, and sometimes even longer. The downtime firefighters have is not downtime. The City of Albuquerque has an ISO rating of 1, directly because of the additional training that has been added for firefighters. Firefighters are constantly training, going to the Fire Academy, EMT and paramedics are doing required annual continuing education, and something called Target Solutions, which is daily training.

Mr. Sanchez indicated if peace officers, teachers, public work employees, correction officers were asked about downtime, it could not be said that all of those employees work 100% of their 40-hour workweek and they're always working and it should not be said about firefighters.

Mr. Eichenberg clarified that what he said was it's a 48-hour shift and sleep deprivation, and asked if the firefighters work a 48-hour shift without any downtime normally.

Mr. Cheney indicated that normal shifts are 48 hours unless a firefighter is taking vacations, so firefighters are scheduled for a 48-hour shift. Mr. Eichenberg asked in a typical workweek of seven days, 48 is worked and then there are five days off before your next shift starts. Mr. Cheney indicated it was 48 on and then 96 off, which annually results in a 56-hour workweek.

Mr. Eichenberg asked how firefighters are protected from a works shift of 48 hours where they truly are on 48 different calls over that 48 hours, citing concerns about sleep deprivation. Mr. Cheney indicated it was a delicate balance and studies have shown that the shift work is what is most beneficial for the firefighters and the

community. Firefighters do get sleep and advise firefighters to get rest when the opportunity is available and likened it to a military type of atmosphere where you are ready for battle and then you try to get the rest when you can. Mr. Cheney indicated without this type of schedule, you would need to increase the battalion size for your department. The City of Albuquerque with 750 members would have to increase by 250 more members to make it more of a 40-hour-a-week schedule, which would be extremely costly.

Mr. Cheney stated the City of Albuquerque Fire Department is, per capita, the busiest in the nation, a year-and-a-half ago being at 110,000 calls. Mr. Cheney also stated that bidding for a 40-hour workweek were specialty assignments with specific training and at specific stations, and that members rotate through different stations every year.

Mr. Eichenberg indicated he supported this last year and would support it again this year, but would ask for an amendment. He then asked about the station posted with the Sandia Casino and that most runs are serving the casino, and asked for clarification on that.

Mr. Cheney indicated that was County Fire Station 31, not the City of Albuquerque, and that it was the third busiest in the county and indicated they do have frequent calls out to the casino, with less during COVID.

Ms. Naranjo Lopez spoke directly to Mr. Cheney and indicated the Board was required to have this reviewed by the actuary, and not at the last minute. She stated several of the members are retired and saying, they know they didn't pay for a benefit they are taking, because it's unfunded, and asked him to admit there was a high unfunded liability. She stated her concern was that these bills were not evaluated beforehand and it becomes political instead of careful observation, so she could not support this now. Ms. Naranjo-Lopez stated she did appreciate the job firefighters do. Mr. Cheney stated that his membership was only asking for equality. Ms. Naranjo Lopez indicated that retirees made the same arguments and they did not have the support of the Executive Director.

Mr. Page indicated there was a question in the chat which stated, "Why is no one asking the obvious question, just pay the extra three hours of straight time. And it will be reported to PERA? The fire department is just trying to have his cake and eat it too."

The Chair indicated it was not as simple as that. The Fair Labor Standards Act is a governing federal law by the Department of Labor. If you are not salary and you require your employee to work over 40 hours a week, you must pay them time-and-a-half. It's the same with the fire department, except there's a 7K exemption which states whatever work schedule that you require your public safety to work, this is the hours threshold at which you must pay time-and-a-half for. The FLSA protects workers' rights and applies to fire department employees and police employees, it is just a different hours threshold instead of the typical 40-hour workweek. It is not allowed for the city by law to pay this at a regular rate.

Mr. Ramirez indicated that it was previously stated that firemen want to retire at 100% of their salary. Senate Bill 72 set a cap at 90% on their final pay, and he asked if this bill would change that to make firemen exceed the 90% cap. Mr. Propst indicated it would not.

Ms. Rosales Ortiz indicated she understood there was a shortage of firefighters, and asked what the ratio was to fill that gap in Albuquerque, and if that was the same pattern across all of New Mexico. Mr. Sanchez indicated it affects every paid firefighter in the State of New Mexico. Ms. Rosales Ortiz asked the Chair to request Mr. Cheney provide statistics with respect to how many members of the firefighter community will be needed to fulfill the demand and their portion of the retirement become completely funded.

Mr. Melia indicated that he would request that information and stated every fire department in the state works the 24-hour or 48-hour shifts, and when you reduce it all down, it's always the same, it's 56 hours per workweek. What every fire department would have to do is hire enough employees to cover that extra 16 hours every week. Ms. Rosales Ortiz thanked the firefighting community for their noble work.

Mr. Page moved not to support this bill, seconded by Ms. Naranjo Lopez. The Motion failed 7-5 on a roll call vote as follows:

John Melia	No
David Roybal	No
Paula Fisher	Yes
Steve Neel	No
Diana Rosales Ortiz	Yes
Lawrence Davis	No
Shirley Ragin	No
Roberto Ramirez	Yes
Loretta Naranjo Lopez	Yes
Francis Page	Yes
Maggie Toulouse Oliver	No
Tim Eichenberg	No

Mr. Eichenberg moved to amend the motion to support Bill 90 with the caveat that the Legislature amend Bill 90 and contribute up to \$30 million towards the pension fund, seconded by Mr. Davis. The motion to amend passed 9-3 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	Yes
Loretta Naranjo Lopez	No
Francis Page	Yes
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

Mr. Eichenberg moved to support Bill 90 with the amendment, seconded by Mr. Neel. The motion to support Bill 90 passed 7-5 on a roll call vote as follows:

John Melia	Yes
David Roybal	Yes
Paula Fisher	No
Steve Neel	Yes
Diana Rosales Ortiz	No
Lawrence Davis	Yes
Shirley Ragin	Yes
Roberto Ramirez	No
Loretta Naranjo Lopez	No
Francis Page	No
Maggie Toulouse Oliver	Yes
Tim Eichenberg	Yes

### 3. Possible Additional Legislation

Mr. Propst indicated there were no action items, but indicated House Bill 162, making changes to the structure of the PERA Board, was introduced this week and it will be an action item for the February 9th Special Board Meeting. Mr. Propst indicated legislation was anticipated that would give credit for certain service credit already earned by motor transportation officers to be included under the enhanced State Police Adult Correctional Officers Division. That bill hasn't been dropped yet, so staff did not want to bring it as an action item to the Board until they had seen the legislation. Mr. Propst indicated this was something the Department of Public Safety has been working on with this group of motor transportation officers for several months now. Once staff have the bill, they will bring it to the Board for action item and allow department representatives from the Department of Public Safety to make a presentation to the Board.

Ms. Naranjo Lopez indicated she had asked Mr. Propst last time if he knew about HB 162 and indicated he asserted no knowledge, and expressed surprise that it was here now asking for an appointed board. Mr. Propst indicated his answer was the same as before, he did not know about the bill until it was introduced, and indicated that the Bill was introduced after of the 72-hour window public notice of the agenda, which means to take action on it today would be a possible Open Meetings Act violation, because it is not specifically noted as an action item on today's agenda. For that reason, it will be on the February 9th Special Board Meeting Agenda as an action item, when it can be properly noticed. Ms. Naranjo Lopez indicated she found this very suspicious.

Mr. Eichenberg asked if we don't support what the Board action was before the Legislature that we've worked outside the realm of what the Board is asking for, and sought clarification on that because as independently elected officials it was not offensive for Board Members to speak against decisions passed by the PERA Board, citing an example of a 7-5 vote. Mr. Eichenberg asked the Chair if that was just or unjust.

The Chair response was these things come to the PERA Board so a collective, unified stand can be made and when members are representing the PERA Board it was important to speak as the Board, and that the rule of law does allow for freedom speech. The Chair indicated that putting your name forward as a representative of the PERA Board means you should speak for what the PERA Board wishes as a collective group, or refrain from identifying yourself as part of the PERA Board.

Ms. Naranjo Lopez indicated this statement in a past meeting was directed at her personally, and indicated she never spoke on behalf of the board at Legislative committee meetings, and only spoke as a taxpayer, and asserted her Constitutional right to do so. Mr. Davis indicated that according to the Board policies and procedures, as long as you don't mention that you are trying to speak on behalf of the Board, he agreed you should be able to speak your mind. He reminded all Members of Section 2.53 of the Board Policies and Procedures specifically state individual Board members cannot act or speak on behalf of the entire Board or PERA unless specifically authorized by the Board. As long as you're speaking as an individual it was fine.

Mr. Page asked for a staff response on the Bill 162. Ms. Pittard indicated the only information that is in the FIR is a factual recitation of what the bill does. Mr. Propst indicated if staff were asked about Bill 162 by the media, staff would respond that the PERA Board has yet to take a position on it, but it will be on the agenda for the February 9th Special Board Meeting.

Ms. Naranjo Lopez asked Ms. Pittard if staff had anything to do with the drafting of that bill. Ms. Pittard indicated she did not have anything to do with the drafting of the bill and was not aware of any PERA staff member having had anything to do with the drafting of HB 162. Ms. Naranjo Lopez asked Ms. Pittard if any Board Attorney had anything to do with the drafting of HB 162. Ms. Pittard indicated Harvey Lederman at Reed Smith was not involved in the legislative process and did not know if he was even aware of this bill.

Ms. Fisher stated that PERA members deserve the opportunity to vote for people that will have their voice, because members do need to be heard. When PERA starts appointing people, then the appointees obviously are there for the individuals who appoint them and not for the membership and what is best for the fund. Ms. Fisher stated that to vote in the affirmative on Bill 162 was wrong as members deserve to be heard by their own members.

## *C. Election of 2021 Board Officers*

### 3. Board Chair Election

Ms. Winter advised the Board that according to Parliamentary Adam Hathaway and Robert's Rules of Order, the majority of those present and voting may vote. With a 12-member quorum, the majority is seven. It is against Robert's Rules to do a runoff unless it is in our bylaws to do so, and it is not in our bylaws to do so. The election must then be done again and if there is no change in voting, it will continue to have to be done until someone changes a vote or possibly there are no longer 12 in a quorum, in which case the majority present and voting would determine that number and would change what the majority is.

Mr. Eichenberg asked Ms. Winter if she had the opportunity to ask if Members are unable to break the tie, can we move the vote to the following month and leave the current Chair in place? Ms. Winter responded this was possible and the vote could be postponed. Mr. Eichenberg stated that because Robert's Rules are usually not a tie vote, you move on to the next item on the agenda and then it would just roll over until the next meeting each time. Theoretically, Mr. Melia can be the Chair for the next year, if members don't break the tie.

Mr. Melia stated that he took on the responsibility of being Chair for 2020, and his commitment was for 2020 and indicated that he will no longer be Chair as of the end of this meeting because of personal obligations. Mr. Melia stated he has fulfilled his duty and can't give any more time to continue to be Board Chair, regardless of the outcome of the vote and Mr. Roybal will have to step up as the current Vice Chair if a new Chair was not elected.

The Chair asked if any candidates would like to withdraw their name from the nomination. Ms. Rosales Ortiz asked if the candidates could further elaborate, in three sentences, what are their goals to encourage Board engagement and keeping quorum throughout the meeting.

Ms. Naranjo Lopez stated she would commit to giving a lot of time, 20 hours a week, and she will follow the rules and procedures, and asked for Member support.

Ms. Fisher stated she believed communication and collaboration is key when taking the role of Chair for leadership, She stated that bringing everyone into a team-building type situation really does help, because we get to learn each other as well, and keeping the meetings moving forward in that everything does need to fall in place. She stated her belief that Robert's Rules of Order will assist in that, and stressed the need to be respectful and professional in meetings to ensure everyone is treated professionally and respectfully.

Mr. Roybal reiterated the need for courtesy, and indicated that he was very cordial and always willing to listen, Mr. Roybal stated the importance of putting the right people on the right committees as well, to chair those committees and stressed the need to work together and put people where their strengths are.

Mr. Neel asked for more input from the candidates specifically around investments, as it is becoming increasingly more evident that PERA needs more focus on investments.

Ms. Naranjo Lopez indicated she met yesterday with the CIO and explained her concerns, and after that conversation she had even more concerns because she feels PERA needs to focus on managers that are going to give 10% not down to 0.5%, and what the CIO explained through his presentation. She stressed a focus on the top 10 managers and the bottom 10 managers to go in deep on why PERA is continuing to keep these managers that are not making us money. Ms. Naranjo Lopez restated her focus would be on investment oversight control and she felt she was the most qualified of all candidates to do that.

Ms. Fisher agreed with holding money managers accountable and stated that it was imperative to maintain a watch list, especially when PERA is not making the money and they are. Ms. Fisher also emphasized the importance of having collaboration with investment team members and that is where her focus will be. Ms. Fisher



thought it was imperative to get portfolios in order in terms of money managers, and stated the need to move forward on that because PERA cannot afford to be in the negative.

Mr. Roybal reiterated the importance of working with the CIO as well as the investment team, as well as making sure PERA has the proper investment committee chair and having weekly or biweekly meetings with committee chairs as the Chairman of the Board to ensure PERA is doing the right thing and discussing strategic asset allocation, and if changes need to be made.

Ms. Toulouse Oliver thanked the nominees for putting their name in the hat and expressed her respect for each individual's experience and knowledge. Ms. Toulouse Oliver referenced Robert's Rules in particular situations and indicated that the Board once had a Professional Parliamentarian as a guide, as she felt sometimes the Board meetings get a little bit bogged down in the throes of our disagreements over whether or not Robert's Rules are being followed in a particular manner or issue. Ms. Toulouse asked each nominee to outline their best idea is to approach that issue? Should a Professional Parliamentarian be brought back? Should one be on contract?

Ms. Naranjo Lopez indicated the way it was handled in this meeting was fine and did not think a Parliamentarian was required. She indicated more training be included in the Board Retreat if people aren't understanding Robert's Rules of Order.

Ms. Fisher indicated training would probably be the best.

Mr. Roybal stated that there was one year with the Parliamentarian and he did not see the benefit there, and stated he felt he was not utilized to the best capacity. Mr. Roybal stated annual training, including mutual respect.

The Chair called for a roll call vote to elect a new Board Chair. The results of the vote were David Roybal, 6 votes; Paula Fisher, 5 votes; Loretta Naranjo Lopez, 1 vote. Majority of 7 needed, vote fails.

John Melia	David Roybal
David Roybal	David Roybal
Paula Fisher	Paula Fisher
Steve Neel	David Roybal
Diana Rosales Ortiz	Paula Fisher
Lawrence Davis	David Roybal
Shirley Ragin	David Roybal
Roberto Ramirez	Paula Fisher
Loretta Naranjo Lopez	Loretta Naranjo Lopez
Francis Page	Paula Fisher
Maggie Toulouse Oliver	David Roybal
Tim Eichenberg	Paula Fisher

#### 4. Board Vice Chair Election

The Chair opened the floor for any new nominations for Vice Chair. With no further nominations, the Chair closed the nominations and asked Member Page to give a brief recap of why he would like to be Vice Chair this year.

Mr. Page stated his biggest initiative was to have the Fund stay healthy and safe. The Board needs to come together as one body, and he would ensure we have the proper team available and speak with one voice.

Mr. Lawrence Davis indicated PERA has a big area of peril that hasn't been addressed because of disagreements, in-fighting and distractions and the vast majority of the Board Members have a concern in one area, which is investments. Mr. Davis stated that if we could get past minor disagreements and move along with the agenda that at the end of the day, the PERA membership is concerned about retirement, not the nitty-gritty details and the bickering that occurs, and stated this would be his major focus. Mr. Davis mentioned the \$6 billion

unfunded liability, and he doesn't feel any amount of time has been spent on investments that would allow us to understand where we are going, our understanding of investments, and he wants intricate detail on that. He wants to move the focus to be on ensuring members can retire and that they feel comfortable about their retirement and working together to get it done. Mr. Davis stated his number one concern is that is not happening and he wants to support the Chair, and hopes whoever is elected as Chair shares the same concerns so he can be there to support the Chair and the Board and help turn a new page in the chapter of PERA.

The Chair called for a roll call vote to elect a new Board Vice Chair. The results of the vote were Lawrence Davis, 5 votes; Francis Page, 6 votes.

John Melia	Lawrence Davis
David Roybal	Lawrence Davis
Paula Fisher	Francis Page
Steve Neel	Lawrence Davis
Diana Rosales Ortiz	Francis Page
Lawrence Davis	Lawrence Davis
Shirley Ragin	Lawrence Davis
Roberto Ramirez	Francis Page
Loretta Naranjo Lopez	Francis Page
Francis Page	Francis Page
Tim Eichenberg	Francis Page

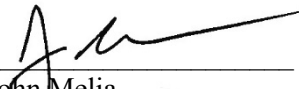
#### ***F. Executive Director's Report***

Mr. Propst, Executive Director indicated the report has been posted to the Board Portal. Retirements are reasonably steady, refunds are within a general range of what we see; some months have higher refunds and others, but nothing unusual there. Contribution levels coming in and payments going out are about same, up to \$110 million in monthly benefits paid out to 42,000 retirees.

#### **8. Adjournment**

Having completed the Agenda and with no further business to come before the Board, Chair Melia declared the meeting adjourned.

Approved by:

  
\_\_\_\_\_  
John Melia  
Chair, PERA Board

ATTEST:

  
Wayne Propst, Executive Director

Exhibits attached