

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
RULES & ADMINISTRATION

August 11, 2015

This meeting of the Public Employees Retirement Board Rules & Administration Committee was called to order by Committee Chair Dan Esquibel at approximately 10:48 p.m. on the above-cited date in the PERA Building, Fabian Chavez Jr. Board Room, 33 Plaza La Prensa, Santa Fe, New Mexico.

Roll was called by Deputy Director Greg Trujillo and a quorum was established as follows:

Members Present:

Dan Esquibel, Chair
Patty French, Vice Chair
Dan Mayfield
Paula Fisher
John Reynolds

Member(s) Excused:

None

Other Member(s) Present:

Louis Martinez
Stewart Logan
Jackie Kohlasch
Tim Eichenberg

Staff Members Present:

Greg Trujillo, Deputy Executive Director
Susan Pittard, Chief of Staff-General Counsel
Karen Risku, Deputy General Counsel
Claudia Armijo, Assistant General Counsel
Judy Olson, Executive Assistant
Renada Peery-Galon, ASD Director

2. APPROVAL OF AGENDA

Mr. Reynolds moved to approve the agenda as presented. Ms. Fisher seconded and the motion passed by [4-0] voice vote. [Ms. French was not present for this action.]

3. APPROVAL OF CONSENT AGENDA

Chair Esquibel said he reviewed the previous minutes and found them to be accurate.

Mr. Reynolds moved to approve the consent agenda. Ms. Fisher seconded and the motion passed by [4-0] voice vote. [Ms. French was not present for this action.]

4. CURRENT BUSINESS

A. **Action Item: Proposed Rules Changes and Rulemaking Timelines** *[Exhibit 1: Staff report re: Proposed Rules and Timeline, dated 8/11/15]*

Susan Pittard Chief of Staff-General Counsel referred to her memo as a follow-up to the July Rules & Administration Committee meeting, where staff was tasked with drafting proposed rules to address two areas of concern to the Committee First, Ms. Pittard presented a proposed revision to the rule regarding PERA member identifiers used for nominating petitions. This proposed rule will address feedback from PERA members who are unwilling to provide the last four digits of their social security number. Nominating signatures lacking those digits may be disqualified because they cannot be verified as valid within the RIO system.

Ms. Pittard reported that staff discussed the issue internally and three verification alternatives are proposed: the last four digits of the social security number, date of birth, or PERA ID number. These three options are proposed for both retired and active members. She described RIO's sorting abilities and said that with reasonable certainty, staff feels they will be able to identify a member with one of the three alternatives.

Chair Esquibel asked if staff investigated the current election procedures requirement for original signatures and whether scanned/mailed signatures could be deemed valid. Ms. Pittard said the Board's historical practice has been to accept only original signatures on nominating petitions. Ms. Pittard further stated that, "every Board member who has been elected to this Board has been required to bring original signatures to the PERA office." She suggested the Board could add the word "original" to the rule for clarification. If the Board wants to allow for electronic signatures, she said, staff would provide proposed language at the committee's next meeting.

Noting that many Board candidates live far from Santa Fe, Chair Esquibel asked whether it was prudent for staff to develop rule language permitting scanned/mailed signatures with the submission of original signatures to follow.

Ms. Pittard mentioned that staff was specifically instructed not to have electronic copies of the candidate packet/nominating petitions on the PERA website.

Ms. French said she would not support the submission of petitions electronically. Demonstrating an interest of serving on the Board, stated Ms. French, is part of doing the work, and that includes getting the original petitions in. A candidate currently has options aside from hand delivery, and she mentioned US mail, overnight mail and FedEx.

Ms. French said she appreciated modern technology, but getting the original petitions in by the due date shows commitment and readiness to take on the huge responsibility of being a PERA Board member.

Mr. Reynolds said he also could not support acceptance of non-original petitions and was unsure whether birth dates should be accepted as an identifier.

Mr. Mayfield supported the change for identifying information because of the reluctance in seniors to provide their last four digits of the social security number. He also supported submission of the original petitions.

Ms. French said that for years New Mexico assigned identical first three digits to residents for social security numbers. Sensitivity to ID theft have removed social security numbers from accident and offense reports.

Ms. Pittard said while the RIO system is driven by social security numbers, staff has confidence that either of the other two options would work.

Ms. Pittard said that, if subject to an IPRA request, the nominating petitions are discloseable and would be made available, but the last four digits of the social security numbers would be redacted.

Treasurer Eichenberg appreciated that, rather than require the last four digits of the social security number, other options were provided. He also appreciated that staff redacts that information if petitions are disclosed.

Chair Esquibel said that providing reasonable options is important and he added it was also important that staff is not overburdened in verifying PERA membership.

Mr. Trujillo said PERA correspondence to members regarding COLA, annual statements, and other benefit related information all contain the PERA ID number. He said the agency may need to better acquaint the membership with their numbers. In response to Chair Esquibel's suggestion that PERA provide ID cards to members, Mr. Trujillo said currently PERA relies on the employer, but in the future PERA may go directly to the member with a new member orientation, and a card could be part of that information.

Mr. Logan supported the electronic deliverance of nominating petitions: "I'd like to see us move into the 21st Century." He said emailing the petitions will automatically provide a date and time stamp.

Not expecting it within this rulemaking timeframe, Chair Esquibel asked for an evaluation/study providing an across-the-board comparison (including county clerks) of all the options regarding petition submission.

Responding to Ms. Kohlasch's question regarding the State's election process, Treasurer Eichenberg stated that it fell under the guidelines of the Secretary of State and State Statute, which requires hand-delivered original signatures on original forms. He said the petition error margin is 40 percent, and candidates provide a great many more signatures to cover that margin. He said the PERA Board can make its own rules.

Ms. French moved to accept the staff-proposed changes to 2.80.200.60 and 2.80.200.70 regarding nomination information. Mr. Mayfield seconded and the motion passed by unanimous [5-0] voice vote.

Ms. Pittard reviewed the new language under 2.80.200.50 which would add a sixth standing Board committee, the Deferred Compensation Plan Committee. She said the Chief Investment Officer, Board Chair and Investment Committee Chair believe it prudent to have a standing committee to provide oversight to the plan, the new re-branding efforts and outreach plans.

Mr. Mayfield moved to approve the proposed changes to 2.80.200.50. His motion was seconded by Ms. French and passed by unanimous [5-0] voice vote.

[Ms. French excused herself from the remainder of the meeting.]

Currently, in order to issue a refund, stated Ms. Pittard, PERA needs to have a membership application on file for employment verification. Staff in the records department has asked that this requirement be optional and other forms of documentation for verification be accepted.

Mr. Mayfield moved to approve 2.80.2100.8 regarding refund application and Ms. Fisher seconded. The motion passed by [4-0] voice vote.

Referring to 2.80.2100.9, Unclaimed Contributions, Ms. Pittard said that at the last rulemaking, the Board approved an unclaimed property process for residual refunds. That process allows staff to close refunded member accounts and move contributions that hit PERA's books after a refund is processed to an unclaimed property category. As a result, no interest continues to accrue and PERA no longer is required to maintain the account. Now staff is requesting that the Board adopt a similar process for deceased member accounts where no benefit is payable and a refund of contributions has not been requested by the deceased member's estate.

Mr. Mayfield moved to approve the changes to 2.80.2100.0 as proposed by staff. Ms. Fisher seconded and the motion passed by [4-0] voice vote.

Ms. Pittard referred to the staff-proposed timeline for the issuance of notice for rulemaking and anticipates the Board taking action on the proposed rules at the November Board meeting. The final rules will be published in the *New Mexico Register* December 30, 2015 and become effective thereafter.

Mr. Mayfield moved to approve the staff-proposed timeline. Ms. Fisher seconded and that motion passed by unanimous [4-0] voice vote.

5. **OTHER BUSINESS**

None were presented.

6. **ADJOURNMENT**

Having completed the agenda, this meeting adjourned this meeting at approximately 11:30 a.m.

Approved by:



Dan Esquibel, Chair
Rules & Administration Committee

ATTEST:



Wayne Propst, Executive Director