

NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
LEGISLATIVE COMMITTEE MEETING

December 13, 2016

This meeting of the Public Employees Retirement Board Legislative Committee was called to order by Vice Chair James Maxon at approximately 9:25 a.m. on the above-cited date in the PERA Building, Senator Fabian Chavez, Jr. Board Room, 33 Plaza La Prensa, Santa Fe, New Mexico.

Roll was called by Executive Director Wayne Propst and a quorum was established as follows:

Members Present:

Cathy Townes, Chair
Dan Esquibel
Loretta Naranjo Lopez

Member(s) Excused:

James Maxon, Vice Chair
Paula Fisher

Other Member(s) Present:

Dan Mayfield
John Melia
Patricia French
Jackie Kohlasch
James Maxon

Staff Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff/General Counsel
Greg Trujillo, Deputy Director
Karen Risku, Deputy General Counsel
Jude Perez, Deputy CIO
Renada Peery-Galon, ASD Director
Natalie Cordova, Chief Financial Officer
Trish Winter, Executive Assistant
LeAnne Larrañaga-Ruffy, Director of Equity
Karyn Lujan, Deferred Compensation Plan Manager
Christine Ortega, Portfolio Manager

Others Present:

Mary Lou Leeder, BoardEffect

2. APPROVAL OF AGENDA

Ms. Naranjo Lopez moved approval. Her motion was seconded by Mr. Melia and passed by unanimous voice vote.

3. APPROVAL OF CONSENT AGENDA

Ms. Naranjo Lopez moved approval of the consent agenda. Her motion was seconded by Mr. Esquibel and passed by unanimous voice vote.

4. CURRENT BUSINESS

A. Proposed Legislation for 2017

1. Legislation to Prohibit Retired PERA Members from Entering into Contracts with a PERA Affiliate

Susan Pittard, Chief of Staff/General Counsel, said that at a previous Legislative Committee meeting, there was a discussion to preclude the use of independent contracts and third-party employment arrangements by PERA affiliates for PERA retirees. Staff was asked to review the return to work provisions of the PERA Act and draft proposed language that addresses the Board's concerns regarding this issue. She noted this would be a measure against the PERA retiree with a suspension of pension.

Mr. Esquibel said he appreciated the draft language regarding a third-party arrangement and asked whether it could be upheld in court. Ms. Pittard said staff drafted this language upon the direction of Legislative Committee Chair Fisher. She could not opine on the likelihood of the legislature passing the language, nor whether it will be defensible. She said she was not prepared to provide a legal opinion on the merits of Chair Fisher's request, although defending it would appear to be an uphill battle for PERA.

Ms. Kohlasch said the proposed language appeared discriminatory against employees working for a third-party. She supported the concept but wanted to make sure it is done correctly.

Ms. French said this issue came up following a newspaper article on a certain city entity bringing back 20 or 30 employees, and that temp agencies hire out past PERA affiliate employees. The point is that these temporary employees are not making contributions to PERA. She said PERA was missing out on contributions and temporary hires are rampant in some agencies.

Stating it is "the fund that we care about," Mr. Esquibel said he supported new employees being hired and mentioned the positive affects it has on the fund.

Vice Chair Maxon suggested bringing all the stakeholders to the table to discuss how this issue impacts the PERA fund.

Mr. Esquibel said he understood that rehiring retirees is many times a necessity especially in small rural communities. Mr. Melia agreed adding that there are many circumstances in which the rehiring is appropriate and a blanket prohibition may create a negative effect.

Ms. Naranjo Lopez said she has engaged in conversation with both sides of the issue – retirees who have returned to work and those who think it is wrong to return to work – and said more information was necessary. She noted that teachers can return to work after a year and receive their pension.

Ms. Pittard said she was confident in staff's vetting of independent contracts. She mentioned that, during a staff meeting, CFO Cordova suggested talking to the state auditor about reviewing a public entity's independent contracts for PERA retirees during governmental audits.

Ms. Pittard added that until PERA can demonstrate the impact of third-party employment arrangements it will be difficult for the Board to make a decision on how to proceed.

Mr. Esquibel supported involving the State Auditor. Mr. Mayfield supported the State Auditor involvement, as well as the Municipal League and the Association of Counties. .

Ms. Pittard advised the Committee that this is a statutory change and requires legislative action.

Mr. Propst said that without having quantified the issue, it would be very difficult to pass any legislation. He expressed concern that this may open a hornet's nest, especially with the small communities and state agencies that rely on short-term, technically-specific employees to assist. The Investments and Pension Oversight Committee may be an appropriate partner during the interim to develop a mechanism to address this issue.

Ms. French said the abuse she has been aware of occurs with the temp agencies rather than the contractors. She agreed that quantifying the issue was important.

Vice Chair Maxon recommended that staff investigate how other pension funds address this issue.

B. Legislative Session Preview

Mr. Propst said the session begins Tuesday, January 24th and staff expects the issues to focus on the budget because of the additional shortfall of \$60 million that was identified. One of the places the legislature may seek to gain funds is PERA. The LFC is looking at the State Police and Adult Correctional Plans for additional resources and would like to reduce the state contributions to that fund by 3 percent. PERA pointed out to the LFC that these plans are not stand alone plans; rather, they are part

of the larger PERA plan. The LFC said the 3 percent would be used to provide raises and speaking as executive director of the fund Mr. Propst said it was terrible public policy. PERA is an attractive target with a \$14.4 billion fund for the LFC and Executive to look at in balancing their shortfalls. Board direction on this issue will be sought.

At this point, Mr. Propst said he has heard nothing about proposed return to work legislation, although he anticipates a bill will be introduced. He pointed out that the budget process is difficult to track because of the numerous committees and the fact that it is not a particular transparent process.

Ms. French commended staff for addressing the LFC regarding the “sweep” of pension funds. She said it was important that PERA is vocal in its opposition to using pension funds to finance raises.

Pension swaps are actively under consideration with the Executive’s support, stated Mr. Propst. Five percent has been mentioned and that would negatively affect the fund. The swap would only affect state employees – the employer contribution would be reduced by x percent while the employee contribution would be increased by x percent. The state would use the x percent not used for the pension contributions for other budgetary needs.

A discussion regarding contribution rates ensued.

Ms. Naranjo Lopez said it was important to remind the legislature and their committees about PERA’s unfunded liability. The budget deficit can be addressed by proportionately taxing the rich.

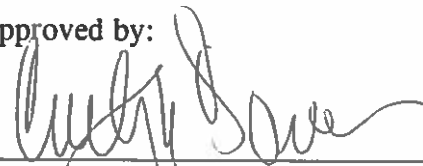
5. **OTHER BUSINESS**

None was presented.

6. **ADJOURNMENT**

Vice Chair Maxon declared the meeting adjourned at approximately 10:25 a.m.

Approved by:



Cathy Townes, Chair
Legislative Committee

ATTEST:


Wayne Propst, Executive Director