

**NEW MEXICO
PUBLIC EMPLOYEES RETIREMENT ASSOCIATION
LEGISLATIVE COMMITTEE MEETING**

November 8, 2016

This meeting of the Public Employees Retirement Board Legislative Committee was called to order by Chair Cathy Townes at approximately 11:00 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
James Maxon, Vice Chair
Dan Esquibel
Paula Fisher
Loretta Naranjo Lopez

Member(s) Excused:

None

Other Member(s) Present:

Dan Mayfield
John Melia
Patty French
Jackie Kohlasch
John Reynolds

Staff Present:

Wayne Propst, Executive Director
Susan Pittard, Chief of Staff-General Counsel
Jon Grabel, Chief Investment Officer
Greg Trujillo, Deputy Director
Trish Winter, Executive Assistant
Karen Risku, Deputy General Counsel
Renada Peery-Galon, ASD Director
Natalie Cordova, Chief Financial Officer
Dana David, Assistant General Counsel
Jude Perez, Deputy CFO
LeAnne Larrañaga-Ruffy, Portfolio Manager
Mark Montoya, Financial Analyst
Kristin Varela, Portfolio Manager Real Returns

Karyn Lujan, Deferred Comp Plan Manager
Christine Ortega, Portfolio Manager
Lalleh Dayeny, Investments Division
Mark Montoya, Investments Division
Emily Lopez, Investment Division

Others Present:

Ted Benedict, Meketa
Paul Lium, Nationwide

2. APPROVAL OF AGENDA

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

3. APPROVAL OF CONSENT AGENDA

Chair Townes indicated that she reviewed the consent agenda and found it accurate and in order.

Ms. Fisher moved approval. Her motion was seconded by Mr. Maxon and passed by unanimous voice vote.

4. CURRENT BUSINESS

A. 2017 Legislative Update

1. Legislative Finance Committee (LFC) 10/18 - 29

Mr. Propst said PERA was very busy with meetings before the LFC and Investments and Pension and Oversight Committee (IPOC). There was an FY18 budget request hearing before an LFC subcommittee, the FY16 actuarial valuations before the LFC, and the FY16 GASB 67 results before IPOC, as well as a presentation on potential legislation. PERA presented efforts to improve outreach to its membership to the IPOC, particularly PERA's financial positions.

There were positive responses regarding the Board's decision to reduce the long-term rate of return assumptions from 7.75 percent to 7.25 percent for the next 10 years. IPOC will meet in late November to endorse legislation.

Board Chair French commended staff for their excellent presentations before the LFC and IPOC.

B. Discussion Regarding Retirees Returning-to-Work:

- 1. Third-Party Employment Arrangements**
- 2. Earnings Limitation for Retirees .**

Ms. French said the issue of third-party arrangements continues to come up and recently the *Journal* had a story about a firm rehiring 25 PERA pensioners and then contracting with the City of Albuquerque to use those individuals.

PERA General Counsel Pittard said historically the PERA Act tracked the Social Securities Act earnings limit and a retiree could earn up to the amount set by federal law without suspension of his or her pension. Ms. Pittard said PERA conducted actuarial studies in 2005 which indicated that the earnings limit could be increased to \$30,000 without an actuarial impact on the fund. If the Board desires, the actuaries could review the issue and determine a dollar amount that would be deemed harmless to the fund.

Ms. French said the issue members are bringing to her has to do with desiring no form of return to work. She asked whether retirees returning as contractors and/or third-party temp arrangements merited the Board's investigation.

Ms. Pittard said currently, there is a complete ban on return-to-work. There are some retirees that returned to work prior to 2010 and are grandfathered in. If there is concern regarding a certain individual, Ms. Pittard recommended contacting PERA staff. If someone is violating a return-to-work provision, PERA has the ability to stop their pension and remedy any violation of the laws that govern the agency.

Ms. Pittard said 100 percent reporting is required of PERA employers. The RIO system will identify anyone receiving a pension and a paycheck; although, mistakes can be made.

Ms. Pittard stated that if the Board desired they could amend the return-to-work provisions of the PERA Act to preclude third-party or independent contracted employees by redefining re-employment under the Act. Until there is a statutory change, Ms. Pittard said she did not believe that there was a avenue to address the situation. She said a statute change is a bill requiring legislative action.

Mr. Propst said there is a specific test that includes legal standards that a contract must meet to ensure it is not circumventing the return-to-work provisions. PERA routinely rejects those contracts. Temporary agencies are different.

In response to Chair Townes' questions, Ms. Pittard said if a retiree bids on an RFP they may enter into a multi-year contract, adding that LLCs are common for individuals for tax benefits and protection from liabilities.

Mr. Esquibel observed that a temporary or contracted employee is occupying a position that otherwise would be contributing to PERA and not receiving those contributions is a detriment to PERA. Ms. Pittard highlighted that the very nature of

an independent contract requires the determination that there's no employee and employer relationship.

Mr. Esquibel stated he understood the need for occasional temporary workers. His concern was the agency that takes advantage of a temporary system because they don't want to fill the spot. He recommended revisiting and tightening that legislation.

Ms. French and Ms. Fisher agreed with Mr. Esquibel and suggested the Board review an amendment to the statute. Mr. Propst said there was ample time to develop a bill and staff would include this on the December Legislative Committee agenda.

Ms. Naranjo Lopez identified the issue as larger than temporary or contract employees but instead the privatization of government positions. She recommended working with the legislators to ensure the government is intact.

- C. Endorsement of Proposed Legislation**
 - 1. Amend Public Employees Reciprocity Act**
 - 2. Amend Deferred Compensation Act**

Karyn Lujan said she and Deputy Director Trujillo presented PERA's proposed legislation to the IPOC. Ms. Lujan reviewed the amendment to the Deferred Compensation Act which was enacted in 1981 and the proposed amendment implements new technology. The proposal would permit electronic enrollment and increase contributions; revisions would be in line with PERA's investment policy statement and grammatical-type clean up.

Mr. Trujillo said the reciprocity amendments would have each state pension system paying their amount rather than reimbursement.

Mr. Maxon moved to endorse the amendments to the Reciprocity and Deferred Compensation Acts. Ms. Fisher seconded and the motion passed by unanimous voice vote.

5. OTHER BUSINESS

None was presented.

6. ADJOURNMENT

Chair Townes declared the meeting adjourned at approximately 11:40 a.m.

Approved by:



Cathy Townes, Chair
Legislative Committee

James Maxon Vice Chair

ATTEST:



Wayne Propst, Executive Director