

PUBLIC EMPLOYEES' RETIREMENT BOARD  
MEETING MINUTES FOR  
Tuesday, December 14, 2010 and Wednesday, December 15, 2010

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The agenda for this meeting was mailed to every public employer, the news media, and other groups and individuals as requested.

December 14, 2010  
Education Session

The Retirement Board Education Session of the Public Employees' Retirement Board was called to order by Chairman Stevens at 3:00 p.m., December 14, 2010, in the PERS' Board Room, 693 West Nye Lane, Carson City. Members present: George Stevens, Bart Mangino, James Green, David Olsen, Charles Silvestri, and Paul C. Page (via telephone). Members absent: Mark Vincent.

I. ADMINISTRATION

- A. Staff reviewed PERS' disability process.

II. INVESTMENTS

- A. Staff reviewed PERS' private equity portfolio.

III. PUBLIC COMMENT

IV. RECESS

Chairman Stevens recessed the meeting at 4:35 p.m.

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December 15, 2010  
Board Meeting

The Retirement Board Meeting of the Public Employees' Retirement Board was called to order by Chairman Stevens at 8:00 a.m., December 15, 2010, in the PERS' Board Room, 693 West Nye Lane, Carson City. Members present: George Stevens, Mark Vincent, James Green, David Olsen, Bart Mangino, Charles Silvestri and Paul C. Page (via telephone). Members absent: None.

I. DISABILITIES

- A. For the record, George Stevens made a collective disclosure that disability retirement applicant, Paul C. Page, is known to the Board but did not feel that would impair their ability to vote. Paul C. Page abstained from voting on his individual disability retirement request. For the record David Olsen, abstained from voting on Terry Zach's reemployment request. On motion of David Olsen, the Retirement Board voted unanimously to:

1. Approve permanent and total disability retirement for: Carlos Betancourt, Karan Bjornsen, Della Boyd, Troy Crosland, Mark Engel, Patrick Forcht, David LeMaster, Allen Littlejohn, Barbara Manning, Maryanna Mitchell, Paul C. Page, Susan Plumb, Danielle Price, Monaé Richardson, Charmaine Smith-Schwanke, and Michael Trusty.
2. Approve reemployment requests by disability recipients: Jane Pieplow, Bryon Slobe, Mary Ulibarri, Pam Whitney, and Terry Zach. Requested more information from Margaret “Kelly” Osborne’s reemployment request for review and consideration at next month’s meeting.

## II. INVESTMENTS

- A. Jim Chambliss, Karen Jacobi, and Matt Lugar of Pathway Capital Management presented a performance update on their private equity portfolio for the PERS’ fund.
- B. Brett Cambern of JP Morgan presented a performance update on their active U.S. bond portfolio for the PERS’ fund.
- C. Staff presented an update on PERS’ investment credit policy.
- D. There were no recommended changes to the Interim Investment Directives for the PERS’, Legislators’ and Judicial Retirement Systems.

## III. BOARD

- A. Staff discussed the possibility of consolidating the Retirement Board meetings into a single day instead of the current day and a half. To accomplish this, the meetings would begin at 10:00 a.m. with the voluntary education session and the Board meeting would begin at 12:30 p.m. or 1:00 p.m. depending on the workload for that meeting. The meetings would conclude at approximately 4:30 p.m. After discussion, on motion of James Green, the Retirement Board voted unanimously to adopt the one-day meeting structure as proposed for a trial period of six-months and the flexibility of staff determining whether one day would be sufficient to complete the agenda or schedule a two-day meeting.
- B. On motion of James Green, the Retirement Board voted unanimously to approve the minutes of the Retirement Board Education Session and Board meeting held November 9 and 10, 2010, as submitted.
- C. Staff reviewed the revised and proposed meeting date schedule for 2011 in keeping with the action taken under agenda item III - A. On motion of James Green, the Retirement Board voted unanimously to adopt the revised and proposed Retirement Board meeting dates for 2011, as submitted.

- D. Staff presented the proposed Retirement Board education curriculum calendar for 2011. On motion of Mark Vincent, the Retirement Board voted unanimously to adopt the proposed Retirement Board Education Curriculum calendar for 2011, as submitted.

IV. ACCOUNTING

- A. Staff presented the fiscal year 2010 audited financial statements for the Public Employees' Retirement System, the Legislators' Retirement System, and the Judicial Retirement System. On motion of Bart Mangino, the Retirement Board voted unanimously of those present to accept the fiscal year 2010 audited financial statements for the Public Employees' Retirement System, the Legislators' Retirement System, and the Judicial Retirement System. George Stevens was not present for this vote.
- B. Staff reviewed the request for proposals process for a consulting firm to perform an internal controls examination for the System. Six firms submitted proposals and were reviewed and scored independently by eight members of PERS' staff from the accounting and internal audit divisions. The top two scoring firms were Clifton Gunderson LLP and Eide Baily LLP. Staff concluded that both firms have a good understanding of the project, have the resources to complete the work, and could competently accomplish all of the goals and objectives of the project. After discussion, on motion of Charles Silvestri, the Retirement Board voted unanimously of those present to authorize retention of Clifton Gunderson, LLP to perform the Internal Control Examination for the Public Employees' Retirement System, the Judicial Retirement System, and the Legislators' Retirement System at a cost not to exceed \$115,000.00. George Stevens was not present for this vote.

V. LEGISLATION

- A. Kim Nicholl, FSA, MAAA, FCA, EA, National Public Sector Retirement Practice Leader for The Segal Company, presented the analysis and comparison of defined benefit and defined contribution retirement plans study commissioned by the Retirement Board. After discussion, on motion of Charles Silvestri, the Retirement Board voted unanimously to adopt the "Analysis and Comparison of Defined Benefit and Defined Contribution Retirement Plans" study as presented by The Segal Company.
- B. Staff mentioned that one additional BDR has been added to the list for the 2011 legislative session that may impact PERS:

BDR #638 – Requested by Assemblyman Kirner – Revises provision governing the Public Employees' Retirement System.

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VI. RATIFICATION AGENDA

On motion of Charles Silvestri, the Retirement Board voted unanimously of those present to:

- A. Approve the Administrative Fund disbursements.
- B. Approve the personnel action taken since the last report.
- C. Approve the out-of-state travel request for Charles Silvestri to participate as a moderator at the World Research Group's 4<sup>th</sup> Annual Conference on emerging managers in Chicago, Illinois, March 29-30, 2011, at no cost to the System.
- D. Approve the Final Benefit Audit Report for July 2009.
- E. Approve the Final Benefit Audit Report for August 2009.
- F. Approve the Final Benefit Audit Report for September 2009.
- G. Approve the Final Benefit Audit Report for October 2009.
- H. Approve the penalty waiver request by William Bee Ririe Hospital in the amount of \$1,584.17.

George Stevens was not present for this vote.

VII. APPEALS

- A. Staff reviewed the appeal request of Ronald Donnelly who retired from the City of Reno on October 9, 2008. In October 2009, Mr. Donnelly's benefit was reduced from \$10,396.22 to \$10,109.42 due to the removal of ineligible holiday pay and sick leave reimbursement wages that were reported in error by his former employer. The benefit overpayment totaled \$3,367.66 from October 2008 through October 2009. Mr. Donnelly is requesting that PERS write-off the benefit overpayment and restore his benefit to the amount he was receiving prior to removal of the ineligible wages.

During an audit of the City of Reno that was performed by PERS' Internal Audit Division in July 2009, it was discovered that the City was reporting wages that did not meet the definition of holiday pay. The audit also revealed that wages for sick leave reimbursement pay were reported in error. The City provided adjustments on their July 2009 contribution report to remove the ineligible pay. Once the adjustments were posted to his account a letter was sent on September 30, 2009, to inform Mr. Donnelly of the benefit overpayment. Staff's conclusion was that the System cannot pay a benefit based upon wages that do not meet the definition of compensation as defined under the Retirement Act.

Michael Langton, attorney representing Mr. Donnelly, addressed the Board and reviewed his client's timeline and specific situation since retiring from the City of

Reno. Mr. Langton requested that Mr. Donnelly's benefit be increased to its original amount and the Board write-off his benefit overpayment citing detrimental reliance and vesting law.

Mr. Donnelly addressed the Board and thanked them for the opportunity to appear and discuss his situation. He reviewed his timeline and situation with his previous employer. Mr. Donnelly does not believe he should be penalized for his employer's error and requests the Board increase his benefit and write-off his benefit overpayment citing detrimental reliance.

The Attorney General stated that the Supreme Court cases referred to by Mr. Langton do not apply in this situation as those cases have a different fact base.

After discussion, on motion of Charles Silvestri, the Retirement Board voted unanimously of those present to deny Ronald Donnelly's request for PERS to write-off his benefit overpayment and to increase his benefit amount. George Stevens was not present for this vote.

- B. Staff reviewed the appeal request of David Fogarty who retired from the City of Reno on July 3, 2009. In January 2010, Mr. Fogarty's benefit was increased from \$7,591.45 to \$7,605.06; however, Mr. Fogarty had previously calculated benefit estimates through the PERS' website which calculated his Option 1 benefit at approximately \$7,700.00. The reason why the estimated amount was higher than his preliminary benefit was due to the removal of ineligible holiday pay wages reported in error by his former employer. Mr. Fogarty is requesting that PERS include these wages in the calculation of his retirement benefit.

During an audit of the City of Reno that was performed by the PERS' Internal Audit Division in July 2009, it was discovered that the City was reporting wages that did not meet the definition of holiday pay. The city provided adjustments on their July 2009 contribution report to remove the ineligible pay. Based on the timing of Mr. Fogarty's retirement, the City provided Staff with information regarding his adjustments and the benefit was adjusted prior to his first payment. This action prevented the System from overpaying Mr. Fogarty's benefit. Staff's conclusion was that the System cannot pay a benefit based upon wages that do not meet the definition of compensation as defined under the Retirement Act.

Michael Langton, attorney representing Mr. Fogarty, addressed the Board and reviewed his client's timeline and specific situation since retiring from the City of Reno. Mr. Langton requested that Mr. Fogarty's benefit be increased to the benefit estimate amount citing detrimental reliance and vesting law.

Mr. Fogarty addressed the Board and stated that he and his wife calculated his benefit estimate on the PERS' website and relied on the amount they were given. He reviewed his timeline with his previous employer and his specific situation.

The Attorney General advised that the Supreme Court cases referred to by Mr. Langton do not apply in this situation as those cases have a different fact base.

After discussion, on motion of Charles Silvestri, the Retirement Board voted unanimously of those present to deny David Fogarty's request for PERS to calculate his benefit using ineligible wages. George Stevens was not present for this vote.

- C. Staff reviewed the appeal request of Thomas Broome who retired from the City of Reno on April 10, 2009. In October 2009, Mr. Broome's benefit was reduced from \$6,970.28 to \$6,902.66 due to the removal of ineligible holiday pay wages that were reported in error by his former employer. Mr. Broome is requesting that PERS write off the benefit overpayment and restore his benefit to the amount he was receiving prior to the removal of the ineligible wages.

During an audit of the City of Reno that was performed by the PERS' Internal Audit Division in July 2009, it was discovered that the city was reporting wages that did not meet the definition of holiday pay. The City provided adjustments on their July 2009 contribution report to remove the ineligible pay. Once the adjustments were posted to his account a letter was sent on September 30, 2009, to inform Mr. Broome of the benefit overpayment. Staff's conclusion was that the System cannot pay a benefit based upon wages that do not meet the definition of compensation as defined under the Retirement Act.

Michael Langton, attorney representing Mr. Broome, addressed the Board and reviewed his client's timeline and specific situation since retiring from the City of Reno. Mr. Langton requested that Mr. Broome's benefit be increased to its original amount and the Board write-off his benefit overpayment citing detrimental reliance and vesting law.

Mr. Broome addressed the Board and thanked them for the opportunity to appear and discuss his situation. He reviewed his timeline and situation with his previous employer. Mr. Broome does not believe he should be penalized for his employer's error and requests the Board increase his benefit and write-off his benefit overpayment saying it is the right thing to do.

The Attorney General advised that the Supreme Court cases referred to by Mr. Langton do not apply in this situation as those cases have a different fact base.

After discussion, on motion of Charles Silvestri, the Retirement Board voted unanimously of those present to deny Thomas Broome's request for PERS to write-off his benefit overpayment and to increase his benefit amount. George Stevens was not present for this vote.

## VIII. DENIALS

## IX. REPORTS

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X. PUBLIC COMMENT

A. The following individuals made public comments:

1. Marty Bibb, Executive Director for Retired Public Employees of Nevada (RPEN), applauded the Board and Staff for commissioning the DB/DC analysis and comparison study. Mr. Bibb reminded everyone that the costs of the defined benefit plan are shared equally between the employee and employer. Mr. Bibb mentioned that Nevada has a leaner public employee workforce per capita than most other states. He added that public employees do not participate in Social Security which could add more cost to a defined contribution plan. Mr. Bibb stated that the average monthly benefit for a regular member of the defined benefit plan is \$2,500.00 with no Social Security. Mr. Bibb suggested that the legislature consider all the issues before changing the current defined benefit plan to a defined contribution plan.
2. Warren Wish, representing the Nevada State Education Association commended the Board and staff on their foresight in commissioning this study. Mr. Wish mentioned that staff should provide the legislature with the latest cost comparisons between Nevada PERS and other state retirement systems as PERS provides their services at a much lower cost. Mr. Wish also stated that 75% of all retirees stay in Nevada and the benefits paid to those retirees by PERS are spent in the state, providing over \$1 billion dollars of revenue to the state. He also mentioned that the defined benefit plan is a tool that is beneficial to attracting and retaining well educated staff to work in the public sector such as teachers.
3. Peggy LeBon, a PERS retiree, referred to a study done earlier this year that included Nevada PERS as one of five states that would not run out of money. She also suggested that PERS determine how much money by County the PERS' benefit recipients put into the economy and how much the Counties would lose by changing the current plan to a defined contribution plan. She explained that the state, counties, and cities, preserve their dedicated employees by offering them this defined benefit retirement plan. Ms. LeBon thanked the Board for adopting the report and asked the Board to continue their hard work on behalf of all members and beneficiaries.
4. Bob Johnston, Past State President of RPEN, representing the rural areas, noted that in Fallon alone there are 400 retirees and the Fallon economy depends on those retirees. He also mentioned that changing to a defined contribution plan means that all individuals in the plan will need to know how a defined contribution investment program works and the costs they will incur to have someone manage that program for them. Nevada PERS is one of the best run systems in the nation. Mr. Johnston thanked the Board for the study as it was educational and very enlightening.
5. Retirement Board Chairman, George Stevens, acknowledged former Assemblyman Anderson who was in the audience.

B. The Deputy Attorney General had nothing to report.

C. Administrative report by Staff:

- Executive Officer:
1. The Executive Officer mentioned that Tina Leiss, Operations Officer, has been appointed to the Committee on Retirement and Benefits Administration for GFOA. She will participate in two meetings per year.
  2. The Executive Officer provided a short overview of PERS to newly elected legislators on November 30<sup>th</sup>.
  3. The Executive Officer mentioned that the Liaison Officer conference on November 17<sup>th</sup> was the most well attended conference so far. All the programs were well done and well received.
  4. The Executive Officer wished all the Board members and Staff a very Merry Christmas.

D. Questions and/or comments by members of the Retirement Board:

- Charles Silvestri:
1. Mr. Silvestri wished everyone a Merry Christmas.
- Mark Vincent:
1. Mr. Vincent wished everyone a Merry Christmas.
- James Green:
1. Mr. Green mentioned that Tina and Ken appear in photos in the NASRA newsletter as Ken provided a conference speech at NASRA's annual conference and Tina participated in an article.

## XI. ADJOURNMENT

The meeting was adjourned by Vice Chairman Vincent at 1:05 p.m.

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The following is the time schedule for the meeting:

The Retirement Board education session held on December 14, 2010, was called to order at 3:00 p.m. by Chairman Stevens and recessed at 4:35 p.m. The December 15, 2010, Retirement Board meeting was called to order at 8:00 a.m. by Chairman Stevens. There was a closed session pursuant to NRS 241.030(1-2) to discuss disabilities from 8:03 until 8:10 a.m. Three breaks were taken; one at 8:10 for approximately 10 minutes, one at 10:05 for approximately fifteen minutes, and one at 11:53 for approximately 5 minutes. The meeting was adjourned at 1:05 p.m.