

PUBLIC EMPLOYEES' RETIREMENT BOARD EDUCATION SESSION AND  
MEETING MINUTES FOR

Wednesday, January 21, 2015

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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.

January 21, 2015  
Education Session

The Retirement Board Education Session of the Public Employees' Retirement Board meeting was called to order by Chairman Vincent at 10:00 a.m., January 21, 2015, in the PERS' Board Room, 5820 South Eastern Avenue, Suite 220, Las Vegas. Members present: Mark Vincent, Chris Collins, Kathy Ong, Al Martinez, Rusty McAllister, Audrey Noriega and David Olsen. Members absent: None.

1. PUBLIC COMMENT

There were no public comments offered.

2. EDUCATION TOPIC

2.1 Staff reviewed PERS' investment philosophy with the Retirement Board.

3. PUBLIC COMMENT

There were no public comments offered.

4. RECESS

Chairman Vincent recessed the meeting at 11:34 a.m.

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January 21, 2015  
Board Meeting

The Retirement Board meeting of the Public Employees' Retirement Board was called to order by Chairman Vincent at 12:03 p.m., on January 21, 2015, in the PERS' Board Room, 5820 South Eastern Avenue, Suite 220, Las Vegas. Members present: Mark Vincent, Chris Collins, Kathy Ong, Al Martinez, David Olsen, Audrey Noriega and Rusty McAllister. Members absent: None.

1. PUBLIC COMMENT

There were no public comments offered.

2. DISABILITIES

- 2.1 For the record, David Olsen disclosed that Yvonne Pontsler either works or worked for the same employer as himself but he did not feel that would impair his vote. Chris Collins disclosed that Jennifer Blasko, Heather McCleery, Jeannette Hartzell, and William Oettinger either work or worked for the same employer as himself but he did not feel that would impair his vote. Al Martinez disclosed that Desiree Brown, Martha Detloff, Donald Hauth, Mark McNeely, Guy Robb, and Charlene Shea either work or worked for the same employer as himself and one individual is known to him but Mr. Martinez did not feel that would impair his vote. Audrey Noriega disclosed that Suzzie Bradshaw, Lydia Godje, Patricia Robledo, Beverly Smith, Joyce Williams, and Mary Carpi all work or worked for the same employer as herself and one individual is known to her but she did not feel that would impair her vote. Mark Vincent disclosed that Raymond Caswell, Randy Gray, Tracie Mathis, and Ingrid Williams all work or worked for the same employer as himself but he did not feel that would impair his vote. Rusty McAllister disclosed that Randy Gray and Tracie Mathis both work or worked for the same employer as himself but he did not feel that would impair his vote.

On motion of Kathy Ong, the Retirement Board voted unanimously to:

1. Approve permanent and total disability retirement for: Lolita Belton, Jennifer Blasko, Suzzie Bradshaw, Nickey Brooks, Desiree Brown, Raymond Caswell, Bradd Davidson, Martha Detloff, Bryan Dickson, Kathryn Elverum, Lydia Godje, Randy Gray, Donald Hauth, Dena LeGros, Tracie Mathis, Heather McCleery, Mark McNeely, Carol Murphy, Christopher Myers, Jayne Peters, Yvonne Pontsler, Guy Robb, Bettie Robertson, Patricia Robledo, Charlene Shea, Debra Sizemore, Douglas Steward, Diana Valencia, Yemane Weldeyesus, Ingrid Williams, and Shawn Wood.
2. Approve reemployment requests by disability recipients: Richard Batien, Jeanette Hartzell, Angelina Jefferson-Das, David Kohlmeier, William Oettinger, Beverly Smith, Joyce Williamson, and Keyotta Wilson-Porche.
3. Deny the reemployment request by disability recipient Mary Carpi.

### 3. INVESTMENTS

- 3.1 Staff reviewed the selection process for an investment consultant to conduct a Second Opinion Review on PERS' Investment Program. This review is required by Board policy to be conducted every 10 years. Staff is recommending the Retirement Board retain Wilshire Associates to perform the review. On motion of Kathy Ong, the Retirement Board voted unanimously to retain Wilshire Associates for the purpose of performing a Second Opinion Review of PERS' investment program.
- 3.2 There were no recommended changes to the Interim Investment Directives for PERS', LRS, and JRS funds.

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4. BOARD

- 4.1 Michelle Hilcher of Cortex Applied Research presented the results of the Board's annual self-assessment report for fiscal year 2014. After discussion, on motion of Rusty McAllister, the Retirement Board voted unanimously to accept the Board Self-Assessment Report for Fiscal Year 2014, as submitted.
- 4.2 Michelle Hilcher of Cortex Applied Research presented the annual Retirement Board Governance Compliance Report for Fiscal Year 2014. After discussion, on motion of Kathy Ong, the Retirement Board voted unanimously to accept the 2014 Governance Report prepared by Cortex Applied Research, Inc., as submitted.
- 4.3 On motion of Kathy Ong, the Retirement Board voted 6-yeyes and 1-abstention to approve the minutes of the Retirement Board education session and board meeting held December 10, 2014, as submitted. Mark Vincent abstained from voting on this item as he was not present at the December 10, 2014, meeting.
- 4.4 There were no recommended changes to the Retirement Board meeting dates.
- 4.5 On motion of Chris Collins the Retirement Board voted unanimously to change the March Retirement Board education topic from *Private Real Estate* to *Police and Firefighters' Retirement Fund Advisory Committee Review*.

5. ACCOUNTING

- 5.1 Staff reviewed the Budget Variance Report. On motion of Kathy Ong, the Retirement Board voted unanimously of those present to accept the Budget Variance Report, as submitted. Mark Vincent was absent for this vote.

6. ADMINISTRATION

- 6.1 Staff reviewed the proposed modifications to PERS' Official Policies dated September 2012 and requested authorization to notify employers of the proposed changes. Most of the changes discussed were to improve our policies on the process for disability retirement. Chairman Vincent thanked Rusty McAllister, Chris Collins, and David Olsen for participating on the Sub-Committee that reviewed PERS' Disability Program. Sub-Committee Chairman thanked the staff and his fellow Board members for their time and energy expended on the review of PERS' Disability Program. On motion of Rusty McAllister, the Retirement Board voted unanimously to authorize staff to notify employers of the proposed modifications to PERS' Official Policies dated September 2012 in accordance with NRS 286.200.
- 6.2 No action was taken on this item.

7. LEGISLATION

- 7.1 Prefiled Assembly Bill 3 – this bill increases the Retirement Board from 7 members to 9 members and was requested by Assemblyman Kirner. Staff reviewed the legislative history of the number of Board members and membership composition of the Retirement Board. After discussion, on motion of Kathy Ong, the Retirement Board voted unanimously to adopt a position in opposition to Assembly Bill 3, as submitted.
- 7.2 Prefiled Senate Bill 12 – this bill changes the PERS’ Assistant Investment Officer title to PERS’ Chief Financial Officer and was requested by PERS. On motion of Kathy Ong, the Retirement Board voted unanimously to adopt a position in support of Senate Bill 12, as submitted.
- 7.3 Prefiled Senate Bill 69 – this bill provides that if a member of the Judicial Retirement System is age 55 and has at least 22 years of service they may retire, removes the sunset designation for critical labor shortage in the Senior Judge Program, and reduces the minimum required period before the acceptance of employment of 6 months to 90 days after the effective date of the retirement of the justice or judge. This bill was requested by the Nevada Supreme Court. After discussion, the Retirement Board deferred action on this item until staff could work with the Chief Justice Hardesty on the costs associated with these changes to the Judicial Retirement System.
- 7.4 Staff provided the following update for the 2015 legislative session:
  1. BDR #682 – Assembly Government Affairs – Revises provisions governing the membership of the Public Employees’ Retirement Board. This BDR was added to staff’s tracking list.
  2. BDR #384 – Public Employees’ Retirement System – Revises provision governing the Public Employees’ Retirement System. This BDR was withdrawn from the BDR list.
  3. BDR #185 has become prefiled Assembly Bill 3.
  4. BDR #385 has become prefiled Senate Bill 12.
  5. BDR #496 has become prefiled Senate Bill 69.

## 8. RATIFICATION AGENDA

On motion of Kathy Ong, the Retirement Board voted unanimously to approve all items on the Ratification Agenda, as submitted:

- 8.1 Approve the Administrative Fund disbursements.
- 8.2 Approve the personnel action taken since the last report.
- 8.3 Approve the Phase-In Agreement between Truckee Meadows Community College and Lucy Davis effective January 1, 2015.

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9. APPEALS

- 9.1 Staff provided the background information on Mr. Reginald Bingham's appeal for disability retirement eligibility. Mr. Bingham was employed by the City of Las Vegas from June 1993 until July 2010. A letter was sent to Mr. Bingham by the City of Las Vegas on July 1, 2010, informing Mr. Bingham of his termination and that if he wanted to pursue disability retirement through PERS, he must do so prior to his termination on July 16, 2010. The nature of Mr. Bingham's disability is not known to PERS. Mr. Bingham applied for service retirement on March 15, 2011 and he has been receiving a monthly benefit ever since. In November 2012, Mr. Bingham inquired about disability retirement benefits and a letter from PERS informed him that he was ineligible to apply for disability benefits because pursuant to NRS 286.620(1), only members in the employ of a participating public employer may apply for disability retirement benefits.

Mr. Bingham's attorney Kirk Kennedy addressed the Board regarding Mr. Bingham's timing and history of contacting PERS on disability retirement. Mr. Bingham had been involved in legal action against his employer and reported that Mr. Bingham had never received the July 1, 2010 letter from his employer. This is the letter that explained to Mr. Bingham that he needed to apply for disability retirement from PERS prior to his termination on July 16, 2010. Mr. Kennedy also mentioned that the legal case Mr. Bingham was involved in was not settled until 2012.

The Board asked the Deputy Attorney General what latitude the statutes offered for Mr. Bingham's appeal. The Deputy Attorney General responded that the statute is clear and unbiased that in order to apply for disability retirement an individual must be currently employed by a public employer. Mr. Bingham has not been employed by a public employer since his separation from the City of Las Vegas in 2010. In this regard, Mr. Bingham is not eligible to apply for disability retirement.

After discussion, on motion of Kathy Ong, the Retirement Board voted unanimously to deny Mr. Bingham's request for eligibility to apply for disability retirement.

- 9.2 Staff provided the background information on Ms. Kathy Dunne's appeal for a waiver on her benefit overpayment accounts receivable. In September 2014 an audit of Ms. Dunne's account was conducted and it was discovered that a substantial overpayment of her benefit had occurred due to her reemployment as a teacher with the Clark County School District. Ms. Dunne retired on February 2, 2006, with over 15 years of service. Ms. Dunne reenrolled into a PERS' eligible position effective August 20, 2008. NRS 286.525 states: "A retired employee who accepts employment in a position eligible for membership may enroll in the System as of the effective date of employment. As of the date of enrollment: (a) The retired employee forfeits all retirement allowances for the duration of that employment." Also, the employer and the retired employee did not notify the System in writing within 10-days per NRS 286.520(2) which states: "The retired

employee and the employer shall notify the System: (a) within 10-days after the first day of an employment.” Neither Ms. Dunne nor her employer notified the System of her reemployment.

Based on this information, it was determined that Ms. Dunne’s PERS’ benefit had been overpaid from September 1, 2008 through August 21, 2012 in the gross amount of \$70,541.58. Evidently Ms. Dunne was under the impression that she was working under a critical need position as a science teacher. Unfortunately, Ms. Dunne did not qualify for the critical need position due to her retiring in 2006 with an early retirement reduction. NRS 286.523 (2)(a) exempts a retiree from reemployment restrictions as long as the retiree is filing a position of critical need and as long as their retirement benefit has not been actuarially reduced. Ms. Dunne’s benefit was actuarially reduced as she was not fully eligible to retire.

Ms. Dunne explained to the Board that she understood from her employer that she was filling a critical needs position as a science teacher and that she could continue to receive her benefit because of this. Her employer knew that she had retired and was coming back to work. She was not aware that she had to notify PERS when she returned to work.

During discussions with Ms. Dunne at the meeting it was determined that she has since suspended her retirement benefit payment and is currently working for the Clark County School District. The Board directed staff to meet with Ms. Dunne to review her account and present all her options once she retires so she can be aware of the possible scenarios. Staff is happy to work with Ms. Dunne and counsel her on her account.

For the record, Audrey Noriega disclosed that she has no personal involvement with Ms. Dunne’s case but it does involve the same employer as herself.

- 9.3 Staff provided the background information on Ms. Donna Marinch’s appeal for a reimbursement of her purchase of service funds in the amount of \$3,599.83. Ms. Marinch began working for the Clark County School District as a teacher on January 24, 1983. Her goal was to work until she had at least 30-years of service credit in order to retire without an early retirement deduction. She was counseled on several occasions since 2010 that her 30-year date would be September 12, 2013, provided that all her reporting from her employer is accurate and current, and that she continue to earn full time service and have no periods of leave without pay.

During the preliminary calculation of Ms. Marinch’s retirement benefit, it was discovered that her service credit was overstated in her first year of employment. The reporting was misinterpreted and it was not understood at the time that Ms. Marinch was a full-time teacher who was hired in the middle of a school year where she received service credit based on her hire date and contract with the Clark County School District. Instead the reporting was interpreted as a part-time employee. Ms. Marinch’s termination date was October 4, 2013. Due to Ms. Marinch’s termination date and the application of her contract payout, her

effective date of retirement was November 15, 2013. With this effective date of retirement, Ms. Marinch was 1-month and 5-days short of 30-years. Upon notification of these account details, Ms. Marinch purchased 1-month and 5-days for an amount of \$3,599.83 in order to achieve 30-years of service credit and retire without an early retirement reduction. Ms. Marinch has since requested PERS' reimburse her purchase amount due to the error.

Ms. Marinch's request to refund her purchase in the amount of \$3,599.83, directly conflicts with the provisions of the Retirement Act. Refund of contributions may only be made under the authority of NRS 286.430. Under this statute only members may refund contributions. Retirees are no longer members. In addition, this section requires that all membership rights and service credit are cancelled upon a refund. This would no longer entitle Ms. Marinch to a retirement allowance.

Ms. Marinch addressed the Retirement Board saying that she did not know where the error occurred and wondered why she had to pay for the error. Staff responded that the error occurred in 1983 and staff is not sure if the error occurred by the employer or by PERS. It was during a time before the current computer system and it was an interpretation error. When Ms. Marinch retired the errors were found and corrected in her account which is why she purchased to 30-years so she would retire without a reduction.

For the record, Audrey Noriega disclosed that she has personal involvement with this case and for that reason she will abstain from the vote.

After discussion, on motion of Mark Vincent, the Retirement Board voted 6-years and 1-abstention to deny Ms. Marinch's request for the reimbursement of her purchase of service credit in the amount of \$3,599.83.

10. DENIALS

11. REPORTS

12. PUBLIC COMMENT

- 12.1 Laura Leavitt of AFSCME Local 4041 Retiree Chapter provided the following public comment on PERS' legislative items:

*"AB 3- Opposed, SB 12-Neutral as Written, SB 69-Neutral as Written"*

She then read the following statement into the record:

*"The PERS Board has had a long tradition of public employee supervision of the public trust. If private individuals are placed on the PERS Board through the ultimate passage of AB 3, the potential for conflicts of interests could arise, marring the historical record of able stewardship by*

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*former and current public employees in managing what has come to be known as one of the most stable such retirement funds in the country: <http://www.nasra.org/Files/State-Specific/Nevada/Nevada1311.pdf> (See initial overview conclusion at page 6).”*

12.2 The Deputy Attorney General announced to the Board that this was going to be her final Retirement Board meeting as she has taken a new position as Juvenile Master. She thanked the Board for the opportunity to work with them and appreciates the time she has spent as PERS’ Deputy Attorney General.

12.3 Administrative Report by Staff:

- Executive Officer:
1. The Executive Officer mentioned that she had met with the Treasurer and with Assemblyman Kirner separately regarding the 2015 Legislative Session. Both meetings went very well.
  2. The Executive Officer reported that she met with the Governor’s Deputy Chief of Staff, Chris Nielsen, to discuss the status of PERS and the meeting went very well.
  3. The Executive Officer stated that PERS’ Budget will be heard in the Senate Finance Committee on February 5<sup>th</sup> at 8:00 am and in the Assembly Ways and Means Committee on February 9<sup>th</sup> at 8:00 am.
  4. The Executive Officer mentioned that PERS’ Executive Staff met with the LCB Analysts assigned to Senate Government Affairs and Assembly Government Affairs and that the meeting went very well.
  5. The Executive Officer reported that she will meet with Segal Consulting next week for a planning meeting that will include preliminary review of GASB 68 on employer statements.
  6. The Executive Officer stated that she will be discussing PERS’ Deputy Attorney General’s position with the AG’s office tomorrow. She thanked Kim Okezie for her service to the PERS’ Board, Staff, members and beneficiaries and wished her well in her new position.

12.4 Comments or questions from the Retirement Board members:

- Mark Vincent:
1. Chairman Vincent thanked Kim Okezie for her continued service and dedication to the

Board and staff. He wished her the best of luck in her new position.

Chris Collins:

1. Vice-Chairman Collins mentioned that board member Rusty McAllister and himself will be staying up in Carson City during the 2015 Legislative Session.

13. ADJOURNMENT

The meeting was adjourned by Chairman Vincent at 3:04 p.m.

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The following is the time schedule for the meeting:

The Retirement Board education session held on January 21, 2015, was called to order at 10:00 a.m. by Chairman Vincent and recessed at 11:34 a.m. The January 21, 2015, Retirement Board meeting was called to order at 12:03 p.m. by Chairman Vincent and adjourned at 3:04 p.m. by Chairman Vincent.