

**BOARD OF TRUSTEES FOR THE
MARYLAND STATE RETIREMENT AND PENSION SYSTEM
MINUTES OF MEETING**

June 16, 2015

The Board of Trustees for the Maryland State Retirement and Pension System met at the Miller Senate Office Building, West 1 Conference Room, 11 Bladen Street, Annapolis, Maryland, beginning at 1:00 p.m.

The Trustees present included:

Nancy K. Kopp, Chairman, Presiding
Peter Franchot, Vice Chairman
David Blitzstein
David Brinkley
James Bush, Jr.
Robert Hagans

Kenneth Haines
James Harkins
Linda Herman
F. Patrick Hughes
Theresa Lochte
Richard Norman
Thurman Zollicoffer

CLOSED SESSION

On a motion made by Ms. Herman and seconded by Ms. Lochte, the Board voted to meet in a Closed Session, beginning at 1:00 p.m., at the Miller Senate Office Building, West 1 Conference Room, 11 Bladen Street, for the purpose of:

1. discussing the evaluation of the Executive Director, pursuant to General Provisions Art., § 3-305(b)(1)(i), to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of an appointee, employee, or official over whom it has jurisdiction;
2. approving the closed session minutes, pursuant to General Provisions Art., § 3-103(a)(1), the exercise of an administrative function; and
3. reviewing the Medical Board reports, pursuant to General Provisions Government Art., § 3-305(b)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter, namely, General Provisions Art., § 4-312 regarding the prohibition on disclosing retirement records, and General Provisions Art., § 4-329 regarding the prohibition on disclosing medical and personal information.

The Trustees present included:

Nancy K. Kopp, Chairman, Presiding
Peter Franchot, Vice Chairman
David Blitzstein
David Brinkley
James Bush, Jr.
Robert Hagans

Kenneth Haines
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OPEN SESSION

On a motion made by Mr. Haines and seconded by Mr. Norman, the Board returned to open session at 1:30 p.m.

The Trustees present included:

Nancy K. Kopp, Chairman, Presiding
Peter Franchot, Vice Chairman
David Blitzstein
David Brinkley
James Bush, Jr.
Robert Hagans

Kenneth Haines
James Harkins
Linda Herman
F. Patrick Hughes
Theresa Lochte
Richard Norman
Thurman Zollicoffer

Agency Staff members attending included: R. Dean Kenderdine, Executive Director/Board Secretary

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| Robert Burd | Michael Golden | Dana Johns |
| Margaret Bury | Ira Greenstein | Stephen Muturi |
| Melody Countess | Dimitri Grechenko | Janet Sirkis |
| Eric Farls | Angie Jenkins | Beau Smith |

Assistant Attorneys General present included: Kathy Brady and Rachel Cohen

Also attended by: Larry Jennings, Stefan Strein, Bernadette Benik, Andrew Palmer and Michael Rubenstein.

Consent Agenda

On a motion made by Mr. Harkins and duly seconded, the Board approved the consent agenda, which included:

- May 21, 2015 Open Meeting Board Minutes
- June 2, 2015 Administrative Committee Meeting Report
- June 2, 2015 Ad Hoc Committee on Disability Appeals Meeting Report

COMAR Regulations
22.01.03 – Eligible
Domestic Relations
Order

The Board was provided with amendments to the regulations regarding Eligible Domestic Relations Orders (“EDRO”).

Ms. Cohen reported that due to recent guidance from the Internal Revenue Service a change to the regulation establishing the requirements for an EDRO was necessary to clarify that distributions paid to an alternate payee are includable in the taxable income of, and taxable to the alternate payee in accordance with the Internal Revenue Code, applicable Treasury regulations or other guidance.

Ms. Cohen also reported that approximately sixty alternate payees will be affected by the change and that the IRS made the change prospectively.

On a motion made by Mr. Bush and seconded by Mr. Norman, the Board voted to approve the Administrative Committee’s recommendation to propose for adoption and publish in the Maryland Register for comment the amendments to the regulation.

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Board Officers On a motion made by Ms. Lochte and seconded by Mr. Norman, the Board elected the following officers:

- Nancy K. Kopp as Chairman
- Peter Franchot as Vice-Chairman
- R. Dean Kenderdine as Secretary

Earnings Limitation Mr. Kenderdine presented to the Board a report, certified by the Agency, Recovery Reports of retirees who exceeded, in calendar year 2014, the maximum earnings limit allowable under current law. Mr. Kenderdine reported that the Board must approve the amount of which the retiree's pension benefit will be offset in fiscal year 2016.

On a motion made by Mr. Harkins and seconded by Mr. Haines, the Board approved the Earnings Limitation Recovery Report and authorized the Agency to reduce the FY16 benefits of the affected retirees.

Disability Offset Mr. Kenderdine presented to the Board a report, certified by the Agency, Report of disability retirees who exceeded, in calendar year 2014, the maximum earnings limit allowable under current law. Mr. Kenderdine reported that the Board must approve the amount of which the retiree's pension benefit will be offset in fiscal year 2016.

On a motion made by Mr. Harkins and seconded by Mr. Haines, the Board approved the Disability Offset Report and authorized the Agency to reduce the FY16 benefits of the affected retirees.

Other Business Ms. Herman asked whether Trustee Blitzstein's request for projections of future contribution rates and funded ratios under alternative assumed rates of returns had been received.

Mr. Blitzstein reported that he had not yet received that requested information.

Mr. Kenderdine indicated that the work by GRS was near completion and should be received within the next two weeks.

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Ms. Herman, citing the recent implementation of the GASB 68 statement, asked for an explanation of the authority under which the Agency's recent determination of allocation of Net Pension Liability was made and whether the allocation decision is one to be made by the Board of Trustees or if it was an administrative decision that could be made by the Executive Director.

Mr. Kenderdine indicated that it was implemented as an administrative decision made with the guidance of the State Auditor.

Treasurer Kopp asked if Ms. Herman was requesting written documentation from the System.

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Ms. Herman responded yes, PGU's would like something in writing, as no one can find the basis for the Agency's actions in State law.

Mr. Harkins clarified that he and Trustee Herman are raising this issue not in their role as Trustees, but on behalf of the PGUs, respect to their PGU/employer "hat."

Mr. Bush asked if the law requires the System to use a specific auditor.

Mr. Kenderdine responded no, there is no requirement. Mr. Kenderdine further responded that the auditor used is under contract with the Comptroller and the Agency, along with other State agencies uses the audit firm under that contract.

Mr. Kenderdine indicated that he would be happy to have Gray Smith from SB & Company, address the Board on this matter.

Adjournment

There being no further business before the Board, on a motion made by Mr. Hughes and seconded by Mr. Haines, the meeting adjourned at 1:45 p.m.

Respectfully submitted,



R. Dean Kenderdine
Secretary to the Board

**BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

**ADMINISTRATIVE COMMITTEE MEETING REPORT
JUNE 2, 2015**

Administrative
Appeal of Andrew
Ratner

DUE TO THE EDUCATION SESSION SCHEDULED IN JUNE, THIS MATTER WILL BE HEARD AND VOTED ON BY THE BOARD AT THE JULY BOARD OF TRUSTEES' MEETING.

Mr. Andrew Ratner filed a Petition for Hearing requesting that the Agency reinstate his creditable service and participation in the Alternate Contributory Pension Selection of the Employee's Pension System.

The Chairman of the Administrative Committee will present, in Closed Session, the Committee's recommendation for the Board's approval.

Administrative
Appeal of the Prince
George's County
Government

DUE TO THE EDUCATION SESSION SCHEDULED IN JUNE, THIS MATTER WILL BE HEARD AND VOTED ON BY THE BOARD AT THE JULY BOARD OF TRUSTEES' MEETING.

The Prince George's County Government filed a Petition for Hearing requesting a determination that the County can convert its members' unused annual leave to unused sick leave at retirement for additional creditable service.

The Chairman of the Administrative Committee will present, in Closed Session, the Committee's recommendation for the Board's approval.

Participating
Governmental Unit -
Participation in the
Employer Pick-Up
Program

The Dorchester County Sanitary Commission is requesting to participate in the Employer Pick-Up Program. A Resolution from the Dorchester County Sanitary Commission is attached.

The Administrative Committee approved, for recommendation to the Board, the aforementioned PGU's request to participate in the Employer Pick-Up Program.

Adoption of COMAR
Regulations –
22.01.03 – Eligible
Domestic Relations
Orders

THIS MATTER WILL BE DISCUSSED AND VOTED ON OUTSIDE THE CONSENT AGENDA.

Ms. Rachel Cohen presented to the Administrative Committee amendments to the regulations regarding Eligible Domestic Relations Orders ("EDRO").

Ms. Cohen reported that due to recent guidance from the Internal Revenue Service a change to the regulation establishing the requirements for an EDRO was necessary to clarify that distributions paid to an alternate payee are includable in the taxable income of, and taxable to the alternate payee in accordance with the Internal Revenue Code, applicable Treasury regulations or other guidance.

Therefore, Staff requests that the Administrative Committee recommend that the Board of Trustees propose for adoption, and publication in the Maryland Register for comment, the amendments to COMAR 22.01.03.

**BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

***ADMINISTRATIVE COMMITTEE MEETING REPORT
JUNE 2, 2015***

On a motion made by Ms. Brogan and seconded by Mr. Norman, the Administrative Committee voted to recommend that the Board of Trustees propose for adoption, and publication in the Maryland Register for comment, the amendments of the regulation.

Finance Reports

Ms. Patricia Wild presented the FY2015 Non-Budgeted Investment Manager and Service Related Fees Report. Ms. Wild indicated that when comparing basis points, the fees paid as a percentage of assets during the first three quarters of FY2015 were slightly higher than the fees paid during FY2014. Within the Equity and Fixed Income categories, the Agency is still experiencing a significant cushion under the statutory fee cap. Ms. Wild also reported that the equity asset class had an increase of 2.5 basis points resulting from performance fees, a reduction in asset values and a prior year accrual adjustment. Ms. Wild also reported that the Fixed Income asset class had no change and that the Credit funds had a slight increase of 1.6 basis points generated by two new funds in late 2014 and the Real Return had a decrease of 1.4 basis points due to a new fund with a much lower fee structure.

Mr. Van Lewis presented the Administrative Expenses Report for the quarter ending March 31, 2015. Mr. Lewis reported that Agency has spent, to date, 63.8% of the FY2015 Appropriation amount.

Mr. Van Lewis presented the MBE Performance Report for the quarter ending March 31, 2015. Mr. Lewis reported that MBE Performance was 67.82%.

**Member Services
Update**

Ms. Budowski updated the Committee on the performance of the Member Services Unit.

Ms. Budowski reported that the unit did not meet its performance goals for the month of April, but that the numbers were better than previous months. Ms. Budowski reported that the performance goals were not met due to assigning several counselors to help with processing requests for the Voluntary Separation Program offered by the State and several counties, processing 1,500 letters for refunds and several closures of the office. The unit's call abandonment rate was 11.73% and the average speed of answer was 3:19. Ms. Budowski indicated that the year-to-date calls offered were 642 over year-to-date in FY14 and 2,136 over FY13 year-to-date.

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***AD HOC COMMITTEE MEETING REPORT
JUNE 2, 2015***

Delegation of Final
Decision Making
Authority for Disability
Appeals to the Office
of Administrative
Hearings

Mr. Harkins felt that there was not a total “buy-in” from stakeholders that the Board of Trustees delegate final decision making authority to the Office of Administrative Hearings (“OAH”).

Ms. Lochte felt that the stakeholders’ idea of changing the process to allow a claimant to only file written exceptions instead of having an exceptions hearing was a good idea and merited further discussion.

Ms. Cohen responded that a change in process, such as that, would require a statutory change through legislation. To give OAH final decision making authority would only require a change to the Agency’s regulations.

Ms. Cohen stated that she and Margaret Bury were discussing the process similar to what the stakeholders suggested and came up with the following process:

- The disability appeals process would remain the same up through the Administrative Law Judge issuing a proposed decision.
- The proposed decision would provide that any party adverse to the decision has fifteen days, from the date of the proposed decision, to file written exceptions with the Executive Director, or his designee, which would be Margaret Bury.
- If written exceptions were received within fifteen days, Ms. Bury would review the exceptions and decide whether an exceptions hearing is warranted.
- If Ms. Bury decides that an exceptions hearing is warranted, the hearing exceptions hearing before the Board of Trustees will be scheduled in the normal course according to the Agency’s regulations.
- If written exceptions were not received within fifteen days, or after 30 days, if Ms. Bury decides that an exceptions hearing is not warranted, the Administrative Law Judge’s proposed decision would become the Agency’s final decision.
- A notice of final agency’s decision would be issued and would provide appeal rights to any party adversely affected by the decision.

Mr. Haines indicated that he would like the Board to still be involved in the process of reviewing decisions where there have been errors in applying the law.

Ms Gawthrop indicated that a study of the state’s entire disability retirement benefit statute was being conducted by the Legislature this summer.

Mr. Harkins indicated that moving forward would require some degree of consensus. He suggested that the next step would be to run the proposed change in process by the stakeholders and the Department of

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***AD HOC COMMITTEE MEETING REPORT
JUNE 2, 2015***

Legislative Services (DLS) staff and get their feedback.

Mr. Haines suggested that two or three Trustees be included in reviewing the written exceptions.

Ms. Cohen responded that, in the alternative, the Administrative Committee or the full Board could ask for a report on the number of written exceptions being filed and how many of those filed are being recommended for an exceptions hearing.

Ms. Cohen was asked to put her proposal in writing to be distributed to stakeholders and DLS staff.