

**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

March 3, 2020

The Administrative Committee met at the SunTrust Building, 120 East Baltimore Street, 16th Floor, Board Room, Baltimore, Maryland, beginning at 9:28 a.m.

The Trustees present included:

Richard Norman, Chairman	Nancy K. Kopp
Kenneth Haines, Vice Chairman	Marc Nicole (via phone)
Sheila Hill (via phone)	Douglas Prouty

Agency Staff members attending included:

R. Dean Kenderdine, Executive Director/Board Secretary (via phone)		
Melody Countess	Ira Greenstein	Ken Reott
Patricia Fitzhugh	Angie Jenkins	David Rongione
Anne Gawthrop	Van Lewis	Janet Sirkis
Michael Golden	Kim O’Keeffe	

Assistant Attorneys General present included: Rachel Cohen and Kathleen Wherthey

Minutes On a motion made by Mr. Haines and seconded by Mr. Prouty the Administrative Committee approved the February 4, 2020 open session meeting minutes.

2020 Legislative Review Ms. Anne Gawthrop provided the Committee an updated overview of the 2020 pension related legislation with developments that have occurred since the February Board of Trustees meeting.

Ms. Gawthrop reported that no new bills had been introduced. However, Ms. Gawthrop mentioned that at the February Board of Trustees meeting, Mr. Hughes made a motion to approve staff’s recommendations, regarding House Bill 1254 – State Retirement and Pension System – Investment Management Fees, to oppose the legislation, but later withdrew his motion based on a scheduled meeting with the sponsor where staff would discuss the bill and ask the sponsor to withdraw the bill. Ms. Gawthrop reported that staff met with Delegate Barve and he is moving forward with the bill. Therefore, Ms. Gawthrop asked that the Committee approve staff’s recommendation to oppose this legislation.

In addition, Ms. Gawthrop reported on House Bill 778/Senate Bill 622 – Correctional Officers’ Retirement System – Membership, which is being amended to remove references to individuals who are employed as residential group life managers, cooks or food service workers and maintenance workers, leaving only those individuals employed as Case Managers by DJS. At the request of the Board of Trustees, Tax Counsel reviewed the job descriptions of those positions and have determined that the job duties of those employees are comparable to the responsibilities of parole and probation officers who are currently participate in CORS. Therefore, staff is recommending that the Board take no position on this legislation as it would be an issue of plan design and benefit determination.

On a motion made by Mr. Haines and seconded by Mr. Prouty, the Committee approved staff’s recommendations to oppose House Bill 1254 and to take no position on House Bill 778/Senate Hill 622.

**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
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March 3, 2020

Review and
Discussion of
Governance
Recommendations
Assigned to
Administrative
Committee

Mr. Kenderdine provided the Administrative Committee with a document outlining the recommendations assigned to them by the Ad Hoc Committee on Governance and Strategic Planning, in priority order.

Mr. Kenderdine reported that for the recommendations under the “Board Charters and Governance Policies” section, staff would bring forward proposed changes to the Charters and Policies for the Committee to consider.

Mr. Kenderdine also reported that some recommendations, such as the one for having the Board gain the authority to set the compensation for all executive staff will need to be deferred given there is another related recommendation that is assigned to the Ad Hoc Governance Committee. That recommendation calls for the Board of Trustees having authority of the Agency’s budget, personnel, compensation, and procurement.

Mr. Norman asked who would be considered executive staff.

Mr. Kenderdine responded that executive staff would include the position of Executive Director, Division Directors and Deputy Directors and possibly the next tier of unit managers, such as the Director of Member Services.

Treasurer Kopp, regarding first priority under the Board Charter to “Revise Board Charter to expressly provide for all powers that should be exclusively reserved for the Board...” expressed concern that enumerating specific powers might be interpreted to limit the Board’s authority to those powers.

Ms. Cohen responded that the language could be revised to include a catch-all phrase such as “any other powers not expressly delegated by law or these Charters are reserved for the Board.”

Discussion of
Agency’s Policy on
Unused Sick
Leave

Mr. Reott reported that differences exist between how participating employers report unused sick leave days for their employees as they retire. Eligible members generally may receive one month of creditable service for every 22 days of unused sick leave. Credit for unused sick leave is used solely for purposes of increasing the amount of a retirement allowance. However, some participating employers may pay to a member the monetary value of their unused sick leave days and also certify those same unused sick leave days to the Agency. Some may pay to a member the monetary value of their unused sick leave days and not report those unused sick leave days to the Agency, while others do not pay out the monetary value of a member’s unused sick leave and report the number of unused sick leave days to the Agency. These different practices, which are often identified during the compliance reviews being performed on the participating employers, put the Agency in a difficult position when responding to participating employers who ask for guidance on the correct practice.

Mr. Reott reported that this issue was brought before the Joint Committee on Pensions (JCP) during the 2007 interim as Board requested legislation to prohibit the receipt of unused sick leave credit to the extent that a member has received a cash payout for the unused sick leave. The Joint Committee agreed to sponsor the legislation and it was cross-filed during the 2008 session by the Joint Committee chairs as House Bill 480 and Senate Bill 376. However, both bills were withdrawn by the Chairs. Staff brought the issue back to the JCP during the 2018 interim again as Board requested

**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
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March 3, 2020

legislation due to it being listed as an audit finding in the Agency's 2018 legislative audit. At its decision meeting in December 2018, the JCP voted not to sponsor this requested legislation.

Recently, the auditors have been identifying instances where participating employers other than local Boards of Election are both paying out the monetary value of a retiring member's unused sick leave days and also reporting these same days to the Agency as the retiring member's balance of unused sick leave days. Additionally, the Agency is receiving questions from participating employers as to whether this practice is permissible or impermissible. Therefore, the Agency is seeking guidance from the Administrative Committee and Board of Trustees on how to uniformly address the practice of payment for unused sick leave when awarding service credit, and how to communicate about this issue with employers and auditors going forward.

Mr. Reott presented the following options for the Committee's consideration:

- 1) Request that the JCP introduce legislation in 2021 to amend SPP § 20-206 or otherwise to resolve any uncertainty regarding eligibility for unused sick leave that is paid out to the member at retirement. Such legislation could either:
 - a. prohibit the receipt of unused sick leave where an employee has been compensated at retirement for the leave; or
 - b. expressly permit the award of unused sick leave under these circumstances.
- 2) Propose a regulation to provide that if the participating employer pays out the monetary value of unused sick leave days at retirement, the participating employer may not also certify these days to the Retirement Agency. An exception could be made for existing collective bargaining agreements to allow for this practice; but make the practice impermissible after the existing collective bargaining agreement expires.
- 3) Issue a communication to all participating employers advising that, because the legislature has not expressly prohibited the practice, a participating employer may certify unused sick leave days at retirement even if the employer pays out the monetary value of unused sick leave days at retirement, so long as the unused days were actually available to the employee as sick leave during employment.

Treasurer Kopp asked if this issue was ever presented to the Joint Audit Committee?

Mr. Kenderdine responded that the issue has not been presented to the Joint Audit Committee.

Mr. Haines asked if an employee receives 3/10th payout for their unused sick leave, would the remaining 7/10th be applied to retirement.

Mr. Reott responded that if an employee received a cash payout for 3/10th of their unused sick balance, then it would be fine for the employer to certify the remaining 7/10th of their unused sick leave days to the Retirement Agency.

**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

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Mr. Nicole commented that this is a basic fiduciary issue and that double-dipping would harm the System. Therefore, Mr. Nicole expressed favor of Option 2. Mr. Nicole commented that he agrees with the auditors on the legislative intent behind current law and any proposed regulation could receive comment that we could address at that time.

Ms. Gawthrop responded that all proposed regulations would be reviewed by the AELR Committee before publication.

Mr. Kenderdine commented that he is concerned about Option 2 being viewed as an “end run” to get around the legislature.

Mr. Prouty asked if the regulation would allow for proportional pay-outs.

Ms. Cohen responded that the regulation could be written to include proportional pay-outs.

Mr. Prouty asked if staff knew how this matter is handled by each county.

Mr. Rongione responded that other participating employers, not only the Boards of Education engage in this practice.

Ms. Hill commented that the Agency should be setting the standard that the participating employers should be following.

Treasurer Kopp asked if staff had spoken to the JCP since the appointment of the new Committee Chairs.

Ms. Gawthrop responded no, because the former Committee Chairs were still in office in the fall.

Treasurer Kopp asked if the JCP has been informed that the Agency is looking for direction on this matter.

Mr. Reott responded that he does not believe the matter has been proposed to the JCP in that way.

Mr. Reott commented that staff could draft a regulation to present to the Administrative Committee for review.

Finance Reports –
Quarter Ending
12/31/19

The Committee was provided with an Administrative Expense Report Dashboard, which provided an overview of the Agency’s expenditures and encumbrances through the second quarter of FY2020 and provided a discussion for several line items in the Agency’s budget.

Mr. Lewis reported that the Agency, as of December 31, 2019, has expended/encumbered 43.63% of its appropriation.

Mr. Norman asked if, with six months left of the fiscal year, the \$700,000 total remaining appropriation will be reduced.

**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
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March 3, 2020

Mr. Norman asked if the unit was fully staffed.

Mr. Reott responded yes, thanks to Mr. Nicole in helping to provide double-pinned positions.

Ms. Hill asked if the specialists on the phones also take walk-ins.

Mr. Reott responded that the call center specialists are separate from the other specialists handling walk-ins.

CLOSED SESSION

On a motion made by Ms. Hill and seconded by Mr. Haines, the Administrative Committee voted to meet in a Closed Session beginning at 10:41 a.m. in the Boardroom of the SunTrust Building at 120 East Baltimore Street, 16th Floor, for the purpose of:

- a) Reviewing the Closed Session minutes from the February 4, 2020 Administrative Committee meeting, pursuant to General Provisions Art., § 3-103(a)(1)(i), the exercise of an administrative function; § 3-305(b)(13), to comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosure about a particular proceeding or matter, namely, General Provisions Art., § 3-306(c)(3)(ii), requiring that minutes of a closed session be sealed and not be open to public inspection.

The Trustees present included:

Richard Norman, Chairman
Kenneth Haines, Vice Chairman
Sheila Hill

Nancy K. Kopp
Douglas Prouty

Agency Staff members attending included:

R. Dean Kenderdine, Executive Director/Board Secretary (via phone)
Melody Countess
Patricia Fitzhugh
Anne Gawthrop
Michael Golden

Ira Greenstein
Angie Jenkins
Van Lewis
Kim O'Keeffe

Ken Reott
David Rongione
Janet Sirkis

Assistant Attorneys General present included: Rachel Cohen and Kathleen Wherthey

On a motion made by Ms. Hill and seconded by Mr. Prouty, the Administrative Committee returned to open session at 10:42 a.m. in the Board Room of the SunTrust Building at 120 East Baltimore Street, 16th Floor.

OPEN SESSION

The Trustees present included:

Richard Norman, Chairman
Kenneth Haines, Vice Chairman
Sheila Hill

Nancy K. Kopp
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**ADMINISTRATIVE COMMITTEE MINUTES
BOARD OF TRUSTEES
MARYLAND STATE RETIREMENT AND PENSION SYSTEM**

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Assistant Attorneys General present included: Rachel Cohen and Kathleen Wherthey

During closed session, the Administrative Committee discussed and acted on the following matters:

Closed Session Minutes	The Administrative Committee reviewed and approved the February 4, 2020 closed session minutes.
Other Business	<p>Treasurer Kopp pointed to a particular response in the Member Services report, where a member had an overdue water bill. The Treasurer asked if Agency staff contacts other State agencies to assist someone with financial hardship.</p> <p>Mr. Reott responded that the Agency has previously encountered instances when staff was concerned that a retiree may be a vulnerable adult, who is in need of assistance, and has made appropriate referrals to county social service departments in those cases. He stated that he believes staff has information on several social services resources that may be able to help customers with needs similar to this overdue water bill.</p> <p>Mr. Reott further responded that he would confirm this and follow-up on this matter.</p>
Adjournment	There being no further business before the Committee, on a motion made by Mr. Prouty and seconded by Ms. Hill, the meeting adjourned at 10:44 a.m.

Respectfully submitted,



R. Dean Kenderdine,
Secretary to the Board