

# **PUBLIC PENSION OVERSIGHT BOARD**

## **Minutes of the 10th Meeting of the 2022 Interim**

**December 19, 2022**

### **Call to Order and Roll Call**

The 10th meeting of the Public Pension Oversight Board was held on Monday, December 19, 2022, at 1:00 PM, in Room 154 of the Capitol Annex. Representative James Tipton, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative James Tipton, Co-Chair; Senators Robby Mills, Gerald A. Neal, Michael J. Nemes, Damon Thayer, and Mike Wilson; Representatives Jim DuPlessis, Ken Fleming, Derrick Graham, Jerry T. Miller, Jason Petrie, Phillip Pratt, Russell Webber, and Buddy Wheatley; Mike Harmon, John Hicks, and Victor Maddox.

Guests: Bo Cracraft, Executive Director, Judicial Form Retirement System; Joe Gilbert, Portfolio Manager, Public Equity, Erin Surratt, Executive Director, Office of Benefits, and Carrie Bass, Staff Attorney Supervisor, Kentucky Public Pensions Authority, and Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System.

LRC Staff: Brad Gross, Jennifer Black Hans, Michael Clancy, and Angela Rhodes.

### **Approval of Minutes**

Senator Higdon moved that the minutes of the November 15, 2022 meeting be approved. Representative Graham seconded the motion, and the minutes were approved without objection.

Representative Tipton and Senator Higdon presented resolutions and recognized the following members upon their end of service to the General Assembly. Senator Parrett, Representative Miller, Representative DuPlessis, and Representative Wheatley. Representative Graham moved that the resolutions be adopted. Representative Pratt seconded the motion, and the resolutions were adopted without objection.

Representative Tipton congratulated Representative Graham on his new role as the Minority Floor Leader.

### **Update on Cryptocurrency/META Holdings – Judicial Form Retirement System**

Bo Cracraft, Executive Director, Judicial Form Retirement System (JFRS), stated that JFRS has no holdings with cryptocurrency. JFRS does have holdings with META (aka Facebook) platforms in both the Judicial Retirement Plan (JRP) and the Legislative Retirement Plan (LRP) that total about 80 basis points or 0.8 percent of total holdings. The total dollar amount for JRP is just over \$4.2 million with 36,222 shares, and for LRP, the total dollar amount is about \$1.2 million with a little over 10,000 shares.

In response to a question from Senator Higdon, Mr. Cracraft stated that the META platforms are not net successful and are down since the initial purchase.

### **Update on Cryptocurrency/META Holdings – Kentucky Public Pensions Authority**

Joe Gilbert, Portfolio Manager, Public Equity, Kentucky Public Pensions Authority (KPPA), stated that no plan administered by KPPA has any direct exposure to cryptocurrency or to any cryptocurrency exchanges. KPPA plans do have exposure to META platforms of just under 270,000 shares with a market value of \$31.9 million that represents 0.14 percent of the total assets under management at KPPA.

In response to a question from Senator Higdon regarding the losses from the investment, Mr. Gilbert stated that, as of today, the investment has a cost basis of \$44.8 million, which is down \$12.9 million.

In response to questions from Representative Tipton, Mr. Gilbert stated that the high for the META holdings value was in December 2021 of just over 346,000 shares with a market value of \$116.4 million and an unrealized gain of \$48.9 million. In response to a follow-up question regarding in what direction the trajectory is going, Mr. Gilbert stated that anything that was a growth-related stock in the end of 2021 got hit really hard in 2022 as the central bank ratcheted up rates. Facebook/META got hit particularly hard because they moved away from their core competency of social media.

In response to a question from Representative Petrie, Mr. Gilbert stated that the indirect level of exposure to cryptocurrency or cryptocurrency exchanges poses no appreciable risks.

In response to a question from Senator Higdon regarding internal versus external investment management, Mr. Gilbert explained that KPPA spends its risk dollars in markets that are the least efficient. So, there is no real active management in the U.S. markets, because the U.S. markets are the most efficient. The result is that for investments in U.S. markets the management is about 70 percent internal and 30 percent external. For less efficient foreign markets, there is an inverse balance where about 30 percent is in external management and 70 percent is actively managed.

### **Update on Cryptocurrency/META Holdings – Teachers’ Retirement System**

Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers’ Retirement System (TRS) stated that TRS does not own or have any direct exposure in any cryptocurrency or any cryptocurrency exchanges. TRS does have investments in META holdings of about \$48 million with about \$25 million of that in an index fund, which represents a little less than 2/100 of 1 percentage point of TRS assets under management.

In response to a question from Representative DuPlessis, Mr. Barnes stated that when federal interest rates rise, there is a greater return on fixed income. However, rising interest rates can lead to inflation, which is often bad for the markets.

### **Legislative Proposal for Consideration – BR 196**

Representative Tipton, Erin Surratt, Executive Director, Office of Benefits, and Carrie Bass, Staff Attorney Supervisor, KPPA discussed several key points in the KPPA housekeeping bill, including new definitions, changes to the process of examining employment and medical records for disability determinations, changes to codify existing administrative policy or conform to federal law, and other technical changes.

In response to a question from Representative DuPlessis, Ms. Bass stated that volunteer employment was included in the definition of "gainful employment" specifically in the context of required reporting for individuals receiving a disability retirement benefit in order to review the volunteer work to ensure it is not at odds with the basis for the person's disability.

Representative Petrie commented that KPPA may want to make sure that the vocational expert definition does not exclude those professionals who already exist within the context of social security disability determinations.

In response to a question from Mr. Hicks regarding redundancy in some of the new language added to Section 15 of the draft bill, Ms. Bass stated that generally KPPA prefers to clarify anything that may be ambiguous and to have it codified rather than implied.

In response to a question from Representative Petrie regarding the new language in Section 15, Ms. Bass stated that KPPA decided to add the new language to make sure it was sufficiently clear regarding the internal management of assets.

In response to a question from Representative Graham, Ms. Surratt stated there is no time factor in Section 16 regarding the three medical evaluations for the disability retirement benefits.

In response to a question from Mr. Hicks, Ms. Surratt stated the last time the medical evaluation process was reviewed, it was taking roughly four weeks between the time the member files the disability claim to when the medical examiner receives the claim.

In response to a question from Representative Graham regarding the new medical examination process as proposed, Ms. Surratt stated that if the first medical examiner denies a claim, the second medical examiner is not aware of the first denial. Each medical examiner gives an independent review.

In response to a question from Senator Neal, Ms. Surratt stated that each medical examiner is paid independently. Therefore, disability claims are independently sent to one medical examiner at a time.

In response to a question from Representative Fleming, Ms. Surratt stated that the last timeframe review for a disability claim was about four weeks. If the claim was sent to a second medical examiner it would be another one to two weeks. Previously, it took about three times longer to get a review back from the medical examiner. With the new process, it would take approximately six to eight weeks to go through all three reviews. In response to a follow-up question, Ms. Surratt stated that she does not believe the contract specifies the amount of time for completion, but could make modifications.

In response to a question from Senator Neal, Ms. Surratt stated that “expedited” is not in the language for disability claims. Ms. Bass and Ms. Surratt both agreed the contract would need to be modified. Senator Neal suggested that the language be put into the legislation.

In response to a question from Representative Miller, Ms. Surratt stated that KPPA has no actuarial analysis of BR 196 and that most changes made are technical and should not have an actuarial impact. She advised that the bill has already been sent to the KPPA's actuaries for review.

### **Legislative Proposal for Consideration – BR 435**

Representative Tipton discussed BR 435, which is a legislative proposal to close LRP to new members and transfer Tier III hybrid cash balance members to the Kentucky Employees Retirement System (KERS).

Representative Miller commented that he regrets that he will not be in attendance to vote for this legislation, but will speak highly of it to his successor.

Representative DuPlessis commented that he agrees with this legislation but wonders about the actuarial benefit of eliminating a smaller, healthy fund that is able to invest aggressively, since the General Assembly is not currently funding the LRP, and instead diverting those funds to KPPA. Representative Tipton stated that the bill provides

that there will be no funding provided to the LRP until the funding level is the same or less than KERS. While the transfer of Tier III members in LRP to KERS may have a minimal actuarial impact, the benefits are essentially the same and legislative members often join KERS anyway.

Senator Thayer commented that he would need some convincing in order to support BR 435 but would be more inclined to do so if the SB 151 provision that would eliminate pension spiking for legislators in Tier I and Tier II was incorporated. Representative Tipton commented that he had the provision in a previous version but was told that it was a violation of the inviolable contract.

In response to a question from Senator Higdon, Representative Tipton stated that he believes that under current law, the judicial members in Tier III have the option to go into KERS.

Senator Higdon called upon KPPA staff for comments regarding the lawsuit against KPPA by their former employee Stephen Herbert. Ms. Bass stated that the complaint filed by former employee Stephen Herbert contains false allegations. KPPA regrets that it will be forced to spend resources to defend against Mr. Herbert's lawsuit, but KPPA is confident in its defense of the claims that Mr. Herbert has asserted. Any inquiries concerning the complaint should be forwarded to the KPPA communication team. Beyond this comment, KPPA cannot respond any further.

Representative Tipton along with Senator Higdon and incoming co-chair, Representative Johnson, recommended to the Public Pension Oversight Board (PPOB) that a letter be addressed to the co-chairs of the Oversight and Investigations Committee and ask them to work with PPOB together or independently to review the allegations.

In response to a question from Representative Fleming, Representative Tipton stated that the article read that there was a former employee of KPPA with alleged allegations in the lawsuit that assert that there was mismanagement of funds and a reference of embezzlement of funds.

Senator Higdon moved that the proposal that PPOB address a letter to the Oversight and Investigations Committee be approved. Representative DuPlessis seconded the motion, and the motion was approved without objection.

### **Legislative Proposal for Consideration – BR 276**

Representative Wheatley discussed BR 276, which is a legislative proposal for inflation assistance payments for KPPA retirees. Representative Wheatley explained that the legislation would provide a one-time, non-compounding "13<sup>th</sup> check" to KPPA retirees in fiscal years 2023 and 2024 to be adjusted based on the retiree's annual retirement allowance.

Representative Tipton commented that the bill calls for two separate payments one in July of 2023 and one in June of 2024, both occurring in the same fiscal year. Representative Wheatley stated that it should read that the payments are within two fiscal years.

Representative Graham commented that he hopes BR 276 is a possibility in order to show retirees appreciation for their hard work and training of current staff. Representative Graham also reaffirmed the increased cost of living and that it has been a long time since retirees have received a cost-of-living adjustment (COLA).

Representative Miller commented that he believes BR 276 is a good idea, but clearly the General Assembly cannot do it without pre-funding. Representative Wheatley responded that BR 276 is not part of a COLA and not compounding but a one-time amount.

Senator Higdon commented that retired state employees have not received a COLA since 2012 with some of those retirees not receiving social security either. With the likelihood of an ad-hoc COLA for the KERS coming from the General Fund, the question of how to fund a COLA for the County Employees Retirement Systems (CERS) needs to be discussed. Representative Wheatley responded that there have been discussions regarding how to fund the CERS payments.

Representative DuPlessis commented that he agrees with a COLA for the KPPA retirees and asked how much of a debt impact would a one-time COLA payment be. Representative Wheatley responded that it would be about \$326 million. Representative DuPlessis discussed the possibility of a COLA for members with an extensive length of service.

Representative Tipton commented that in the 2022 budget there was an additional \$215 million appropriated into the State Police Retirement System. Prior to the appropriation, every dollar paid in was costing \$1.46 and now it is about dollar to dollar. There was about \$400 million additional dollars appropriated to KERS; however the total impact on this fund is minimal based on the size of the unfunded liability.

Senator Thayer commented that the budget will not be opened up in 2023.

With no further business, the meeting was adjourned.