

PUBLIC PENSION OVERSIGHT BOARD

Minutes

September 26, 2023

Call to Order and Roll Call

The 6th meeting of the Public Pension Oversight Board was held on September 26, 2023, at 3:00 PM in Room 154 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative DJ Johnson Co-Chair; Senator Jimmy Higdon Co-Chair; Senators Karen Berg, Danny Carroll, Gerald A. Neal, Michael J. Nemes, and Mike Wilson; Representatives David Hale, Derrick Graham, Phillip Pratt, and James Tipton; Mike Harmon, John Hicks, and Victor Maddox.

Guests: Chris Biddle, Executive Director, and Allen Powell, Counsel, Kentucky Deferred Compensation Authority; Jim Carroll, Kentucky Government Retirees; Larry Totten, President Kentucky Public Retirees; Allison Ball, State Treasurer; and Erin Surratt, Executive Director, Office of Benefits, Kentucky Public Pensions Authority.

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

Approval of Minutes

Representative Pratt moved that the minutes of the August 22, 2023, meeting be approved. Senator Wilson seconded the motion, and the minutes were approved without objection.

Deferred Compensation Authority Update/Housekeeping Proposal

Chris Biddle, Executive Director, Deferred Compensation Authority (DCA), updated members on the continued increase in participants as a result of auto-enrollment. He discussed the financial planning program that is free for participants and the implementation of FastPay for customized electronic payroll submissions.

Mr. Biddle discussed 2024 legislation requests, which include: codifying a fiduciary standard, offering legal services for the board and staff, purchasing fiduciary liability insurance, adding a self-correcting mechanism to maintain compliance with federal law, and authorizing DCA to offer self-directed brokerage accounts (SDBA) to participants with a focus on the federal Thrift Savings Plan (TSP).

In response to questions from Senator Higdon, Mr. Biddle stated that it is hard to gauge the exact returns on the federal TSP, due to the wide variety of offerings that are available through the fund. The statistic that best demonstrates the return on the TSP is participant account balance, which is specifically performance-based. Historically, a participant using an SDBA has an average account balance that is seven and a half times greater than a participant who is not using this tool, which speaks to its performance.

In response to additional questions from Senator Higdon, Mr. Biddle explained there is no extra cost to participants for the financial planning program. He confirmed that people generally do not want to fill out a paper to get in or out of the deferred compensation plan, so auto-enrollment has been very beneficial in getting new member participation up to where it currently sits at 94 percent. Every participant has a 90-day window to fill out and sign a form to opt out of the deferred compensation plan.

In response to a question from Auditor Harmon, Mr. Biddle agreed that legislation would not include any impermissible environmental, social, governance (ESG) investing. In response to a follow-up, Mr. Biddle stated that, for those participants who are auto-enrolled but not actively investing, the DCA board has selected a qualified default investment target fund account as a safe harbor.

In response to a question from Senator Higdon, Mr. Biddle stated that it is possible for there to be an employer match with the deferred compensation plan provided there is the ability to access the payroll system.

In response to questions from Representative Graham, Mr. Biddle stated the average participant account balance is about \$40,000.

KPPA COLA Discussion

Jim Carroll, President of Kentucky Government Retirees and Larry Totten, President of Kentucky Public Retirees, presented proposals for a one-time extra monthly pension check for all Kentucky Public Pension Authority (KPPA) retirees. With the last cost-of-living adjustment (COLA) granted on July 1, 2011, retirees have seen the cost-of-living soar over the past two years.

Representative Graham commented that he believes the retirees deserve an increase and hopes the General Assembly can work towards that goal.

In response to a question from Senator Higdon regarding whether the amount of increase would be the same for all retirees no matter their retirement date, Mr. Totten and Mr. Carroll agreed that their proposal is a general 13th check for all retirees, but welcome discussions on other scenarios.

In response to a question from Representative Johnson, Mr. Carroll and Mr. Totten agreed that this increase is a one-time transaction.

In response to a question from Senator Carroll regarding the possibility of not providing an increase to those retirees still working, Mr. Totten stated he did not have access to retiree information.

In response to a question from Representative Tipton, Mr. Totten and Mr. Carroll both agreed that they are not aware if state funds have been contributed into the County Employees Retirement System in the past.

Update on Restricted Financial Institutions/Energy Boycott List

Allison Ball, State Treasurer, gave a brief update on SB 105 (2022) and the restricted financial institutions and energy boycott list. From her office's review of companies around the world who

were actively engaged in fossil fuel boycotts within the financial sector, they identified 11 companies actively engaged in boycotting the fossil fuel industry. The Treasurer's office made its findings public and notified state government entities in January 2023. Ms. Ball and her office is continuing to engage with the 11 companies regarding compliance. Unless a company reverses its boycott, state entities unless exempted will have until May 2024 to divest their holdings from that company.

In response to a question from Senator Berg, Ms. Ball responded that a state entity is supposed to divest from a restricted financial institution that refuses to comply, unless the agency can make an argument that divestment would be harmful to the Commonwealth. In response to a follow-up question, Ms. Ball stated that fossil-fuel industries are significant to the state economy, so it is important to not use taxpayer dollars to harm signature industries. SB 105 relating to energy boycotts is separate from legislation that passed during the 2023 Regular Session regarding ESG investing, which said that agencies could not invest for political reasons only for returns. Senator Berg commented that it appears antithetical to tell Kentucky voters that money will not be invested in companies that want to be environmentally sound or socially conscious because they are not solely focused on making a profit, but if state funds are invested with a company that will not play with fossil fuels, it will be a required disinvestment even if that company makes a profit.

Other Business

Erin Surratt, Executive Director, Office of Benefits, KPPA, was asked to update the members regarding contract negotiations between Humana and Baptist Health Medical Group under the Medicare Advantage Plan. An agreement was not reached by the contract end date, so for retirees who have the KPPA Medicare Advantage Plan, their benefits with Baptist Health Medical Group will be considered out-of-network. However, at this point, there is no cost difference between in-network and out-of-network benefits.

In response to a question from Representative Tipton, Ms. Surratt stated that as long as Baptist Health Medical Group continues to accept out-of-network benefits and Medicare there should be no additional out of pocket cost to KPPA Medicare Advantage Plan members. Ms. Surratt noted that Baptist Hospitals are still in-network.

In response to a question from Senator Carroll, Ms. Surratt stated there has not been any breach of contract to date, but she would have to update the Board at a later time regarding what would happen in the event of a contractual breach.

In response to a question from Senator Berg, Ms. Surratt stated that the agreement issue is only with Baptist Health Medical Group, and it is her understanding that the physicians have agreed to accept the out-of-network payment.

In response to a question from Representative Graham, Ms. Surratt stated that KPPA has updated messaging on their website and social media and believes that members have received information from both Humana and Baptist Health.

Adjournment