

PUBLIC PENSION OVERSIGHT BOARD

Minutes

December 11, 2023

Call to Order and Roll Call

The 9th meeting of the Public Pension Oversight Board was held on December 11, 2023, at 2:30 PM in Room 154 of the Capitol Annex. Representative DJ Johnson, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon Co-Chair; Representative DJ Johnson Co-Chair; Senators Karen Berg, Danny Carroll, Robby Mills, Gerald A. Neal, and Michael J. Nemes; Representatives David Hale, Tina Bojanowski, Ken Fleming, Derrick Graham, Jason Petrie, Phillip Pratt, and James Tipton; Mike Harmon and Victor Maddox.

Guests: Representative Jason Nemes; Senator Jimmy Higdon; David Eager, Executive Director, and Erin Surratt, Executive Director, Office of Benefits, Kentucky Public Pensions Authority; Damon Preston, Public Advocate, Department of Public Advocacy; and Beau Barnes, Deputy Executive Secretary and General Counsel, Teachers' Retirement System.

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

Approval of Minutes

Representative Fleming moved that the minutes of the November 20, 2023, meeting be approved. Representative Tipton seconded the motion, and the minutes were approved without objection.

Legislative Proposals

Representative Jason Nemes, Damon Preston, Public Advocate, Department of Public Advocacy, and Erin Surratt, Executive Director, Office of Benefits, Kentucky Public Pensions Authority (KPPA), discussed BR 424, regarding the transition of employees of the Louisville and Jefferson County Public Defender Corporation to the Department of Public Advocacy within the Justice and Public Safety Cabinet.

In response to a question from Representative Tipton, Representative Nemes stated that the employees affected were not members of the County Employee Retirement System (CERS) and will have the option to buy their time or start fresh as a Tier 3 employee in KPPA as non-hazardous employees.

In response to a question from Senator Higdon, Ms. Surratt stated that if an employee decided to buy into the system, they would be responsible for the full actuarial costs for their service credit. In response to a follow-up question Ms. Surratt stated GRS is working on the actuarial analysis and should have it in to KPPA by the end of the week.

In response to a question from Mr. Harmon, Representative Nemes stated that the employees can keep their current retirement investment account, or they can roll it over into KPPA.

In response to questions from Representative Bojanowski, Ms. Surratt stated that the employees will retain their start date with the Louisville Jefferson County Public Defender's Office, which will be their membership date in the Kentucky Employees Retirement System (KERS) to determine their tier. If they are a Tier 1 or Tier 2 member, they will have the option to purchase service credit for years worked at the Louisville Jefferson County Public Defender's Office. If they choose not to purchase the service credit, they will be able to use prior years of service towards retirement eligibility, but they will only receive retirement benefits based on their actual time within KERS. In response to a follow-up, Representative Nemes stated that employees of Louisville Jefferson County Public Defender's Office will be state employees and, for those not eligible to buy their time, they will start as Tier 3 employees.

In response to a question from Representative Pratt, Mr. Preston stated that there will not be any penalties to these employees for rolling over their current retirement account to another retirement account or to purchase service credit, so long as employees do not cash out or take an early distribution from their account.

In response to a question from Senator Mills, Ms. Surratt stated that eligible Tier 1 and Tier 2 employees are already allowed to purchase credit for their past service. In response to a follow-up regarding whether this is the largest group transferring into KERS, Ms. Surratt stated that she is not sure if it is the largest group, but that there are about 25 employees of the total number of employees transferring who will be eligible to purchase their past service. In response to another follow-up regarding the impact to the unfunded liability, Ms. Surratt stated that GRS is working on an actuarial analysis of the cost of the service purchases, which should cover any actuarial cost 100 percent.

In response to a question from Representative Johnson, Mr. Preston confirmed that part of the bill provides that, if a transferred employee wants to purchase service credit but they do not have enough funds to rollover from their private account, there is the potential for the Department of Public Advocacy through a budget item allocation to pay for the additional funding, if appropriated. In addition, Mr. Preston discussed other aspects of the bill intended to provide these employees with state personnel and retirement benefits that recognize their years of experience with the Louisville and Jefferson County Public Defender's Office. Representative Nemes stated that the bill recognizes these employees whose work has been a state responsibility previously funded, in part, by local funding.

In response to question from Representative Petrie, Ms. Surratt stated that their actuary, GRS, expects to have an actuarial analysis ready in December 2023. Mr. Preston stated that the fiscal impact of the other parts of the transition has already been provided for budget review.

Senator Higdon discussed BR 1174, which is a bill relating to sick leave reporting for the Teachers' Retirement System (TRS).

In response to a question from Representative Johnson, Senator Higdon confirmed that the state payments for TRS only will increase to in excess of \$2 billion a year by 2032.

In response to a question from Representative Tipton, Beau Barnes, Deputy Executive Secretary and General Counsel, TRS, stated that their actuary captures all liabilities, including sick leave liabilities, which are calculated based on past historical trends. The estimated \$538 million

would do more than cover the unfunded liability for sick leave, but would also prefund sick leave going forward. Senator Higdon added that if BR 1174 passed, the General Assembly would know what the sick day liability was every year. In response to a follow-up, Senator Higdon stated that there is no uniformity across school districts on sick day policy and whether personal/emergency days can roll over into sick days.

In response to a question from Senator Mills regarding prefunding sick days, Mr. Barnes explained that there are two types of cost with pensions, which are normal cost and unfunded liability cost. The \$538 million estimate includes both normal cost and the unfunded liability costs. Regarding sick leave benefits, members who have a start date of July 1, 2008 or after, are capped at 300 days of sick leave that can be used for retirement calculation purposes. For members who have a start date of January 1, 2022 or after, sick leave cannot be used for traditional pension calculation purposes.

Additional Requests – Kentucky Public Pensions Authority

David Eager, Executive Director, KPPA, discussed additional legislative requests, including the reorganization of two departments and office space leasing for Louisville investment staff. Mr. Eager provided a chart showing the increase in membership in KERS non-hazardous. In response to a question from the November Public Pension Oversight Board meeting regarding whether the KERS board of trustees has the ability and authority to hold employer contribution rates steady as opposed to lowering them without statutory change and/or budget language, Mr. Eager stated that the board lacks the authority to set normal cost rates to anything other than what is determined by the actuary but could ask for more funds than is necessary to cover the unfunded liability.

In response to a question from Senator Higdon, Mr. Eager stated the lease agreement has not been determined, but most likely will be a minimum of a five-year lease.

In response to a question from Mr. Harmon, Mr. Eager stated that the lease in question will be a standard commercial-type lease.

In response to a question from Representative Johnson, Mr. Eager stated that the lease in question is not in the current budget, but there is a substantial reserve that can be allocated towards it. As a reminder, KPPA's expenses are fulfilled by the trust and not the state budget. In response to a follow-up regarding why KPPA has not had a leased space for the past 11 months, Mr. Eager stated that, despite a cooperative relationship with the KPPA, the state leasing office has been very under staffed and lacks the experience with this type of lease. In response to an additional follow-up, Mr. Eager stated that the legislative request for the ability to lease office space is for this effort only.

In response to questions from Senator Berg, Mr. Eager agreed that the projected actuarial contribution rates for KERS are decreasing next year. In response to a follow-up, Mr. Eager stated there are two components of the rates: the normal cost of the unfunded liability. In response to an additional follow-up, Danny White, GRS, stated that the changes in the contribution rate, both the normal cost and the amortization cost of the unfunded liability, have decreased over time. The change in the normal cost is due to more members earning Tier 3 benefits rather than Tier 1 and Tier 2 benefits. The larger component of the overall

contribution effort is the amortization for the unfunded liability. The amount calculated, the actuarially determined amount, which is based on a set of parameters set in statute, is the amount that the board has adopted. He noted that the legislators have the option, and have done so in the past, to allocate higher amounts.

In response to a question from Senator Higdon, Mr. Eager agreed that the board has the option to set a higher rate but has never exercised the option in its history.

Representative Johnson and Senator Higdon acknowledged Mr. Harmon's last meeting. Mr. Harmon stated that he has enjoyed his tenure.

Representative Graham appealed to the body and the General Assembly regarding the matter that there has not been a cost-of-living adjustment since 2011 while facing crippling inflation in recent years. Representative Graham believes a thirteenth check would provide one additional payment to each retiree in both KERS and the State Police Retirement System. The average payment would be about \$1,738.

Adjournment

There being no further business, the meeting was adjourned.