

PUBLIC PENSION OVERSIGHT BOARD

Minutes of the 10th Meeting of the 2021 Interim

December 20, 2021

Call to Order and Roll Call

The 10th meeting of the Public Pension Oversight Board was held on Monday, December 20, 2021, at 10:00 AM, in Room 149 of the Capitol Annex. Senator Jimmy Higdon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jimmy Higdon, Co-Chair; Representative Jim DuPlessis, Co-Chair; Senators Christian McDaniel, Robby Mills, Gerald A. Neal, Dennis Parrett, and Mike Wilson; Representatives Derrick Graham, Jerry T. Miller, Jason Petrie, James Tipton, Russell Webber, and Buddy Wheatley; Joseph Fawns, Mike Harmon, John Hicks, and Sharon Mattingly.

Guests: David Eager, Executive Director, Kentucky Public Pensions Authority, John Chilton, Chief Executive Officer, Kentucky Retirement Systems, and Ed Owens III, Chief Executive Officer, County Employees Retirement System.

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

Approval of Minutes

Representative Tipton moved that the minutes of the November 22, 2021, meeting be approved. Representative DuPlessis seconded the motion, and the minutes were approved without objection.

Discussion of Public Pension Oversight Board Recommendations

Senator Higdon introduced the discussion of items that the Public Pension Oversight Board (PPOB) recommended for the 2022 Regular Session of the General Assembly. He began by presenting his recommendations: (1) to ensure sufficient funding is provided to fully fund the actuarially determined contributions in the upcoming budget for the Teachers' Retirement System pension fund and the Kentucky Employee Retirement System (KERS)/State Police Retirement System (SPRS) systems, and (2) to enact housekeeping measures for the Judicial Form Retirement System that were discussed at the November 2021 PPOB meeting.

Representative Miller discussed the following legislative recommendations: (3) to enact measures, similar to those included in BR 40, for the KERS, County Employees

Retirement System (CERS), and SPRS that would exempt from the current statutory anti-spiking provisions any overtime pay directly attributable to a local government emergency in which the Governor calls in the Kentucky National Guard; and (4) to enact measures, similar to those included in BR 341, that would require the state-administered retirement systems to perform an actuarial investigation of economic assumptions once every two years, rather than once every five years, while retaining a review of demographic assumptions once every five years.

Representative Wheatley discussed legislation that he prefiled, BR 424, to transfer Tier 3 hazardous members participating in the KERS, CERS, and SPRS hybrid cash balance plans to the Tier 2 defined benefit plan. He advised that he would not seek approval from the PPOB to make his legislative item a recommendation.

Senator Higdon moved that items 1 to 4 of the 2021 recommendations be approved. Representative Tipton seconded the motion, and the recommendations were approved without objection.

Approval of Annual Report

Senator Higdon stated that under KRS 7A.250, the PPOB has the duty to publish an annual report, which includes a summary of the systems, testimony, and data heard throughout the 2021 year along with the approved recommendations. Representative DuPlessis moved that the 2021 Annual Report be approved. Joseph Fawns seconded the motion, and the annual report was approved without objection.

Request for Information - Actuarial Audit Update

Jennifer Black Hans, LRC Staff, presented a summary of the submissions that the LRC received from the actuarial firms in response to the request for information that was issued pursuant to the input received from the PPOB. The purpose of issuing the request for information (RFI) was to permit more discussion before the PPOB, determine the size of the pool of interested actuarial firms, seek proposed solutions on how to accomplish the task, such as, what level of audit, experience, length of audit, and cost, and assist in tailoring the scope of work.

Ms. Hans gave a summary of the responses on the RFI. Six actuarial firms responded with five having experience providing actuarial consulting services to large, statewide public pension plans. None of the firms who responded are currently providing any actuarial services to a Kentucky state-administered retirement system. Most responses recommended a Level 1 full-scope actuarial audit. According to the response, a Level 1 full-scope actuarial audit of the systems could be conducted and completed over a 6-month period with an estimated cost of \$150,000 - \$250,000.

In response to a question from Senator Higdon, Ms. Hans stated that the information the consulting companies provided was not just based on price. Each submitted reasons for

why a Level 1 audit would be best under the circumstances. Senator Higdon commented that he feels comfortable with a Level 1 full-scope audit.

Representative DuPlessis commented that he agrees with Senator Higdon that the Level 1 full-scope audit is the approach to be taken.

In response to a question from Representative Miller, Ms. Hans stated that none of the consulting firms indicated that they had ever served as a full contract actuary with any of the three systems. However, two of the firms had conducted actuarial audits for two of the systems in the past. Representative Miller also agreed that it should be a Level 1 audit approach.

Representative DuPlessis moved that the request for a Level 1 full-scope audit of the state-administered retirement systems be approved. Senator Neal seconded the motion, and the request was approved without objection.

Other Business

David Eager, Executive Director for the Kentucky Public Pensions Authority (KPPA), joined by John Chilton and Ed Owens, III, CEOs of the KRS and CERS, respectively, offered a status update regarding the HB 8 appeal process for quasi-governmental agencies.

Mr. Eager stated that HB 8 was of huge benefit by changing the method of funding and protecting the financial security of the KERS non-hazardous system. He stated that the appeals process was developed so that a quasi-governmental agency could appeal if: (1) the agency was not a person's last employer, (2) the person identified was employed via a contract with the executive branch, or (3) the person employed by a mental health agency was, in fact, the responsibility of the state/executive branch. Out of 178 agencies, KPPA received 47 agency appeals representing 5,191 employees. The totals were: 2,224 appealed as not being the last employer, of which, 49 were approved/waived; 404 appealed as being contracted with the state (mostly universities), of which, 78 were approved/waived; and all 2,563 that appealed due to contracting through mental health agencies were approved/waived to the executive branch.

In response to a question from Representative DuPlessis regarding executive branch contracts, Mr. Eager stated KPPA looked over information submitted and worked with the budget director before determining approval.

In response to a question from Senator Higdon, Mr. Eager stated that the appeal process was complete with board approval of the findings. In response to a follow-up question, Mr. Eager stated there were 49 employees that KPPA concluded through the appeals process were assigned to the wrong last employer.

In response to a question from Representative DuPlessis in regards to several employers who had complained of not being able to debate their point due to the board's extended response time of their findings, Mr. Eager stated KPPA sent affidavits to the employees, as well as the employers, for verification of the last agency worked. There were 15 responses to those requests for affidavits. In response to a follow-up question, Mr. Eager stated that, while appealing agencies were notified of yes or no as to the individuals appealed, he could not say what was included in the exact communications back to the agencies.

Senator Higdon held a moment of silence for the tornado victims, including Deputy Jailer Robert Daniel and for Officer Zachary Cottongim of the Louisville Metropolitan Police Department.

With no further business, the meeting was adjourned.