

PUBLIC PENSION OVERSIGHT BOARD
Minutes
October 24, 2023

Call to Order and Roll Call

The 7th meeting of the Public Pension Oversight Board was held on October 24, 2023, at 3:00 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: Representative DJ Johnson Co-Chair; Senators Karen Berg, Christian McDaniel, Gerald A. Neal, Michael J. Nemes, and Mike Wilson; Representatives David Hale, Ken Fleming, Derrick Graham, Jason Petrie, Phillip Pratt, James Tipton, and Russell Webber; Mike Harmon, John Hicks, and Victor Maddox.

Guests: Brad Gross, LRC Staff; Rebecca Adkins, Deputy Executive Director, 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, Michael Clancy, Jennifer Hans, and Angela Rhodes.

Approval of Minutes

Senator Wilson moved that the minutes of the September 26, 2023, meeting be approved. Representative Fleming seconded the motion, and the minutes were approved without objection.

Discussion of 2024 BR 31 Kentucky Public Pensions Authority Housekeeping Bill

Representative Johnson gave a brief overview of the 2024 Kentucky Public Pensions Authority (KPPA) housekeeping bill. He stated there are a few technical changes from the previous 2023 housekeeping bill, which passed the House of Representatives but was unable to make it through the Senate due to time constraints.

In response to a question from Representative Graham, Representative Johnson stated that due to the complexity of the bill, the Senate did not have enough time to proceed.

Annual Investment Review

Brad Gross, LRC Staff, discussed the annual investment review for the 2023 fiscal year-end. He reviewed total assets, performance and peer comparisons, allocations and peer comparisons, investment fees and expenses, net cash flow, assumed rates of return, statutory requirements, and benchmarks.

In response to questions from Senator Berg, Mr. Gross stated that the Teachers' Retirement System (TRS) had a rate of return of 7.3 percent for the 20-year period, 7.7 percent for the 30-year period, and did not have a benchmark for overall performance prior to July 1, 2008. The assumed rate of return at this time is 7.1 percent. In response to a follow-up question regarding if the assumed rates of return are safe numbers, Mr. Gross stated that a lower assumed rate of return can provide additional money accumulated with a higher likelihood the fund progresses.

Representative Tipton commented that the safeness of the assumed rate of return depends on the willingness of the General Assembly to back that rate.

Reemployment After Retirement – Kentucky Public Pensions Authority

Rebecca Adkins, Deputy Executive Director, and Carrie Bass, Staff Attorney Supervisor, KPPA discussed reemployment after retirement requirements, which includes no prearranged agreement, ceased employment with all participating employers prior to retirement, break in service between retirement date and reemployment with a participating employer, break in service exceptions, and submission of forms and other information to KPPA. KPPA has 6,062 retired reemployed members.

In response to a question from Representative Johnson, Ms. Bass stated that an example of ceasing employment with all participating employers is when a member is working for two separate Commonwealth agencies under the umbrella of KPPA, both employment relationships need to cease before retirement.

In response to a question from Representative Tipton, Ms. Adkins stated that reemployment after retirement is relatively consistent between KPPA plans other than their exemptions. Ms. Bass added there are some rule inconsistencies on the employer side, such as employer contribution requirements. In response to a follow-up regarding the required break in service, Ms. Bass explained Kentucky law is more detailed than the federal requirement. Ms. Adkins added that the penalties for a member who retires and then returns to work too early are significant, including voiding of the member's retirement and required repayment of retirement allowances.

In response to a question from Mr. Hicks, Ms. Adkins stated that the retired reemployed employer contributions help pay down the unfunded liability.

In response to a question from Representative Graham, Ms. Bass stated that starting January 1, 2024, KPPA will only require a one-month break in service between retirement date and reemployment.

Baptist Health Update – Kentucky Public Pensions Authority

Ms. Adkins updated members regarding contract negotiations between Humana and Baptist Health Medical Group under the Medicare Advantage Plan. She stated that KPPA has provided additional information on their website for members having problems with having their insurance recognized as out-of-network.

Reemployment After Retirement – Teachers’ Retirement System

Beau Barnes, Deputy Executive Secretary and General Counsel, TRS, discussed reemployment after retirement requirements. TRS offers four programs: part time is a three-month break with day and wage limits; full time is a three- or twelve-month break with wage limits; critical shortage part time is a three-month break with day limits; and critical shortage full time is a three- or twelve-month break. Mr. Barnes also discussed temporary changes made during the 2022 regular session, which include changes only for local school districts to address staffing concerns. TRS has 5,219 retirees actively in return-to-work programs which equates to 7 percent of all active TRS members. Of the total number of reemployed retirees, 90 percent are in part-time or substitute teaching positions.

In response to questions from Representative Johnson, Mr. Barnes stated that the local school board can decide the wage of an employee based upon local needs. In response to a follow-up question, Mr. Barnes stated that the critical shortage program will return to its permanent rules on June 30, 2024.

In response to questions from Mr. Harmon, Mr. Barnes stated that the critical shortage program is a year-by-year program with requested approval.

In response to a question from Representative Hale, Mr. Barnes stated that under statute, when a retiree returns to work for a TRS employer and is eligible for health insurance, that retiree is required to drop their health insurance coverage provided through TRS and instead pick up health insurance coverage that is offered through their active employer. This is also a requirement for Medicare eligible employees.

In response to a question from Representative Graham, Mr. Barnes stated there are no exceptions to the federal and/or state guidelines regarding teacher shortages. However, the critical shortage program is not exercised often.

In response to questions from Representative Tipton, Mr. Barnes stated that when a retiree returns to work in a TRS covered position, the employer and employee both make retirement contributions. If the retiree vests that account, then the retiree is

entitled to a second retirement allowance. Most retired return to work accounts end up being refunded. There is a new tier for individuals that became members of the retirement system on or after January 1, 2022, that cannot start a second account. In response to a follow-up, Mr. Barnes stated that return to work retirees who retire with 30 or more years of service are eligible to earn up to 75 percent of their last annual salary measured on a daily rate. If they have less than 30 years of service, it is 65 percent of their last annual salary measured on a daily rate. In response to an additional follow-up, Mr. Barnes stated that the temporary changes made that expire June 30, 2024, have not had any significant actuarial impact on TRS.

Baptist Health Update – Teachers’ Retirement System

Mr. Barnes updated members regarding contract negotiations between United Healthcare and Baptist Health Medical Group under the TRS Medicare Advantage Plan. He stated that the health plan is allowing TRS retiree members to go out-of-network without a change in cost.

Administrative Business

Representative Johnson commented that the next Public Pension Oversight Board (PPOB) meeting will be on November 20, 2023, at 3:00 p.m.

Members of the General Assembly received an email from the PPOB Chairs asking that pension bills for the next regular session be presented to PPOB as a first step and oversight measure.

Adjournment