

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIREMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF MAY 15, 2013**

A meeting of the West Virginia Consolidated Public Retirement Board (CPRB) Board of Trustees was held in the CPRB Conference Room at 4101 MacCorkle Avenue, SE, Charleston, West Virginia 25304, and was called to order at 10:02 a.m. by Chairman David Wyant.

Roll Call was taken and trustees present were:

David Wyant, Esquire, Chairman
Joseph Garcia, Esquire, *representing Governor Earl Ray Tomblin*
Mack Parsons, *representing Auditor Glen Gainer III*
Cabinet Secretary Ross Taylor
Joseph Bunn, Esquire
Captain Michael Corsaro
Drema Evans
Joe Lynch
D. Todd Murray
Tony Payne

Trustees not present:

Thomas Bradley
Captain Michael Corsaro
Diana Stout, Esquire, *representing Treasurer John Perdue*
Andrew Richardson, Esquire

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director
Terasa Miller, Deputy Director
Jeaneen Legato, Esquire, CPRB General Counsel
Candi Moore, CPRB Executive Assistant
Lenna Chambers, Esquire, Bowles Rice
Jack DeBolt, Esquire, Hearing Officer
Amy Heyel, Great-West Retirement Services, Vice President Client Relations
Kris Morton, Great-West Retirement Services, Regional Manager
Andrew Wyne, Great-West Retirement Services, Outreach Officer
Christina Campbell, WV-AFT
Craig Slaughter, Executive Director, WVIMB
Leon Wechsler, LRWL
Norm Buckwalter, LRWL

Don Parr, Deloitte Consultants
Misty Peal, WVEA
Lonnie Simmons, Esquire
Larry Cole, KCEAA
Mark Kerns, KCEAA
Jeff Harbour, KCEAA
Harry Mandel, CPRB Actuary
Melody Bailey, CPRB Actuary Analyst
Darden Greene, CPRB CFO
John Beane, CPRB Chief IT Officer
Cindy Boyd, CPRB Computer Project Manager
Annamarie Short, CPRB Internal Auditor
Steve Stockton, CPRB Compliance Officer
Alysia Miller, CPRB Paralegal
Eric Stringer, CPRB IT Staff
Deana Gose, CPRB Uniform Services Manager
Lisa Trump, CPRB PERS Manager
Caroline Brady, CPRB PERS Assistant Manager

Tab 1: Approval of the March 20, 2013 Meeting Minutes

Ms. Evans made a motion to approve the March 20, 2013 minutes of the CPRB. The motion was seconded by Mr. Lynch. The motion carried unanimously. The minutes are located behind Tab 1.

Mr. Richardson arrived at the meeting at 10:04 a.m.

Tab 2: Reports of the Chairman and Executive Director

The Board heard the report from Executive Director Jeffrey Fleck which included the following information:

1. Executive Director Fleck reviewed the March and April 2013 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and estimate numbers. He reported there were 113 TRS Estimates for March and 147 TRS Estimates for April. There were 103 TRS Retirements for March and 80 TRS Retirements for April. In PERS, there were 253 Estimates for March and 342 Estimates for April. PERS had 180 Retirements for March and 131 for April.
2. Executive Director Fleck announced to the Board that an article and picture of the CPRB Staff is in the Stateline Newsletter on page 7.
3. Executive Director Fleck reported to the Board on the upcoming PERS Educational Seminars throughout the State. He reported those seminars will be held during the month of June for anyone in PERS.
4. Executive Director Fleck reviewed with the Board the Teachers' Defined

Contribution (TDC) 2013 Educational Meetings. He announced there were 42 meetings held with 351 in attendance.

5. Executive Director Fleck reported to the Board the TDC Reality Investing statistics are in the Board book. He announced that as of May 6, 2013 there are 5,016 total participants in TDC, with \$344,725,206 in total assets.
6. Executive Director Fleck reviewed the delinquent employers list with the Board. He reported to the Board that the Town of Pratt Water Work's and Green Acres are current on their monthly payments. The people of the Town of Pratt will be voting on June 11, 2013 whether they want West Virginia American Water to take over their waterworks. If the vote passes, West Virginia Water will take over, and the acquisition should be complete sometime in December 2013. At that time, PERS would be paid the total delinquent amount owed.
7. Executive Director Fleck updated the Board on the electronic tablets. He announced the vendor sent the wrong size, but hopefully will have them for the July 10th Board Meeting.

Ms. Stout arrived at the meeting at 10:09 a.m.

8. Executive Director Fleck reviewed the March and April 2013 Financials. As of April 30, 2013, CPRB is at 48.4% of budget for Fiscal Year 2013.
9. Executive Director Fleck reviewed a summary of all the Bills that passed pertaining to CPRB during the 2013 Legislative Session. Executive Director Fleck's report is located behind Tab 2.

Tab 3: Plans Investment Data

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB), reviewed with the Board the plans investment returns for February and March 2013.

Kris Morton, Great-West Retirement Services, reported to the Board on the TDC investments and Reality Investing. The Plans Investment Data report is located behind Tab 3.

Tab 4: Consideration of Current Disability Retirement Applications

Acting Chairman Murray reported the Disability Committee met on May 14, 2013, and the Committee makes the following recommendations to the Board:

System	Approved	Denied	Total
DSRS	1	0	1
PERS	19	2	21
TDC	2	0	2
TRS	2	0	2
TRS(TDC Transfers)	12	1	13
TOTAL	36	3	39

Mr. Lynch made a motion the Board accept the Disability Committee’s recommendations concerning the disability retirement applications. The motion was seconded by Mr. Richardson. The motion carried unanimously.

Mr. Murray made a motion that John Humphrey’s first annual recertification be performed by a Board selected physician. The motion was seconded by Mr. Lynch. The motion carried unanimously.

Mr. Lynch made a motion to terminate the Deputy Sheriff Retirement System (DSRS) partial non-duty disability retirement of Eddie Gilkerson, effective June 1, 2013 due to the retiree’s physician’s failure to recertify him as disabled and stating that he can perform the duties of a Deputy Sheriff. The motion was seconded by Mr. Payne. The motion carried unanimously.

Mr. Lynch made a motion the Board terminate the State Police Plan A partial duty disability retirement of Joseph M. Menendez, Jr. due to the Board physician’s failure to recertify him as partially disabled and stating the disability is not presumed to be permanent. Pursuant to WV Code §15-2-31a, the Superintendent of the State Police will be notified within 5 days. The motion was seconded by Mr. Payne. The motion carried unanimously. The disability list is behind Tab 4.

Tab 5: Consideration of Appeals from Hearing Officers - Jack DeBolt

Mr. Payne made a motion the Board go into Executive Session to discuss medical issues, legal matters and contractual matters as allowed by West Virginia Code § 6-9A-4. The motion

was seconded by Mr. Bunn. The motion carried unanimously. The Board went into Executive Session at 10:19 a.m.

The Chairman reconvened the Public Session of the May 15, 2013 meeting of the CPRB from Executive Session at 11:48 a.m. Chairman Wyant stated the Board was in Executive Session to discuss medical issues, legal matters and contractual matters as allowed by West Virginia Code § 6-9A-4. He announced there were no decisions made during Executive Session. The Board will return to Tab 5: Consideration of Appeals from the Hearing Officer.

Hearing Officer DeBolt addressed the appeal of Archie Hubbard and recommended his request to receive disability retirement benefits from the Emergency Medical Services Retirement System (EMSRS) be awarded.

Mr. Lynch commented:

“It would be irresponsible for me not to speak about the EMS Retirement System and how it was developed. We have never had lobbyists. We, as a group of paramedics and EMT’s, came together and went to the Legislature and CPRB and tried to find a way so we could keep the high turnover of our people down. The retirement benefit was a way we looked at. We spent 5 or 6 years looking at the things the State Police did wrong, that we could make better; looking at the Deputy Sheriff’s Plan to see of ways we could make it better. Worked with Harry Mandel to make sure actuarially anything that we did would be sound. We went and discussed it with every Senator, Delegate and the Governor about creating this Plan, because it was a long shot. We got this approved in an era when government plans were going away. But, we were able to convince them that it was our responsibility to pay for this. We were not going to look for the government to pay. We were not going to look for companies to pay. We wanted to take the liability on the backs of the men and women of EMS. That is how we passed it. We talked to the Governor, the Senator’s, the Pension Committees, and the Finance Committees. They were skeptical, but we were able to convince them. It was us, the people who work in the streets, the medics and EMT’s. Never was there any indication or any data that supported us moving PERS Retirees into the EMS system. It was never in the actuarial studies that the Pension Committees reviewed and accepted; and it was never the intent of the Legislature, the Governor or anyone in EMS, that someone in a PERS disability be moved into the EMSRS system. This individual was injured in 2000. He last worked in 2007. He got terminated, and then

immediately filed for disability which went through the process and he was granted a PERS disability. After he did that, he applied to have that moved because of a technical error in our bill, and that's why we are here today. You know there is not a statute in place right now that I think gives the Board authority to approve his disability. He has never put a dime into the system. All EMS people were forbidden from even retiring for the first three years so the Plan could fund itself. If we agree to this, it could potentially cost us up to 4 million dollars, and he doesn't have a dime in it. And on my conscience, I have to recommend to the Board that we don't allow the report from Jack on Archie Hubbard's disability."

Mr. Lynch then made a motion the Board delay the decision of the Hearing Officer so that counsel and staff can review the case history and the law and be better prepared at the next meeting to give us all their legal opinions to see if we have any other opportunities to move forward. Chairman Wyant asked Mr. Lynch if his motion was to table this appeal, and Mr. Lynch answered yes. The motion was seconded by Mr. Payne. The motion carried unanimously. The Chairman announced the matter is tabled.

Hearing Officer DeBolt addressed the appeal of Elvin J. Smith as to whether or not a member of TRS who essentially works two full-time jobs is entitled to more than one year service credit for each year so worked and; whether or not a teacher is entitled to retirement system participation while employed as a substitute teacher. It is recommended by Hearing Officer DeBolt that the request of Elvin J. Smith for additional service credit for years when he worked two jobs be denied. It is further recommended that his request to acquire service credit for two years while employed as a substitute teacher be denied.

Mr. Payne made a motion to adopt the recommendations of Hearing Officer DeBolt and deny the appeal of Elvin J. Smith in TRS. The motion was seconded by Secretary Taylor. The motion carried unanimously.

Hearing Officer DeBolt addressed the appeal of Nancy R. Woodford on whether or not she is entitled to TRS service credit for employment during which she did not make contributions to the system, but participated in TIAA-CREF. It is recommended by Hearing Officer DeBolt that the request of Nancy R. Woodford for service credit for a period of employment when she participated in a higher education retirement plan, but not in TRS be denied.

Mr. Richardson made a motion to adopt the recommendation of Hearing Officer DeBolt and deny the appeal of Nancy R. Woodford for service credit in TRS. The motion was seconded by Mr. Murray. The motion carried unanimously. The appeals are located behind Tab 5.

Chairman Wyant moved back to Tab 2 - Report from the Executive Director. He announced the Board has some contracts that need to be addressed by the Board.

Ms. Stout made a motion the Board approve the contract for Raymond Keener as a Hearing Officer for the CPRB at the rate of \$100.00 an hour. Mr. Richardson seconded the motion. The motion carried unanimously.

Mr. Richardson made a motion the Board extend the Gibbons & Kawash contract under the same terms and conditions as the previous contract. Mr. Garcia seconded the motion. The motion carried unanimously.

Mr. Richardson made a motion the Board adopt the recommendation of the Executive Director and renew the Bowles Rice contract to provide outside legal services for the period of September 1, 2013 through August 31, 2014, at the hourly billing rates as follows: \$205.00 for Lenna Chambers; \$310.00 for Melody Simpson; \$350.00 for Lesley Russo; and \$415.00 for Thomas Heywood. The motion was seconded by Ms. Evans. The motion carried unanimously.

Chairman Wyant then moved back to Tab 6: Reports from Legal Counsel.

Tab 6: Work in Progress Reports from Legal Counsel

Work in Progress Reports from In-House Legal Counsel – Jeaneen Legato

In-House Legal Counsel, Jeaneen Legato, presented her report to the Board on all pending legal matters. She reported on all current Administrative, Circuit Court, Supreme Court and Less than Honorable Service (LTHS) cases.

Ms. Legato informed the Board she has the following LTHS cases and recommends the Board disqualify:

- 1) Sherry Olenick (aka Sherry Lovett), former City Clerk for the City of Salem under

PERS, convicted of 2 counts of falsifying accounts and conspiracy to embezzle.

Mr. Richardson made a motion the Board grant authority to Ms. Legato to proceed under the LTHS statute and disqualify Sherry Olenick. The motion was seconded by Mr. Lynch. The motion carried unanimously.

- 2) Melissa G. Lott, former secretary of Blennerhassett Middle School under TRS, convicted of embezzlement.

Mr. Richardson made a motion the Board grant authority to Ms. Legato to proceed under the LTHS statute and disqualify Melissa Lott in TRS. The motion was seconded by Mr. Payne. The motion carried unanimously.

- 3) Gabriella Brown, former civilian evidence technician for City of Beckley Police Department under PERS, convicted of obtaining controlled substances by misrepresentation, fraud, deception and subterfuge.

Mr. Richardson made a motion the Board grant authority to Ms. Legato to proceed under the LTHS statute and disqualify Gabriella Brown in PERS. The motion was seconded by Mr. Payne. The motion carried unanimously.

- 4) David Mayle, former City Manager of Salem under PERS, convicted on 2 counts of falsifying accounts, 2 counts of embezzlement, conspiracy to falsify accounts and conspiracy to embezzle.

Mr. Richardson made a motion the Board grant authority to Ms. Legato to proceed under the LTHS statute and disqualify David Mayle. The motion was seconded by Lynch. The motion carried unanimously. The report of In-House Legal Counsel is located behind Tab 6.

Outside Legal Counsel Presentation – Lenna Chambers, Bowles Rice:

Outside Legal Counsel, Lenna Chambers, reported to the Board on all pending legal matters before the Circuit Court, Supreme Court, U.S. District Court, U.S. Bankruptcy Courts and Administrative and QDRO matters.

Ms. Chambers reported to the Board on the case of Keith Wood, et. al., pertaining to PERS military service credit and what periods of armed conflict qualify for service credit. Ms. Chambers recommended the Board ratify the notice of appeal and that appeal continue to be pursued.

Mr. Garcia made a motion to ratify the notice of appeal and to continue with the appeal of Keith Wood, et. al. The motion was seconded by Mr. Parsons. The motion carried unanimously.

Ms. Chambers reported on the case of Ronald Welder and his request for military service credit for service in the Army National Guard of West Virginia under TRS. On April 26, 2013, counsel for the Petitioner wrote to the Court to assert that his client is entitled to relief based on the decision issued in the Tackett v. CPRB appeal. Ms. Chamber's recommendation to the Board would be to pursue a settlement with Mr. Welder and resolve the case involving credit for Title 32 service.

Mr. Garcia made a motion the Board adopt the recommendation of Ms. Chambers and pursue a settlement with Mr. Welder to resolve the case. The motion was seconded by Ms. Evans. The motion carried unanimously.

Ms. Chambers discussed that the Board staff had been implementing the Tackett decision for members and retirees, and asked if there was any opposition to this application. None was heard.

Chairman Wyant reviewed the report from Pullin, Fowler, Flanagan, Brown & Poe on the case of Dougherty v. CPRB. He announced that because of filings by the opposing counsel, our counsel has moved this matter to Federal Court. It is now pending in Federal Court and has been assigned to Judge Thomas Johnson. The report of Pullin, Fowler, Flanagan, Brown & Poe is located behind Tab 6.

Tab 7: Committee Updates

Computer System Update Committee

Ms. Stout announced to the Board the Computer System Update Committee met on April 24, 2013 and reviewed the cost scores. The Committee also approved the Best and Final Offer (BAFO) document and it has been sent to Purchasing. Ms. Stout complemented the staff on all of their work on the RFP and the BAFO document.

Ms. Stout announced that the Computer System Update Committee recommends the Board adopt the change order of the Wechsler contract at the hourly rate of \$210.00 for the third phase (Implementation Phase) at 36 months. Mr. Garcia seconded the motion. There was discussion on the motion.

Mr. Richardson inquired regarding placing some kind of ceiling/cap on this contract. Director Fleck announced there was a cap in the original document, and we could go back to put that cap back in.

Mr. Richardson made a motion to table the motion regarding the computer contract. Mr. Lynch seconded the motion. The motion carried unanimously. Chairman Wyant announced the matter is tabled.

Mr. Richardson asked staff to come back to the Board in July with recommendations that can provide some measure to define a ceiling and accountability on this open-ended contract. The minutes for the Computer System Update Committee are located behind Tab 7.

Internal Audit Committee

Chairman Taylor announced the Internal Audit Committee met on May 14, 2013. The minutes for the Internal Audit Committee are located behind Tab 7.

WVIMB Representative Committee

Chairman Evans announced to the Board that the WVIMB Representative Committee met on May 14, 2013 and recommends the Board approve the following applications:

PERS	Patty Hamilton
TRS	Tony Lautar, Jr.
JRS	John Henning
State Police Plan A	William J. Scott
State Police Plan B	Scott M. Pettry
DSRS	David D. Gentry
EMSRS	Mark Kerns

Chairman Evans made a motion the Board adopt the recommendations of the WVIMB

Representative Committee and approve the applications as presented. The motion was seconded by Mr. Parsons. The motion carried unanimously.

Tab 8: 2014 Proposed Legislative Rules

Deputy Director Terasa Miller reviewed proposed changes for the PERS Series 5 Legislative Rule with the Board.

Mr. Richardson made a motion the Board authorize staff to file the proposed amendments to the PERS Legislative Rule with the Secretary of State's Office and begin the process of public comment. The motion was seconded by Mr. Lynch. The motion carried unanimously. The 2014 PERS Proposed Legislative Rule is located behind Tab 8.

Tab 9: Other, Old Business

Chairman Wyant asked if there was any old business to bring before the Board.

Mr. Garcia made a motion that Mr. Lynch's remarks regarding the EMS Retirement System from Tab 5 be reflected in the minutes. The motion was seconded by Mr. Richardson. The motion carried unanimously.

Chairman Wyant asked if there was any other old business to bring before the Board. None was heard.

Tab 10: Other, New Business

Chairman Wyant announced there is a PERS Military Petition for James B. Hawk. Director Fleck reviewed the petition with the Board. He announced Mr. Hawk is applying for 2 months of additional service credit for the months of April and May of 1991 for a period in which he was in hostile territory.

Mr. Richardson made a motion the Board approve the request for an additional 2 months of PERS military service credit as submitted by Mr. James B. Hawk for the months of April and May of 1991. The motion was seconded by Mr. Parsons. The motion carried unanimously.

Mr. Lynch made a motion the Board give the Director authority to solicit rates and hire private investigators for up to \$25,000 when they find suspicious disability claims. Mr.

Richardson seconded the motion. There was discussion on the motion.

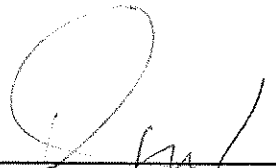
Mr. Richardson stated he did not believe a motion was necessary. The Board should just express in the minutes that the Board wants to express clarification that the Director does in fact have the discretion to use investigative resources for purposes of confirming or refuting applications of disability or re-certifications. Chairman Wyant asked the Director to put together a plan and submit it to the Board.

Mr. Lynch withdrew his motion. Mr. Richardson withdrew his second to the motion. The motion was withdrawn.

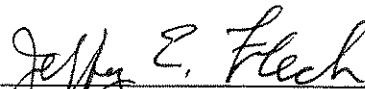
Mr. Richardson publicly congratulated Ms. Chambers for making partner with the Bowles Rice Law Firm.

Chairman Wyant asked the Board if there was any other new business to bring before the Board. None was heard.

Chairman Wyant adjourned the May 15, 2013 meeting of the West Virginia CPRB at 12:40 p.m.



David Wyant, Chairman
Consolidated Public Retirement Board



Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board