



1526 K Street, Suite 400
P.O. Box 94816
Lincoln, NE 68509-4816
Phone 402-471-2053
Toll Free 800-245-5712
Fax 402-471-9493
npers.nc.gov

PUBLIC EMPLOYEES' RETIREMENT BOARD MEETING

December 19, 2022

9:30 A.M.

A regular meeting of the Public Employees Retirement Board (PERB) convened at 9:30 a.m., Monday, December 19, 2022, in the First Nebraska Administrative Building, 2nd Floor Buffalo Room, 1526 "K" Street, Lincoln, Nebraska.

The Board members were notified of this meeting by Agenda posted on the PERB SharePoint website on Friday, December 9, 2022. Public notice of this meeting was published in the Lincoln Journal-Star and Omaha World-Herald on Monday, December 12, 2022. J. Elliott chaired the meeting and B. Dinges recorded the minutes up to Executive Session and M. Nuss finished the meeting.

MEMBERS PRESENT:

JANIS ELLIOTT, CHAIR
KELLI ACKERMAN, VICE-CHAIR
GERALD CLAUSEN
JIM SCHULZ
JUDGE THOMAS ZIMMERMAN
ALLEN SIMPSON
MIKE JAHNKE
MICHAEL WALDEN-NEWMAN

MEMBERS NOT PRESENT:

PAM LANCASTER

NONMEMBERS PRESENT:

RANDY GERKE

Director

ORRON HILL

Deputy Director/Legal Counsel

MELISSA NUSS

Benefits Processing Manager

TYLER CUMMINGS

Retirement Plan Manager

BRENDA DINGES

Member Services Manager

DEAN GRESS

IT Senior Developer

VANESSA HOHLEN

Internal Auditor

JOSH RUHNKE

Ameritas

ERIC ASBOE

Supreme Court

BILL BIVEN

Fiscal Policy Office

PATRICK WRIGHT

State Information Security Officer

JAYDEEP DESHPANDE

OSERS Transfer Project Manager

SOPHIA DUNSMORE

Internal Auditor

Agenda Item 1: J. Elliott stated this meeting will follow the Nebraska Open Meetings Act and a copy of the Act is provided electronically via a link on the final agenda posted on the Nebraska Public Employees Retirement Systems' (NPERS) website, on the Attorney General's website, and a copy of the Act is located on the table by the door.

Agenda Items 2 and 3 – Meeting Called to Order: J. Elliott called the December 19, 2022, Board Meeting to order at 9:30 a.m. Present at meeting: J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke, M. Walden-Newman, and T. Zimmerman. Absent: P. Lancaster.

Agenda Item 4 – Approval of Minutes: G. Clausen moved for approval of the minutes of the November 21, 2022, Board Meeting. Motion was seconded by M. Jahnke. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke and T. Zimmerman. Against: None. Motion carried.

Agenda Item 5 – Approval of Budget Status Report & November Retirement Report: T. Zimmerman moved to approve the Budget Status Report and the November 2022 Retirement Reports. Motion was seconded by M. Jahnke. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke and T. Zimmerman. Against: None. Motion carried.

Agenda Item 6 – Public Comments or Correspondence from Citizens: There were none.

Agenda Item 7 – State Security Infrastructure: P. Wright State Information Security Officer

began by referring to ransomware attacks and whether a company should pay the ransom if files are encrypted. If the ransom is paid, on average an organization will only receive 69% of their data back. A secondary attack is probable.

The three steps to extortion are:

- Encrypt the data
- Exfiltrate
- Data Exposure – this results in a demand for more money particularly if a ransom has already been paid.

An attack can take as little as a few minutes up to 7 days or more depending on the depth of the attack.

An organization called Killnet attempted to target US State Government sites which resulted in several states having issues. Nebraska saw probes however no attacks impacted the State of Nebraska.

A system may be down longer than anticipated depending on the length of the investigation or if rebuilding the system entirely.

J. Schulz and J. Elliott asked what the State's position would be if NPERS is attacked, and who would be responsible. NPERS IT team verifies the safety of the vendors used. P. Wright stated the members would not be responsible should the system be compromised.

Phishing scams used to be the main attack, but now it comes from systems not updating regularly and leaving the system vulnerable. The State currently phishes itself to stay up to date on new scams, has regular training in cyber-attacks, and monitors the system in real-time.

The PERB took a break from 10:54 a.m. to 11:04 a.m.

Agenda Item 8 – Internal Auditor's Report:

V. Hohlen began by providing an update on continued staffing issues. Two of the three positions in her area have been filled. C. Snyder will be doing the County audits and S. Dunsmore will take on the School audits. The third auditor position still needs to be filled.

The focus of the Internal Audit area will be to reorganize audit processes to ensure consistency in testing. Adding entrance and exit interviews has helped in receiving documentation in a timely manner as well as helping employers understand the laws.

The Empower transfers have been completed as of the end of September 2022 and monitoring continues for members that still have funds in the Empower General account.

The team is working within NPERS different areas to make sure that everyone is on the same page and providing accurate information to employers and members.

Internal audits check for fraud to make sure NPERS employees are doing things correctly. They are creating a list of all NPERS areas duties, so everyone knows who does what.

The five-year plan is to have all counties in the rotation audited on a regularly scheduled basis.

K. Ackerman moved to approve the Internal Auditor's report. The Motion was seconded by M. Jahnke. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried

Agenda Item 9 – Investment Officer's Report:

M. Walden-Newman stated the performance in the Cash Balance Plan is down 17% for the 3rd quarter. He mentioned both stocks and bonds were down which is uncommon that both go in the same direction at the same time.

The benchmarks were beaten, and the Nebraska Investment Council is happy with the overall results. They completed a year and a half-study of the equity portion of the portfolio putting in place a newly revised equity portfolio.

Global management went from 17% to 19% and then increased again to 22% in the active Global funds to build the portfolios.

The NIC released one of the 4 Global managers and replaced them with another manager.

J. Schulz moved to approve the Investment Officer's report. The Motion was seconded by A. Simpson. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried

Agenda Item 10 – Legal/Legislative Update: O. Hill

O. Hill gave the Legal/Legislative Update. He provided a summary of the potential legislation for the upcoming 2023 legislative session.

I. Below is a summary of each REQ.

1. **REQ00251** is a technical/compliance amendment to our state laws to bring them in line with amendments to the Uniformed Services Employment and Reemployment Rights Act (USERRA).
2. **REQ00252** is a technical amendment (clean-up bill) to address some of the provisions from LB 700 last year. Mostly it aligns dates with the emergency clause and adds provisions to the definition of "eligible school plan state employee" that have been discovered since LB 700's passing.

3. **REQ00254** is an amendment to the eligibility and enrollment provisions of the plans related to immigration status. It is based on the AZ statute to which the NE AG pointed in their opinion from August. In short, it creates a list of documents to document lawful presence. If these documents are available, then a person has an appropriate immigration status for plan participation. This may be a controversial topic.
4. **REQ00560** is an amendment to the school plan's return-to-work rules. The Revisor's office asked some questions, and Kate had some concerns with some of the text the Revisor's office elected to use in lieu of what was in the original draft. Additional discussions and a revision are likely. See analysis document 2022 LWG Documents.

II. There are 2 shell bills NPERS could also consider requesting:

- A. **Omaha School Employees' Retirement Systems (OSERS) Shell Bill.** A bill to allow for any OSERS statutory changes that may need to place before the transfer. This would help address any Legislative Rule 5(15) issues that arise because retirement bills must be introduced in the first session of each biennium. However, it would probably be best if OSERS asked for this to be introduced.
- B. **Federal Law Changes Shell Bill.** With the SECURE Act 2.0 possibly passing, it might be wise to have a shell bill in place to address any necessary changes that might occur should it pass, especially as it relates to RMD's required beginning date changes. Again, this would help address any Legislative Rule 5(15) issues that arise because retirement bills must be introduced in the first session of each biennium. However, if there is a change in federal law that requires an amendment of our plans to maintain their tax-qualified/preferred status, this would seem like an ideal way to request a waiver of the Legislative Rules.

T. Zimmerman moved to approve the Legal/Legislative Update. The Motion was seconded by M. Jahnke. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, A. Simpson, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried

Agenda Item 11 – OSERS Transfer Project:

J. Deshpande stated there is an intent to award issued for Linea and they are awaiting the Certificate of Insurance and performance bond, or Cashier's check for 1% of the contract amount. Linea is expected to work with the Department of Administrative Services (DAS) to complete by December 24, 2022.

NPERS is looking into setting up a governance structure for the vendor, allowing NPERS to manage the quality of work, timelines, and escalations. Vendor onboarding to start January 9, 2023.

R. Gerke shared Dr. Logan, Superintendent of Omaha Public Schools has resigned effective June 2023 and will be missed.

The new space has been completed and the accounting team and auditors have started moving into the space.

T. Cummings and T. Wuestewald continue to work in Omaha several days a week. They are beginning to work on the processing aspect of the plan and T. Cummings has been asked to do a deeper dive into the processing procedures. NPERS will need to hire two Retirement Specialist I's to cover the OSERS plan. They will also be cross trained in the retirement plans offered through NPERS.

M. Jahnke moved to approve the OSERS Transfer Project Update. The motion was seconded by A. Simpson. Members voted as follows: For J. Elliott, J. Schulz, G. Clausen, K. Ackerman, M. Jahnke, A. Simpson, and T. Zimmerman. Against: None. Motion carried.

Agenda Item 12 – Director’s Report: R. Gerke gave the Director’s Report.

- He stated he received a letter of resignation from P. Lancaster. R. Gerke has reached out to the governor’s office to request to fill the position.
- J. Elliott, R. Gerke, and actuaries met with Governor-elect J. Pillen who asked a lot of questions regarding the School, Judges, and State Patrol (SJP) actuarial valuations.
- The SJP audit continues.
- Disaster recovery plan has a table talk meeting scheduled to review procedures.
- The new W4-P forms from the Internal Revenue Service are being reviewed. J. Hardy leads weekly team meetings to ensure the system is set up and ready to go by January 2023. M. Nuss, J. Lang, and B. Dinges are also involved in getting their areas ready for the launch.
- He stated refunds are behind due to being down one person and working the required minimum distributions and it’s the hope that with overtime these will get caught up soon.
- State and County seminars are complete. The Education Services team has also been on the road talking to State Patrol recruits and answering questions.
- The Accounting department has hired an Accountant I. There is a Retirement Specialist I position currently open in the Benefits area, SOS Receptionist, two Retirement Specialists I’s in the OSERS department, and a third Auditor position.

J. Elliott read an email from a NPERS staff member wanting to let the Board know that R. Gerke does an excellent job as Director and treats his employees with dignity and grace. He listens to their needs and provides insightful feedback. He places trust in us which allows us to do our jobs without being micromanaged.

K. Akerman moved to approve the Director’s Report. The motion was seconded by M. Jahnke. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, J. Schulz, A. Simpson, M. Jahnke and T. Zimmerman. Against: None. Motion carried.

Agenda Item 13 – Board Committee Reports: There were none.

Excuse Board Member: M. Jahnke moved to excuse P. Lancaster. The motion was seconded by T. Zimmerman. Members voted as follows: For J. Elliott, K. Ackerman, J. Schulz, G. Clausen, A. Simpson, M. Jahnke, and T. Zimmerman. Against: None. Motion carried.

Agenda Item 14 – Board Education/Travel Requests: There were none.

Agenda Item 15 – Future Meetings/Agendas:

- a) 2023 PERB Meeting Calendar
- b) Next PERB Meeting – Monday, January 23, 2023

M. Jahnke moved to approve the 2023 PERB Meeting Calendar. The motion was seconded by G. Clausen. Members voted as follows: For J. Elliott, K. Ackerman, J. Schulz, G. Clausen, A. Simpson, M. Jahnke, and T. Zimmerman. Against: None. Motion carried.

Agenda Items 16 and 17 – Executive Session: At 12:49 p.m., M. Jahnke moved that

Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried. the Board exit the Regular Session and convene in Executive Session for the purpose of discussing applications of plan members: Case Review No. D-22-19; Prevention of Needless Injury to the Reputation of an Individual; Case Review No. D-22-20; Prevention of Needless Injury to the Reputation of an Individual; Case Review No. D-22-21; Prevention of Needless Injury to the Reputation of an Individual; Case Review No. D-22-22; Prevention of Needless Injury to the Reputation of an Individual; Personnel Matters: Personnel Matters; Protection of Public Interest, Prevention of Needless Injury to the reputation of an Individual and Update on Pending Legal Matters; Protection of Public Interest. The Motion was seconded by K. Ackerman. J. Elliott repeated the motion for the record. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, J. Schulz and T. Zimmerman. Against: None. Motion carried.

A. Simpson left at the start of the Executive Session.

At 2:22 p.m., M. Jahnke moved the Board to exit Executive Session and reconvene in the Regular Session. The motion was seconded by T. Zimmerman. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried. M. Jahnke moved for approval of Case Review No. D-22-19, D-22-20, D-22-21. The motion was seconded by G. Clausen. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried.

M. Jahnke moved for denial of Case Review No. D-22-22. The motion was seconded by T. Zimmerman. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, J. Schulz, M. Jahnke, and T. Zimmerman. Against: None. Motion carried.

Adjournment: M. Jahnke moved that the meeting adjourn. The motion was seconded by G. Clausen. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, J. Schulz, A. Simpson, M. Jahnke, and T. Zimmerman. Against: None. Motion carried.

The meeting adjourned at 2:26 p.m.



Randy Gerke
Director