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PUBLIC EMPLOYEES RETIREMENT BOARD MEETING

February 28, 2022

9:30 A.M.

A regular meeting of the Public Employees Retirement Board (PERB) convened at 9:30 a.m., Monday, February 28, 2022, in the First Nebraska Administrative Building, Fourth Floor, Lancaster Hearing Room, 1526 "K" Street, Lincoln, Nebraska.

The Board members were notified of this meeting by Agenda posted on the PERB SharePoint website on Friday, February 18, 2022. Public notice of this meeting was published in the Lincoln Journal-Star and Omaha World-Herald on Monday, February 21, 2022. J. Elliott chaired the meeting and T. Cummings recorded the minutes.

MEMBERS PRESENT:

JANIS ELLIOTT, CHAIR
KELLI ACKERMAN, VICE-CHAIR (Virtual)
GERALD CLAUSEN
MIKE JAHNKE
PAM LANCASTER
JIM SCHULZ (Virtual)
ALLEN SIMPSON
JUDGE THOMAS ZIMMERMAN
MICHAEL WALDEN-NEWMAN, EX-OFFICIO

NONMEMBERS PRESENT:

RANDY GERKE

Director

ORRON HILL

Legal Counsel/Deputy Director

TIM BAKER

Internal Auditor

TERESA ZULUAF

Controller

JACK HARDY

Information Technology (IT) Manager

TYLER CUMMINGS

Member Services Manager

HEATHER CRITCHFIELD-SMITH

Education Services Manager

JOHNETTA LANG

Data Services Manager

VANESSA HOHLEN

Auditor I

BILL BIVEN

Fiscal Policy Office

JOSH RUHNKE

Ameritas

JOLYNN WINKLER

Nebraska Investment Council

JUSTIN WALKOWIAK

Nebraska Investment Council

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 February 28, 2022, Board Meeting to order at 9:30 a.m. Present at meeting: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, A. Simpson, J. Schulz, M. Walden-Newman, and T. Zimmerman.

Agenda Item 4 – Approval of Minutes: M. Jahnke moved for approval of the minutes of the January 24, 2022, Board Meeting. Motion was seconded by G. Clausen. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, J. Schulz, and T. Zimmerman. Against: None. Abstain: A. Simpson. Motion carried.

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

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

Agenda Item 7 – Three-Year Audit Plan: T. Baker gave the Three-Year Audit Plan. He stated he is retiring effective March 1, 2022, and he thanked the Board for their kind messages and encouraging words. He thanked NPERS and commended the staff for the culture and work environment and thanked R. Gerke for his patience and understanding.

T. Baker stated LB 147, passed in 2021, allows NPERS to hire an additional auditor. The additional auditor will conduct audits for the new substitution and volunteer rules regarding School plan members. He does feel as though there will be many issues going forward with the new law and his team has already seen many problems with the new substitution and volunteer rules.

J. Schulz stated a list of follow-up audits that still need to be addressed would be helpful to keep track of the issues that may still be out there.

T. Baker stated they do keep track of the issues and will continue to follow-up with employers until the issues are resolved. He stated some issues do take some time before they can be resolved.

He discussed Appendix A of his report which details the timeline each County was audited. He moved on to discuss Appendix B which is a schedule of audits for Public Health Districts, Nemaha County Hospital, Stuhr Museum, and the Western Nebraska Regional Airport.

He moved on to Appendix C of his report which is a listing of the 266 schools reporting contributions to NPERS. He stated the goal is to conduct audits for 40 schools per year. He

stated the average number of audits over the past 11 years has been 31 audits per year. He recommended hiring an additional auditor to focus solely on conducting audits for the School plan.

A. Simpson suggested hiring an SOS employee in the short-term to help conduct audits for the School plan.

T. Baker discussed Appendix D of his report which list the current internal audit reviews.

K. Ackerman thanked T. Baker for his leadership and for helping develop the Internal Audit department during his time at NPERS.

J. Elliott also commended T. Baker for his thoughtfulness, teamwork, and innovative ideas he has brought to the agency. She presented him with an Admiralsip for the State of Nebraska.

R. Gerke thanked T. Baker for his service, and stated he has enjoyed working with T. Baker over the years.

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

The PERB took a break from 10:34 a.m. to 10:46 a.m.

Agenda Item 8 – Legal/Legislative Update: O. Hill gave the Legal/Legislative Update.

He stated LB 700 passed the Legislature on February 25, 2022 and is now waiting on Governor Ricketts signature.

He stated two Legislative Resolutions were added to his Legislative Tracker.

He discussed LB 102 which would transfer the duties of clerks of the district court to clerk magistrates. These members would move from the County plan to the State plan.

He worked with Internal Audit to conduct education for employers regarding substitution and volunteer service.

He stated the early retirement inducement forms will no longer be required under LB 700 (upon the Governor's signature) which will free up resources and time for employers, members, and NPERS' staff.

He discussed the federal government's outreach regarding fiduciary duties. A United States Supreme Court ruling states that offering investment options does not satisfy fiduciary duties. The Employee Benefits Security Administration (EBSA) produced a fact sheet recently and O. Hill provided some key figures: \$2.4 billion recovered from violations discovered by the

EBSA, they closed 172 civil investigations with 69% of those investigations resulting in findings, and they conducted 208 criminal investigations with 72 individuals being indicted.

He will be attending his continuing legal education June 21 through 24, 2022.

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

Agenda Item 9 – Empower (formerly MassMutual) Termination Update: R. Gerke briefly explained the administrative process of the Empower plan from NPERS perspective.

M. Walden-Newman stated he will inform Empower they will be dismissed as an investment option. He will write them a letter stating this and hopes to send it tomorrow with his and R. Gerke's signature.

M. Walden-Newman provided a brief history of the Empower plan and the transition to the state administered Deferred Compensation plan (DCP). He discussed the history of determining which agency had fiduciary responsibility of providing the investment options available to the members which ultimately rests with the Nebraska Investment Council.

He mentioned a notification will be sent to the participants of the Empower plan explaining the investment funds will be discontinued. The hope is to discontinue these funds by October 1, 2022. He also said there will be a timeframe for the participants to transfer their Empower funds into the DCP. For participants that do not elect to transfer their Empower funds, their funds will automatically map to the target date fund in the DCP based on their age.

He stated the main reason for the discontinuation of the Empower funds is due to the fees assessed to the members. The investment funds offered in the DCP have lower fees compared to those offered by Empower. He mentioned the 4% guaranteed rate investment fund offered by Empower will not be discontinued as this fund is covered under a different contract.

R. Gerke stated he has worked with Josh Ruhnke, from Ameritas, regarding communication about the discontinuation of the Empower investment funds.

J. Schulz moved to approve the Director to sign a letter with the State Investment Officer to discontinue the Empower investment funds but to continue the 4% guaranteed rate investment fund.

O. Hill confirmed the 4% guaranteed rate investment fund is under a separate contract from the other Empower investment funds.

J. Schulz withdrew his motion.

J. Schulz moved to approve the Director to sign a letter with the State Investment Officer to discontinue the Empower investment funds excluding the 4% guaranteed rate fund. Motion

was seconded by A. Simpson. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

O. Hill reiterated the Nebraska Investment Council does have legal authority to make this decision.

T. Zimmerman asked if there have been improvements in the Empower funds since this change was first considered back in 2018. M. Walden-Newman stated there have been some improvements in some of the funds, but the fees are not worth considering or negotiating as the DCP investment fund fees are much lower.

R. Gerke stated there are less than 400 members in the Empower plan.

J. Schulz asked for clarification if Empower would still be administering the 4% guaranteed rate fund. R. Gerke confirmed they would be.

Agenda Item 10 – OSERS Transfer Project: R. Gerke provided an update on the Omaha School Employees Retirement System (OSERS) Transfer Project.

He stated it has been recommended NPERS contract out a project manager for the transfer project. He said Omaha Public Schools (OPS) will be funding this portion of the project.

The first OSERS Steering Committee meeting occurred on February 14, 2022. The committee is made up of members from NPERS and OSERS.

He and J. Hardy continue to meet with Gartner weekly to discuss the transfer project and they have been discussing the requirements for the request for proposal (RFP). R. Gerke mentioned OPS will also be funding the contract for the data conversion vendor.

J. Hardy has been working on the data conversion portion of the project. A committee to work on this portion of the project is being formed.

R. Gerke stated a long-time employee with OSERS will be retiring this summer. OSERS is unsure if this position will be replaced. Currently, the plan is for NPERS to hire someone to work both at NPERS and OSERS in order to learn more about the OSERS plan.

He is still working with the Department of Administrative Services about the office spacing needs for the project.

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

Agenda Item 11 – Director’s Report: R. Gerke gave the Director’s Report.

- He discussed the draft of the Annual Report to the Legislature.
- The School seminar season has begun and both in-person and webinars are being offered.
- The School, Judges, and State Patrol exit interview is scheduled for March 2, 2022.
- The technology assessment conducted by Provaliant is currently in draft form.
- The actuarial audit will be completed, and a presentation will be given at the March 21, 2022, Board meeting.
- Ameritas provided training to NPERS staff on the Ameritas information system on February 9, 2022, in the NPERS office. Mary Klug, a long time Ameritas employee, will be retiring April 1, 2022.
- The NPERS’ website redesign is still in progress.
- Education Services has produced new videos that are available on the website and the NPERS’ YouTube channel.
- There are several staff openings: two Internal Auditors, a Retirement Specialist I in Member Services, and a SOS Receptionist.

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

Agenda Item 12 – Board Committee Reports: P. Lancaster provided an update on the hiring of T. Baker’s replacement. On February 14, 2022, the Budget and Personnel Committee interviewed V. Hohlen for the Internal Auditor position. P. Lancaster stated V. Hohlen’s attention to detail and interpersonal skills makes her a great fit for the position. P. Lancaster provided a background of V. Hohlen’s work history and education.

A. Simpson mentioned during the interview that V. Hohlen’s professional attitude and willingness to educate others stood out to him.

P. Lancaster moved to approve the hiring of Vanessa Hohlen as the Internal Auditor. Motion was seconded by A. Simpson. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

Agenda Item 13 – Board Education/Travel Requests: J. Elliott attended the National Council on Teacher Retirement conference regarding legislation, and she highlighted a few topics listed below.

- The Internal Revenue Service (IRS) rules and regulations have not been finalized.
- It has been challenging for retirement plans to receive a private determination letter from the IRS.
- The Employee Plans Compliance Resolution System overpayments and where these funds should be allocated.

- There was discussion about W-4P form as this form's use would be required by retirement plans.

Agenda Item 14 – Future Meetings/Agendas: The next PERB meeting is on March 21, 2022.

Agenda Items 15 and 16 – Executive Session: At 12:26 p.m., M. Jahnke moved that the Board exit Regular Session and convene in Executive Session for the purpose of discussing applications of plan members: Case Review No. D-22-2; Prevention of Needless Injury to the Reputation of an Individual; 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. Motion was seconded by P. Lancaster. J. Elliott repeated the motion for the record. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

A. Simpson left the meeting during Executive Session.

At 1:38 p.m., P. Lancaster moved the Board exit Executive Session and reconvene in Regular Session. Motion was seconded by G. Clausen. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

M. Jahnke moved for approval of Case Review No. D-22-2. Motion was seconded by P. Lancaster. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, P. Lancaster, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

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

The meeting adjourned at 1:40 p.m.



Randy Gerke
Director