

## PUBLIC EMPLOYEES RETIREMENT BOARD MEETING

January 23, 2008

9:00 A.M.

A regular meeting of the Public Employees Retirement Board convened at 9:00 a.m., Wednesday, January 23, 2008, in the Atrium Conference Room, 1200 "N" Street, Suite 206, Lincoln, Nebraska.

The Board members were notified of this meeting by Agenda mailed January 16, 2008. Public notice of this meeting was published in the Lincoln Journal Star and Omaha World Herald on Monday, January 14, 2008. D. Blank chaired the meeting and S. Linder recorded the minutes.

MEMBERS PRESENT:                   DENIS BLANK, CHAIR  
  SGT. GLENN ELWELL, VICE-CHAIR  
  DALE KAHLA  
  MARK SHEPARD  
  JUDGE GLENN CAMERER  
  RICHARD WASSINGER  
  DON PEDERSON  
  ELAINE STUHR

MEMBERS ABSENT:                   DAVE BOMBERGER, EX-OFFICIO

### NONMEMBERS PRESENT:

PHYLLIS CHAMBERS Director	TERESA ZULAUF Internal Auditor
JOE SCHAEFER Legal Counsel	GARY BUSH DAS - State Budget Administrator's Office
JAN FOX Training Supervisor	BEN MATTERN Ameritas
JOHN WINKELMAN Training Specialist	NEIL BATEMAN Retired Teachers
JANE BOND Retirement Plan Supervisor	SHEILA LINDER Administrative Assistant
JERRY BROWN IT Manager	

**Agenda Item 1:** D. Blank stated this meeting will follow the Nebraska Open Meetings Act and a copy of the Act is located on the front table.

D. Blank introduced E. Stuhr and welcomed her to the Board. Her appointment by the Governor was confirmed on Tuesday. E. Stuhr provided a brief background on herself.

**Agenda Items 2 and 3 – Meeting Called to Order:** D. Blank called the January 23, 2008, Board Meeting to order at 9:00 a.m. Present at roll call: D. Blank, D. Kahla, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, and E. Stuhr. Absent: D. Bomberger.

**Agenda Item 5 – Approval of Minutes:** D. Pederson moved for approval of the minutes of the December 19, 2007, Board Meeting. Motion was seconded by G. Elwell. Members voted as follows: For: D. Kahla, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, and D. Blank. Against: None. Motion carried.

**Agenda Item 6 – Approval of Budget Status Report & December Retirement Report:** D. Kahla moved to approve the budget status report and the December 2007 Retirement Report. Motion was seconded by R. Wassinger. Members voted as follows: For: M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, D. Blank, and D. Kahla. Against: None. Motion carried.

**Agenda Item 7 – Election of Vice Chair:** D. Blank opened the floor for nominations for Vice Chair. M. Shepard nominated G. Elwell. D. Pederson moved that nominations cease, and a unanimous ballot be cast for G. Elwell. A unanimous vote by acclamation was cast. G. Elwell will serve as Vice Chair until the Board election that will take place in September of this year.

**Agenda Item 8 – Public Comments or Correspondence from Citizens:** There were no public comments or correspondence from citizens with business not scheduled on the agenda.

**Agenda Item 9 – School Service Annuity:** D. Blank asked J. Schaefer to give a synopsis of this matter. J. Schaefer gave a description and background of the service annuity and the Omaha School Employees Retirement System (OSERS) service annuity. NPERS serves as a pass-through for the funds that go to the Omaha school system. As it exists now, when a school member from the state system retires they have a choice by statute between the service and savings annuity or the formula annuity. In contrast, OSERS pays the service annuity on top of the formula annuity. Whenever OSERS has a member retiring who qualifies for the service annuity, OSERS submits a claim to NPERS, who forwards the money that had been appropriated to OSERS, who then pays the benefit to the member. In 1996 the legislature added language to the statute that says that if payment is made before age 65 it shall be actuarially reduced. There were some questions if NPERS was correctly calculating these and the statute was adopted with the expressed purpose of clarifying the statute. In 1999 the PERB voted to continue to pay unreduced service annuities and would go to the Legislature and ask for the Legislature to approve paying them on that basis. The Legislature did not amend the statute. In 2006 Mike Smith from the OSERS said their actuary noted they were not getting enough money. They made a claim to NPERS for an unreduced amount for certain people who either retired early or retired with a disability. There were discussions and in March 2007 NPERS requested an opinion from the Attorney

General about the issue. The opinion was received in November of 2007. The Attorney General stated that the statute is clear and unambiguous that the payments were to be reduced and also said that the legislative history supported that it was introduced as a clarification, rather than a substantive change. Questions were asked of the Attorney General about three classes of employees: employees working before 1996; employees working between 1996 and the present; and future employees. The issues are clear for two of the three classes, but the Attorney General said under the facts that they had before them they could not reach a definitive conclusion whether anyone would have a claim to the amount, but that neither NPERS nor the PERB administers OSERS and does not have a direct responsibility for administration of the system. J. Schaefer quoted the opinion which provided that: "The singular role of the Public Employees Retirement Systems is to transfer the annuity amounts in the manner provided by statute. We have no information before us that establishes any entitlement to a service annuity benefit without actuarial reduction for a member retiring before attaining sixty-five." And further that "While we have concluded that members of OSERS who retire prior to age sixty-five have no entitlement to unreduced service annuity benefits, our conclusion would be otherwise if compelling facts and circumstances were established."

J. Schaefer said he had reviewed the 1994 version of Nebraska Statutes Section 79-1522.01, which provides: "The amounts transferred from the Service Annuity Account at any time after such member attains sixty years of age and prior to his or her sixty-fifth birthday or thirty-five years of creditable service shall be on an actuarially reduced basis." That law was adopted in LB 160 in 1988. So, at least since 1988, people should have been apprised that these benefits are to be paid on an actuarially-reduced basis.

J. Schaefer stated his recommendation to the Board is that the letter of December 11, 2007, from OSERS asking for additional funds be paid on an unreduced amount is a question for the Legislature to deal with and, if they choose to appropriate funds and direct us to pay them on that basis, then we should. The appropriate way to address this is with a statutory change. D. Blank asked what the dollar effect would be. J. Schaefer stated it is not a dollar for dollar thing; but is calculated over 30 years. P. Chambers said that OSERS has asked for \$1.14 million on August of 2006 and the current amount would be higher. They have continued to pay the unreduced amount so that amount has increased. Without additional appropriations from the legislature, the effect would be that the service annuity fund administered by NPERS would be under-funded. P. Chambers said a bill has been introduced in the Legislature to provide that unreduced annuities be paid.

G. Camerer moved that after reviewing the opinion received from the Attorney General's office, the request of the Omaha School Employees System in its December 11, 2007, letter for payment of service annuity funds on an unreduced basis for its members who retire prior to achievement of the age of 65 years be denied because such payment is contrary to Section 79-933 of the Nebraska Revised Statutes, which statute provides that such benefits are to be paid on a reduced basis. This motion also extends to denying reimbursement to Omaha School Employees System for overpayments that Omaha School Employees System may have made to its members in the past. D. Kahla seconded the motion. Members voted

as follows: For: G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, D. Blank, D. Kahla, and M. Shepard. Against: None. Motion carried.

**Agenda Item 10 – Information System (IT) Update:** J. Brown reported discussions have been held with Ameritas regarding the DROP plan. Discussions have also been held with Saber who will develop and implement the plan into the PIONEER system.

Discussions have also been held with Saber regarding the Cube method, which will also be implemented into the PIONEER system. The information from Buck Consultants that is needed in order to move forward is expected this month. The Cube method will be implemented no later than June 30, 2008.

Three staff from the University will perform the quality assurance on the NPRIS project. The primary individual has now been appointed (Paul Hackencamp). These individuals report to the Steering Committee each month.

Testing for Phase 1 began in December and is scheduled to be completed by February 15<sup>th</sup>. Requirements validation for Phase 2 started December 11<sup>th</sup> and is to be completed by March 11<sup>th</sup>.

The original schedule provided January 18<sup>th</sup> as the date for completion of the requirements validation for phase 2. Saber has started the development on the requirements validation that has been completed so the project is approximately only two to three weeks behind. A new plan schedule will be prepared that will show the overlap of the various stages of the phases.

J. Brown met with the Nebraska Information Technology Commission (NITC) panel on January 8<sup>th</sup>. We are currently having the system tested for the visually impaired.

D. Kahla moved to approve the Information System report. G. Camerer seconded the motion. Members voted as follows: For: G. Camerer, R. Wassinger, E. Stuhr, D. Blank, D. Kahla, M. Shepard, and G. Elwell. Against: None. Absent: D. Pederson. Motion carried.

**Agenda Item 11 – Internal Auditor Report:** T. Zulauf reported the School, Judges and Patrol audit response was due yesterday. The State and County audit will be starting at the end of February.

T. Zulauf distributed a Progress Report for the reconciliation project. Staff have gone through all distributions with one distribution needing to be sent to Ameritas for adjustment. For the Special Audit two corrections have been sent to Ameritas.

An individual has been hired for the auditor position and will begin February 1<sup>st</sup>. She will work on the audit points for all five plans, cleaning those up and getting them resolved. The other audit position will work mainly on the county and school audits. The new person will serve as liaison with the auditors and our staff. T. Zulauf will be developing an audit report to keep track of the points and showing progress on getting the points resolved.

G. Elwell moved to approve the Internal Auditor's Report. M. Shepard seconded the motion. Members voted as follows: For: R. Wassinger, D. Pederson, E. Stuhr, D. Blank, D. Kahla, M. Shepard, G. Elwell, and G. Camerer. Against: None. Motion carried.

**Agenda Item 12 – Legislative Update:** J. Schaefer reviewed the bills that have been introduced to date that are of interest to NPERS and the PERB. He stated that today is the last day for bill introduction. He asked the Board to determine its position on the bills and how they wished for him to testify. J. Schaefer suggested that we testify in support of LB 937, LB 938, and the bill dealing with the Cost of Living Adjustment (COLA).

P. Chambers stated D. Bomberger wrote a letter to Sen. Avery in November of 2007 explaining the Nebraska Investment Council's position relating to LB 992, the bill regarding divestment of investments in companies doing business in Sudan.

D. Pederson asked J. Schaefer to provide in writing the information and history he has on the OSERS service annuity to Sen. Synowiecki and the legislative Retirement Committee.

G. Camerer moved to request J. Schaefer, our legal counsel, to give a written report to the Retirement Committee members of the legislature regarding the proposed legislative bill on the COLA that we have discussed. G. Camerer withdrew his motion.

D. Blank suggested J. Schaefer testify in neutral capacity on LB 711, in support of LB 937 and LB 938, in neutral capacity on LB 967, in support of the cola bill; provide a written report to the Retirement Committee membership regarding the school service annuity; and let the Nebraska Investment Council (NIC) provide testimony on LB 992.

G. Camerer moved that Legal Counsel provide such report and otherwise testify as outlined by the Chair. M. Shepard seconded the motion. Members voted as follows: For: D. Pederson, E. Stuhr, D. Blank, D. Kahla, M. Shepard, G. Elwell, G. Camerer, and R. Wassinger. Against: None. Motion carried.

D. Blank asked J. Schaefer to let the Board know if something happens and things change so the Board's legislative committee can meet and provide new direction.

The Board took a break at 10:15 a.m. and reconvened at 10:32 a.m.

**Excuse Board Members:** R. Wassinger moved to excuse D. Bomberger. G. Camerer seconded the motion. Members voted as follows: For: E. Stuhr, D. Blank, D. Kahla, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, and D. Pederson. Against: None. Motion carried.

**Agenda Item 13 – Investment Officer's Update:** D. Bomberger was absent. P. Chambers distributed a copy of the letter D. Bomberger wrote to Sen. Avery in November regarding LB 992.

The stock market has dropped substantially since the first of the year. The NIC invests using a long-term strategy and is not generally concerned with short-term fluctuations.

**Agenda Item 14 – Director’s Report:** P. Chambers reported she sent a letter to Sen. Schimek regarding the 2006 Performance Audit informing her that NPERS has completed the selection of our technology project vendor and has started the conversion. Sen. Schimek sent a letter that we have concluded steps to address their concerns. A copy of the letter was provided to the Board.

The Cash Balance Election transfer occurred at the first of the year. There were 1,574 members that transferred to Cash Balance plan, which amounted to approximately \$181 million. The transfer took place on January 2, 2008. We worked with Ameritas, State Street Bank and the NIC to accomplish this. P. Chambers thanked everyone involved in this project. There were only three errors; which were corrected on the Friday following the transfer.

The Cash Balance dividends are continuing to be paid to those members who have retired and received a payout. By the end of 2007, 880 accounts had been closed and another 131 accounts have been closed in January 2008.

There was a pricing error in the defined contribution plan between December 19<sup>th</sup> and 21<sup>st</sup> as a result of State Street using the wrong net asset value for the Small Company Growth Fund. It also affected the Aggressive and Moderate Premix. Ameritas has been working with State Street and determined that the total amount of that error was in the amount of \$11,432. State Street is paying for the error and Ameritas will make the correction.

P. Chambers noted there is an RFP out now for a custodian. The current custodian is State Street Bank. The NIC is reviewing the bids and will be making a decision in February.

With the promotion of a staff member into the new auditor position, there is now an open position in Accounting. There is also an open position in the Benefits area due to the retirement of a long time employee. Interviews for the Retirement Specialist position will begin soon.

The Budget Office has responded to our deficit request. The Governor approved our request for the IRS determination letters and the actuary audit. However, he declined our request for two additional employees and to pay for the costs of the CPA consultant that was hired. The requests now go to the Appropriations Committee for their consideration.

NPERS is continuing the meetings with Ameritas to develop our priorities for programming IT changes. There are a number of programming requests and changes we are identifying. The next meeting will be on January 28<sup>th</sup>.

Hartford is planning to provide seminars in March for members explaining the new fund line up and fees for the deferred compensation plan. There are approximately 1,100 members in that plan. They are preparing a booklet that has the new fund information and will provide it to the members.

Statistics for the year on the retirements that have processed were provided in the Board packets. P. Chambers reviewed the statistics.

P. Chambers will attend the NASRA and NCPERS legislative conference February 3<sup>rd</sup> to the 6<sup>th</sup> in Washington, D.C.

The 1099Rs are at the print shop and will be mailed by the end of January.

D. Blank thanked P. Chambers for the mid-way reports, noting it provides an update to the Board on what takes place during the month.

G. Camerer moved to approve P. Chambers' report for D. Bomberger in his absence and the Director's Report. D. Kahla seconded the motion. Members voted as follows: For: D. Blank, D. Kahla, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, and E. Stuhr. Against: None. Motion carried.

**Agenda Item 15 – Board Committee Reports:** D. Blank thanked D. Kahla for attending the Steering Committee meetings. D. Kahla stated he left the last meeting feeling very good about the project. He agreed with J. Brown that the time schedule is not a concern.

**Agenda Item 16 – Board Education/Travel Requests:** There were no requests.

**Agenda Item 17 – Future Meetings/Agendas:** The next meeting will be held on Monday, February 25, 2008, at 9:00 a.m., with the location to be determined.

**Agenda Items 18 and 19 – Executive Session:** At 11:03 a.m., G. Camerer moved that the Board leave Regular Session and convene in Executive Session for the purpose of discussing Retirement Nos. 140968, 127067, 117378, 123820, and 702131, and other legal matters. Motion was seconded by M. Shepard. D. Blank repeated the motion for the record. Members voted as follows: For: D. Kahla, M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, and D. Blank. Against: None. Motion carried.

At 11:28 a.m., G. Camerer moved that the Board exit Executive Session and return to Regular Session. Motion was seconded by E. Stuhr. Members voted as follows: For: M. Shepard, G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, D. Blank, and D. Kahla. Against: None. Motion carried.

D. Kahla moved for approval of disability applications for Retirement Nos. 140968, 127067, 117378, and 123820. R. Wassinger seconded the motion. Members voted as follows: For: G. Elwell, G. Camerer, R. Wassinger, D. Pederson, E. Stuhr, D. Blank, D. Kahla, and M. Shepard. Against: None. Motion carried.

G. Elwell moved for approval of Emergency Deferred Compensation Application for State plan Retirement No. 702131. D. Pederson seconded the motion. Members voted as follows: For: R. Wassinger, D. Pederson, E. Stuhr, D. Blank, D. Kahla, M. Shepard, and G. Elwell. Against: G. Camerer. Motion carried.

**Adjournment:** G. Camerer moved that the meeting adjourn. Motion was seconded by G. Elwell. Members voted as follows: For: R. Wassinger, D. Pederson, E. Stuhr, D. Blank, D. Kahla, M. Shepard, G. Elwell, and G. Camerer. Against: None. Motion carried.

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The meeting adjourned at 11:31 a.m.

Phyllis G. Chambers  
Director