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PUBLIC EMPLOYEES' RETIREMENT BOARD MEETING

January 23, 2023

9:30 A.M.

A regular meeting of the Public Employees Retirement Board (PERB) convened at 9:30 a.m., Monday, January 23, 2023, in the First Nebraska Administrative Building, Lower-Level Training and Development Room, 1526 "K" Street, Lincoln, Nebraska.

The Board members were notified of this meeting by Agenda posted on the PERB SharePoint website on Friday, January 13, 2023. Public notice of this meeting was published in the Lincoln Journal-Star and Omaha World-Herald on Tuesday, January 17, 2023. J. Elliott chaired the meeting until the election of officers. K. Ackerman chaired the meeting after the election of officers. B. Dinges recorded the minutes.

MEMBERS PRESENT:

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

NONMEMBERS PRESENT:

RANDY GERKE Director	HEATHER CRITCHFIELD-SMITH Education Services Manager
ORRON HILL Legal Counsel	VANESSA HOHLEN Internal Auditor
TERESA ZULAUF Controller	JOHNETTA LANG Data Services Manager
JACK HARDY Information Technology (IT) Manager	JAYDEEP DESHPANDE OSERS Transfer Project Manager
MELISSA NUSS Retirement Plan Manager	JOSH RUHNKE Ameritas
TYLER CUMMINGS Retirement Plan Manager	NEAL ERICKSON Retirement Committee
BRENDA DINGES Retirement Plan Manager	RYAN WALTON State Budget Office

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 January 23, 2023, Board Meeting to order at 9:30 a.m. Present at meeting: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, J. Schulz, A. Simpson, M. Walden-Newman, and T. Zimmerman.

J. Elliott reminded the Board their Statement of Financial Interests form is due by March 1, 2023.

Agenda Item 4 – Election of Officers: J. Elliott reviewed the election of officers' procedures. She opened nominations for Board Secretary. K. Ackerman nominated R. Gerke for Board Secretary. T. Zimmerman seconded the motion. J. Elliott moved nominations cease and a unanimous ballot be cast for R. Gerke. G. Clausen seconded the motion. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, J. Schulz, A. Simpson, and T. Zimmerman. Against: None. Motion carried.

R. Gerke opened nominations for Board Chair. A. Simpson nominated K. Ackerman for Board Chair. J. Elliott seconded the motion. R. Gerke moved nominations cease and a unanimous ballot be cast for K. Ackerman. M. Jahnke approved the motion. G. Clausen seconded the motion. Members voted as follows: For: G. Clausen, M. Jahnke, J. Elliott, J. Schulz, A. Simpson, and T. Zimmerman. Abstain: K. Ackerman. Against: None. Motion carried.

K. Ackerman opened nominations for Board Vice-Chair. A. Simpson nominated J. Elliott for Board Vice-Chair. M. Jahnke seconded the motion. K. Ackerman moved nominations cease and a unanimous ballot be cast for J. Elliott. A. Simpson seconded the motion. Members voted as follows: For: K. Ackerman, G. Clausen, M. Jahnke, A. Simpson, J. Schulz, and T. Zimmerman. Abstain: J. Elliott. Against: None. Motion carried.

Agenda Item 5 – Approval of Minutes: J. Schulz moved for approval of the minutes of the December 19, 2022, Board Meeting. Motion was seconded by M Jahnke. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, J. Schulz, A. Simpson, and T. Zimmerman. Against: None. Motion carried.

Agenda Item 6 – Approval of Budget Status Report & December Retirement Report: J. Elliott moved to approve the Budget Status Report and the December 2022 Retirement Report. Motion was seconded by M. Jahnke. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

Agenda Item 7 – Public Comments or Correspondence from Citizens: R. Gerke introduced Neal Erickson as Committee Legal Counsel for the Retirement Committee, replacing Kate Allen.

Agenda Item 8 – Legal/Legislative Update: J. Schulz, Chairman of the Legislative Committee, reported that the Committee met prior to the PERB meeting to go over the legislative bills that were submitted.

Some bills will be monitored by the Legislative Committee unless they elevate to a higher level.

There are a few bills that the Legislative Committee suggests an actuarial study might be appropriate. There is a question if the Committee makes this request or if it should originate from the Legislature.

The Committee feels they should drive the study and feel the studies effective dates should be the first of the plan year after approval.

O. Hill gave the Legal/Legislative Update.

Four Retirement Committee Bills requested by NPERS.

- **LB 103** is the LB 700 clean-up bill to ensure legal compliance.
- **LB 104** is the Secure 2.0 Act that changes the RMD age as of 1/1/2023 from 72 to 73 and to 75 starting in 1/1/2033.
- **LB 105** this is the amended USERRA technical bill which now covers State Active-duty members.
- **LB 378** changes retirement participation that addresses immigration eligibility.

He discussed other Retirement Committee Bills affecting the PERB or NPERS.

- **LB 160** would increase the contribution rates for law enforcement officers in the County Plan from 2% to 3% with a population greater than 85,000 and 1% to 2% for counties with a population of less than 85,000. Concerns are, will the members agree to the increase, will the members sue the State if the increase is approved, will employers pay the higher contribution rate, and can the change take effect as of 1/1/2024.
- **LB 196** change provisions relating to the Nebraska State Patrol Retirement System and benefits provided upon the death of an officer after retirement and annual benefit adjustment calculations. This bill would reduce the employee contribution in all Tiers to 8% and increase the employer contribution to 25%. It would also increase the death benefit to 100% from 75% as well as increase the amount of the annual COLA percentage. There are several concerns regarding this bill and O. Hill feels an actuarial study should be done.
- **LB 198** return to work authorization under the School Employees Retirement Act.
- **LB 658** is a placeholder bill increasing the PERB's per diem. We would need to make sure there is funding to cover the increase and determine an effective date for budgeting purposes.
- **LB 659** is a placeholder bill to increase the experience requirement and the specific date it would go into effect.

Bills in other committees.

- **LB 513** Change proof of publication requirements for legal notices and requirements for the published notice and virtual conferencing under the Open Meetings Act.
- **LB 799** Change Judges salaries which could warrant an actuarial study to determine the fiscal impact on the plan.

O. Hill discussed other proposed bills **LB 406**, **LB 408**, **LB 641**, **LB 684**, **LB 686**, and **LB 221** he is monitoring and does not recommend taking any action on these bills.

Bills to watch that may affect NPERS include:

- **LB 43** Hearing officers and Judge's will interpret statutes and regulations to limit agencies power and maximize individual liberties. This could affect the appeals process for disabilities and may overturn chevron deference.
- **LB 57** Paid family medical leave that would come from funds at the Department of Labor to cover employees that go into leave without pay status. This could have a statutory cost.
- **LB 81** Increases the number of Judges in Buffalo and Hall County by 1.
- **LB 236** The implementation of Problem-Solving Officers and what retirement plan they would fall into.
- **LB 293** Formal Protest Procedures for State contracts more than \$10 million dollars.
- **LB 302** Conflict of interest for officers and public employees
- **LB 330** Small estate affidavit and probate code would change the name on checks to the beneficiary or recipients name after the death of a member.

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

Agenda Item 9 – OSERS Transfer Project: J. Deshpande stated that Linea onboarded and began working on the project January 18, 2023. Personnel set up is ongoing and a list of individuals has already been set up with more to be added as the project moves forward. NPERS is working on the infrastructure setup needed for the project.

R. Gerke reported Accounting and Auditing staff are moved into their new space. T. Cummings and T. Wuestewald continue to travel to Omaha a couple of days a week. There are two Retirement Specialist I positions that have posted for the OSERS plan, however, no interviews have taken place. OSERS hired a Retirement Technician to start February 1, 2023.

OSERS is sending a letter to all members that outlines the transition to NPERS and is creating a toolkit for administrators to communicate with members.

The timeline for the OSERS transfer project is a couple of weeks behind but should catch up soon.

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

The PERB took a break from 10:17 a.m. to 10:29 a.m.

Agenda Item 10 – Richardson County DCP Participation: R. Gerke stated Richardson County submitted a letter requesting entry into the State's DCP plan, along with the resolution. R. Gerke requested the Board's approval to proceed.

J. Schulz moved to approve Richardson County entering the State's DCP Plan. Motion was seconded by G. Clausen. Members voted as follows: For J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

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

- R. Gerke stated he met with Senator M. McDonnell and N. Erickson on January 5, 2023, at a meet and greet to go over upcoming legislation.
- The School, Judges and Patrol audit is winding down and is currently in the review process. An exit interview will be scheduled mid-February. Mike Foley may attend the exit interview.
- The Cash Balance crediting rate for the quarter was at 5.77%.
- The Defined Contribution annuity rate is up to 5.61% up from 3.12%.
- 1099R's are at the print shop and scheduled to mail out this week.
- Call Center call volume is up due to State, County and DCP statements, tax table changes, 1099R's, and on distribution requests.
- Refunds are still behind but are starting to catch up with staff putting in overtime.
- NPERS is currently working on the Annual Report to the Legislature.
- The school seminar schedule has been finalized. This year seminars will begin in mid-February and will end in the first week of June. There will be 37 training sessions which includes daytime webinars, evening webinars, and in person seminars across the state. Education Services is in the process of updating plan booklets, newsletters, and informational videos.
- There was a disaster recovery table talk on January 10, 2023, and several staff members went through a step-by-step process in a hypothetical disaster recovery situation.
- Last year, NPERS sent the Federal Government \$72.1 million dollars and \$28.5 million to the Nebraska Department of Revenue for income taxes from retirement distributions.
- R. Gerke reminded the Board that it was time to complete their Statement of Financial Interests to the Accountability and Disclosure Commission which is due by March 1, 2023.
- Personnel vacancies consist of 1 Retirement Specialist I in the refunds area, 1 person in the Data Services area, 2 Retirement Specialist I's for the OSERS area, and the SOS Temporary Receptionist.

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

R. Gerke read his official letter of resignation effective June 2, 2023.

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

Agenda Item 12 – Board Committee Reports: K. Ackerman brought up the committee positions vacated by P. Lancaster. A. Simpson was appointed Chair of the Budget Committee and Personnel; J. Elliott will replace P. Lancaster on the Education Committee. J. Elliott is now the Chair of the Audit Committee and G. Clausen replaced P. Lancaster on the Budget and Personnel Committee.

Agenda Item 13 – Board Education/Travel Requests: J. Elliott will be traveling for the National Council on Teacher Retirement Legislative Committee which will be held February 25-28, 2023.

Agenda Item 14 – Future Meetings/Agendas: The next PERB meeting is February 27, 2023.

Agenda Items 15 and 16 – Executive Session: At 10:49 a.m., M. Jahnke moved that the Board exit Regular Session and convene in Executive Session for the purpose of discussing applications of plan members, personnel matters, and legal matters. Motion was seconded by G. Clausen. J. Elliott repeated the motion for the record. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

At 12:09 p.m., M. Jahnke moved the Board exit Executive Session and reconvene in Regular Session. Motion was seconded by A. Simpson. Members voted as follows: For: J. Elliott, K. Ackerman, G. Clausen, M. Jahnke, A. Simpson, J. Schulz, and T. Zimmerman. Against: None. Motion carried.

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

The meeting adjourned at 12:10 p.m.



Randy Gerke
Director