

**MINUTES  
of the  
FIFTH MEETING  
of the  
INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE**

**November 13, 2017  
State Capitol, Room 307  
Santa Fe**

The fifth meeting of the Investments and Pensions Oversight Committee (IPOC) was called to order by Representative Tomás E. Salazar, chair, on November 13, 2017 at 10:05 a.m. in Room 307 at the State Capitol.

**Present**

Rep. Tomás E. Salazar, Chair  
Sen. George K. Munoz, Vice Chair  
Rep. Miguel P. Garcia  
Sen. Gay G. Kernan  
Rep. Larry A. Larrañaga  
Rep. Jane E. Powdrell-Culbert  
Rep. William "Bill" R. Rehm  
Rep. Patricia Roybal Caballero  
Rep. Larry R. Scott  
Sen. Elizabeth "Liz" Stefanics

**Absent**

Sen. Jacob R. Candelaria  
Sen. Carroll H. Leavell  
Sen. Steven P. Neville  
Sen. John M. Sapien  
Rep. Jim R. Trujillo

**Advisory Members**

Sen. Carlos R. Cisneros  
Rep. Roberto "Bobby" J. Gonzales  
Sen. Stuart Ingle  
Rep. Bill McCamley  
Rep. Sheryl Williams Stapleton  
Sen. James P. White

Sen. William F. Burt  
Sen. Mary Kay Papen  
Sen. William H. Payne

**Guest Legislator**

Sen. John Arthur Smith

**Minutes Approval**

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

**Staff**

Tessa Ryan, Staff Attorney, Legislative Council Service (LCS)  
Kathleen Dexter, Researcher, LCS  
Nancy Martinez, Staff, LCS

## **Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts and other written testimony are in the meeting file.

## **Monday, November 13**

### **Retiree Health Care Authority (RHCA)**

David Archuleta, executive director, RHCA, reported on the RHCA's compliance with new long-term liability reporting requirements and on its transparency efforts.

As reported on its June 30, 2017 Governmental Accounting Standards Board (GASB) Statement 74, the RHCA's long-term liability is \$4.5 billion. This figure is based on key assumptions of a 7.25 percent investment return and average general obligation municipal bond ratings of AA/Aa or higher over 20 years. The plan's net assets total \$575.6 million, for plan fundedness of 11.26 percent.

The RHCA has 301 participating employer groups, ranging from state agencies to school districts. Under new requirements imposed by the GASB, the RHCA's total long-term liability must now be reported proportionally by each employer group.

The plan covers approximately 160,000 members, an increase of nearly 20,000 members since its inception in 2006. Members and the general public can access information about benefits and RHCA financial reporting, audits and meetings through the RHCA website. Contracts issued by the RHCA are posted on the state's Sunshine Portal website.

On questioning, Mr. Archuleta and committee members addressed the following topics.

***Plan liability and fundedness.*** While the RHCA's long-term liability total has not changed much since 2006, the plan's fundedness grew during that time from 3.62 percent to 11.26 percent, mostly due to benefits changes. Similar plans in 19 states are less than one percent funded, and plans in eight states are more than 30 percent funded.

***Revenue increases and cost-saving measures.*** The RHCA is considering benefits changes and contribution increases, but no statutory changes. Employer groups have not expressed any concerns about increases.

The RHCA gets purchasing discounts through its membership in the Interagency Benefits Advisory Committee and is willing to consider multistate purchasing arrangements. The RHCA also reduces costs through formularies, step therapy, incentives for lowest-cost purchases and wellness programs.

Most other states that offer retirement health benefits plans are changing benefits to reduce costs; none has yet dropped its plan entirely.

***GASB.*** Requirements imposed by the GASB address financial reporting but not how the RHCA is funded. The RHCA provides assistance to employer groups in meeting the GASB reporting requirements.

***RHCA plans.*** The RHCA offers three plans for members who are not yet eligible for Medicare and nine plans, including a supplemental plan, for Medicare-eligible members.

***Membership.*** Only one additional employer group has joined the RHCA since 2006. An employer group may join by paying full actuarial value for its participants and may spread the payments on that purchase over a 13-year period, plus 7.5 percent interest.

***Benefits access.*** A member who qualifies for RHCA benefits but either has gone to work for another employer or has access to benefits through a spouse's coverage must take benefits through the new employer or the spouse rather than access RHCA benefits.

***Step therapy.*** A member suggested that Mr. Archuleta look into provisions in other states that exempt people who are already on prescription drugs from enrollment in step therapy.

- Mr. Archuleta agreed to provide information on any penalties imposed for noncompliance with GASB Statements 74 and 75.

## **Minutes**

After a motion was made and seconded for approval of the minutes from the committee's October 19-20, 2017 meeting, a committee member questioned the wording in the portion of the minutes that describes a presentation by Dawn Iglesias of the Legislative Finance Committee (LFC) regarding Land Grant Permanent Fund beneficiaries. In discussion, members noted that minutes are a reflection of what a presenter actually says. Committee staff were directed to review the webcast of the meeting to ascertain Ms. Iglesias' wording in the questioned portion of the minutes and to report back as to whether the minutes needed a correction.

## **Public Employees Retirement Association (PERA)**

Wayne Propst, executive director, PERA; Anna Williams, chief financial officer, PERA; and Dominic Garcia, chief investment officer, PERA, gave a presentation on PERA transparency efforts, its actuarial valuation, practices from the Wisconsin pension system that could benefit New Mexico and challenges that the PERA faces in attracting qualified investment personnel.

The PERA's transparency measures include board and committee meetings that are open to the public and live-streamed; online minutes; timely responses to Inspection of Public Records Act (IPRA) requests; accountability and ethics training, evaluation and review for PERA personnel; and improved reporting on vendor compliance with the Gift Act. All money manager

expenses are disclosed annually to the PERA board and the legislature, and returns are reported net of fees and expenses.

The PERA's governance structure includes oversight and review from multiple sources, including internal and external auditors; external actuaries; the custodian bank; and independent investment consultants. On its fiscal year (FY) 2016 financial audit report — and for the first time in its history — the PERA received an unmodified opinion with no findings.

As reported on its GASB Statement 67, the PERA net pension liability is \$5.27 billion, down from \$6.16 billion in 2016, due to favorable market conditions in the past year. Under new GASB reporting requirements, the total liability is apportioned among all participating employers.

Mr. Garcia, who worked for the Wisconsin pension system prior to joining the PERA, described strengths in the Wisconsin system that could be incorporated into the PERA system, notably increased internal investment management. Qualified investment managers would be necessary for such a change; however, the PERA is hampered in its recruitment efforts by the salaries it can offer, which are significantly lower than what investment managers can earn elsewhere. Mr. Garcia outlined a possible salary structure that would include pay-for-performance incentives and would be capped at \$500,000 per year.

On questioning, the presenters and committee members addressed the following topics.

***Wisconsin pension plan.*** Oversight of the Wisconsin pension plan is provided by a board similar to the PERA board and by a legislative body similar to the IPOC.

The Wisconsin system recruits qualified investment managers primarily by finding people who want to return to Wisconsin and who see their work as part of a "greater good".

***Benefits.*** An investment manager hired under the salary structure described by Mr. Garcia would qualify for pension benefits through the PERA system, with a cap on those benefits.

A member expressed concern over portions of the PERA system that allow pensions to be paid for as long as 80 years.

***Audits.*** PERA audits are public documents and are presented to the PERA board. Internal management is included in the audits.

***Investment managers.*** The Public Employees Retirement Board Investments Committee would evaluate the performance of PERA investment managers hired for internal management, and the legislature would evaluate the overall value added by incorporating internal management.

A member spoke in favor of having the state's higher education institutions assume a role in cultivating in-state investment manager talent.

**EnnisKnupp report.** Mr. Garcia noted that he has incorporated some of the recommendations from the EnnisKnupp report into his suggestions for the PERA.

- Mr. Garcia agreed to provide a copy of fiduciary responsibility contractual obligations in PERA contracts with investment managers.
- Mr. Propst agreed to provide information and totals for investment performance with reduced and "right-sized" return assumptions.

### **Educational Retirement Board (ERB)**

Jan Goodwin, executive director, ERB; Bob Jacksha, chief investment officer, ERB; and Roderick Ventura, general counsel, ERB, reported on the ERB's actuarial valuation, transparency and financial reporting and presented a piece of legislation for the committee's endorsement.

As reported on its GASB Statement 67 for June 30, 2017, the ERB's unfunded liability totaled \$7.4 billion, up from \$6.6 billion a year prior, and its assets totaled \$12.5 million, up from \$11.5 million a year prior. ERB active membership totaled 59,495, while retired members receiving benefits totaled 47,340. Active membership has dropped steadily since 2009 and is currently at the same level as it was in 2000. The number of members receiving benefits is climbing at rate of about 2,000 per year. FY 2017 contributions totaled \$692 million while benefits distributions topped \$1 billion; the difference was made up through investment earnings. Fund solvency is projected at 61 years, based on lower costs for future members, lower cost-of-living adjustments and the current market value of assets.

Ms. Goodwin noted that the rating agency Standard & Poor's does not foresee significant credit rating changes based solely on the change in GASB reporting requirements. One change involved with the new reporting, however, is that the ERB now uses a 5.9 percent "blended" discount rate for projections that incorporates lower assumptions for inflation, wage growth and contributions. The ERB used a 7.75 percent discount rate prior to FY 2017.

The ERB's website provides public access to information on ERB meetings, policies, strategic planning, investments, reports, studies, benefits and publications.

On questioning, the presenters and committee members addressed the following topics.

**Portfolio.** Since its inception, the ERB portfolio's annual return has averaged 9.1 percent. Its 20-year return is 6.4 percent because of the economic downturns in 2001 and 2008 to 2009. Investment management fees are disclosed annually in the ERB financial reports and are provided to the LFC. The portfolio's hedge fund allocation can be misleading because the investment industry does not have a standard definition of what constitutes a hedge fund.

**Cash flow.** The ERB net cash flow was negative three percent in FY 2017 and is not projected to go lower than negative five percent in the future.

**ERB vacancy.** An open gubernatorial appointee seat on the ERB has not been filled.

**Reporting.** New GASB reporting requirements for ERB employers, including expanded audit requirements, have been going smoothly and are not affecting operations or cash flow.

The GASB requires that long-term earnings assumptions be calculated in the same manner across all pension plans; however, the discount rate for each plan is determined by the asset classifications unique to that plan.

Mr. Ventura presented a bill draft that addresses concerns over cybersecurity threats by amending the Open Meetings Act and the IPRA to allow public bodies to discuss certain network security issues in a non-public, confidential setting. In discussion, members discussed the need to create security standards for personnel as well. On a motion duly made, seconded and unanimously adopted, the committee endorsed the ERB's proposed bill (208940.1SA).

- Ms. Goodwin agreed to provide the total cost of service purchases by ERB members.

### **Minutes**

On a motion duly made, seconded and unanimously adopted, the minutes from the October 19-20, 2017 meeting were approved with the following change: on page 5, paragraph 4, final line, "might" was replaced with "would".

### **State Investment Council (SIC)**

Steven K. Moise, state investment officer, SIC; Robert "Vince" Smith, deputy state investment officer, SIC; and Charles Wollmann, director of communications, SIC, outlined the SIC's transparency practices.

Since 2010, the SIC has instituted transparency improvements in its policies, practices, reporting, public access and public outreach. The SIC and its staff and consultants vet all investment managers prior to hiring. Investments are considered and approved in a public forum, and the state investment officer is no longer authorized to make unilateral investment decisions. All SIC policies and reports are posted either on the SIC website or on the Sunshine Portal website, and all meetings are webcast on the governor's website. The annual investment plan, which is reviewed by industry professionals, is also posted on the SIC's website and may be revised for greater public accessibility in the coming year. Requests for information from the public and the press, including IPRA requests, receive prompt responses.

On questioning, the presenters and committee members addressed the following topics.

**Pay-to-play scandal.** Mr. Wollmann described the amount that the SIC is trying to recover from its pay-to-play scandal of a decade ago as being "in the tens of millions of dollars"; however, the amount cannot be precisely calculated at this time. The law firm Day Pitney LLP is charging a 20 percent contingency fee on recovered funds.

The SIC has sued multiple individuals and entities in the matter and recently received a favorable ruling in district court in its proceedings against Gary Bland, former state investment officer. The court, rather than the SIC, assigns the recovery amount to be pursued in each case. A report by the Paul Hastings LLP law firm on the issue is not public information but will be released to the public when the litigation is settled.

***Transparency.*** Mr. Wollmann made available a brief written summary of SIC investment policies and a "trustee fiduciary duty of responsibility" statement, which were distributed to members.

Members expressed concern that SIC members who refused to sign a pledge of loyalty to the investment funds are now excluded from executive sessions and certain SIC deliberations and decisions. The presenters and members discussed the loyalty pledge in relation to SIC member fiduciary responsibilities. Mr. Moise stated that no lawsuit has been filed against the SIC by an SIC member.

***SIC employee settlement.*** An issue with a female SIC employee over equal pay was settled. The SIC is prohibited from discussing the details of the settlement.

- Mr. Smith agreed to provide the SIC investment policy manual.

### **Adjournment**

There being no further business, the committee adjourned at 4:00 p.m.