

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

**December 21, 2010
Room 322, State Capitol
Santa Fe**

The fifth meeting of the Investments Oversight Committee (IOC) for the 2010 interim was called to order by Representative John A. Heaton, chair, on Tuesday, December 21, 2010, at 9:15 a.m. at the State Capitol in Santa Fe.

Present

Rep. John A. Heaton, Chair
Sen. George K. Munoz, Vice Chair
Rep. Larry A. Larrañaga
Sen. Carroll H. Leavell
Sen. Steven P. Neville
Rep. Henry Kiki Saavedra
Sen. John M. Sapien
Rep. Jim R. Trujillo
Rep. Luciano "Lucky" Varela

Absent

Rep. Donald E. Bratton
Sen. Tim Eichenberg
Sen. Timothy M. Keller

Advisory Members

Sen. Carlos R. Cisneros
Rep. Miguel P. Garcia
Sen. Mary Kay Papen
Rep. Jane E. Powdrell-Culbert
Sen. John Arthur Smith
Rep. Sheryl Williams Stapleton
Rep. Richard D. Vigil

Rep. Andrew J. Barreras
Rep. Roberto "Bobby" J. Gonzales
Sen. Stuart Ingle
Rep. Patricia A. Lundstrom
Sen. William H. Payne
Sen. John C. Ryan
Sen. Michael S. Sanchez
Rep. Shirley A. Tyler
Sen. Peter Wirth

Guest Legislator

Rep. Mimi Stewart

Staff

Tom Pollard, Legislative Council Service (LCS)
Doris Faust, LCS

Guests

The guest list is located in the meeting file.

Handouts

Handouts and written testimony are in the meeting file.

Note: These minutes should be considered to be in draft form. Since this was the last meeting of the interim, the IOC has not had the opportunity to consider these minutes for approval.

Tuesday, December 21

Representative Heaton opened the meeting with remarks about the challenges facing legislatures around the country with regard to the solvency of public employee pension funds.

Educational Retirement Board (ERB): Retirement Plan Revision Proposal and Implications for Retirement Fund Solvency

Jan Goodwin, executive director, ERB, and Russell Goff, ERB board member, appeared before the committee to present the first item on the agenda. Ms. Goodwin began by stating that the ERB is not unique; most public pension funds are challenged, and in 2010, 18 states have amended statutes governing their funds. The problems facing pension funds can be attributed primarily to two capital market meltdowns during the last decade, which have driven down the market value of pension fund investments.

Ms. Goodwin reviewed her previous presentation to the IOC at its December 1 meeting. The ERB pension program has a \$4.9 billion unfunded actuarial accrued liability and is 65.7% funded, given current actuarially valued assets and liabilities. The ERB's goals are to achieve 80% funded status within 30 years and to have New Mexico remain competitive in the region to attract and retain qualified employees.

Ms. Goodwin said that in developing its final recommendation, the ERB solicited and received a lot of public comment. The final proposal, approved unanimously by the ERB, is for member employee contribution rates to increase by 0.5%, spread over four years, from their current level and for employer contribution rates to increase to 13.9%, spread over six years. A bill is currently being drafted to reflect these increases in contribution percentages.

Representative Stewart asked Ms. Goodwin to clarify whether the 1.5% "swap" from the employer to the employee contribution would continue as part of the proposal, in which case the increase would be 2% rather than just 0.5% relative to current law for those employees making greater than \$20,000 per year. Representative Stewart suggested that the board might consider a two-year extension of the swap together with the 0.5% employee contribution increase.

Representative Heaton initiated a discussion among committee members of whether or not the swap will be permanent. Ms. Goodwin reiterated that the employer contribution would eventually be 13.9% for all employees and that the employee portion would go up 0.5% per year for four years from its current level, which includes a 1.5% swap, or increase in the employee contribution rate and decrease in employer contribution rate, for employees making more than

\$20,000 per year.

Senator Smith expressed concern that this legislation, if it passes, will be seen as solving the problem when the solution is only temporary, given the structural problems facing the retirement plan.

The committee discussed the need not only for an increase in contribution rates, but for a review of the entire retirement plan, including the cost-of-living adjustment (COLA) for retirees, investment return assumptions and the ERB's earlier recommendation to require employees to work longer before being eligible for retirement.

Representative Heaton summarized the proposal as follows: increase employee contributions by a 0.5% spread over four years from current levels, bringing contribution rates to 9.9% for employees making more than \$20,000 per year and 8.4% for employees making \$20,000 or less per year and for the state's contribution to increase to 13.9% spread over six years for both employee salary groups.

A motion was made and seconded to endorse the proposal in concept. The motion was approved. Senator Leavell opposed the motion.

Public Employees Retirement Association (PERA): Proposed Legislation and Implications for Retirement Fund

Terry Slattery, executive director, PERA, advised the members that the PERA board is proposing to increase the contribution rate to the state general, municipal police and municipal fire retirement funds. According to the PERA board, all three funds need the same increase in funding, and the board recommends a total 8% increase in contributions, implemented incrementally at 2% per year with one-third of the increase being paid by employees and two-thirds being paid by employers. The board projects that the recommended increase would set the PERA fund on the path to pay off the unfunded liability in the recommended 30-year time frame.

Mr. Slattery reviewed discussion draft number .183673.1SA, which increases, relative to current law, the contribution by 2% per year for four years, for a total of 8%, for the three retirement plans. The proposal would have one-third of the increase paid by the employee and two-thirds of the increase paid by the employer.

Committee members discussed the cost to the general fund of this bill, the age of retirement of PERA members and whether the municipal general plan should be added to the bill.

A motion was made by Representative Saavedra and seconded by Representative Vigil to endorse the draft as written. The motion passed with Senator Leavell voting against approval of the motion. Senator Munoz was selected to carry the bill.

Mr. Slattery described discussion draft number .183713.1SA, which increases employer

and employee contribution rates for the judicial and magistrate retirement plans. The bill does not deal with the dedication of docket fees to these retirement plans.

The committee discussed judicial and magistrate retirement fund solvency and the need for further reforms in lieu of further contribution increases.

A motion to endorse the bill was made and seconded and passed with Senator Leavell voting against the motion. Senator Munoz was selected to carry the bill.

Mr. Slattery summarized discussion draft number .183674.1SA, which would authorize the PERA board to select a custodian bank, rather than have the selection performed by the State Board of Finance as is now the case, and to hire attorneys on a contingent fee basis rather than on a fee-for-service basis, as is now the requirement.

The committee discussed the merits of this bill and the fact that the State Investment Council (SIC) is requesting similar authority.

A motion to endorse the bill was made and seconded and passed without opposition. Representative Trujillo was selected to carry the bill.

SIC: Proposed Legislation

Steve Moise, state investment officer, SIC, presented discussion draft number .182963.5SA, which would amend the powers and duties of the SIC to provide for the election of the chair and vice chair of the council, to authorize the SIC to contract for legal services on a contingent fee basis and to make other technical amendments to SIC statutes.

The committee discussed the makeup of the SIC and who appoints members under current law.

A motion to endorse the bill was made and seconded and passed without opposition.

Other Legislation Proposed for IOC Endorsement

Representative Heaton presented discussion draft number .183377.1, which would amend the Public Employees Retirement Act to change the COLA for pensions from a flat 3% per year to an annual adjustment equal to three-fourths of the percentage increase in the Consumer Price Index, but with a cap in the annual COLA at 3% and a floor at 0%.

The committee discussed other structural changes that may be required, including a minimum retirement age, a lower years-of-service multiplier to determine pension amount and a longer period over which to average salary in determining pension benefits.

A motion to endorse the bill was made and seconded and passed without opposition. Senator Smith was selected to carry the bill.

Representative Heaton presented discussion draft number .183378, which would amend the Public Employees Retirement Act to require municipal employees to make the employee portion of the contribution to their retirement plan.

The committee discussed the implications of the current situation in which municipalities are in many cases paying not only the employer share, but also some or all of the employee share.

A motion to endorse the bill was made and seconded and passed without opposition. Senator Leavell was selected to carry the bill.

For discussion purposes only, Representative Stewart presented discussion draft number .183704.1, which would amend the Educational Retirement Act to delay employer contribution increases and extend increases in employee contributions to the Educational Retirement Fund.

Representative Stewart also presented for discussion purposes only discussion draft number .183706.1, which would amend the Public Employees Retirement Act to extend through fiscal year 2013 a swap currently in place whereby the employee contribution rate for PERA members with annual salaries greater than \$20,000 is temporarily increased by 1.5% and the employer contribution rate for these employees is reduced by a corresponding amount.

The fiscal implications of these bills were discussed. Representative Stewart asked that no action be taken on either bill.

Representative Stewart discussed the need for a bill to impose a minimum retirement age for ERB and PERA member employees. She noted that approximately one-third of PERA and ERB employee members retire before age 55 and that around one-third of the cost of these retirement plans comes from their generous COLAs that become effective upon retirement. She stated that there is a bill being drafted that would impose a minimum retirement age of 55 on all non-uniformed employees only. The bill would not affect uniformed employees or any PERA and ERB member employees currently eligible for retirement, but it would affect all other ERB and PERA members.

Representative Heaton suggested a bill for a minimum retirement age of 55 for all but uniformed employees, who would have a minimum retirement age of 50. Senator Smith recommended looking at changing the multiplier to encourage members to work longer.

Senator Neville questioned the issue of whether the bills affect property rights of current employees. Representative Heaton urged the legislators to do what is responsible with regard to fund solvency and let the property rights issues be decided in the courts.

A motion to support Representative Stewart's idea for a minimum retirement age for all but uniformed employees was made and seconded and passed without opposition.

There being no further business, the meeting adjourned at 12:45 p.m.