

**Employees' Retirement Board
Of Rhode Island
Monthly Meeting Minutes
Date of Meeting: March 8, 2006**

The Monthly Meeting of the Retirement Board was called to order at 9:00 a.m., Wednesday, March 8, 2006 in the 8th Floor Conference Room, 40 Fountain Street, Providence, RI.

I. Roll Call of Members

The following members were present at roll call: Daniel L. Beardsley; Michael R. Boyce; William B. Finelli; John P. Maguire; John J. Meehan; Linda C. Riendeau; General Treasurer Paul J. Tavares and Jerome F. Williams, designee for the Director of Administration; James P. Yancy.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Attorney William E. O'Gara, Board Counsel.

Recognizing a quorum, Treasurer Tavares called the meeting to order.

Mrs. Rosemary Booth Gallogly arrived at 9:15 a.m.

II. Approval of Minutes

On a motion by Linda C. Riendeau and seconded by Jerome F. Williams, it was

VOTED: To approve the minutes of the February 8, 2006 meeting of the Board of the Employees' Retirement System of Rhode Island.

III. Chairman's Report

Treasurer Tavares told the Board that there had not been any activity on his proposed legislation for separation of powers and the reconstitution of the Retirement Board by the General Assembly. He said he would keep the Board abreast of any updates or changes.

IV. Executive Director's Report

Director Karpinski apprised the Board that the IRS is signaling a willingness to modify its approach on treatment of DB Plan COLAs in its draft 415 Regulations (IRS §415(b)). He said the IRS might be willing to accommodate the concerns that the National Council on Teacher Retirement's (NCTR) and other public plan representatives have raised regarding the testing of COLA increases under the proposed section 415

regulations. Director Karpinski said it now appears that the regulations may be modified to accept NCTR's view that the sole factor when a plan administrator tests a benefit should be whether the amount of the adjustment causes the amount of the benefit to exceed the 415-dollar limit in effect for that year. This suggestion was made in testimony offered on August 17, 2005, before an IRS hearing on the draft 415 regulations by the National Association of State Retirement Administrators (NASRA) and the National Conference of Public Employee Retirement Systems (NCPERS) as well as NCTR.

Director Karpinski told the Board that the IRS also pointed out that this did not mean that there would be no constraints on plan COLA increases, since the IRS would also likely insist that the benefit, as increased by any plan COLA, still be effectively capped at the 415(d) COLA increase for the year. Thus, while a retiree could receive a plan COLA increase in a year in which there is no 415(d) increase (so long as the retiree's new increased benefit still remained below the applicable 415 limit for that year), there could also be years in which the 415 limit is not increased and, therefore, a benefit already at this limit could not be further increased by a plan's COLA. He said the IRS is expected to finalize the new section 415 regulations by the summer of 2006.

Director Karpinski then provided the Board with the pension application processing report for the month of February 2006.

Mr. Boyce asked Director Karpinski about the status of the number of outstanding Full Time Equivalents (FTE) in the retirement division. Director Karpinski said they have posted an Administrative Aide position and have begun interviewing for the Accounting Manager position. The Director said there are still currently 5 FTE's outstanding.

V. Administrative Decisions

Disability Appeals

None this month

Hearing Officer Decisions

William A. Maloney vs. ERSRI

Attorney O'Gara provided the Board with a synopsis of the Hearing Officer's decision on Mr. Maloney's application to purchase service credit for time served as an on-call Firefighter for the Town of North Kingstown for the period 1968 through 1972. He indicated that the Hearing Officer's decision was included in the Board book. Attorney O'Gara then informed the Board that Attorney William C. Maaia was representing Mr. Maloney.

There being a stenographer present, the parties presented their issues. At the conclusion of the presentations, a motion was made by Jerome F. Williams and seconded by Daniel L. Beardsley to affirm the hearing officer's decision.

The Treasurer requested a roll call vote on the motion. The following members voted yea: Daniel L. Beardsley, Rosemary Booth Gallogly, General Treasurer Paul J. Tavares, Jerome F. Williams and James P. Yancy. The following members voted nay: Michael R. Boyce, William B. Finelli, John P. Maguire, John J. Meehan and Linda C. Riendeau. There being 10 votes cast, 5 voted in the affirmative and 5 nay, consistent with Rhode Island General Laws §36-8-6, *Votes of Board – Record of proceedings*, there not being 8 votes in the affirmative, the motion failed.

Attorney Maaia asked the Board for an official record of the hearing. Treasurer Tavares told Attorney Maaia that the Board would provide him a letter listing the votes taken on this matter. He said the minutes would be the official record.

Albert J. Nixon vs. ERSRI

Attorney O’Gara provided the Board with a synopsis of the Hearing Officer’s decision on Mr. Nixon’s application to purchase military service credits pursuant to RIGL §36-9-31 (a) based upon the definition of “active duty.” At the time of Mr. Nixon’s application, fractions of military service time allowed the member to purchase service credits in six-month increments. He also indicated that the Hearing Officer’s decision was included in the Board book. Attorney O’Gara then informed the Board that Mr. Nixon was representing himself.

There being a stenographer present, the parties presented their issues. At the conclusion of the presentations, a motion was made by Daniel L. Beardsley and seconded by Michael R. Boyce to reverse the decision of the hearing officer.

The Treasurer requested a roll call vote on the motion. The following members voted yea: Daniel L. Beardsley, Michael R. Boyce, Rosemary Booth-Gallogly, John J. Meehan, Linda C. Riendeau, General Treasurer Paul J. Tavares Jerome F. Williams, and James P. Yancy. There being 8 votes cast in the affirmative, the motion passed. Mr. William B. Finelli and John P. Maguire recused on the above matter.

The Treasurer then requested a motion to allow Mr. Nixon to purchase the 3 years of military service credit. On a motion by Jerome F. Williams and seconded by Rosemary Booth Gallogly, it was unanimously

VOTED: To allow Mr. Nixon to purchase 3 years of military service credit.

Mr. William B. Finelli and John P. Maguire again recused on the above matter.

Katherine Savage vs. ERSRI

Ms. Savage was not present at the meeting. Ms. Kathleen Joyce, Policy Analyst for the ERSRI apprised the Board that Ms. Savage was sent a registered return receipt notice of the hearing. She said Ms. Savage had in fact received the letter.

Treasurer Tavares recommended that since this was her first attempt to have her matter heard before the Board, it would be permissible to reschedule.

Mr. Beardsley had questions concerning the hearing officer’s decision of Ms. Savage. He referred to page 4 regarding the policy employed by the Retirement System that

requires employer certifications prior to computing benefits. Mr. Beardsley felt the employer should make every attempt to collect necessary information on a request from the Retirement Board. Further, Mr. Beardsley felt the Retirement System should insist that the employer provide this information in their response.

Director Karpinski informed the Board that the Retirement System relies on the employer's information and that it is their responsibility to certify such matters relating to employment of past or present members. Mr. Beardsley felt the Retirement System should be more vigorous in its request for this type of information.

Ms. Booth Gallogly asked if this policy was applicable to State employees. Director Karpinski informed the Board that this policy was adopted by the Board in the 1980's for Teachers. It provides that if only a part-time position is available, as a result of a layoff, then full time service credit will be granted. He stressed that the employer must certify this information to the Board.

Mr. Finelli apprised the Board that the matter in front of them is not unique to Ms. Savage's situation. Mr. Finelli told the Board there has been other matters in which gaining required information has been very difficult and the Retirement System does not have a mechanism to force the issue, thus the member must seek alternative ways to collect the information.

Mr. Maguire told the Board that he was involved in a matter in which a member was involved in a lay-off and during that time, the member was taken from a full time position to a part-time position based on seniority. Mr. Maguire said when the member began the process of retirement, he had to assist the member in getting the Superintendent to certify that in fact, the position was the only position available.

Messrs. Boyce, Beardsley and Williams all agreed that the system should take additional steps to attempt to secure required information.

Mr. Yancy felt it was unfair that Ms. Savage be denied the ability to purchase the time on the basis that the Central Falls School Department could not locate someone to verify the information. He queried about possible alternatives to assist Ms. Savage.

Mr. Beardsley felt that perhaps a sworn affidavit could be obtained by the former Superintendent and the former Director of the Special Education Department.

Treasurer Tavares indicated that Ms. Savage would be contacted to ask if she wishes to proceed with this matter. Director Karpinski told the Board that he would try again to secure documentation to either confirm Ms. Savages position at the time was the only one available or not.

VI. Approval of February pensions as presented by ERSRI

On a motion by Michael R. Boyce and seconded by Linda C. Riendeau, it was unanimously

VOTED: To approve the February pensions as presented by ERSRI.

VII. Legal Counsel Report

Attorney O’Gara referred Board members to the legal report in the Board book and asked if there were any questions. Attorney O’Gara then informed the Board that he had received information on 3 criminal dispositions involving active members of the retirement system. He said he would have updated information to discuss at the April 2006 Board meeting.

On a motion by Rosemary Booth Gallogly and seconded by Jerome F. Williams, it was unanimously

VOTED: To approve the Legal Counsel report as presented.

VIII. Committee Reports

Disability Subcommittee: The Disability Subcommittee recommended the following actions on disability applications as the result of its March 3, 2005 meeting for approval by the full Board:

Name	Membership Group	Type	Action
1. Herbert Constantine	State	Ordinary	Approve
2. Gavin Fitzgerald	State	Ordinary	Approve
3. Francis Correia	Municipal	Accidental	Approve
4. Denise Wisdom	State	Accidental	Approve
5. Nellie Francis	Teacher	Accidental	Table
6. Donna Peterson	Municipal	Accidental	Approve
7. Dora Noury Keating	State	Accidental	Continued

On a motion by William B. Finelli and seconded by Michael R. Boyce it was unanimously

VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, March 3, 2006 on items 1, 2, 3, 4, 6, 7.

On a motion by William B. Finelli and seconded by Michael R. Boyce it was

VOTED: To approve the recommendation of the Disability Sub-Committee meeting on Friday, March 3, 2006 on item 5.

Mr. Maguire recused himself from item 5.

IX. New Business

Ms. Booth Gallogly inquired how the Judges pensions are handled. Director Karpinski gave a summary on non-contributory and contributing Judges. He told the Board that prior to 1989, Judges did not contribute to the system. For those, the Director said

ERSRI merely acts as a “check writer” as they are not members of the system. Director Karpinski told the Board that for contributing members, ERSRI receives data and would calculate service and salary according to applicable statutes.

X. Adjournment

There being no other business to come before the Board, on a motion by William B. Finelli and seconded by Jerome F. Williams, the meeting adjourned at 10:25 a.m.

Respectfully submitted,

Frank J. Karpinski

Executive Director