

**Employees' Retirement Board  
Of Rhode Island  
Monthly Meeting Minutes  
Date of Meeting: December 13, 2006**

The Monthly Meeting of the Retirement Board was called to order at 10:35 a.m., Wednesday, December 13, 2006 in the 8<sup>th</sup> Floor Conference Room, 40 Fountain Street, Providence, RI.

**I. Roll Call of Members**

The following members were present at roll call: Michael R. Boyce; William B. Finelli; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; General Treasurer Paul J. Tavares; Jerome F. Williams and 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.

Linda C. Riendeau and Rosemary Booth Gallogly arrived at 10:40 a.m.

**II. Approval of Minutes**

On a motion by Jerome F. Williams and seconded by William B. Finelli, it was

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

**III. Chairman's Report**

Treasurer Tavares asked that he defer his report to the end of the meeting.

**IV. Executive Director's Report**

Director Karpinski apprised the Board of two recent subcommittee meetings. The Rules and Regulations Subcommittee met on November 14, 2006, to discuss a proposed regulation for disability pensions and retirement contributions for teachers. The Director said that John P. Maguire, chair of the committee would update the Board under committee reports.

On December 5, 2006, the Procurement Subcommittee met to discuss two contract extensions and a request to secure services to perform a risk analysis / vulnerability assessment of ERSRI's computer systems. Director Karpinski said Rosemary Booth Gallogly, chair of the committee would also file her report under committee reports

Director Karpinski referred Board members to information provided in their books regarding a military purchase. He said it is similar to ones presented previously based

on a similar fact pattern. He told the Board that the enclosed member has been denied the ability to purchase service credit based on the original invoice. He said the member has been notified that a new bill will be generated consistent with Regulation 6 *Rules Regarding the Purchase of Military Service Credit pursuant to R.I.G.L. 36-9-31, 16-16-7.1 and 45-21-53.*

The Director noted to the Board that the payment due date of the affected member is similar to those of the Nixon and Soscia matters. He said if the Board does not dispose of this matter at this time, the individual would be afforded an administrative hearing to determine resolution.

On a motion by Michael R. Boyce and seconded by John P. Maguire it was unanimously **VOTED: To process the purchase request for military time using the original invoice amount for Robert G. Tetreault as presented.**

Lastly, Director Karpinski apprised the Board that a request has been made by the Department of Administration (DOA) to secure the services of the system actuary, Gabriel, Roeder, Smith and Company (GRS), to perform a study.

Director Karpinski reminded the Board that consistent with GRS's contract, the Board must authorize and approve the use of GRS and the information being used. Based on information provided by GRS, Director Karpinski told the Board that the study was a modified version of House Bill 7551 introduced during the last session. He said there was no current fiscal note or bill in the legislature. If so, consistent with RIGL §36-10-39, the fiscal note must be performed and the Budget office would be required to pay any associated fees.

Treasurer Tavares pointed out that if a bill were pre-filed, the use of the actuary would be authorized and be paid by the DOA.

Mr. Williams felt that the Board should authorize the ability to use GRS and not wait if a bill will be ultimately filed.

Ms. Booth Gallogly explained that this study was deferred from the last session because it was agreed to wait until the completion of the June 30, 2005 valuation. Presently, there is no new bill introduced and the prime sponsor has not been re-elected. She apprised the Board that the house fiscal advisor was upset that the study was not performed last year and would contemplate a statutory change in the way studies are performed and paid for if a resolution was not achieved.

Mr. Boyce felt that such a request to modify municipal pension plans should come from the cities and towns and not from DOA. Further, he said he would prefer to hear Mr. Beardsley's position on the matter since he represents the municipalities.

Mr. Boyce then motioned to take no action on the request for the use of the actuary. Linda C. Riendeau seconded the motion.

The Treasurer requested a roll call vote. The following members voted yea: Michael R. Boyce; William B. Finelli; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau and James P. Yancy.

The following members voted nay: Rosemary Booth Gallogly, General Treasurer Paul J. Tavares and Jerome F. Williams

There being 11 votes cast, 8 voted in the affirmative and 3 voted in negative it was

**VOTED: To take no action on the request for the use of the Actuary to perform a study for DOA.**

The Director provided the Board with the pension application processing report for the month of November 2006, the ERSRI Financial Statement as of June 30, 2006 and a schedule of meeting dates for 2007.

## **V. Administrative Decisions**

### **Disability Appeals**

*None this month*

### **Hearing Officer Decisions**

#### *Providence Coaches v. ERSRI*

Attorney O’Gara provided a synopsis of the Providence Coaches matter. He said the matter before the Board is the appeal of the hearing officer's decision rendered in the Providence coaches' case. He said the appeal involves 43 coaches and athletic directors that served with the City of Providence from the early 1960s up until 2001 when the Board directed that the City of Providence could no longer remit contributions for coaching duties. Attorney O’Gara said the facts are not in dispute as to the length of service for each of the members or that the City of Providence had a practice of allowing contributions to be made on coaching duties.

Attorney O’Gara pointed out an item of significance is RIGL §36-8-1. It is the provision of the General Laws that defines certain terms and defines compensation as including salary and wages. He said it has a list of exclusions that are not to be included for the purposes of compensation, one of which is additional payments for performing temporary or extra duties beyond the normal or regular workday or work year. He said it appears that the hearing officer relied on that provision of the General Laws in rendering his decision.

Attorney O’Gara then pointed out that Attorney John J. Desimone is representing the Coaches and has provided the Board with a brief outlining and summarizing his argument that has been included in the board book.

There being a stenographer present, the parties presented their cases. At the conclusion of the discussion, on a motion by William B. Finelli and seconded by Michael R. Boyce, it was unanimously

**VOTED: To table the matter and give the System and Counsel for the Providence Coaches, sixty days to reach a settlement and bring it to the Board for final approval.**

Mr. Maguire recused himself from discussion and vote on the matter of *Providence Coaches v. ERSRI*

*Susan Leavey v. ERSRI*

Attorney O’Gara provided a synopsis of the Susan Leavey matter. He said the case involves the issue of the petitioner being able to purchase a three-month increment of time reflecting service that was performed in the 1985/86 school year. Attorney O’Gara said Mrs. Leavey purchased a two-year block of time for service as a nurse health educator as a part-time position with Rhode Island School of Design from 1984 through 1986. She was also issued an invoice for a three-month block of time for service as a substitute teacher that overlapped the same period. Attorney O’Gara said the issue for the System is that she would in effect be purchasing more than one year's credit for a one-year period. Attorney O’Gara said Mrs. Leavey was being represented by her husband, Attorney James H. Leavey.

Mr. Yancy left at 11:30 am.

There being a stenographer present, the parties presented their cases. At the conclusion of the discussion, on a motion by Michael R. Boyce and seconded by William B. Finelli, it was unanimously

**VOTED: To table the matter and allow the system to audit Mrs. Leavey’s account and determine if another portion of service credit can be purchased.**

Mr. Maguire recused himself from discussion and vote on the matter of *Susan Leavey v. ERSRI*

**VI. Approval of November pensions as presented by ERSRI**

On a motion by William B. Finelli and seconded by Linda C. Riendeau, it was unanimously

**VOTED: To approve the November pensions as presented by ERSRI.**

**VII. Legal Counsel Report**

Attorney William O’Gara informed the Board that the November legal report was in their board book.

On a motion by Jerome F. Williams and seconded by M. Carl Heintzelman, 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 December 8, 2006 meeting for approval by the full Board:

|     | <b>Name</b>       | <b>Membership Group</b> | <b>Type</b> | <b>Action</b> |
|-----|-------------------|-------------------------|-------------|---------------|
| 1.  | Robert Barlow     | Municipal               | Ordinary    | Approve       |
| 2.  | John Booker       | State                   | Ordinary    | Approve       |
| 3.  | William Capuona   | State                   | Ordinary    | Table         |
| 4.  | Barbara Cullen    | Teacher                 | Ordinary    | Approve       |
| 5.  | Pamela D'Ambrosio | Teacher                 | Ordinary    | Approve       |
| 6.  | David Izzo        | Municipal               | Accidental  | Table         |
| 7.  | Edmund Medeiros   | State                   | Accidental  | Approve       |
| 8.  | Gerald Scotto     | Municipal               | Accidental  | Approve       |
| 9.  | Paul Strumar      | State                   | Accidental  | Approve       |
| 10. | Richard Yakey     | State                   | Accidental  | Approve       |
| 11. | Dennis Kraus      | Teacher                 | Accidental  | Table         |
| 12. | Patricia Haggerty | State                   | Accidental  | Deny          |

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

**VOTED: To approve the recommendation of the Disability Subcommittee meeting on Friday, December 8, 2006 on items 1, 2, 4, 6, 10, and 12.**

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

**VOTED: To approve the recommendation of the Disability Subcommittee meeting on Friday, December 8, 2006 on item 3, 7, 9.**

Mr. Meehan recused himself from item 3, 7, 9.

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

**VOTED: To approve the recommendation of the Disability Subcommittee meeting on Friday, December 8, 2006 on item 5, 8, 11.**

Mr. Maguire recused himself from item 5, 8, 11.

**Rules and Regulations Subcommittee:** Chairman Maguire first thanked the members of the committee: M. Carl Heintzelman, John J. Meehan and Kerry Walsh. He said the Rules and Regulations subcommittee met on November 14th to discuss a recommendation to promulgate the draft *Rules regarding Rhode Island General Laws §36-10-14 concerning retirement for accidental disability and the definition of the terms of "aggravation" and "reinjury"* policy adopted by the Disability Subcommittee. He said they also discussed a recommendation for promulgating the current policy on

Retirement Contributions for Teacher Positions to include:

- Additional language regarding salaries for principals and superintendents
- Additional language regarding “replacement teachers”
- Definitions of a contributing member

Chairman Maguire told the Board the committee first discussed the proposed rule regarding the definition of the terms “aggravation” and “reinjury” regarding disability. The language was developed using similar case law from other states. Legal counsel reviewed the final version. He said the committee voted to adopt Regulation 12, *Rules regarding Rhode Island General Laws §36-10-14 and §16-16-16 concerning retirement for accidental disability and the definition of the terms of “aggravation” and “reinjury”*, as presented to the full board for formal rule promulgation.

Chairman Maguire said the committee then discussed a recommendation for promulgating the current policy on *Retirement Contributions for Teacher Positions*. The committee discussed additional language regarding salaries for principals and superintendents. This language was preempted by the Superior Court decision of Kevin M. Sheehan vs. ERSRI. After some discussion, Chairman Maguire said the committee requested an arithmetical example of how the language would translate into practice.

He said the committee then discussed additional language regarding “replacement teachers”. The committee was not in favor of the draft language because it was felt the language was too focused. The Chairman said not every school district uses the term “replacement teacher”. Additionally, he said the committee discussed language that included a proviso stating that the replacement teacher position must be at least 180 days. The committee felt that was also too restrictive since it could be possible that a replacement teacher may be hired to finish a year e.g. 90 days.

Chairman Maguire said two other provisions in the draft language for “replacement teachers” was also discussed. One involved a stipulation that the position should be hired / appointed by the school committee thus excluding day-to-day-substitutes. The committee agreed with this language. The other provision included language stating that the positions be paid in accordance with the salary scale for that position, as adopted by the local school committee. The committee did not favor that language pointing out that the position could be newly created and a scale may not have been adopted yet.

Lastly, Chairman Maguire said the committee discussed definitions of a contributing member. The committee discussed examples of conditions where members should be contributing but may not be. The committee then discussed the prospect of developing a simplified rule on a contributing member similar to a state employee i.e., 20 hour per week minimum.

He told the Board that the committee recommended tabling the proposed regulation to obtain more information from the interested parties. The committee agreed to contact members from both labor organizations namely, the NEARI and RIFT, to jointly analyze the issue and present the committee with their finding and recommendations.

The Chairman then summarized the actions of the subcommittee for the Board as follows:

- The subcommittee recommends adoption by the full board to promulgate the draft *Rules regarding Rhode Island General Laws §36-10-14 concerning retirement for accidental disability and the definition of the terms of “aggravation” and “reinjury”*, as adopted by the Disability Subcommittee.
- Direct staff to provide an arithmetical example of how the language regarding salaries for principals and superintendents would translate into practice
- Contact members from both labor organizations namely, the NEARI and RIFT, to jointly analyze the issue of retirement contributions for teacher positions and present the committee with their finding and recommendations.

Then on a motion by John P. Maguire and seconded by John J. Meehan it was unanimously

**VOTED: To adopt regulation 12, *Rules regarding Rhode Island General Laws §36-10-14 and §16-16-16 concerning retirement for accidental disability and the definition of the terms of “aggravation” and “reinjury”*, and begin the process of promulgating the rule with the Secretary of State.**

Treasurer Tavares thanked the chair and the committee for their efforts.

**Procurement Subcommittee:** Chairperson Rosemary Booth Gallogly thanked the members of the committee: Louis M. Prata, Kerry Walsh, James P. Yancy and William B. Finelli. She said the procurement subcommittee met on December 5th to discuss 2 contract extensions and a request to secure services to perform a risk analysis / vulnerability assessment of ERSRI’s computer systems.

Chairperson Booth Gallogly told the Board that one contact extension involved the ANCHOR system day-to-day mechanical operation and daily system maintenance. She said the amendment approved by the Board last year, permits ERSRI to extend these services in one-year increments. She told the Board that the Director recommended effectuating the renewal provision and continue the relationship with the Saber Corporation (formerly the Covansys Corporation) for another year. The required funds have been appropriately budgeted.

Chairperson Booth Gallogly provided the Board with the following information:

|                        | Proposal A<br>(approved last year) | Renewal<br>(as of 12/2006) |
|------------------------|------------------------------------|----------------------------|
|                        | 5 Developers                       | 4 Developers               |
| Total Price            | \$ 891,000                         | \$ 783,360                 |
| Effort in Hours        | 9,000                              | 7,536                      |
| Per Hours Price        | 99.00                              | 103.95                     |
| Per Month CCR<br>Hours | 275                                | 157                        |

She then told the Board that after discussion and review, the subcommittee recommended approval and authorization to extend the contract with the Saber Corporation for one additional year at \$783,360.

Chairperson Booth Gallogly told the Board that the committee then discussed a request to perform a risk analysis / vulnerability assessment of ERSRI's computer systems and development of information systems security policies and procedures. She said that these risk / vulnerability assessments should be performed on a scheduled, recurring basis to determine what IT security controls are required to adequately protect the information systems that support the day-to-day operations, and assets of the organization. The review would include concerns such as:

- Threats – all things that could go wrong or that can ‘attack’ the system. Threats would include all natural and man-made disasters, unauthorized use, fraud and abuse of the system and its data.
- Vulnerabilities – these could allow a system to be more open to attack or make an attack more likely to succeed. There could exist both physical and logical vulnerabilities within any automated system.
- Controls – these are specific countermeasures designed to mitigate vulnerabilities. Types of controls should include deterrent controls, preventative controls and corrective controls.

She said the committee unanimously agreed that such security services were important and authorized the Director to secure the services of a vendor to perform an assessment by either RFP or existing vendors from the states master price agreement. Chairperson Booth Gallogly said she provided vendors on the State's master price agreement that may perform such services and may further expedite the assessment. She also told the Board that many State Agencies have received similar recommendations from the Auditor General and the States department of information technology (DOIT) has hired a security officer to oversee computer security.

Chairperson Booth Gallogly told the Board that the approximate cost of this assessment, via research done by the Director, is roughly \$100,000. Because of the nature of technology threats and security, it is probable that a retainer may be necessary to ensure security is up to date.

Lastly, she told the Board that the subcommittee discussed an extension of the actuary's contract. She said ERSRI entered into another four (4) year contract with Gabriel, Roeder, Smith and Company (GRS) effective July 1, 2003. The contract will expire on June 30, 2007 with the completion of the valuation and experience study for the period ending June 30, 2006. GRS has been the System's actuary since 1997. Chairperson Booth Gallogly said the current contract has a provision permitting contract extensions in one-year increments. Provided there are no other issues, she said the Director recommended ERSRI negotiate a one-year extension with GRS. The committee unanimously felt that there were no issues, to their knowledge, with the work performed by GRS and agreed with the Director regarding consistency and institutional knowledge by the actuary.

She said the committee instructed Director Karpinski to negotiate a price for a one-year extension of GRS's contact. Upon review by the new administration, the committee will reconvene and determine if GRS' s fee is satisfactory and make its recommendation to the full board at that time.

Chairperson Booth Gallogly then motioned that:

- The system to proceed with effectuating the renewal provision and continue the relationship with the Saber Corporation for another year at \$ 783,360
- Authorize the Director to secure the services of a vendor to perform a risk analysis / vulnerability assessment of ERSRI's computer systems and development of information systems security policies and procedures by either RFP or existing vendors from the State's master price agreement.
- Authorize the Director to negotiate a price for a one-year extension of GRS's contact. Upon review by the new administration, the committee will reconvene and determine if GRS's fee is satisfactory and make its recommendation to the full board at that time.

Jerome F. Williams seconded the motion and it was unanimously approved by the full Board. The Treasurer thanked the committee for their work.

**Chairman's Report:** As it was Treasurer Tavares final meeting, he personally thanked the Board for their tireless efforts and the opportunity to serve with them over the last eight years. He thanked the Board for their counsel, the respectful manner in which business was conducted and being mindful of everyone's opinions. He said he was proud of the collective efforts of the work done by the Board and the help provided to his administration.

The Board thanked the Treasurer for his eight years of leadership and wished him well in the future.

## **IX. New Business**

None

## **X. Adjournment**

There being no other business to come before the Board, on a motion by John P. Maguire and seconded by M. Carl Heintzelman the meeting adjourned at 12:20 p.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director