



**Employees' Retirement Board of Rhode Island  
Monthly Meeting Minutes  
Wednesday, January 14, 2009  
9:00 a.m.  
8<sup>th</sup> Floor Conference Room, 40 Fountain Street**

The Monthly Meeting of the Retirement Board was called to order at 9:05 a.m., Wednesday, January 14, 2009 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: General Treasurer Frank T. Caprio; William B. Finelli; Gary R. Alger; Daniel R. Beardsley; Frank R. Benell, Jr.; Rosemary Booth-Gallogly; Michael R. Boyce; M. Carl Heintzelman; John P. Maguire; John J. Meehan; Louis M. Prata; Linda C. Riendeau; Susan K. Rodriguez and Jean Rondeau. Roger P. Boudreau arrived at 9:13 a.m.

Also in attendance: Frank J. Karpinski, ERSRI Executive Director and Attorney Michael P. Robinson, Board Counsel.

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

**II. Approval of Minutes**

On a motion by Frank R. Benell, Jr. and seconded by Daniel R. Beardsley, it was

**VOTED: To approve the draft minutes of the December 10, 2008 meeting of the Employees' Retirement System of Rhode Island Board.**

**III. Chairman's Report**

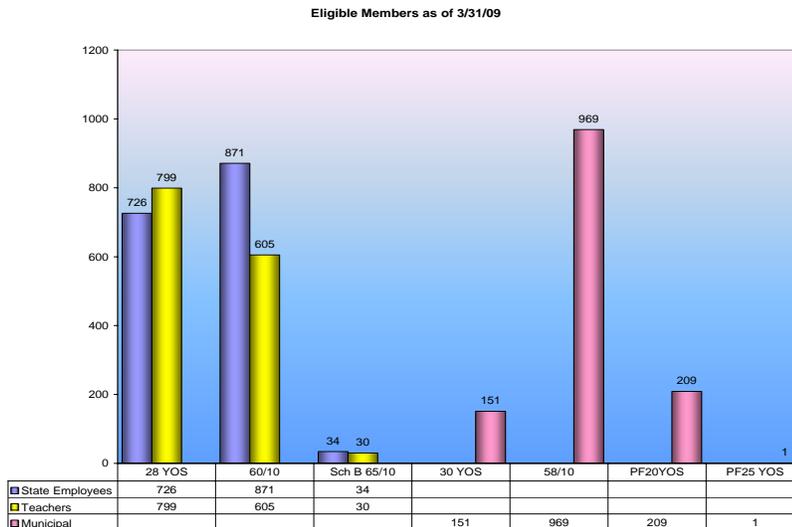
The Treasurer remarked that due to the Governor's proposed changes in pension benefits, the Retirement Staff has received a large number of requests for information regarding retirement eligibility. He commented that the department has systems and tools in place to accommodate the needs of the membership.

**IV. Executive Director's Report**

Director Karpinski followed the Treasurer's comments regarding the volume of requests. He told the Board the staff is implementing a strategy so as to continue to provide members with quality service, despite the volume of applications that will be processed in the coming months. Director Karpinski said the staff will be implementing mobile group counseling sessions. He said the system is contacting school departments and municipalities to obtain a list of pension eligible members. The staff will then provide written benefit estimates in advance, and will travel to the employer to provide a presentation on benefit provisions and options.

Director Karpinski then apprised the Board that the Procurement Subcommittee met on December 19<sup>th</sup> to vote on some recommendations. He said Rosemary Booth-Gallogly, the chair of the committee, would update the Board under committee reports.

Lastly, Director Karpinski provided the Board with the following graph of potential members who would be eligible to retire under the recent proposal in the Governor's Supplemental Budget (H 5019). He told the Board that the eligible members have service credit projected to March 31, 2009.



Director Karpinski then provided the Board with the pension application processing report.

## V. Discussion of Plan Funding Issues Related to the Governor's Supplemental Budget for Fiscal Year ending June 30, 2009

William B. Finelli commented that Article 32 of the Governor's Supplemental Budget proposes that contributions to the pension fund be reduced. He told the Board that Rhode Island General Law provides that the State of Rhode Island shall make its contributions for the maintenance of the retirement system based on a percentage computed by the actuary employed by ERSRI. He stated that until either legislation is approved or the actuary adjusts the contribution rate, it is the Retirement Board's fiduciary responsibility to continue to collect contributions based on the current percentage. Rosemary Booth-Gallogly concurred that employers must continue contributing the current actuarial rate determined by Gabriel, Roeder, Smith & Company (GRS).

Ms. Booth-Gallogly provided her insight to the Board regarding the proposed reduction in contributions. She told the Board that if the COLA provision is eliminated, as proposed in the supplemental budget, the unfunded liability would be reduced and an actuarial analysis would reflect a reduction in the contribution rate. Ms. Booth-Gallogly told the Board such a change would reduce the State's contribution costs by approximately 25%.

She told the Board that an actuarial study will be completed by January 23, 2009, and that contribution adjustments will not be enacted until this analysis is completed and then legal changes are enacted by the General Assembly. She mentioned that there is room for compromise on the proposed April 1, 2009 effective date. According to GRS, she said the deadline can be moved to any point prior to June 30, 2009, provided the legislation is enacted soon. She told the Board that this may eliminate some disruption at the end of the school year.

## **VI. Administrative Decisions**

*(None this Month)*

## **VII. Approval of the December Pensions as Presented by ERSRI**

On a motion by Michael R. Boyce and seconded by William B. Finelli, Louis M. Prata, and Linda C. Riendeau it was unanimously

**VOTED: To approve the December pensions as presented.**

## **VIII. Legal Counsel Report**

Attorney Michael Robinson noted that there was one new complaint filed by Kathleen Mellor. Ms. Mellor is seeking to purchase service credits from November 1980 through April 1985 while she was employed by the International Institute of Rhode Island. The Retirement Board denied her request and she has filed an appeal.

Attorney Michael Robinson then provided the Board with a review of applicable regulations pertinent to disability and administrative hearings. He began by telling the Board that they essentially sit as an appellate body, affirming or rejecting a decision under review, whether of a Hearing Officer, or the Disability Subcommittee. He reminded them that their determination is guided by the principles in ERSRI Regulation 4, *Rules of Practice and Procedure for Hearings*, which he summarized for them.

Next, Attorney Robinson briefly discussed the Rhode Island Supreme Court case of Environment Scientific Corporation v. Durfee, 621 A.2d 200 (R.I. 1993) in which he told the Board that the Court had held that the hearing officer in a two-level system of review is an indispensable element of administrative procedure; a procedure similar to the one employed by ERSRI. He told the Board that in similar cases, courts have noted that ERSRI also utilizes a two-tier review process, wherein grievances are heard first by a Hearing Officer, who issues a written decision that is then submitted to the Retirement Board. The Board considers the decision, along with any further briefs or arguments, and renders its own decision.

Attorney Robinson described to the Board the analogy used by the courts regarding the procedure employed. He said the two-step procedure has been likened to a funnel. The Hearing Officer, or the Disability Sub-Committee, at the first level of review, "sits as if at the mouth of the funnel" and analyzes all of the evidence, opinions, and issues. The Retirement Board, he said is stationed at the "discharge end" of the funnel. The Board, at the second level of review, does not receive the information considered at the first level of review first hand. He apprised the Board that the Supreme Court has held that

“the further away from the mouth of the funnel that an administrative official is the more deference should be owed to the fact finder.” Attorney Robinson stressed to the Board that as indicated by the Supreme Court, determinations of credibility and findings of fact made by the Hearing Officer should not be disturbed unless they are “clearly wrong.” Additionally, Attorney Robinson said the Rhode Island Superior Court has indicated that the Retirement Board owes the same substantial deference to determinations of the Disability Subcommittee, and he referenced the matter of Worley v. ERSRI, 2008 R.I. Super. LEXIS 89, wherein the court stated that “[t]he Court notes that the Retirement Board was obliged to accord great deference to the Subcommittee’s findings of fact on this matter.”

Attorney Robinson concluded by advising the Board that they must give deference to the fact finder, whether the Hearing Officer or the Disability Subcommittee, and that determinations of credibility and findings of fact made by the Hearing Officer or the Disability Subcommittee should not be disturbed unless they are “clearly wrong.” He said as an example, it would be legally insufficient to overturn a decision of a Hearing Officer or the Disability Subcommittee solely based on the fact that the Board did not agree with or like the decision rendered, or based on a philosophical disagreement. He then informed the Board that he was reviewing the applicable regulations for any updates and would make recommendations at the appropriate time.

## IX. Committee Reports

**Disability Subcommittee:** The Disability Subcommittee recommended the following actions on disability applications as a result of its January 9, 2009 meeting for approval by the full Board.

Name	Membership Group	Type	Action
1. Sandra Ellis	Municipal	Accidental	Deny
2. John Houle	Municipal	Accidental	Table
3. Janice Connelly	State	Accidental	Table
4. John Vallari	State	Accidental	Deny
5. Eugene Matera	State	Accidental	Deny
6. Valarie McKenzie	State	Accidental	Deny
7. David Palumbo	State	Accidental	Table
8. David Homen	Municipal	Accidental	Deny
9. Rachel Dumas	Municipal	Accidental	Table
10. Ken Rogers	Teacher	Ordinary	Approve
11. Peter Hoopis	Teacher	Ordinary	Approve
12. Steven MacKenzie	Teacher	Ordinary	Approve
13. Michael Agin	Municipal	Ordinary	Approve

<b>Name</b>	<b>Membership Group</b>	<b>Type</b>	<b>Action</b>
14. Carol Brough	Teacher	Ordinary	Approve
15. Cecilia Lowell	Municipal	Ordinary	Approve
16. Pauline Traficante	Municipal	Ordinary	Approve
17. Douglas Randall	Municipal	Accidental	Deny
18. Denise Martino	Teacher	Ordinary	Tabled

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

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, January 9, 2009 on item 18.**

John P. Maguire recused himself from item 18.

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 of Friday, January 9, 2009 on items 1 through 17.**

**Procurement Subcommittee:** Rosemary Booth-Gallogly, chair of the Subcommittee, provided the Board with a report of the Procurement Subcommittee meeting from December 19, 2008. She told the Board that the committee discussed a recommendation for hiring a consultant to perform a computer systems update and review. Ms. Booth-Gallogly explained that an RFP was issued which resulted in proposals from IT Advisory Services, KPMG LLP and L. R. Wechsler, Ltd. (LRWL). She said ERSRI has had a positive work experience with LRWL in the past and their proposed cost was much lower than KPMG. She apprised the Board that the committee recommended Director Karpinski secure a contract with LRWL.

Ms. Booth-Gallogly then discussed the computer system maintenance contract. She said Director Karpinski recommended that the Retirement Board award a one year contract extension to ERSRI's current consultant, Saber Technologies. Director Karpinski told the Board that Saber Technologies developed and designed the base solution, known as *Clarity*.

He said the software is proprietary, and given its boutique market, has no other vendors who possess the necessary technical expertise to support ERSRI's application. Consequently, the committee felt that Regulation 2, Section 2.1.5 clearly applies to Saber Technologies as a sole source provider.

Ms. Booth-Gallogly said the committee recommended approval and authorization to secure a one year contract extension with Saber Technologies.

Ms. Booth-Gallogly then apprised the Board that the committee discussed an extension of the actuary's contract. ERSRI entered into a four (4) year contract with GRS that became effective July 1, 2003. The initial contract expired on June 30, 2007. GRS has been the System's actuary since 1997 and their work has been commendable. She told

the Board the contract has a provision permitting extensions in one-year increments. Ms. Booth-Gallogly said the committee instructed Director Karpinski to negotiate a fee for a one-year extension of GRS's contract

Lastly, the committee discussed a request by Director Karpinski to perform an IRS compliance review by the system tax counsel, Hinckley, Allen and Snyder. Director Karpinski apprised the committee that the IRS has recently taken a heightened interest in public pension plans and felt it would be prudent to review its compliance practices. The committee unanimously agreed and authorized the Director to initiate the study at a proposed cost of \$12,000

On a motion by Jean Rondeau and seconded by Frank R. Benell, Jr. and Roger P. Boudreau, it was unanimously

**VOTED: To authorize the Director to secure the services of LRWL Ltd. to perform an assessment of ERSRI's computer systems at a proposed cost of \$89,950.**

**To authorize the Director to secure a one year contract extension with Saber Technologies at a cost of \$741,180.**

**To authorize the Director to negotiate a price for a one-year extension of GRS's contact. The committee will review the negotiated price from GRS and determine if the fee is satisfactory. If so, it will make its recommendation to the full board at that time or reconvene if necessary.**

**To Authorize the Director to initiate an IRS compliance review by the system tax counsel, Hinckley, Allen and Snyder, at a proposed cost of \$12,000.**

## **X. New Business**

*(None this Month)*

## **XI. Adjournment**

There being no other business to come before the Board, on a motion by Jean Rondeau and seconded by Frank R. Benell, Jr. and Roger P. Boudreau, the meeting adjourned at 10:00 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director