



**Employees' Retirement Board of Rhode Island**  
**Monthly Meeting Minutes**  
**Wednesday, March 13, 2013**  
**9:00 a.m.**  
**2nd Floor Conference Room, 50 Service Avenue**

The Monthly Meeting of the Retirement Board was called to order at 9:06 a.m. Wednesday, March 13, 2013, in the 2<sup>nd</sup> Floor Conference Room, 50 Service Avenue, Warwick, RI.

**I. Roll Call of Members**

The following members were present at roll call: General Treasurer Gina M. Raimondo; Vice Chair William B. Finelli; Gary R. Alger, Esq.; Daniel L. Beardsley; Michael R. Boyce; M. Carl Heintzelman; Richard A. Licht; John P. Maguire; Thomas A. Mullaney; Claire M. Newell; Louis M. Prata and Jean Rondeau.

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

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

Mr. John J. Meehan arrived at 9:08 a.m.

**II. Approval of Minutes**

On a motion by Jean Rondeau and seconded by Richard A. Licht, it was unanimously

**VOTED: To approve the draft minutes of the February 13, 2013 meeting of the Employees Retirement System of Rhode Island Board.**

**III. Chairperson's Report**

Treasurer Raimondo reported that ERSRI is still waiting to hear when the Ethics Commission will take up the matter of the advisory opinion sought on behalf of the Board in regard to those members of the Retirement Board who may have potential conflicts of interest regarding the pending pension reform litigation.

Attorney Robinson said he was in contact by email with a staff attorney from the Ethics Commission and said that they would try to get it on the March 19, 2013 or the April 2, 2013 Commission meeting.

**IV. Executive Director's Report**

Director Karpinski apprised the Board that they were in possession of the Pension Application Report, Disability Subcommittee Report, a Disability Retirement Process and Data Report, a presentation from Gabriel, Roeder, Smith and Company (GRS) on the State Police Retirement Benefits Trust and the Teachers' Survivors Benefit Trust. He noted that the valuations were included in the Board books.

Director Karpinski informed the Board that the mother of Board member Roger P. Boudreau suddenly passed away in Florida tragically. Director Karpinski expressed his condolences and apprised the Board that Mr. Boudreau would be away for a week.

Director Karpinski reminded the Board of the all-day training session scheduled for March 29, 2013; the Director said that a majority of Board members will be in attendance at the URI W. Alton Jones Campus in the conference center beginning at 8:30 a.m. until 4:30 p.m. He said a formalized agenda would be forthcoming. He told the Board that one of the speakers will be Attorney Robert D. Klausner who represents many pension funds throughout the country and has done extensive work with national benefit organizations. The Director said the other speakers are Messer's Laurence Brown and Darren Lopes of TIAA-CREF, who will be providing training on the DC Plan and the Board's responsibilities. The Director stressed that this is required training by the statute and encouraged attendance.

Director Karpinski apprised the Board that the Procurement Subcommittee met on Thursday, March 7, 2013 to discuss a fee and contract for an actuarial audit. He said Chairman Mullaney will provide an update under committee reports. If the Board approves the committee's recommendation, the Director said that ERSRI will secure a contract and begin work.

Director Karpinski informed the Board that the Legislative Subcommittee meeting, which was requested by Mr. Boudreau, has been delayed due to his absence and another date will be chosen.

He said the Rules and Regulations Subcommittee will be meeting tomorrow at 9:30 a.m. and will be reviewing a new regulation for the purchase of leave and partial leave credit, and will also consider some technical changes relating to Regulations No. 1, 4, 5, 7, 9, 10, and 11.

Director Karpinski said that GRS will present the State Police and the Teachers' Survivors Benefit Trust valuations. The Director prefaced that if the Board is in agreement with the two valuations, then a motion will be needed to approve both valuations and that will conclude the rates for the valuations of 2012.

**Presentation and Approval of the Actuarial Valuation as of June 30, 2012 by Gabriel, Roeder, Smith and Company of the State Police Valuation and the June 30, 2011 Teachers' Survivors Benefit Fund.**

Director Karpinski then introduced Mr. Joseph P. Newton, FSA, to present the valuations.

Mr. Newton first discussed the actuarial results of the State Police and provided the following chart:

	June 30, 2011	June 30, 2012
	(1)	(2)
1. Actuarial accrued liability		
a. Actives & Inactives	\$ 70,336,333	\$ 86,587,599
b. Annuitants	3,849,372	7,444,088
2. Total actuarial accrued liability (1a +1b)	\$ 74,185,705	\$ 94,031,687
3. Actuarial value of assets	73,151,768	84,293,968
4. UAAL (2 - 3)	\$ 1,033,937	\$ 9,737,719
5. Funded ratio (3 / 2)	98.6%	89.6%
6. UAAL/Payroll	5.2%	41.1%
<hr/> Weighted Average Contribution Rate for Applicable Fiscal Year <hr/>		
7. Full retirement rate		
a. Normal cost	14.18%	13.97%
b. Prior service	0.27%	3.27%
c. Full retirement rate	14.45%	17.24%
8. Estimated Contributions	\$ 3,080,764	\$ 4,413,623

Mr. Newton noted that the State Police are still well funded at 89%, but there is a substantial decrease in funding in comparison to the prior year's numbers. He said it is almost entirely related to salary increases. He noted that the contribution rate from the employer went up about 3%. Treasurer Raimondo asked what the amount of the salary increases was; Mr. Newton said they were approximately 11%. Mr. Maguire asked if the 11% included promotional adjustments and Mr. Newton said yes.

Mr. Licht affirmed that there was a promotional increase and that a new class came in. Additionally, he noted that there was a retroactive settlement of their contract which may have also affected the increase.

Mr. Beardsley queried about a comment in the valuation that stated "*The employer contribution rate has been based on the broader definition of Salary for Benefit Purposes*". Mr. Beardsley said usually such language means another benefit has been rolled into the salary, e.g., overtime, holiday pay, etc. Mr. Newton said that RIRSA affected the determination of the salary and said overtime is now part of the salary for which contributions are received. Mr. Newton said the overtime has always been part of the benefit but was not contributed on. The Treasurer wanted to clarify that the State Police always included overtime in the benefit received, but now the overtime must be contributed on and Mr. Newton said yes.

Mr. Newton then provided the Board with the following chart that included a reconciliation and change in the Unfunded Accrued Actuarial Liability:

Basis	UAAL	Contribution Rate
1. From 2011 valuation	\$1,034	14.45%
2. Impact of changes		
a. Interest at 7.50% *	78	
b. Amortization Payments	(907)	
c. Investment experience (gain)/loss	1,258	0.39%
d. Salary (gain)/loss	8,479	2.98%
e. Non-salary liability (gain)/loss	(204)	(0.31%)
f. Payroll growth	0	(0.27%)
g. Changes in assumptions	0	0
h. Changes in benefit provisions	<u>0</u>	<u>0</u>
3. UAAL from 2012 Valuation	\$9,738	17.24%

Mr. Newton then provided the following chart showing the State Police contribution rates:

Item	2011	2012	Projected 2013
Total Normal Cost %	22.93%	22.72%	22.72%
Member Contribution	<u>(8.75%)</u>	<u>(8.75%)</u>	<u>(8.75%)</u>
Employer Normal Cost%	14.18%	13.97%	13.97%
Amortization rate	<u>0.27%</u>	<u>3.27%</u>	<u>3.62%</u>
Total Employer Contribution	14.45%	17.24%	17.59%
FY ending June 30,	2014	2015	Projected 2016
Payroll Projected 2 Years	\$21.3	\$25.6	\$26.6
Projected Contribution	\$3.1	\$4.4	\$4.7

Above dollar amounts in millions

2013 Projections assume all assumptions exactly met and 7.5% return on market assets

2013 contribution rate higher due to final recognition of FY2009 investment losses

Next, Mr. Newton began his presentation of the Teachers' Survivors Benefit Fund (TSB). He said TSB is for those teachers who are not in Social Security. Director Karpinski reminded the Board that valuations for the TSB are valued every two years pursuant to RIGL. Mr. Newton told the Board that the valuation was prepared as of June 30, 2011, and said the last valuation was as of June 30, 2009. He said that assets continue to be greater than total present value of benefits (\$243 million vs. \$152 million). Therefore, the current contribution policy remains adequate. Mr. Newton told the Board that the assumption changes from the 2011 experience study had a positive impact on the TSB fund.

Mr. Newton then told the Board that the TSB fund had a market value of \$242.9 million and an Actuarial Accrued Liability (AAL) of \$133.6 million (based on Entry Age Normal (EAN) level dollar actuarial cost method). He said the Fund had a surplus of \$109.3 million and a funded ratio of 182% compared to 145% in 2009. Consequently, because the funded ratio is greater than 120%, the Board is not required to increase the current member and employer contributions of \$96 per year.

There being no further discussion, the Treasurer asked if there was a motion to approve the valuations of both the State Police Retirement Benefits Trust and the Teachers' Survivors Benefit Fund. On a motion by John P. Maguire and seconded by William B. Finelli, it was unanimously

**VOTED: To approve the Actuarial Valuation reports for the State Police Retirement Benefits Trust as of June 30, 2012 and the Teachers' Survivors Benefit Fund as of June 30, 2011 as presented by Gabriel, Roeder, Smith and Company.**

## **V. Administrative Decisions**

None this month

## **VI. Approval of the February Pensions as Presented by ERSRI**

On a motion by John P. Maguire and seconded by H. Carl Heintzelman, it was unanimously

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

## **VII. Legal Counsel Report**

Attorney Robinson apprised the Board that a decision was received in the *Zambarano v. Raimondo, et al., C. A. No. PC2011-2304* matter. He indicated that the Court had held that the order of forfeiture entered in the Federal Court, is not subject to the provisions of the PEPRRA statute, and that Mr. Zambarano would therefore be entitled to receive his contributions back. Attorney Robinson said the Court felt there was a distinction to be drawn under the statute between an order of forfeiture and an order or judgment of restitution. Attorney Robinson said the decision will give the Board guidance on how to administer such cases in the future.

Mr. Maguire affirmed with Attorney Robinson that the Board does not have to reach out to the U.S. Attorney's office in the future with similar forfeiture issues. Attorney

Robinson said issues of restitution are still subject to the power of the Superior Court to direct that contributions be used to satisfy a restitution order but not so with an order of forfeiture. He indicated that the Court had held that forfeiture has to do with disgorging funds to the sovereign (giving back monies to the State) versus restoring a loss to a particular harmed individual as occurs in the case of restitution.

Attorney Robinson then apprised the Board on the matter of the Central Coventry Fire District. He said the District owes roughly \$650,000 of contributions (both employer and employee) to the system and noted that a proof of claim has been filed on behalf of the Retirement Board which protects the record and identifies for the Court that the System has asserted a claim. Attorney Robinson said that last month on February 14 and 15, 2013, the Court conducted several hours of hearings regarding an emergency petition filed by the special master to liquidate the Central Coventry Fire District, and both Director Karpinski and Attorney Robinson attended. Attorney Robinson noted that he spoke on behalf of the Board and at the end of the hearings the Court issued an order basically instructing the special master to submit a detailed plan of liquidation that would be subject to review.

He said the Court ordered the taxpayers of Central Coventry Fire District to make their 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> quarter tax payments, and also authorized the special master to conduct another budget meeting which, if approved, would keep the Fire District as a going concern. Attorney Robinson spoke with the special master's office and was told that the budget meeting was rescheduled for March 26, 2013.

Attorney Robinson said that he, Director Karpinski and Finance Director Zachary J. Saul are working closely with the special master's office and have noted that the District is current with contributions.

Mr. Licht asked what percentage the fund was at, and Attorney Robinson said 67% - 68%. Mr. Licht then asked what the consequences of liquidation are as they owe the System money. Attorney Robinson said there are significant legal issues regarding the MERS and the obligations of the system, which would be dependent upon any specific plan of liquidation proposed.

## **VIII. Committee Reports**

### **Discussion Regarding the Disability Application Process**

Melissa A. Malone, Esq. began her presentation with the process for receiving a disability retirement application. She described an 8-step process for receiving and processing a disability retirement application. She noted the steps that may result in an approval, denial, or postponement of the application.

Mr. Licht asked while a process is ongoing, does the member receive any payments. Ms. Malone confirmed that they do not receive payments until granted by the Retirement Board.

Mr. Maguire told Ms. Malone that various members claim there is a long lag time between the time that the application is submitted and assignment of an Independent Medical Examination (IME) is granted. Ms. Malone said each individual file is reviewed within 7-10 business days, though a majority of the applications are incomplete. She said a check list is then returned back to the member with their application before the assignment of the IME. Attorney Malone noted that depending on the employer and the

individual, getting 3 years of prior medical information can take anywhere from a month to over a year.

Mr. Boyce wanted to clarify that the “checklist” sent back to the individual would be part of the original mailing and Ms. Malone affirmed it is sent at the original mailing. Ms. Malone clarified that documents are reviewed as they arrive. A complete listing of documents received is then thoroughly reviewed by Ms. Malone. Mr. Boyce then asked that an aging report, similar to the Pension Application processing report, be provided to the Board on a monthly basis. Attorney Malone said she would require some time to develop such a report.

Treasurer Raimondo asked if there is a particular portion of the application that tends to delay the processing on a consistent basis, and Ms. Malone said there appears to be 2 issues. The first is if the member has not reached MMI (maximum medical improvement) which is certified by physician. The second is the receipt of 3-years prior medical information.

Mr. Beardsley felt that the reason why there is a delay in obtaining the 3-year prior medical records is that the time frame to be reviewed usually relates to non-accident related medical reports as opposed to those who had accidents within that 3-year time frame.

Ms. Malone then discussed the appeal process and noted that there are two opportunities for a member to appeal. The first is when the Subcommittee denies the original application. The applicant may then appeal to the Subcommittee and provide an oral presentation if they desire. Attorney Malone said that if the application is denied again, the individual has the opportunity to go to the full board and appeal. She then said if the member is denied by the full board, they may appeal to the Superior Court. She noted that if the member is a police and fire member and has applied after July 1, 2011 and was denied by the Board, there will be an opportunity to go to Worker’s Compensation Court, which is a new provision.

Attorney Malone then noted that there are 227 pending applications and of that number, 155 are incomplete applications; 22 are awaiting assignment of IME’s (usually 3-6 month waiting period contingent on individual’s medical condition); 23 are members scheduling IMEs and 27 are currently postponed by the Subcommittee or currently on the agenda. She then provided information on which applications were accidental or ordinary and who applied for both types of disability.

Ms. Malone then said between January 1, 2011 and March 1, 2013 there were 142 decisions made by the Retirement Board of approvals and denials. She continued her presentation and provided the Board with statistics on the classification of employees being adjudicated, the employers with the largest amount of applications and categorized medical conditions.

Mr. Beardsley pointed out that there are more applications on accidental disability pensions based on psychological circumstances such as post-traumatic stress disorder (PTSD) and he noted that the Subcommittee struggles with whether there was an accident with a physical injury on the job rather than a psychological aspect of not being able to return to work. Treasurer Raimondo stated that it appears prevalent with the teachers, particularly in the Providence School System. Ms. Malone said ERSRI is receiving an abundance of applications from the Providence School Department in the last year and a half.

In summary, Attorney Malone outlined the following to the Board, she said she is reaching out to large health care providers to increase the number of physicians completing IMEs, devoting more resources to assist members with the initial application process, reviewing and following up on hotline calls and continuing the RFP process for the hiring of an investigator.

Treasurer Raimondo thanked Ms. Malone for her presentation. She then asked that the Disability Subcommittee begin to discuss the procedures and process of the disability application and consider ways to streamline the process.

**Disability Subcommittee:**

The Disability Subcommittee recommended the following actions on disability applications for approval by the full Board as a result of its meeting on March 8, 2013:

<b>Name</b>	<b>Membership Group</b>	<b>Type</b>	<b>Action</b>
1. Ronald Wilson	State	Accidental	Deny
2. Madeline Viveiros	State	Accidental	Deny
3. Paul Venditto	Municipal	Accidental	Postpone
4. David McCalla	Municipal	Ordinary	Approve
5. Sina Bieu	Teacher	Ordinary	Approve
6. Stephen Campbell, Sr.	Municipal	Accidental	Postpone

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, March 8, 2013 on item 5.**

John P. Maguire recused himself from the vote on number 5.

A motion was made by William B. Finelli and seconded by Michael R. Boyce to approve the recommendation of the Disability Subcommittee meeting of Friday, March 8, 2013 on items 1, 2, 3, 4, and 6. It was then unanimously

**VOTED: To approve the recommendation of the Disability Subcommittee meeting of Friday, March 8, 2013 on items 1, 2, 3, 4, and 6.**

Attorney Robinson addressed Mr. Maguire's question on the Disability Subcommittee Report regarding the significant change in the RIGL on public safety official applications after July 1, 2011. Appeals for those denied for accidental disability pensions now go to the Workers Compensation Court. Attorney Robinson told the Board that all other

appeals go to Superior Court based on the record of the Retirement Board under the Administrative Procedures Act where deference is owed to the Retirement Board, and there are generally no provisions for the assessment of fees to the losing party. The change in the legislation now sends matters to the Worker's Compensation Court for a de novo appeal. Attorney Robinson said the Worker's Compensation Court will potentially then be deciding the appeal on a new and expanded record including factual information that wasn't considered by the Retirement Board.

Attorney Robinson indicated that the Rhode Island Supreme Court is considering promulgation of an amendment to the Workers' Compensation Court's Rules of Practice, to address these appeals. He recommended that Director Karpinski contact Attorney Frederick P. McClure, the Board's tax counsel, for his opinion on whether the potential assessment of fees and costs in connection with a de novo workers' compensation court disability appeal might affect the Fund's tax status, and that depending upon Mr. McClure's opinion in that regard, it might be appropriate to submit a comment to the Supreme Court with regard to the proposed amendment.

On a motion by John P. Maguire and seconded by William B. Finelli, it was unanimously

**VOTED: To proceed with the Subcommittee's recommendation of having Director Karpinski contact the Board's Tax counsel, Attorney Frederick P. McClure, to obtain his opinion regarding the impact of the new legislation, and the possible assessment of administrative fees, on the Fund's tax status.**

#### **Procurement Subcommittee:**

Chairman Mullaney said the Procurement Subcommittee met on Thursday March 7th to discuss and recommend a contract award for Actuarial Audit Services. As noted at the last Board Meeting, the committee instructed Director Karpinski to negotiate a contract with Cheiron to provide actuarial audit services and report the fees to the committee for their consideration.

Director Karpinski updated the Committee, as directed from the last meeting, on reference checks for Cheiron. He noted that he contacted the Maine Public Employees Retirement System, the Maryland State Retirement and Pension System and the Washington State Department of Retirement. The Director told the Subcommittee that based on his conversations with the references, Cheiron appeared to be a reputable firm capable of performing the actuarial audit required by the Board.

Regarding the fee negotiation, Chairman Mullaney said Cherion proposed a revised total fixed fee of \$155,000 (previously \$170,000) to perform a full valuation audit (Option 1 of the proposal) and the limited review of the most recent experience study (Option 3 of the proposal). Given the complexity of the current benefit structure, the committee felt their fee is reasonable. For reference, Chairman Mullaney said ERSRI's actuarial fee from Gabriel, Roeder, Smith and Company is \$158,000.

The Treasurer asked what the expected time was to complete the audit. Chairman Mullaney said in September 2013. Director Karpinski said it needs to be completed for the 2013 valuation cycle since the system will be doing an experience study. Then on a motion by John P. Maguire and seconded by Gary R. Alger, Esq., it was

**VOTED: To accept the Procurement Subcommittee recommendation, consistent with Regulation No.3 Section 2.6 and award a contract to Cheiron to provide actuarial audit services and authorize the Executive Director to execute the contract. The fee for such services shall be \$155,000 as negotiated.**

## **IX. Adjournment**

There being no other business to come before the Board, on a motion by Gary R. Alger, Esq., and seconded by William B. Finelli, the meeting adjourned at 10:51 a.m.

Respectfully submitted,

**Frank J. Karpinski**

Executive Director