MINUTES OF THE WV CONSOLIDATED PUBLIC RETIREMENT BOARD BOARD OF TRUSTEES MEETING MEETING OF JANUARY 14, 2015

A meeting of the West Virginia Consolidated Public Retirement Board (CPRB) Board of Trustees was held in the CPRB Conference Room at 4101 MacCorkle Avenue, SE, Charleston, West Virginia 25304, and was called to order at 10:03 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Brittany Vascik, Esquire, representing Governor Earl Ray Tomblin
David Fletcher, representing Auditor Glen Gainer III
Diana Stout, Esquire, representing Treasurer John Perdue
Jason Pizatella, Esquire, Acting Cabinet Secretary
Andy Bird
Captain Michael Corsaro
Angela Crank
Joe Lynch
Jeffrey Vallet

Trustees not present:

Joseph Bunn, Esquire D. Todd Murray Andrew Richardson, Esquire David Stover

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director
Terasa Miller, CPRB Deputy Director
Candi Moore, CPRB Executive Assistant
Jeaneen Legato, Esquire, CPRB General Counsel
Lenna Chambers, Esquire, Bowles Rice
Craig Slaughter, WVIMB, Executive Director
Andrew Wyne, Empower Retirement, Outreach Officer
Eric Sanderson, Empower Retirement
David Driscoll, Buck Consultants
Harry Mandel, CPRB Actuary
Melody Bailey, CPRB Actuary Analyst

Heather Drake, CPRB Administrative Assistant Alysia Miller, CPRB Paralegal Darden Greene, CPRB Chief Financial Officer John Beane, CPRB Chief IT Officer Annamarie Short, CPRB Internal Auditor Steve Stockton, CPRB Compliance Officer Eric Stringer, CPRB IT Staff Caroline Brady, CPRB PERS Manager Torrie Williams, CPRB PERS Membership

Tab 1: Approval of the December 14, 2014 Meeting Minutes

Acting Cabinet Secretary Pizatella made a motion to approve the December 14, 2014 minutes of the CPRB. The motion was seconded by Mr. Vallet. The motion carried unanimously.

The minutes are located behind Tab 1.

Tab 2: Reports of the Chairman and Executive Director

The Board then heard the report from Executive Director Jeffrey Fleck which included the following information:

- Executive Director Fleck reported on the December 2014 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and estimate numbers. He reported for December there were 111 TRS Estimates and 65 Retirements and in PERS there were 243 Estimates and 69 Retirements.
- 2. Executive Director Fleck reviewed the Teachers' Defined Contribution (TDC) 2014 Educational Meetings with the Board. He announced there have been a total of 91 meetings so far this year, with 1,092 participants. Executive Director Fleck reported on the TDC Reality Investing statistics. He announced that TDC has a total of 4,735 participants and \$396,523,006 in total assets.
- 3. Executive Director Fleck reviewed the Delinquent Employers list with the Board.
- 4. Executive Director Fleck updated the Board on the Military Service Credit. He announced that since the CPRB sent out the letter to over 15,000 PERS retirees informing them of the Supreme Court Decision on the PERS Military Service Credit, there are 118 retirees that will get the additional service credit so far. There are 14 retirees we have found owe back money who shouldn't have been getting the service credit.
- 5. Executive Director Fleck reported to the Board on the Computer Update. He announced the Computer Project was at 19% completion. He announced that Phase 4a will go live in November 2015.

- 6. Executive Director Fleck provided the Board an update on the Oasis/ERP system. He announced payroll will go live March 14, 2015 for the employees of the Department of Administration. All employees will go from 24 pay checks to 26 pay checks per year.
- 7. Executive Director Fleck reported on the Fairmont State University Severance Plan. He announced the Joint Committee on Pensions approved an agreement between Fairmont State University and the CPRB on June 17, 2014, whereas Fairmont State University would make payments to TRS in the amount of \$328,937.00, with an added \$1,200.00 in actuarial charges that were agreed to in the MOU, and to date TRS has not received a payment from them.
- 8. Executive Director Fleck reviewed with the Board the December 2014 CPRB Financials. He announced that we are at 81 ½% percent of budget as of December 31, 2014.
- Executive Director Fleck announced there will be a Trustees Conference on Public Pensions held in February and if any Board Member would like to attend, please let him know.
- 10. Executive Director Fleck notified the Board it is time to fill out the WV Ethics Commission Financial Disclosure Statement that is required for all of the Board Members. The deadline to have them completed and submitted to the Ethics Commission is February 2, 2015.

The Report of the Executive Director is located behind Tab 2.

Board Member Joe Bunn arrived to the meeting at 10:06 a.m.

Tab 3: Plans Investment Data

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB), reviewed with the Board the Plan's Investment Returns for the period ending November 30, 2014.

Eric Sanderson, Empower Retirement, reported to the Board on the TDC Investment Data as of December 31, 2014. He informed the Board that email addresses with the Great West name have been changed to Empower Retirement.

The Plan's Investment Data report is located behind Tab 3.

Tab 4: Consideration of Current Disability Retirement Applications

Captain Corsaro reported the Disability Committee met on January 13, 2015, and the Committee makes the following recommendations to the Board:

System	Approved	Denied	Total
DSRS	1	0	1
PERS	8	2	10
TDC	2	0	2
TRS	2	0	2
TRS	5	0	5
(TDC Transfer	s)		
TOTAL	18	2	20

Mr. Fletcher made a motion the Board accept the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Lynch. The motion carried unanimously.

The disability list is located behind Tab 4.

Tab 5: Legal Counsel Reports

Chairman Wyant announced he would now entertain a motion to go into Executive Session to discuss legal matters.

Mr. Bunn made a motion the Board go into Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4. The motion was seconded by Ms. Vascik. The motion carried unanimously. The Board went into Executive Session at 10:17 a.m.

Chairman Wyant reconvened the Public Session of the January 14, 2015 meeting of the CPRB from Executive Session at 12:40 p.m. Chairman Wyant announced the Board was in Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4. He

announced there were no decisions made during Executive Session and will now return to Tab #5 on the Agenda, Legal Counsel Reports.

Work in Progress Reports from In-House Legal Counsel – Jeaneen Legato

Jeaneen Legato, In-House Legal Counsel, presented her report to the Board on all pending legal matters. She reported on all current Administrative, Circuit Court, Supreme Court and Less than Honorable Service (LTHS) cases.

Ms. Legato reviewed with the Board an update on the case of <u>Michael Whalen v. CPRB</u>. Ms. Legato informed the Board that on December 8, 2014, she filed a Verified Writ of Prohibition and a Motion for Expedited Relief with the West Virginia Supreme Court. On December 11, 2014 the Supreme Court, in a separate order, issued a Scheduling Order and directed the two respondents, which are plaintiff's counsel and Judge Nibert to file a response to our petition of Writ of Prohibition by December 29, 2014. The Board also filed a Motion to Stay proceedings pending the appeal at the Supreme Court; we also filed a Motion for Relief from Judgment in the Circuit Court of Mason County with Judge Nibert. The Board also filed a regular Petition for Appeal with the West Virginia Supreme Court in addition to the Writ of Prohibition. Judge Nibert scheduled a hearing on the Motion of Stay for January 30, 2015 at 10:30 a.m. On December 12, 2014, the *Petition for Appeal* was filed with the Supreme Court. On December 29, 2014, Mr. Whalen's counsel filed a response with the Supreme Court to our *Writ of Prohibition*.

Ms. Legato gave an update on the case of the <u>Mingo County Commission and Sheria Maynard v. CPRB</u>. Ms. Legato announced that on December 4, 2014, she attended a hearing in Mingo County which was presided over by Judge Thompson. Ms. Maynard and her counsel were notified by the Court and the Court's Order to be present; however, they did not attend the hearing. Judge Thompson directed counsel for the parties to submit Proposed Orders within thirty days. Ms. Legato announced to the Board that Proposed Orders were timely submitted by counsel for Mingo County and CPRB.

Ms. Legato provided an update on the case of <u>Joseph Talbott v. CPRB</u>. Ms. Legato announced to the Board that on October 23, 2014, opposing counsel filed a Petition for Appeal in the Circuit Court of Webster County. On November 6, 2014, the Board filed the Administrative Record. Judge Alsop held a Status Conference on January 13, 2015 at which time he entered a

briefing schedule. Oral argument will be held on April 6, 2015.

Ms. Legato reviewed the update on the case of <u>Estate of Thomas Eschbacher v. CPRB</u>. Ms. Legato announced to the Board that on September 30, 2014 an Interpleader was filed and assigned to Judge Bailey. On January 7, 2015, Judge Bailey entered an Order recognizing Amy Eschbacher as the sole beneficiary entitled to pre-retirement death benefits in TRS.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Shannon Varney, also known as "Collins", who is a member of PERS with 4 years and 8 months of service credit, who worked as a caseworker in the Logan County office of the Department of Health and Human Services. On April 11, 2014, a 35 count Indictment was filed with the US District Court for the Southern District. Charges range from *Mail Fraud, Misuse of Social Security Numbers, Access Device Fraud* and *Aggravated Identity Theft*. On July 21, 2014, she entered a plea agreement and plead guilty to counts Seventeen and Twenty of the Indictment: *Mail Fraud* and *Access Device Fraud* for misappropriation approximately \$52,000.00 from the DHHR. On January 8, 2015, Judge Johnson adjudged Ms. Varney, aka Collins, guilty and sentenced her to 5 years of probation.

Ms. Legato recommended the Board disqualify and terminate the pension of Ms. Varney, aka Collins's, membership in PERS and proceed with LTHS against her.

Captain Corsaro made a motion the Board adopt counsel's recommendation and authorize counsel to proceed with LTHS proceedings against Ms. Varney and to terminate her retirement benefits in PERS. The motion was seconded by Mr. Fletcher. The motion carried unanimously.

The report of the In-House Legal Counsel is located behind Tab 5.

Work in Progress Reports from Outside Legal Counsel – Lenna Chambers

Lenna Chambers, Outside Legal Counsel with Bowles Rice, reported to the Board on all pending legal matters before the Circuit Court, Supreme Court, U.S. District Court, U.S. Bankruptcy Courts and Administrative and QDRO matters.

Outside Counsel, Lenna Chambers updated the Board on the case of <u>W.Va. Investment</u> <u>Management Board, et. al., v. the Variable Annuity Life Insurance Company of America</u>. She announced the Circuit Court entered summary judgment orders in favor of VALIC and against IMB and CPRB on October 21, 2013. After an appeal by the IMB and CPRB, the Supreme Court of Appeals of West Virginia reversed the decisions and remanded the case to the Business Court Division. On December 22, 2014, the Business Court Division assigned Judge Christopher C. Wilkes as Presiding Judge and Judge James J. Rowe as the Resolution Judge. A Scheduling Conference was scheduled for January 16, 2015, but will be rescheduled due to scheduling conflicts with attorneys for both Plaintiff's and Defendant.

Ms. Chambers reviewed and updated the case of <u>Allen E. Tackett v. W.Va. Consol. Pub.</u>

Ret. Bd. Ms. Chambers informed the Board that the Petitioner asks that he receive one month of military service credit for each 120 hours of active duty military service performed in a year. The Petitioner does not challenge any other portions of the Board's August 13, 2014 Final Order, including the determination that inactive duty training (such as weekend drills), does not constitute active duty service creditable in PERS. An Administrative Record and Index were filed on behalf of the CPRB on September 24, 2014. The parties have submitted briefs and proposed orders were due January 8, 2015.

Ms. Chambers announced there is one more armed conflict period that needed to be recognized by the Board for military service credit purposes. Ms. Chambers announced it would be for the period of April 1, 1995 through November 19, 1995 as an additional period for military service credit purposes for armed conflict under PERS. She announced, this means everything in the last 50 to 100 years would qualify as one or more periods of armed conflict for purposes of PERS service credit.

Ms. Chambers announced to the Board that her recommendation is that the Board approve and adopt any and all campaign medal dates that are recognized for purposes of eligibility for membership in the VFW, and would include the April 1, 1995 through November 19, 1995 dates.

Captain Corsaro made a motion the Board adopt the recommendation of counsel and recognize any and all campaign medal dates that are recognized for purposes of eligibility for membership in the VFW, and would include the April 1, 1995 through November 19, 1995 dates as an additional period for military service credit purposes for armed conflict under PERS. Ms. Stout seconded the motion. The motion carried unanimously.

Ms. Chambers announced to the Board that as a result of these new periods being recognized and adopted in December and today, a question has come up regarding the retirees who are eligible for the additional PERS military service credit for these time periods; are they eligible for back pay and if so, whether interest would be included on the back pay.

Ms. Chambers announced that her recommendation would be that they would be eligible for the back pay and that interest would be included in the same way that the Board's staff is already calculating and providing for other periods of armed conflict service requests, as a result of the Wood decision.

Mr. Vallet made a motion the Board approve and adopt the recommendation of counsel.

Mr. Bird seconded the motion. The motion carried unanimously.

The report of Outside Legal Counsel is located behind Tab 5.

Chairman Wyant informed the Board that there was no report this month from Pullin, Fowler, Flanagan, Brown & Poe on the case of <u>Cheryl Dougherty, et al. v. CPRB et al.</u>

Chairman Wyant informed the Board that there was no report this month from Shuman, McCuskey & Slicer on the case of *Manuel Cartelle v. City of Beckley and CPRB*.

Tab 6: Committee Updates

Internal Audit Committee

Acting Cabinet Secretary Pizatella reported on the meeting of the Internal Audit Committee held this morning, January 14, 2015. He reported the Committee accepted the Audit Plan for 2015 from the Internal Auditor, Annamarie Short, and the Committee approved the performance evaluation of the Internal Auditor.

The minutes of the A & I Committee are located behind Tab 6.

Tab 7: Valuations - Buck Consultants - David Driscoll

David Driscoll of Buck Consultants reviewed with the Board the Actuarial Valuations of

five CPRB Retirement Plans as of July 1, 2014. Mr. Driscoll announced he would be reviewing the Plans for the PERS, TRS, Department of Public Safety, Death, Disability and Retirement System Plan A, State Police Plan B and the Judges Retirement System (JRS).

Mr. Driscoll reviewed the Actuarial Valuation for PERS with the Board. He announced that as of July 1, 2014, the funding status of PERS was at 83.1%.

Mr. Driscoll reviewed the Actuarial Valuation for the TRS with the Board. He announced that as of July 1, 2014, the funding status of TRS was at 66.2%.

Mr. Driscoll reviewed the Actuarial Valuation for the Department of Public Safety, Death, Disability and Retirement System (Plan A) with the Board. He announced that as of July 1, 2014, the funding status of the Department of Public Safety Death, Disability and Retirement System (Plan A) was at 86.1%.

Mr. Driscoll reviewed the Actuarial Valuation for the State Police Retirement System (Plan B) with the Board. He announced that as of July 1, 2014, the funding status of the State Police Retirement System (Plan B) was at 105.5%.

Mr. Driscoll reviewed the Actuarial Valuation for the Judges Retirement System (JRS) with the Board. He announced that as of July 1, 2014, the funding status of JRS was at 155.8%.

Acting Cabinet Secretary Pizatella made a motion the Board accept the July 1, 2014 Actuarial Valuations presented by Mr. Driscoll of Buck Consultants for the PERS, TRS, Department of Public Safety, Death, Disability and Retirement System (Plan A), State Police Retirement System (Plan B) and JRS Retirement Plans. Ms. Stout seconded the motion. The motion carried unanimously.

The report of Mr. Driscoll of Buck Consultants is located behind Tab 7.

Tab 8: Recommended Employer Contribution Rates - Harry Mandel

Harry Mandel, Board Actuary, reviewed with the Board the recommended contribution rate changes, effective July 1, 2015 based on the July 1, 2014 Actuarial Valuation Results for

PERS, State Police Plan B and JRS.

Mr. Mandel reviewed the recommended contribution rate change for PERS, and recommended to the Board that the PERS employer contribution rate be reduced from 14.0% to 13.5%, effective July 1, 2015.

Acting Cabinet Secretary Pizatella made a motion the Board accept the recommendation of the Board Actuary, Harry Mandel, and reduce the PERS employer contribution rate from 14.0% to 13.5%, effective July 1, 2015. Mr. Vallet seconded the motion. The motion carried unanimously.

Mr. Mandel reviewed the recommended contribution rate change for the State Police Plan B Retirement System and recommended to the Board that the State Police Plan B employer contribution rate be decreased from 13.5% to 12.0%, effective July 1, 2015.

Captain Corsaro made a motion the Board accept the recommendation by the Board Actuary, Harry Mandel, and decrease the State Police Plan B employer contribution rate from 13.5% to 12.0%, effective July 1, 2015. Mr. Lynch seconded the motion. The motion carried unanimously.

Mr. Mandel reviewed the recommended contribution rate change for JRS and recommended to the Board that JRS continue the member contribution rate of 7% of pay, effective July 1, 2015 for FY2016.

Acting Cabinet Secretary Pizatella made a motion the Board accept the recommendation by the Board Actuary, Harry Mandel, and continue the JRS member contribution rate of 7% of pay, effective July 1, 2015 for FY2016. Mr. Lynch seconded the motion. The motion carried unanimously.

The Recommended Contribution Rate report by Board Actuary, Harry Mandel is located behind Tab 8.

Tab 9: Actuarial Factors for Plan Administration – Harry Mandel

Board Actuary, Harry Mandel reviewed the recommendations of Actuarial Factors for the

Calendar Year 2015 with the Board.

Mr. Mandel recommended the Board approve the extension of the 2014 Actuarial Assumptions for daily administration to 2015 without modifications for the eight defined benefit plans as detailed:

- a. Public Employees Retirement System under Code Section 5-10-13.
- b. Teachers' Retirement System under Code Section 18-7A-11.
- c. Department of Public Safety, Death, Disability and Retirement Fund under Code Section 15-2-28.
- d. State Police Retirement System under Code Section 15-2A-4a.
- e. Judges' Retirement System under Code Section 51-9-3a.
- f. Deputy Sheriff's Retirement System under Code Section 7-14D-3.
- g. Emergency Medical Services Retirement System under Code Section 16-5V-4.
- h. Municipal Police Officers and Firefighters Retirement System factors as first adopted, effective January 1, 2013 under Code Section 8-22A-4.

Ms. Stout made a motion the Board accept the recommendations by the Board Actuary, Harry Mandel, and approve the extension of the 2014 Actuarial Assumptions for daily administration to 2015 without modifications for the eight defined benefit plans. Mr. Lynch seconded the motion. The motion carried unanimously.

The Actuarial Factors for Plan Administration report by Board Actuary, Harry Mandel is located behind Tab 9.

Tab 10: 2015 Proposed Legislation

Terasa Miller, Deputy Director, reviewed the 2015 proposed legislation with the Board beginning with the PERS Accounting Bill §5-10-28 and recommended the Board's approval.

Mr. Vallet made a motion to adopt the proposed PERS Accounting Bill §5-10-28 and submit it to the appropriate legislative body at the Legislature. Mr. Fletcher seconded the motion. The motion carried unanimously.

Ms. Miller reviewed the proposed legislation regarding Concurrent Employment with the

Board and recommended the Board's approval.

Mr. Lynch made a motion the Board adopt the proposed Concurrent Employment Bill and submit it to the Pension Chair's and Committees at the Legislature. The motion was seconded by Mr. Vallet. The motion carried unanimously.

Chairman Wyant announced at this point under Tab 10 on the agenda - Error Correction Proposed Legislation, the Board will stand at recess and reconvene the Board Meeting at 10:00 a.m. on Wednesday, January 21, 2015, via telephone or in person; he announced that the Board Members can participate either way.

Chairman Wyant recessed the January 14, 2015 West Virginia Consolidated Public Retirement Board Meeting at 1:46 p.m.

JANUARY 21, 2015 WV CONSOLIDATED PUBLIC RETIREMENT BOARD BOARD OF TRUSTEES MEETING RECONVENING THE MEETING OF JANUARY 14, 2015

The recessed meeting of the West Virginia Consolidated Public Retirement Board (CPRB) Board of Trustees was held in the CPRB Conference Room at 4101 MacCorkle Avenue, SE, Charleston, West Virginia 25304, and was called back to order at 10:02 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Joseph Garcia, Esquire, representing Governor Earl Ray Tomblin
David Fletcher, representing Auditor Glen Gainer III
Jason Pizatella, Esquire, Acting Cabinet Secretary
Andy Bird
Joseph Bunn, Esquire
Captain Michael Corsaro
Joe Lynch
D. Todd Murray
Andrew Richardson, Esquire
David Stover
Jeffrey Vallet

Trustees not present:

Angela Crank Diana Stout, Esquire, representing Treasurer John Perdue

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director Terasa Miller, CPRB Deputy Director Candi Moore, CPRB Executive Assistant Jeaneen Legato, Esquire, CPRB General Counsel Lenna Chambers, Esquire, Bowles Rice Harry Mandel, CPRB Actuary Melody Bailey, CPRB Actuary Analyst Heather Drake, CPRB Administrative Assistant

Chairman Wyant called the recessed meeting of the Wednesday, January 14, 2015, West Virginia Consolidated Public Retirement Board back to order at 10:02 a.m., on Wednesday, January 21, 2015.

Chairman Wyant announced to the Board, we are returning to Tab 10 on the agenda - Proposed Legislation for 2015.

Ms. Stout arrived to the meeting at 10:03 a.m.

Tab 10: 2015 Proposed Legislation

Chairman Wyant announced he would now entertain a motion to go into Executive Session to discuss legal matters.

Mr. Bunn made a motion the Board go into Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4. The motion was seconded by Mr. Murray. The motion carried unanimously. The Board went into Executive Session at 10:04 a.m.

Chairman Wyant reconvened the Public Session of the January 21, 2014 meeting of the CPRB from Executive Session at 10:16 a.m. Chairman Wyant announced the Board was in Executive Session to discuss legal matters as allowed by West Virginia Code §6-9A-4. He

announced there were no decisions made during Executive Session and we will now return to Tab 10 on the Agenda - 2015 Proposed Legislation.

2015 Proposed Legislation

Lenna Chambers, Outside Counsel, reviewed with the Board the Error Correction proposed legislation and recommended the Board's approval.

Captain Corsaro made a motion the Board adopt the Error Correction proposed legislation and give staff authority to make non-substantive changes, or clean-up that may be needed and submit it to the appropriate Pension Committees at the Legislature. Mr. Garcia seconded the motion. There was discussion on the motion. The motion carried unanimously.

Lenna Chambers, Outside Counsel, reviewed the PERS Military Service Credit proposed legislation with the Board and recommended the Board's approval.

Mr. Bunn made a motion the Board adopt the PERS Military Service Credit proposed legislation and give staff authority to make non-substantive changes, or clean-up that may be needed and submit it to the appropriate Pension Committees at the Legislature. Mr. Fletcher seconded the motion. There was discussion on the motion. The motion carried unanimously.

The 2015 Proposed Legislation is located behind Tab 10.

Tab 11: Other, Old Business

Chairman Wyant asked if there was any old business to bring before the Board. None was heard.

Tab 12: Other, New Business

Chairman Wyant asked if there was any new business to bring before the Board. Chairman Wyant announced he would like to thank all of the Board Members and staff for taking the time to attend by phone today.

Chairman Wyant then asked if there was any other new business to bring before the Board. None was heard. Chairman Wyant adjourned the meeting of the West Virginia Consolidated Public Retirement Board at 10:42 a.m.

David Wyant, Chairman

Consolidated Public Retirement Board

Jeffrey E. Fleck, Executive Director Consolidated Public Retirement Board