

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF NOVEMBER 30, 2022**

A meeting of the West Virginia Consolidated Public Retirement Board (“CPRB”), Board of Trustees, was held on Wednesday, November 30, 2022, in the David L. Wyant Conference Room at 4101 MacCorkle Avenue, Charleston, West Virginia, 25302. Due notice had been posted.

**Call to Order**

The meeting was called to order at 11:15 a.m. by Joseph Bunn, Chair.

**Roll Call:**

**Trustees participating:**

Joseph G. Bunn, Chair

Mike McKown, Vice Chair

Garner Marks, *representing Governor James C. Justice, II*

Jeffrey Waybright, *representing State Auditor John B. McCuskey*

Michelle Storage, Esquire, *representing State Treasurer Riley Moore*

Mark D. Scott, Cabinet Secretary, Department of Administration

Bill Barker

Rhonda Bolyard

Woodrow Brogan

Daniel Cart

Beth Morgan

D. Todd Murray

David Nelson

Reginald Patterson

Dominique Ranieri

Jeffrey Vallet

**Trustees absent:**

Larry Cole

**A quorum was present.**

**Others present:**

Jeffrey E. Fleck, CPRB Executive Director  
Terasa Miller, CPRB Deputy Director  
Alysia Miller, CPRB Paralegal  
Kenneth Woodson, CPRB Actuary  
Haley Perry, CPRB Actuarial Analyst  
Patricia Bowgren, CPRB IT Staff  
Jeaneen Legato, Esquire, CPRB General Counsel  
John Galloway, CPRB Chief Financial Officer  
John Beane, CPRB IT Manager  
Tim Abraham, CPRB Compliance Officer  
Tina Baker, Internal Auditor  
Emily Lambright, Esquire, Bowles Rice  
Tom Sauvageot, WV Investment Management Board  
Chris Meadows, Empower  
Lisa Trump, CPRB  
Tammy White, CPRB  
Sherry Stowers, CPRB  
Jennifer Scarbro, CPRB  
Brittney James, CPRB  
Lindsey Atkins, CPRB  
Kimberly Pauley, CPRB

**Tab 1: Approval of the October 5, 2022 Minutes**

Chairman Bunn stated that he would entertain a motion to approve the minutes of the October 5, 2022 meeting of the CPRB Board of Trustees.

**Jeff Waybright made a motion that the Board approve the minutes of the October 5, 2022 meeting of the Board. Mark Scott seconded the motion. The motion was adopted.**

*The minutes were located behind Tab #1 of the Board materials.*

## **Tab 2: Report of the Executive Director**

Chairman Bunn recognized Jeffrey Fleck, Executive Director, to give his report to the Board which included the following information:

1. *CPRB Mission, Vision, & Values* – Director Fleck reviewed the agency’s mission, vision, and values and explained how the agency developed those items.
2. *Recognition of Employees* – Director Fleck informed the members that he had received compliments from CPRB customers regarding exceptional customer service from three staff members: Brittney James, Jennifer Scarbro, and Sherry Stowers. Mr. Fleck read the positive feedback to the Board members, introduced the staff, and thanked staff for their efforts.

Director Fleck introduced Lindsey Atkins who was recently hired as CPRB’s outreach officer. Ms. Atkins will provide educational seminars to members and employers. Mr. Fleck announced that he hired a new executive assistant, Kimberly K. Pauley, and that she starts work on Monday, December 5, 2022.

3. *CPRB Operational Metrics* – Director Fleck reviewed the metric charts located behind Tab 2 of the Board materials. He noted that in addition to the current statistics, the tablets also contain last year’s statistics as requested at the last board meeting. Director Fleck stated that there have been 151 PERS retirements and 17 TRS retirements for the month of November. He announced that there has been an improvement in the average processing time of retirements. He stated that the annual average number of days to first check has been reduced from 39 days to 36 days. Director Fleck thanked the Retirement Section staff and managers for their efforts.
4. *TDC Statistics* – Director Fleck stated that the TDC Plan, which has been closed to new enrollees since 2005, has 3,755 participants and the total plan assets were \$597,646,965 as of October 31, 2022.

5. *Delinquent Employers* – Director Fleck reported that Green Acres Regional Center continues to make payments according to the settlement agreement bringing their delinquent balance down to \$121,000 from the original amount of over \$600,000. He reported that there are two Public Employees Retirement System employers on the report, the Town of Clay and Braxton County Health Department, who are late for one month. Mr. Fleck stated that both employers have indicated that their reports will be submitted as soon as possible. He stated there is also one delinquent Deputy Sheriffs’ Retirement System employer, Berkeley County Commission, and that the payroll coordinator is working on correcting payroll and the report errors.
  
6. *Monthly Financials* – Director Fleck stated that financial reports for the months of September and October are in his report. He reported that the period ending October 31, 2022, shows that the agency is operating below budget at 87% of budget for the month and 71.35% of budget for the year. He explained that a lot of the surplus is attributed to computer services which is intended to cover any potential computer changes that may be necessitated by legislative changes.

In response to a member question, Director Fleck indicated that the agency has 100 staff positions, eight (8) of which are currently vacant. Director Fleck stated that he prefers to promote from within but that when a position is filled from within the agency, it creates another vacancy. He noted that it has been difficult to recruit new workers but continues to post job advertisements.

7. *Office Relocation* – Director Fleck updated the Board on the office renovations at the agency’s future location. He stated the CPRB will be responsible for purchasing and installing carpet which will exceed the cost the Director is permitted to approve without Board approval; therefore, once vendor bids are received, the Board will be asked to approve that expense.
  
8. *Legislative Interim Meeting* – Director Fleck informed the Board that he and Actuary Ken Woodson attended a legislative interim meeting in Berkeley Springs, WV. He said there was extensive discussion about the 335 municipal police officers and firefighters who remain in the Public Employees Retirement System (PERS) and whether the legislature would permit an opportunity for those members to transfer into the Municipal Police and Firefighters Retirement System (MPFRS). Director Fleck noted that in 2016, the legislature provided a

limited opening for Tier II PERS employees to transfer into MPFRS. He stated that the police and firefighter representatives were advocating for all police officers and firefighters in PERS to be permitted to transfer. Director Fleck informed the members that the legislators have asked CPRB Actuary Ken Woodson to estimate the cost of two different transfer scenarios.

Director Fleck indicated that the CPRB was asked to also attend an upcoming interim meeting to discuss giving certain qualifying retirees a one-time supplemental payment and/or a permanent monthly increase.

9. *Notes, Quotes, & Anecdotes* – Director Fleck referred the members to page three of the Department of Administration’s November newsletter, which mentions that CPRB received the 2022 Public Pension Standards Award from the Public Pension Coordinating Council (PPCC) for meeting or exceeding professional standards in plan funding and administration.
10. *IMB 25-year Anniversary* – Director Fleck explained that in 1997, West Virginia voters adopted a constitutional amendment that changed the state’s investment structure to allow the Investment Management Board to invest in equities. He stated that a study found the effect of the change over a 25-year period increased the retirement plans’ value by \$9,458,089,000.
11. *2023 Board Meeting Schedule* – Director Fleck stated the 2023 meeting schedule has been approved by the chairman.
12. *CFO Resignation* – Director Fleck announced that CPRB’s Chief Financial Officer, John Galloway, has resigned, effective December 31, 2022. Mr. Galloway stated it was a hard decision and that he has enjoyed his time with CPRB. Director Fleck informed the Board that he has conducted some interviews for the position and hopes to hire someone before Mr. Galloway’s departure. The Board thanked Mr. Galloway for his exceptional work.

### **Tab 3: Plans Investment Data**

#### **WVIMB Report – Tom Sauvageot**

Chairman Bunn recognized Tom Sauvageot, WV Investment Management Board, to give an update on the Plans Investment Data.

Mr. Sauvageot said for the first quarter of the fiscal year to date, the retirement systems were negative 3.7 percent and for the past 12-month period, it was negative 9.2 percent. Mr. Sauvageot stated that the current long-term numbers over the past 20 years are much better at 8.2 percent.

Mr. Sauvageot explained that there are two areas influencing markets: global geopolitical situations, such as: Ukraine/Russia war; supply chain issues; and US tensions with China over Taiwan, and the US's ongoing battle between inflation and economic growth. Mr. Sauvageot noted that although energy prices have come down some and inflation is starting to come off the peak, the possibility for a recession is still high which weighs on the markets. Mr. Sauvageot concluded saying that private and alternative investments have outperformed the public market over the past year.

Mr. Sauvageot then answered questions from a board member.

### **Empower Report – Chris Meadows**

Chairman Bunn recognized Chris Meadows of Empower Retirement who gave an update on the TDC Plan.

Mr. Meadows updated the Board on the TDC outreach efforts. He reported that he had conducted 955 educational counseling sessions and 262 distribution counseling sessions since the beginning of the year for a total of 1217 sessions. Mr. Meadows stated that the *Plan Features and Highlights* newsletter had been sent to TDC participants and contains information on plan basics, the type of investment, contributions, vesting, distribution options, fees, and availability for management.

Mr. Meadows updated the Board on the TDC investments performance. He stated that after three quarters of poor performance in the 2022 year, the fourth quarter has gotten off to a good start. Mr. Meadows said positive economic data in the form of expanding GDP, up 2.6 percent in the third quarter after two negative quarters, continued solid employment numbers, and some milder inflation data have produced gains in the investment markets. He concluded that overall that the investment funds have continued to perform well on a relative basis.

Mr. Meadows then answered a question from a board member.

*The Plans Investment Data, TDC Educational Meeting reports, TDC Outreach materials and the TDC Investment Report were located behind Tab #3 of the Board materials.*

### **Executive Session**

Chairman Bunn stated that there was a legal matter that needed to be discussed in executive session and he would entertain a motion to go into executive session, as allowed by WV Code §6-9A-4.

**Todd Murray made a motion to go into executive session to discuss legal matters. Jeff Waybright seconded the motion. The motion was adopted**

*The Board went into executive session at 11:53 a.m.*

Chairman Bunn reconvened the public session of the November 30, 2022 meeting of the Board of Trustees from executive session at 12:14 p.m.

#### **Tab 4: Legal Counsel Reports**

##### **Report of In-House Legal Counsel – Jeaneen Legato**

Chairman Bunn recognized Jeaneen Legato, In-house Legal Counsel, to give her report to the Board.

Ms. Legato updated the Board on the case of *Shelton v. CPRB* which is pending before the Human Rights Commission. She stated that a settlement was reached during mediation and that the parties are working to finalize the agreement.

Ms. Legato reported that there is one potential less than honorable service case for the Board's consideration. She stated that Pamela McDaniel is a Public Employees Retirement System (PERS) retiree who used her position as a manager with the Kanawha Charleston Housing Authority to embezzle thousands of dollars by altering postal money orders that she received from tenants. Ms. Legato informed the Board that on August 9, 2022, Ms. McDaniel was indicted in the US District Court on three counts of falsifying a postal money order and on Oct. 17, 2022 Ms. McDaniel pleaded guilty to one felony count and was adjudged guilty. Ms. Legato recommended that the PERS membership and retirement annuity of Pamela McDaniel be terminated for rendering less than honorable service.

Chairman Bunn stated that he would entertain a motion to approve the recommendation of in-house legal counsel, Jeaneen Legato regarding less than honorable service.

**Jeff Waybright made a motion that the Board approve the recommendation to terminate the PERS membership and retirement annuity of Pamela McDaniel for rendering less than honorable service. Jeffrey Vallet seconded the motion. The motion was adopted.**

Ms. Legato stated that the appeal of Danny Mayo is pending with the Intermediate Court of Appeals. Ms. Legato recounted that the Board had denied service credit to Mr. Mayo for the years of 1990-1994 because his contract classified him as a substitute teacher. Since the filing of the appeal, the

Wayne County Board of Education issued an order, dated November 14, 2022, reclassifying Mr. Mayo as a regular employee from a substitute for the years at issue. Ms. Legato stated that Mr. Mayo is willing to withdraw the appeal if the Board will grant him three years of service credit for which he is now classified as a regular employee. Ms. Legato recalled that the Board's Final Order adopted the recommendation that states that if the Board of Education should reclassify Mr. Mayo's employment, then the CPRB should reconsider its denial of service credit. Ms. Legato recommended that the Board accept the proposed settlement and join the motion to dismiss in the case of *Danny Mayo v. WV CPRB*.

Chairman Bunn stated he would entertain a motion to approve the recommendation of in-house legal counsel, Jeaneen Legato regarding Danny Mayo.

**Jeff Waybright made a motion that the Board approve the recommendation to grant three years of service credit to Danny Mayo based on the Wayne County Board of Education's reclassification of Mr. Mayo's employment as a regular full-time employee. Bill Barker seconded the motion. The motion was adopted.**

Finally, Ms. Legato informed the Board that the Supreme Court of Appeals issued a decision in the case of *Linda Birchfield Modad v. CPRB* that reversed and remanded the circuit court's decision. She stated that this order is located behind Tab A of her report.

#### **Report from Outside Legal Counsel – Emily Lambright**

Chairman Bunn recognized Emily Lambright, Esq. of Bowles Rice to give the report of Ronda Harvey, Outside Legal Counsel, in her absence.

Ms. Lambright reported that there are two outstanding cases both of which have not had any movement since the last meeting. She stated that the *Tackett* case, submitted in 2019, is still pending before Judge Webster. Ms. Lambright suggested considering next steps in the new year if there is no movement.

Ms. Lambright reminded the Board that in the *Clark/Division of Natural Resources (DNR)* case, opposing counsel, Lonnie Simmons, had been working with DNR to obtain old payroll records to determine which employees had received a subsistence allowance. Ms. Lambright stated that she anticipates that opposing counsel will propose some form of extrapolation to quantify what may have been paid because the records are not complete. Ms. Lambright recommended no action at this time until opposing counsel makes a proposal.

Chairman Bunn requested that outside legal counsel come to the January 18, 2023 meeting prepared with recommendations to move the *Tackett* case forward.



*The reports of the In-House and Outside Legal Counsel were located behind Tab #5 of the Board materials.*

**Tab 5: Committee Reports**

**Disability Review Committee – Todd Murray**

Chairman Bunn recognized Mr. Murray to give the report of the Disability Review Committee.

Mr. Murray reported that the Committee had met on Tuesday, November 29, 2022, and approved the staff’s recommendations of disability retirement applications and made the following recommendations to the Board for their approval:

<b>System</b>	<b>Approved Total Non-Duty</b>	<b>Denied Total Non-Duty</b>	<b>Total</b>
<b>PERS</b>	<b>4</b>	<b>4</b>	<b>8</b>
<b>TDC</b>	<b>1</b>	<b>0</b>	<b>1</b>
<b>TRS</b>	<b>7</b>	<b>1</b>	<b>8</b>
<b>TOTALS</b>	<b>12</b>	<b>5</b>	<b>17</b>

Chairman Bunn stated that he would entertain a motion to accept the recommendation of the Disability Review Committee.

**Mark Scott made a motion that the Board accept and approve the Disability Review Committee’s recommendation concerning the disability retirement applications. The motion was seconded by Jeffrey Vallet. The motion was adopted.**

**Accounting and Audit Committee – Mike McKown**

Chairman Bunn recognized Mr. McKown to give the report of the Accounting and Audit Committee.

Mr. McKown reported that the Committee met on Tuesday, November 29, 2022 and reviewed the Internal Auditor’s proposed 2023 Internal Audit Plan.

Chairman Bunn stated that he would entertain a motion to approve the audit plan.

**Mike McKown made a motion that the Board adopt the Internal Auditor’s 2023 Internal Audit Plan. Bill Barker seconded the motion. The motion was adopted.**

Mr. McKown stated that the Committee received a report from Internal Auditor Tina Baker regarding Terminal Payments.

Chairman Bunn said he would entertain a motion to accept the report on Terminal Payments.

**Mike McKown made a motion that the Board accept the Internal Auditor's report on Terminal Payments. Jeff Waybright seconded the motion. The motion was adopted.**

Mr. McKown stated that the Committee also received a proposed *Records Management and Retention Policy and Procedure* from Compliance Officer Timothy Abraham.

Chairman Bunn stated that he would entertain a motion to accept the proposed policy.

**Mike McKown made a motion that the Board adopt the Compliance Officer's *Records Management and Retention Policy and Procedure*. Mark Scott seconded the motion. The motion was adopted.**

Director Fleck made some comments about the process of digitizing records and then answered questions from the Chairman.

#### **Investment Committee – Jeffrey Vallet**

Chairman Bunn recognized Jeffrey Vallet to give the report of the Investment Committee.

Mr. Vallet reported that the Committee had met on Tuesday, November 29, 2022. He notified the Board that one fund, the T. Rowe Price Blue Chip Fund, has not been performing as desired, and that the Committee intends to replace it. Mr. Vallet stated that the Committee requested that Empower staff prepare fund replacement recommendations to review at the next Investment Committee meeting.

#### **Tab 6: Old Business**

Chairman Bunn inquired as to any old business to come before the Board. None was heard.

#### **Tab 7: New Business**

Chairman Bunn asked Deputy Director Terasa Miller to give a high-level summary of CPRB's draft legislation for 2023 legislative session so that the Trustees are familiar with the topics. He noted that once the Governor's Office approves the proposed draft legislation, the Board of Trustees must call a

meeting before the next scheduled meeting to approve the legislation before submitting it to the Legislature.

### **Adjournment**

There being no further business to come before the board the meeting adjourned at 12:45 p.m.

A handwritten signature in blue ink, reading "Joseph G. Bunn", written over a horizontal line.

**Joseph G. Bunn, Chairman**

WV Consolidated Public Retirement Board

A handwritten signature in blue ink, reading "Jeffrey E. Fleck", written over a horizontal line.

**Jeffrey E. Fleck, Executive Director**

WV Consolidated Public Retirement Board