

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
MEETING OF JULY 6, 2011**

A meeting of the West Virginia Consolidated Public Retirement Board (CPRB) of Trustees was held at the Board Conference Room, 4101 MacCorkle Avenue, SE, Charleston, West Virginia 25304, and was called to order at 10:00 a.m. by Chairman David Wyant.

Roll Call was taken and trustees present were:

David Wyant, Esquire, Chairman  
Jeffrey Shawver, Esquire, *representing Governor Earl Ray Tomblin*  
Diana Stout, *representing Treasurer John Perdue*  
Cabinet Secretary Robert Ferguson  
Drema Evans  
Joe Lynch  
Todd Murray  
Sergeant Tony Payne  
Andrew Richardson, Esquire

Trustees not present:

Mack Parsons, *representing Auditor Glen Gainer*  
Thomas Bradley  
Captain Michael Corsaro  
David Fletcher

A quorum was present. Due notice had been posted.

Also in attendance were:

Terasa L. Miller, CPRB Acting Executive Director  
Candi Moore, CPRB Executive Assistant  
Janean Legato, Esquire, CPRB General Counsel  
Lenna Chambers, Esquire, Bowles Rice McDavid Graff and Love  
Jack DeBolt, Esquire, Hearing Officer  
Anne Charnock, Esquire, Hearing Officer  
Jeffrey Fleck, CPRB Compliance Officer  
Kris Morton, Great West Regional Manager  
Andrew Wyne, Great West Outreach Officer  
Craig Slaughter, Executive Director WV IMB  
Eric Stringer, CPRB IT Specialist  
Harry Mandel, CPRB Board Actuary  
Melody Bailey, CPRB Actuary Assistant  
Annamarie Short, CPRB Internal Auditor  
Lisa Trump, CPRB PERS Manager  
Caroline Brady, CPRB PERS Assistant Manager  
Brittany Smith, CPRB TRS Staff  
Lori Cottrill, CPRB Accounting Manager  
Torrie Williams, CPRB PERS Membership  
Tracy Batman, CPRB PERS Benefits  
Misty J. Peal, WVEA  
Emily Meadows, Appellant

**Tab #1: Approval of the May 25, 2011 Meeting Minutes**

Mr. Richardson moved to approve the May 25, 2011 minutes of the CPRB. The motion was seconded by Ms. Evans. The motion carried unanimously. The minutes are located behind Tab #1.

**Tab# 2: Reports of the Chairman and Acting Executive Director**

The Board heard the report from Acting Executive Director Miller which included the following information:

1. Acting Director Miller reviewed with the Board the May and June 2011 retirement numbers and estimates for the CPRB.
2. Acting Director Miller reported to the Board the CPRB will have a new Programmer Analyst III start in our Information Technology (IT) section on July 18, 2011. Interviews for the Chief Financial Officer (CFO) position have been conducted and hope to hire CFO by July 18 or August 1, 2011.
3. Acting Director Miller reviewed with the Board the one-time bonus checks will go out to approximately 2,000 retirees on July 27, 2011. She also reported to the Board the annual Cost of Living Adjustments (COLAs) to retired State Police and Judicial pay raises for retired members of the Judicial Retirement System (JRS) have been completed effective July 1, 2011.
4. Acting Director Miller informed the Board the A&I Committee met this morning and reported on the Teachers' Defined Contribution (TDC) Investment Fund changes. The Board was informed the new investments were mapped and everything is going smoothly. In addition, there is a letter behind Tab 2 dated June 22, 2011, that went out to approximately 2,000 TDC participants who had invested in the Franklin Income Fund and was mapped over to the Orchard Trust Secure Foundation Fund. This fund is not appropriate for everyone, and the letter fully discloses the fees and how the fund operates.

*Mack Parsons, representing Auditor Gainer, arrived at 10:04 a.m.*

5. Acting Director Miller reviewed the TDC Fund Change Meetings held in all the statewide RESA's. She reported that Andrew Wyne with Great West conducted 15 meetings in which 178 TDC members were in attendance.

6. Acting Director Miller reviewed with the Board the previous request to research whether or not additional contributions could be made into TDC member's accounts. After consultation with Bowles Rice Tax Counsel it was determined that this is not an option for TDC plan members.
7. Acting Executive Director Miller reported July is always a busy time for Teachers' Retirement System (TRS) staff. In excess of 1,000 TRS retirement applications have been received for a July 1 effective retirement date.
8. Acting Executive Director Miller reported to the Board on the Computer System Update Project. She reported there are two reports in the Board Books from L.R. Wechsler and Cindy Boyd, Project Manager. Three bids have been received for the Computer System Project from ViTech, Deloitte and Cedar Crestone. The Computer System RFP Evaluation Committee is already in the process of reviewing and evaluating the bids.
9. Acting Executive Director Miller reviewed the May and June 2011 Financials with the Board.
10. Acting Executive Director Miller reviewed with the Board some information that has been requested by the Legislature. 35% of our members will be eligible to retire within 5 years. Additional statistics regarding how members use sick leave upon retirement and increases in the number of retirements from year to year was shared with the Board.
11. Acting Executive Director Miller informed the Board that she and Harry Mandel have met with Senator Foster, Senate Pension Chairman, again to discuss a "Tier Two" level of benefits in the Public Employees Retirement System (PERS). This would be a new benefit structure in PERS. Mr. Mandel priced the various scenarios requested by Senator Foster for PERS. You will find a six page Alternative Benefit Reductions and Impact Analysis from Mr. Mandel behind Tab #2 on the possibilities of reducing benefits for future new hires under PERS.
12. Acting Executive Director Miller reported the Legislature has been asking about the Municipal Police and Firefighter Retirement System (MPFRS). Currently, MPFRS has 8 members. Under current law, 100 members will be needed by January 1, 2013 in order for the plan not to merge with the EMSRS. The Legislature has asked for the differences between the two plans, and that information has been provided and is behind Tab #2.
13. Acting Executive Director Miller informed the Board that the CPRB had one trip

report; Barbara Moss, Chrissy Courtney, David McCauley, Ed Coleman and Chris Barr attended the Certificate of Achievement in Public Plan Policy (CAPPP) Course Conference June 16 and June 17, 2011.

Acting Executive Director Miller's report is located behind Tab #2.

**Tab #3: Plans Investment Data**

West Virginia Investment Management Board (WVIMB) Executive Director Craig Slaughter reviewed with the Board the Plans Investment Data for month ending May 31, 2011. The Plans Investment Data report is behind Tab #3.

**Tab #4: Consideration of Current Disability Retirement Applications**

Ms. Evans reported to the Board the Disability Committee met on July 5, 2011 and makes the following recommendations to the full Board:

<b>System</b>	<b>Approved</b>	<b>Denied</b>	<b>Total</b>
<b>DSRS</b>	1	0	1
<b>PERS</b>	21	5	26
<b>TDC</b>	2	0	2
<b>TDC/TRS TRANSFERS</b>	5	0	5
<b>TRS</b>	5	0	5
<b>TOTAL</b>	33	5	38

Mr. Richardson moved the Board accept the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Parsons. The motion carried unanimously.

Ms. Evans made a motion to discontinue the PERS disability awards on the following effective August 1, 2011 due to non-compliance in providing their 2010 statement of earnings as required under WV Code § 5-10-26:

Catherine Clark

Darlene Frye

Anita Goins

Dorothea Henderson

Carl Kostelac

Serafino Mazzei

Doris Morgan

Larry Richmond

Robin Sawitski

John Thomas

The motion was seconded by Mr. Richardson. The motion carried unanimously.

Ms. Evans made a motion to authorize staff to re-institute the retirement annuity of the disabled retirants stated above upon receipt of the appropriate statement of earnings effective the first day of the month following receipt, so long as appropriate documents are received by April 14, 2012. If the statutorily required statement of earnings is not received by April 14, 2012, the disability annuity shall be terminated effective May 1, 2012. The motion was seconded by Mr. Parsons. There was discussion on the motion and the motion carried unanimously. The disability list is behind Tab #4.

#### **Tab #5: Consideration of Appeals to Hearing Officers**

##### **Hearing Officer Anne Charnock**

Hearing Officer Charnock addressed the appeal of Emily Meadows on whether or not Ms. Meadows is entitled to receive service credit in TRS for the approximately fifteen month period she was on a leave of absence, approved by her employer, but during which she received no compensation from her employer and thus no retirement contributions were paid on her behalf. It is recommended the request of Emily Meadows to allow her to obtain service credit in TRS for the time she was taking an unpaid leave of absence to complete her doctorate be denied.

Mr. Richardson made a motion to accept the Hearing Officer's recommendation and to deny the appeal of Emily Meadows. The motion was seconded by Sergeant Payne. The motion carried unanimously.

##### **Hearing Officer Jack DeBolt**

Hearing Officer DeBolt addressed the appeal of the City of Bridgeport, et al., on whether or not it is appropriate for the City of Bridgeport to withhold retirement system contributions on annual payments made to redeem certain accrued sick leave or bonuses. It is recommended the request of the City of Bridgeport and its affected employees to make contributions on payments for

sick leave and bonuses and thereby include such payments in the calculation of final average salary be denied.

Mr. Richardson made a motion to accept the Hearing Officer's recommendation and to deny the appeal of the City of Bridgeport. Ms. Evans seconded the motion. There was discussion on the motion and the motion carried unanimously.

Hearing Officer DeBolt addressed the appeal of Benny G. Jones on whether or not the Applicant is entitled to participate in PERS as a consequence of his present employment. It is recommended the request of Benny G. Jones to be permitted participation in PERS for his current employment be denied.

Mr. Richardson made a motion to accept the Hearing Officer's recommendation and to deny the appeal of Benny G. Jones. Mr. Lynch seconded the motion. The motion carried unanimously.

Hearing Officer DeBolt addressed the appeal of David M. McMillan on whether or not the Applicant is presently entitled to acquire military service credit for his 2003-2004 service under the provisions of USERRA. It is recommended the request of David M. McMillan to purchase USERRA military service credit for his 2003-3004 active duty service be denied.

Mr. Richardson made a motion to accept the Hearing Officer's recommendation and to deny the appeal of David M. McMillan. Mr. Lynch seconded the motion. The motion carried unanimously.

Hearing Officer DeBolt addressed the appeal of Stephen B. Starcher on whether or not the Applicant is eligible to acquire service credit for his 1981 CETA employment. It is recommended the request of Stephen B. Starcher to acquire service credit for his CETA employment be denied.

Mr. Richardson made a motion to accept the Hearing Officer's recommendation and to deny the appeal of Stephen B. Starcher. Mr. Lynch seconded the motion. The motion carried unanimously. The Recommended Decisions are located behind Tab #5.

**Tab #6: Work in Progress Reports from Legal Counsel**

Mr. Shawver made a motion the Board go into Executive Session to discuss legal matters, less than honorable service (LTHS) and commercial competition as allowed by West Virginia Code §6-9A-4. The motion was seconded by Mr. Murray. The Board went into Executive Session at 10:34 a.m.

The Chairman reconvened the Public Session of the July 6, 2011 meeting of the CPRB from Executive Session at 11:34 a.m. Chairman Wyant stated the Board was in Executive Session to discuss legal matters, LTHS and commercial competition. He announced there were no decisions made during Executive Session. The Board will return to Tab #6 of the Agenda: Work in Progress Reports from Legal Counsel.

**In-House Legal Counsel Presentation – Jeaneen Legato, Board Counsel:**

In-House Legal Counsel Jeaneen Legato reviewed her report with the Board on all pending legal matters. She reported on Administrative, Circuit Court, Supreme Court and LTHS cases.

Ms. Legato reviewed the case of Jack Jordan with the Board. She informed the Board this is a PERS appeal in which Nitro Police Chief Jordan is requesting that he be allowed to participate in PERS subsequent to his retirement from his municipal pension plan. Chief Jordan is represented by John Dascoli, Esquire. On October 26, 2010 Mr. Jordan, by counsel, John Dascoli, filed a Petition for Appeal in the Circuit Court of Kanawha County. On November 12, 2010, we filed the Administrative Record. By Order of Judge Stucky entered on March 16, 2011, the Court Reversed the Board's Final Order. On April 6, 2011, opposing counsel filed a Petition for Attorney Fees and Costs with the Circuit Court. On April 15, 2011, we filed a Response in Opposition to Petition for Attorney Fees. On May 17, 2011, Judge Stucky issued an Order awarding Petitioner attorney fees in the amount of \$9,755.83. This was a Post Judgment Order and it came after Judge Stucky reversed the Board's order on the Substance of the Issue. On June 14, 2011, we filed a Notice of Intent to Appeal of the issue of award with the WV Supreme Court.

The Chairman informed the Board the Notice of Intent to Appeal was filed within the 30 days required under the Supreme Court of Rules and was done in consultation between the Chairman and Counsel of the Board. Chairman asked the Board if there was any action they would like to take regarding the Appeal of Jack Jordan to affirm or withdraw the Notice of Intent to Appeal. It was explained they could either affirm the decision to file the Notice of Intent to Appeal or could direct the Appeal to be withdrawn.

Mr. Parsons moved the Board affirm the action of the Chairman and Counsel of the Board to file the Notice of Intent to appeal in the Jack Jordan Appeal. The motion was seconded by Mr. Murray. The motion carried unanimously.

*Secretary Ferguson departed the meeting at 11:40 a.m.*



Ms. Legato brought before the Board the LTHS case of Kimberly Pitsenbarger who was convicted in Pendleton County on 6 felony counts of embezzlement and falsifying accounts. It is recommended by Legal Counsel to file a petition to disqualify Kimberly Pitsenbarger from PERS.

Mr. Richardson made a motion for Board Counsel to file a petition to disqualify Kimberly Pitsenbarger from PERS. The motion was seconded by Ms. Evans. The motion carried unanimously.

*Secretary Ferguson returned to the meeting at 11:45 a.m.*

Ms. Legato brought before the Board the LTHS case of Robin Wise who was former employee of Ripley High School where she was the Financial Secretary. She was convicted of embezzlement in the sum of approximately \$95,000.00 on October 10, 2010. Although she has withdrawn from the TDC System, it is legal counsel's recommendation the Board move to disqualify Robin Wise so that should she ever become reinstated in the future, she would be permitted to participate in the retirement plan, but she would not be permitted to reinstate the service.

Mr. Shawver made a motion the Board accept the recommendation of the Board Counsel to disqualify Robin Wise so that should she ever become reinstated in the future, she would be permitted to participate in the retirement plan but she would not be permitted to reinstate the service. Mr. Richardson seconded the motion. The motion carried unanimously. The report of the In-House Legal Counsel is behind Tab #6.

**Outside Legal Counsel Presentation – Lenna Chambers, Bowles Rice:**

Outside Legal Counsel, Lenna Chambers 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. The report of the Outside Legal Counsel is behind Tab #6.

**Tab #7: Committee Updates**

**Accounting and Investment Committee:**

Ms Stout, in the absence of Mr. Fletcher, reviewed with the Board the A&I Committee information. She announced the Committee approved the recommendation of the Evaluation Committee regarding the Financial Audit RFP and stated she would like to make a motion that the Board approve the recommendation of the Evaluation Committee to the Purchasing Division regarding awarding a contract to be made on the Financial Audit RFP. The motion was seconded



by Mr. Richardson. The motion carried unanimously.

**Executive Director Search Committee:**

Chairman Wyant reported the Executive Director Search Committee will meet today after the Board Meeting to discuss the vacant Executive Director position.

**Internal Audit Committee:**

In the absence of Chairman Ferguson, Acting Executive Director Miller reviewed with the Board the report of the Internal Audit Committee.

**WVIMB Committee**

Chairman Evans reported the WVIMB Committee met this morning and reviewed one application for the West Virginia Investment Management Board Representative.

The application for review was for The Honorable Robert B. Stone from the Judges Retirement System (JRS). Chairman Evans reported to the Board the Committee voted to accept Judge Stone as the representative for the WVIMB and would need the Full Board's approval for the recommended appointment.

Mr. Lynch made a motion to accept the recommendation by the WVIMB Committee for the appointment of The Honorable Robert B. Stone in JRS as a representative to the West Virginia Investment Management Board (WVIMB). Mr. Richardson seconded the motion. The motion carried unanimously.

**Tab #8: Proposed 2012 Legislative Rule Comments**

Acting Executive Director Miller reviewed with the Board the proposed 2012 Legislative Rules Comments on the PERS - Series 5 with the Board. She reported that she received comments from the City of Lewisburg and Lisa Dooley, Executive Director of the WV Municipal League. Both letters stated the employee contributions should increase in PERS to offset the employer contribution increase. Chairman Wyant ask the Board if there was any action the Board wished to take regarding the Public Comments for Series 5 in PERS and none was heard. The Proposed 2012 Legislative Rule Comments are behind Tab #8.

**Tab #9: Other, Old Business**

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

**Tab #10: Other, New Business**

Chairman Wyant asked for new business and none was heard. Chairman Wyant announced the next Board Meeting will be Wednesday, August 17, 2011.

Chairman Wyant adjourned the public meeting of the West Virginia Consolidated Public Retirement Board at 11:55 a.m.



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David Wyant, Chairman  
Consolidated Public Retirement Board



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Terasa L. Miller, Acting Executive Director  
Consolidated Public Retirement Board