

**MINUTES OF THE
WV CONSOLIDATED PUBLIC RETIREMENT BOARD
BOARD OF TRUSTEES MEETING
MEETING OF NOVEMBER 14, 2018**

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, on Wednesday, November 14, 2018. The meeting was called to order at 11:00 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman
Mike Hall, *representing Governor James C. Justice, II*
Jeff Waybright, *representing Auditor John B. McCuskey*
Diana Stout, Esquire, *representing Treasurer John Perdue*
Deputy Cabinet Secretary Mary Jane Pickens
Bill Barker
Andy Bird
Captain Michael Corsaro, Vice Chairman
Michael Haney
Mike McKown
D. Todd Murray
Jeffrey Vallet

Trustees absent:

Joseph Bunn, Esquire
Joe Lynch

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB, Executive Director
Terasa Miller, CPRB, Deputy Director
Nancy Butcher, CPRB, Executive Assistant
Jeaneen Legato, Esquire, CPRB, General Counsel
John Galloway, CPRB, Chief Financial Officer
Ken Woodson, CPRB, Actuary
Melody Bailey, CPRB, Actuarial Analyst
Alysia Miller, CPRB, Paralegal

John Beane, CPRB, I.T. Manager
Patricia Bowgren, CPRB, I.T. Staff
Tammy Patton, CPRB I.T. Staff
Tim Abraham, CPRB, Chief Compliance Officer
Tina Baker, CPRB, Internal Auditor
Stachia Fields, CPRB, Customer Service Representative
Caroline Brady, CPRB, Employer Reporting Manager
Craig Slaughter, Executive Director, WVIMB
Chris Meadows, Empower Retirement
Tom Heywood, Esquire, Bowles Rice
Ronda Harvey, Esquire, Bowles Rice
Chris Deweese, Suttle & Stalnaker

Tab 1: Approval of the October 3, 2018 Meeting Minutes

Mr. Vallet made a motion to approve the minutes of the October 3, 2018, meeting of the Board.

The motion was seconded by Mr. Haney. The motion was adopted.

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

Tab 2: Reports of the Chairman and Executive Director

Mr. Jeffrey Fleck, Executive Director, gave his report to the Board which included the following information:

1. Executive Director Fleck reported on the Metric Chart. He stated that the October retirement applications are almost complete. He added that there were approximately 150 applications for October and for November, which is typically a busy month, there were a little over 200, with 50 of the November retirements being processed already. He went on to say that the average wait time for the first check in October was 29 days, for November the first check wait time is 18 days from retirement date and the average time for refunds is 37 days.
2. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) plan. He informed the Board that the total participants in the plan is 4,230 and the total assets are \$502,427,501.
3. Executive Director Fleck discussed the Delinquent Employers Report. He reported that the Green Acres Center is current with their payments per their settlement agreement. He also reported that the City of Thomas and the Weston Sanitary Board were only delinquent for September and have been sent late notices. He went on to explain the reasons for the Boards of Education that are listed on the report and plan to get those BOEs current.
4. Executive Director Fleck announced that the Fall edition of the West Virginia Teachers'

Defined Contribution Retirement System's *Financial Footnotes* was included in his materials.

5. Executive Director Fleck provided some highlights from the CPRB Fact Sheet and the CPRB Accomplishments for 2018. This information is provided to the Legislature.
6. Executive Director Fleck gave an update of the September and October financials, noting again, that the agency is under budget by \$2.2 million.
7. Executive Director Fleck gave a Legislative Update. He informed the Board that information had been provided to the Legislative Auditor in October regarding Retirees Who Return to Work in PERS, TRS and JRS.
8. Executive Director Fleck advised the Board that proposed legislation for the upcoming Legislative session regarding delinquent employers and former RESA employees who now work for EACs are being drafted and will be presented to the Board at the December meeting.
9. Executive Director Fleck gave an update on the proposed DNR Police Officers retirement system plan. The officers have asked that fiscal information modeling the new plan after the State Trooper Plan B be calculated. He went on to report that the 911 Center employees have inquired about the possibility of having their own plan or being included in the EMSRS plan.

Following the Executive Director's presentation, he answered a question from a Board member regarding the cost of computer programming for implementing new plans and if those costs were included in the fiscal notes. Mr. Fleck responded that computer costs were not included in the fiscal notes.

The Report of the Executive Director was located behind Tab #2 of the Board materials.

Tab 3: Plans Investment Data

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB), reviewed the Plan's Investment Returns Preliminary Reports for the periods ending June 30, 2018 and September 30, 2018. He noted that the markets are down but in his opinion the plans would maintain their stance.

Chris Meadows of Empower Retirement gave an update on the TDC Educational meetings. He reported that his on-site visits included 11 locations in six counties. Those counties were Harrison,

Kanawha, Braxton, Putnam, Ritchie and Marion where he conducted 35 in-person retirement reviews. He announced that he had conducted a total of 82 meetings with 1083 consultations thus far this year.

The Plans Investment Data reports were located behind Tab #3 of the Board materials.

Tab 4: Consideration of Current Disability Retirement Applications

Captain Corsaro reported the Disability Committee met on November 13, 2018, and the Disability Committee approved the staff’s recommendations of disability retirement applications and made the following recommendations to the Board for their approval:

System	Approved	Denied	Total
PERS	5	1	6
TDC	1	0	1
TRS	3	1	4
TOTALS	9	2	11

Mr. Vallet made a motion the Board accept and approve the Disability Committee’s recommendations concerning the disability retirement applications. The motion was seconded by Mr. Bird. The motion to accept and approve the recommendations carried.

The Disability report and minutes were located behind Tab #4 of the Board materials.

Tab 5: Consideration of Appeals to Hearing Officer Gary Pullin

Hearing Officer Pullin reviewed the appeal of Glen L. Cook, an individual who is a member of PERS. There are two issues in this appeal. The first is whether the Board is in default and precluded from enforcing the decision set forth in its February 22, 2016 letter to Applicant because the Board did not provide Applicant a hearing within sixty (60) days of his Request for Administrative Appeal.

The second issue in this case is whether the Board can adjust Applicant’s Retirement Annuity and require Applicant to reimburse the Public Employees Retirement System for the amount of any overages paid to him as a result of the inclusion of subsistence allowance in the calculation of his retirement annuity.

Hearing Officer Pullin recommended that Glen L. Cook’s appeal of the Board’s decision to deny his Motion for Default Judgment be denied and it is recommended that Mr. Cook’s appeal of the Board’s decision to adjust his retirement annuity and to seek repayment of overpayments made to Applicant as a result of inclusion of subsistence allowance in the calculation of his retirement annuity be denied.

Captain Corsaro made a motion the Board adopt the recommendation of the Hearing Officer and deny the appeal of Glen L. Cook. Mr. Vallet seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of Ronald L. Mooney, an individual who is a member of PERS. The issue in this appeal is whether the Board should honor Applicant's request to purchase military service credit where it was not submitted within the time provided for by applicable statute because Applicant was misinformed by his employer's Benefits Coordinator as to when the request to purchase military service credit was to be submitted.

Hearing Officer Pullin recommended that Ronald L. Mooney's appeal of the Board's decision to deny his request to purchase military service credit be denied.

Captain Corsaro made a motion the Board adopt the recommendation of the Hearing Officer and deny the appeal of Ronald L. Mooney. Mr. Vallet seconded the motion. The motion was adopted.

Hearing Officer Pullin reviewed the appeal of Thomas D. Tolley and Joseph Ward, who both are members of PERS. The issue in this appeal is whether the Board can require Applicants to reimburse the Public Employees Retirement System for the amount of any overages paid to them as a result of the inclusion of subsistence allowance paid to them in the calculation of their retirement annuity. Retirement annuity is determined from the amount of compensation received by an Applicant during a specified period of time. Alternatively, Applicants asserted that if the Board went forward with the recalculation of the amount of Applicants' retirement annuities and then seek repayment of any overages, the Board has breached the covenant or contract created between the Board and the Applicants that induced the Applicants to retire and they should therefore be reinstated to their previous employment.

Hearing Officer Pullin recommended that:

1. The Applicants' appeal of the Board's decision to seek repayment of overpayments made to Applicants as a result of inclusion of subsistence allowance in the calculation of their retirement annuities be denied;
 2. The Applicants' appeal of the Board's decision to seek repayment based on Applicants' argument that an agreement or contract was created between the Applicants and the Board at the time the Applicants applied for retirement, and the Board is there estopped from correcting or changing their retirement annuity be denied;
- And,
3. The Applicants' request that they be reinstated to their former employment as if they had never retired be denied as that the Board has no authority to grant that request.

Mr. Vallet made a motion the Board adopt the recommendation of the Hearing Officer and deny

the appeal of Thomas D. Tolley & Joseph A. Ward. Mr. Haney seconded the motion. The motion was adopted.

Tab 6: Legal Counsel Reports

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

Mr. Vallet made a motion the Board go into Executive Session to discuss legal and commercial competition matters as allowed by West Virginia Code §6-9A-4. The motion was seconded by Mr. Haney. The motion was adopted.

The Board went into Executive Session at 12:01 p.m.

Chairman Wyant reconvened the Public Session of the November 14, 2018, meeting of the CPRB from Executive Session at 12:20 p.m.

Chairman Wyant announced the Board was in Executive Session to discuss legal and contractual matters as allowed by West Virginia Code §6-9A-4 and that no decisions were made during Executive Session.

Report of 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 and Less than Honorable Service (LTHS) cases.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Robert Evans, a DSRS member and former Kanawha County Deputy. She announced on October 25, 2018, Mr. Evans entered a guilty plea to the federal felony offense of *lying to the FBI* in the United States District Court for the Southern District of West Virginia. Judge Berger has a sentencing hearing scheduled for February 13, 2019.

Ms. Legato recommended the Board disqualify and terminate the DSRS membership of Robert Evans for rendering LTHS.

Captain Corsaro made a motion the Board accept the recommendation of Counsel to disqualify and terminate the DRRS membership of Robert Evans and to authorize counsel to proceed with LTHS proceedings against him. The motion was seconded by Mr. Vallet. The motion was adopted.

The report of the Inside Legal Counsel was located behind Tab #5 of the Board materials.

Report from Outside Legal Counsel – Ronda Harvey

Ms. Harvey updated the Board on matters still pending the West Virginia Supreme Court of Appeals, the Circuit Courts of West Virginia and other administrative matters.

The report of the Outside Legal Counsel was located behind Tab #6 of the Board materials.

Tab 7: Committee Reports & Minutes

Accounting and Investment Committee

Jeff Vallet, a member of the Accounting and Investment Committee, stated that the Accounting and Investment Committee met on Wednesday, November 14, 2018. He reported on the Final 2018 Audited Financial Statements and Independent Auditor's Report.

Ms. Stout made a motion to accept the recommendation of the Accounting and Investment Committee to accept the 2018 Fiscal Year Audit. Mr. McKown seconded the motion. The motion was adopted.

Mr. Vallet informed the committee that the RFP for the TDC TPA bids that were received were disqualified so the Accounting & Investment Committee is recommending that the Board approve a Direct Award posting to allow Empower to continue the work they are currently performing under their contract under the same terms and conditions.

Ms. Stout made a motion to accept the recommendation of the Accounting and Investment Committee regarding the Direct Award thru June 30, 2019. Mr. Bird seconded the motion. The motion was adopted.

Mr. Vallet also informed the Accounting & Investment Committee is recommending that the Board approve changes to the RFP for the TDC TPA regarding mandatories, making them scorable items.

Ms. Stout made a motion to accept the recommendations of the Accounting & Investment Committee regarding the changes to the RFP for the TDC TPA. Captain Corsaro seconded the motion. The motion was adopted.

The minutes of the Accounting and Investment Committee, the Report by Suttle and Stalnaker and the minutes of the Disabilities Committee were located behind Tab #7 of the Board materials.

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

There being no further business to come before the Board, the meeting adjourned at 1:05 p.m.



David Wyant, Chairman
Consolidated Public Retirement Board



Jeffrey E. Fleck, Executive Director
Consolidated Public Retirement Board