

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF DECEMBER 20, 2017**

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 10:00 a.m. by Chairman David Wyant.

Roll Call was taken.

Trustees present were:

David Wyant, Esquire, Chairman  
Ann Urling, Esquire, *representing Governor James C. Justice, II*  
Jeff Waybright, *representing Auditor John B. McCuskey*  
Diana Stout, Esquire, *representing Treasurer John Perdue*  
Cabinet Secretary John A. Myers  
Andy Bird  
Joseph Bunn, Esquire  
Captain Michael Corsaro, *Vice Chairman*  
Michael Haney  
Mike McKown  
D. Todd Murray  
Jeffrey Vallet

Trustees absent were:

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  
Candi Kinslow, CPRB Executive Assistant  
Jeaneen Legato, Esquire, CPRB General Counsel  
Ronda Harvey, Esquire, Bowles Rice  
Gary Pullin, CPRB Hearing Officer  
Ann Charnock, CPRB Hearing Officer

Tim Abraham, CPRB Chief Compliance Officer  
John Galloway, CPRB CFO  
Heather Drake, CPRB Administrative Assistant  
Melody Bailey, CPRB Actuary Assistant  
Alysia Miller, CPRB Paralegal  
John Beane, CPRB I.T. Manager  
Tammy Patton, CPRB I.T. Staff  
Tina Baker, CPRB Internal Auditor  
Caroline Brady, CPRB Employer Reporting Manager  
Nora Shanklin, CPRB Receptionist  
Courtney Strobel, CPRB Call Center  
Craig Slaughter, Executive Director, WVIMB  
Denise Fortune, Empower Retirement  
Chris Meadows, Empower Retirement  
Chris Deweese, Suttle & Stalnaker  
Tom Zacharias, Deloitte  
Davin White, WVEA  
Timothy Bradley, Appellant  
Virginia Grottendiek, Attended with Appellant

**Tab 1: Approval of the October 11, 2017 Meeting Minutes**

Mr. Waybright made a motion to approve the minutes of the November 15, 2017 meeting of the CPRB. The motion was seconded by Mr. Bunn. 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 Jeffrey Fleck, Executive Director, which included the following information:

1. Executive Director Fleck announced the 2018 Board Meeting dates and informed the Members that Ms. Kinslow has provided a copy of the 2018 Board Meeting schedule.
2. Executive Director Fleck reported on the PERS monthly retirements for FY 2017. He announced that staff is making progress on the retirements and have been working overtime to get them completed. He announced the October retirements will be completed by the end of this year.

Chairman Wyant announced he would like to thank the staff for all of their hard work. He announced, we are making great strides and progress. We are utilizing the policy the Board has passed and the letter that we sent to all of the employers regarding implementing a penalty is showing positive results.

3. Executive Director Fleck reported on the Teachers' Defined Contribution (TDC) 2017 Educational Meetings. He announced as of November 30, 2017, Chris Meadows of Empower Retirement has held a total of 93 meetings so far, with 1,096 in attendance. Director Fleck announced as of November 30, 2017, there were a total of 4,330 participants and \$495,906,485 in total assets in the TDC Plan.
4. Executive Director Fleck reported on the Delinquent Employers. He announced that the Mingo County PSD has paid their account in full and thanked Captain Corsaro for his help. Executive Director Fleck announced that he called the Chairman of the Board of the Huntington Cabell Wayne Animal Shelter regarding not paying their contributions to the CPRB. The Chairman informed Executive Director Fleck that he will be addressing this matter at their Board Meeting on Thursday, December 21, 2018, and have it resolved for the CPRB. Executive Director Fleck announced that Green Acres is still making their payments on time.
5. Executive Director Fleck announced the hiring of a Chief Financial Officer, John Galloway. He announced Mr. Galloway is here today and introduced him to the Board. Chairman Wyant welcomed Mr. Galloway to the CPRB.
6. Executive Director Fleck reviewed with the Board the "Hourly v. Salary issues the CPRB has been having.
7. Executive Director Fleck reviewed the December issue of the Quotes, Notes and Anecdotes. He announced that Employee of the Year Ceremony was held on December 14<sup>th</sup>, and CPRB's Melody Bailey was one of the nominees up for that award. He announced that even though Ms. Bailey did not win, he wanted to recognize her for all of her hard work and dedication to the CPRB.
8. Executive Director Fleck announced we have a January 2018, Employee of the Month, Heather Drake. He announced Ms. Drake is Candi Kinslow's Assistant, she helps Ms. Kinslow with all of the Board and Committee Meetings. Ms. Drake's ceremony will be on January 4, 2018, here at the CPRB. Executive Director Fleck congratulated Ms. Drake.
9. Executive Director Fleck announced the CPRB participated in the United Way Campaign again this year and raised \$1,932.70. He thanked all of the staff for their participation.
10. Executive Director Fleck reviewed the November 30, 2017 financials with the Board. He announced we are currently at 19.43% of budget.
11. Executive Director Fleck informed the Board he had a proposal for additional space to

house the I.T. Department, the new hires and the call-center. Pursuant to the Board's request, he announced that he has checked into leasing space from the DEP, but they did not have enough room for all of the CPRB staff. He also looked at space at the Capitol, but there was no parking close to the buildings for the elderly members to park and have close accessibility to the buildings. He announced he has checked into leasing with the Colby Corporation, the office space across the street from the CPRB, in the building that the Pat Butner Interiors was in. He announced the cost would be \$10.95 a square foot, and the cost would be \$2,737.50 per month to lease the space. Executive Director Fleck announced WV OASIS will be providing cubicles, so no additional cubicles will be need to be purchased.

Chairman Wyant asked the Board if there was a motion to approve the additional space for the CPRB.

Cabinet Secretary Myers made a motion the Board authorize the Executive Director to enter into a lease agreement for \$2,737.50 per month with the Colby Corporation for the property across the street from the CPRB for additional office space. Mr. Bunn seconded the motion. There was discussion on the motion. The motion carried unanimously.

12. Executive Director Fleck announced we obtained a waiver from the Purchasing Division to proceed with a new telephone system for the CPRB and we have put out a RFQ for the new telephone system; the bids are scheduled to open next Tuesday. Executive Director Fleck announced he needed permission from the Board to enter into a contract with the winning vendor, not to exceed \$50,000.00.

Chairman Wyant asked if there was a motion from the Board.

Mr. Bunn made a motion the Board give authority to the Executive Director to enter into a contract with the winning vendor for a new telephone system for the CPRB, not to exceed \$50,000.00. The motion was seconded by Captain Corsaro. There was discussion on the motion. The motion carried unanimously.

13. Executive Director Fleck reported on the Legislative Interims. He announced he gave a presentation to the Pension Committee on post retirement employment and for PERS, a retiree can only make an additional \$20,000.00 per year after retirement. Executive Director Fleck informed the Board that the Pension Committee will be looking at whether an employee can come back to work as a contracted employee.

14. Executive Director Fleck announced, he will be attending a Joint Finance Committee Meeting on January 7, 2018, on how retirement is looking for 2018 and its impact on the

budget.

15. Executive Director Fleck announced it is time again for all Board Members to go online and fill out the Financial Disclosure Statements and send to the Ethics Commission for all Public Officials and Board Members. He announced the deadline to fill it out is February 1, 2018.
16. Executive Director Fleck announced that CPRB employee, Beth Lukomski passed away this past weekend, she was 42 years old.
17. Executive Director Fleck informed the Board that he was sad to announce that our long time Executive Assistant, and Executive Assistant to the Board, Candi Kinslow has announced her retirement and will be retiring at the end of this year. He thanked her for her service to the State of West Virginia and to the CPRB and said she will be sorely missed. Candi's last day with the CPRB and the Board will be December 29, 2017. Chairman Wyant informed Mrs. Kinslow that she will be missed by this Board as well. He wished her good luck in her retirement and thanked her for all of her service to the Board.  
Mrs. Kinslow thanked Executive Director Fleck, Chairman Wyant and the Board.

The Reports of the Chairman and Executive Director are located behind Tab 2.

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

Craig Slaughter, Executive Director of the West Virginia Investment Management Board (WVIMB), reviewed the Plan's Investment Returns for October 31, 2017. He announced that the returns are doing great and we were at 5.2% return through October 2017. He announced that December 2017, is looking good as well and informed the Board that we may go well above 7.5%.

Chris Meadows of Empower Retirement reviewed the TDC Educational Meetings through November 30, 2017. He announced he has held 93 meetings, met with 38 participants and held 320 onsite sessions with participants in the TDC Plan.

Denise Fortune of Empower Retirement announced that Empower has put into place extra controls for all of the participants to keep their information safe, and to keep them safe from hackers, fraud and stealing their identity. She announced that Empower has placed a toll-free telephone number on all of their emails to the members in the TDC Plan, informing them of any reports of fraud and that if they did not make changes to their plan, to call the toll-free phone number listed on the email. Lastly,

she informed the Board that Empower Retirement has opened a call-center to help all of the members in the plan with any questions or concerns they may have. She announced the call-center's hours will be from 8:00 a.m. to 10:00 p.m., and will be open on Saturday's, starting in April 2018.

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

**Tab 4: Financial Audit – Suttle & Stalnaker – Chris Deweese**

Chris Deweese of Suttle & Stalnaker reviewed the Financial Audit and gave an overview of the CPRB's financials for 2017.

Executive Director Fleck announced to the Board that the Pension Committee wants information from us regarding refinancing the unfunded liability in TRS. He announced, it would cost the state an additional \$1.5 billion dollars to refinance the unfunded liability.

Chairman Wyant announced that the state has gone from being 9% funded to 65% funded and in his opinion, it should be left alone.

Executive Director Fleck thanked all of the staff for their hard work on preparing the financial audit.

Chairman Wyant asked if there was a motion from the Board to accept the Financial Audit from Suttle & Stalnaker.

Mr. Bunn made a motion to accept the Financial Audit as presented by Suttle & Stalnaker. Mr. McKown seconded the motion. The motion carried unanimously.

The Financial Audit is located behind Tab #4.

**Tab 5: Consideration of Current Disability Retirement Applications**

Chairman Todd Murray reported the Disability Committee met on December 19, 2017, and made the following recommendations for the Board's approval.

Chairman Murray announced the Disability Committee approved the staff's recommendations of the disability retirement applications and made the following recommendations to the Board for their approval:

<b>System</b>	<b>Approved</b>	<b>Denied</b>	<b>Total</b>
<b>MPFRS</b>	1 Total Duty	0	1 Total Duty
<b>PERS</b>	1	0	1
<b>State Police Plan B</b>	1 Total Duty	0	1 Total Duty
<b>TDC</b>	1	0	1
<b>TRS</b>	10	0	10
<b>TOTAL</b>	<b>14</b>	<b>0</b>	<b>14</b>

Captain Corsaro made a motion the Board accept and approve the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Bunn. The motion carried unanimously.

The Disability list is located behind Tab 5.

**Tab 6: Consideration of Appeals to the Hearing Officers**

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

Mr. Bunn made a motion the Board go into Executive Session to discuss medical and legal matters as allowed by West Virginia Code §6-9A-4. The motion was seconded by Ms. Stout. The motion carried unanimously.

The Board went into Executive Session at 10:55 a.m.

Chairman Wyant reconvened the Public Session of the December 20, 2017 meeting of the CPRB from Executive Session at 12:04 p.m.

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

Chairman Wyant announced we will now return to Tab 6, Appeals to the Hearing Officers.

*Mr. Bunn left the meeting at 12:04 p.m.*

*Ms. Urling left the meeting at 12:05 p.m.*

### **Consideration of Appeals to Hearing Officer, Ann Charnock**

Ms. Charnock reviewed the appeal of Timothy D. Bradley. She announced, the issue presented in this matter is whether the Board was correct to deny Applicant's application for partial duty disability retirement.

Ms. Charnock announced the Applicant's appeal of the Board's decision to deny his application for partial duty disability retirement should be granted. She informed the Board that the Applicant was injured while on duty (attending an FBI training session) in 2006, reported this injury to the WVSP and the WVSP subsequently paid for all medical treatment incurred to treat the injury. Applicant's treating physician, Dr. Tao, completed the required Board form stating that the injury made Applicant unable "to perform the essential duties of a law enforcement officer by reason of any medically determinable physical or mental impairment which has lasted or can be expected to last for a continuous period of not less than twelve months, but which impairment does not preclude the member from engaging in other types of non-law enforcement employment". That the disability incurred while he was engaged in the performance of his duties with the WVSP" and that his "injury, illness or disease resulted from an occupation risk or hazard inherent in or peculiar to the service required of a member of the WVSP." Pursuant to Board Rules, Applicant was referred to a Board physician, Dr. Jeffrey, who agreed with Dr. Tao. Thus, both examiners believe that Applicant is eligible for partial duty retirement.

She announced, the employer, the West Virginia State Police, argues that the initial 2006 injury was not work related and thus Applicant, although disabled, does not qualify for partial duty retirement. Rather, WVSP claims that Applicant qualifies for partial non-duty retirement. In support of this position the WVSP states that no injury report (Form 26) exists. Ms. Charnock stated this begs the question that if no Form 26 exists, why did the WVSP pay for twelve plus years of treatment as a work-related injury?

She announced that both the Applicant and the WVSP agree that Applicant is disabled and eligible for disability retirement. The question is whether the disability retirement is duty or non-duty. The difference is financial in tax treatment only. The WVSP relies on the ruling of the Level III Hearing Evaluator. The Applicant appealed that ruling. At the time of this hearing the grievance had not been ruled upon at the next level.

Ms. Charnock announced her recommendation that the Applicant's appeal should be granted,



the decision of the Board to award Applicant partial non-duty disability retirement benefits overruled and the Applicant be approved for partial duty disability retirement benefits.

Ms. Stout made a motion the Board accept the recommendation of the Hearing Officer and grant the appeal of Timothy D. Bradley. Cabinet Secretary Myers seconded the motion. Six (6) voted in favor of the motion, and three (3) voted against the motion. The motion carried.

### **Consideration of Appeals to Hearing Officer, Gary Pullin**

Mr. Pullin reviewed the appeal of the DNR Law Enforcement Officers. He announced, the issue presented in this case is whether the subsistence allowance authorized by the Legislature for DNR law enforcement officers (DNR officers) should be included in the calculation of a DNR officer's "compensation" under W.Va. Code §5-10-2(8). This, in turn, determines whether subsistence allowance should be included when the employer, DNR submits the required employer and employee contributions to PERS, and ultimately the calculation of "final average salary" used to determine the DNR officers' retirement benefit amounts.

He announced that inasmuch as the purpose for which Applicants received subsistence allowance does not meet the definition of compensation under PERS, it is recommended that the Applicants' appeal of the Board's decision to exclude subsistence allowance from the calculation of retirement benefits be denied.

Mr. Pullin announced that it is further recommended that the Board declare:

- (1) That subsistence allowance paid to Natural Resources Police Officers pursuant to W. Va. Code § 20-7-1 is not compensation under PERS as defined in W. Va. Code § 5-10-2(8) and, therefore, should not have been included by the DNR when calculating the employer and employee contributions to PERS pursuant to W. Va. Code § 5-10-29 and §5-10-31, and should not have been included when calculating the Applicants' final average salary as defined in W. Va. Code § 5-10-2(9), which in turn is used for calculating Applicants' retirement annuity.
- (2) Pursuant to W. Va. § 5-10-44 and the Board's fiduciary duties, the Board is required to identify erroneous contributions and correct any errors caused by the use of erroneous contributions in calculating the retirement annuity by (a) refunding to the Applicants all erroneous PERS contributions based on subsistence allowance and (b) requiring repayment by the Applicants of all PERS benefit amounts based on the inclusion of subsistence allowance in determining retirement annuity.

- (3) The Board's actions in this matter are consistent with and required by PERS and DNR statutes and thus do not violate any constitutional prohibition on impairment of contracts, because the Applicants have not established detrimental reliance on any statutory promise.
- (4) The Applicants' motion to have this declaratory ruling apply to a class of people that includes all active and retired DNR law enforcement officers, their widows and widowers be denied on the basis that class actions are not permitted in administrative appeals, but principals of res judicata may be applicable to similarly situated individuals not a party to this appeal and declaratory ruling request.

Mr. Vallet made a motion to accept the recommendation from the Hearing Officer and deny the appeal of the DNR Law Enforcement Officers. The motion was seconded by Ms. Stout. There was discussion on the motion. The motion carried unanimously.

The Appeals are located behind Tab 6.

#### **Tab 7: Legal Counsel Reports**

##### **Report from Outside Legal Counsel – Ronda Harvey**

Ronda Harvey, Outside Legal Counsel with Bowles Rice informed the Board that we received a decision from WV Supreme Court on the *Allen E. Tackett v. CPRB* case. The Supreme Court issued a Memorandum Decision, whereas they affirmed the circuit court's September 16, 2016 order which affirms the Board's action.

Ms. Harvey updated the Board on the case of *Thomas Ward v. CPRB*. She announced it appears that the Petitioner actually withdrew his PERS accumulated contributions. Thus, he has no further issue. Attempts have been made to reach Petitioner's counsel to request that he voluntarily dismiss the matter, but were unsuccessful as he failed to return messages. On March 8, 2017, CPRB filed a Motion to Dismiss. Judge Burnside entered an Order requiring Petitioner to respond to the Motion by April 17, 2017. The Court also set a hearing for May 31, 2017.

The Petitioner also failed to appear at the May 31, 2017 hearing on the motion to dismiss. Judge Burnside agreed that dismissal was appropriate. He requested that we submit an order including support for the proposition that Petitioner's withdrawal of his PERS contributions was essentially an abandonment of this claim. Also, at the hearing, CPRB orally amended its motion to request attorney fees and expenses associated with the motion. CPRB's counsel pointed out that CPRB is a fiduciary

of the funds and should not have had to expend attorney fees to obtain dismissal. Also, petitioner's counsel had an obligation to respond and appear, but failed to do so; if petitioner was dropping his claim, petitioner's counsel should have advised the Court. It was CPRB's preference to provide the Court with an agreed dismissal order rather than file a motion and appear at a hearing. Judge Burnside also granted this relief and directed CPRB's counsel to file an affidavit of fees associated with the preparation of the motion, appearing at the hearing and the expenses related to those activities.

The affidavit of fees was submitted on June 14, 2017. On June 21, 2017, Judge Burnside entered an *Order Granting Motion to Dismiss* of the West Virginia Consolidated Public Retirement Board, which also grants the attorney's fee award.

Ms. Harvey informed the Board that she sent a letter by certified mail to Petitioner's counsel asking for payment of the attorney's fee award by September 1, 2017. We did not receive payment, and are now beginning the formal collection proceeding. Ms. Harvey attempted to contact Mr. Feuchtenburger, Mr. Ward's attorney, by phone and left messages. On October 3, 2017, counsel wrote to him, enclosing a Motion for Contempt, advising that it has been filed, again requesting that he pay the award and agree to withdraw the Motion if he pays within the next week.

She announced, we did not receive payment, and therefore filed a *Motion for Contempt* asking the Court to force payment and further penalize Petitioner's counsel.

She announced, the hearing on CPRB's *Motion for Contempt* took place on December 11, 2017. At the hearing, Judge Burnside granted the motion and ordered petitioner's counsel to pay the additional attorney fees and expenses incurred in preparing for and appearing at the contempt hearing.

She informed the Board that she submitted an affidavit of fees in the amount of \$4,391.59, which brings the total fee award to \$7,623.89. Judge Burnside also ordered petitioner's counsel to pay the total within 30 days of the hearing or by January 11, 2018.

Ms. Harvey updated the Board on the case of *IMB and CPRB v. VALIC*. She reported we are still waiting on a decision from the WV Supreme Court of Appeals.

The report of the Outside Legal Counsel is located behind Tab 7.

#### **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, Supreme Court and Less than Honorable Service (LTHS) cases.

Ms. Legato reviewed the Less than Honorable Service (LTHS) case of Joe Edward Cross, a PERS member who is a former town recorder for West Union, WV, who had 2 years and 11 months of PERs service credit. She announced Mr. Cross altered records of the West Union Water and Sewage account to assist him in obtaining money to which he was not entitled. The money that he stole was placed under his care and management by virtue of his position and employment with the town of West Union.

She announced, on October 24, 2016, an Indictment alleging Embezzlement and Falsifying Accounts was filed in the Circuit Court of Doddridge County. On January 6, 2017, Mr. Cross entered a plea of guilty to Embezzlement. The Judge accepted the plea and adjudged him guilty. On April 18, 2017, Mr. Cross was sentenced to 1 to 10 years in prison. The court ordered him to pay \$7,773.19 in restitution for the Town of West Union. On September 6, 2017, an order modifying the sentence was entered. The judge suspended the previous sentence, released Mr. Cross from jail and placed him on supervised probation for 5 years.

Ms. Legato recommended the Board disqualify and terminate the PERS membership of Joe Edward Cross for LTHS.

Ms. Stout announced, insofar as she knows Mr. Cross, she asked to be excused from voting.

Captain Corsaro made a motion the Board accept the recommendation of Counsel to disqualify and terminate the PERS membership of Joe Edward Cross and to authorize counsel to proceed with LTHS against him. The motion was seconded by Mr. Bird. The motion carried.

Ms. Legato updated the Board on the case of Randall W. Myers v. CPRB. She announced this is a TRS appeal regarding the inclusion of the value of a county vehicle as part of salary which resulted in excess contributions being submitted and refunded, and the reduction of the annuity to recoup the overpayment. An administrative hearing was held on November 22, 2016. On January 6, 2017, Hearing Officer Pullin issued a *Recommended Decision* which recommends that Mr. Myers's request to have the value of the county vehicle included as part of his salary should be denied. On January 25, 2017, the Board issued a *Final Order* which adopted the Hearing Officer's *Recommended Decision*. On March 2, 2017, Mr. Myers, by counsel, David Tyson, filed a *Petition for Appeal* in the Circuit Court of Lewis County. On March 14, 2017, we filed a motion to dismiss for lack of jurisdiction due to the petition being untimely filed. On March 31, 2017, we mailed the Court a proposed *Dismissal Order*.

On April 4, 2017, opposing counsel filed a response to our *Motion to Dismiss*. On April 10, 2017, we filed a reply to their response. On June 8, 2017, (entered in clerk's office on June 12, 2017), Judge Reger entered an *Order Granting Respondent's Motion to Dismiss*. On June 15, 2017, opposing counsel filed *Petitioner's Motion to Set Aside Dismissal Order*. On June 25, 2017, we filed CPRB's *Response to Petitioner's Motion to Set Aside Dismissal Order*. On July 18, 2017, Judge Reger issued an *Order Denying Request for Oral Argument and Order Denying Motion to Set Aside Dismissal Order*. On August 14, 2017, counsel for Petitioner, filed *Petitioner's Second Motion to Set Aside Dismissal Order* with the Circuit Court of Lewis County and a *Petition for Appeal* with the West Virginia Supreme Court. On August 25, 2017, the Court entered a Scheduling Order. Opposing counsel's brief is due on November 22, 2017. Our brief is due on January 8, 2018.

On September 22, 2017, an *Order Denying Second Motion to Set Aside Dismissal Order* was entered by Judge Reger in Lewis County. A copy of the Order is located behind Tab B of her report.

On October 17, 2017, counsel for Petitioner filed a *Petition for Appeal* with the West Virginia Supreme Court regarding the lower court's latest order denying his second motion to reconsider.

On October 24, 2017, we filed *Respondent's Motion to Dismiss Appeal* with the West Virginia Supreme Court of Appeals. On November 7, 2017, opposing counsel filed *Petitioner's Response to Motion to Dismiss* and *Petitioner's Motion to Consolidate Appeals*.

Ms. Legato informed the Board that the Petitioner currently has two appeals pending; Case No. 17-0707, and Case No. 17-0909. On December 15, 2017, the Clerk's Office, in a telephone conversation, indicated that Case No. 17-0707 will be dismissed by the Court for failure to perfect the appeal.

The report of the In-House Legal Counsel is located behind Tab 7.

*Mr. Bunn returned to the meeting at 12:31 p.m.*

## **Tab 8: Committee Reports**

### **Delinquent Employer Collection Committee**

Captain Corsaro, Chairman of the Delinquent Employer Collection Committee announced the Committee met yesterday, December 19, 2017, and has recommendations from the Committee for the Board's approval.

Chairman Corsaro reviewed proposed legislation to be added to Article 10 of the Criminal Code of Crimes Against Public Policy; §61-10-20 *Failure of employers to provide certain benefits for*

*employers*, and recommended the Board approve the proposed legislation to be added to §61-10-20 of the Criminal Code and be allowed to submit it to the legislature.

Mr. Vallet made a motion the Board approve the recommendation of the Delinquent Employer Collection Committee and approve the proposed legislation to be added to §61-10-20 of the Criminal Code, and submit it to the legislature. The motion was seconded by Cabinet Secretary Myers. The motion carried unanimously.

Chairman Corsaro reviewed proposed legislation to be added to §5-10D-12 of the WV Code; *Withholding state and county money to satisfy delinquencies*, and recommended the Board approve the proposed legislation to be authorized to send to the legislature.

Mr. Bunn made a motion the Board approve the recommendation of the Delinquent Employer Collection Committee to accept the proposed legislation to §5-10D-12 of the WV Code, regarding withholding state and county money to satisfy delinquencies, and submit it to the legislature. The motion was seconded by Mr. Vallet. The motion carried unanimously.

The minutes of the Delinquent Employer Collection Committee are located behind Tab 8.

### **Internal Audit Committee**

Cabinet Secretary Myers, Chairman of the Internal Audit Committee announced the Committee met yesterday, reviewed and approved the Internal Audit of the PERS Reinstatements and Retroactive Service Purchases; and the Proposed 2018 Audit Plan, as Presented by Tina Baker, Internal Auditor.

Chairman Myers announced, on behalf of the Internal Audit Committee, he would like to make the following recommendations to the Board:

Chairman Myers announced, the Internal Audit Committee recommends the Board adopt and approve the Internal Audit of the PERS Reinstatements and Retroactive Service Purchases.

Mr. Bunn made a motion the Board accept the Internal Audit of the PERS Reinstatements and Retroactive Service Purchases. Mr. Haney seconded the motion. The motion carried unanimously.

Chairman Myers announced, the Internal Audit Committee recommends the Board adopt and approve the Proposed 2018 Audit Plan.

Captain Corsaro made a motion the Board accept the 2018 Audit Plan. Mr. Bird seconded the motion. The motion carried unanimously.

The minutes of the Internal Audit Committee are located behind Tab 8.

**Tab 9: 2018 Proposed Legislation**

Deputy Director Terasa Miller reviewed the 2018 proposed legislation for the Board for §5-10-14 PERS service credit; retroactive provisions. She announced the addition to §5-10-14, would read as follows:

“Effective January 1, 2019, hourly employees who first become members of the retirement system on or after July 1, 2015, shall receive one month’s contributing service for each one hundred fifty (150) hours of work paid by his or her employer in a calendar year; and,”

Deputy Director Miller recommended the Board approve the 2018 proposed legislation and staff by authorized to submit it to the legislature.

Mr. Bunn made a motion the Board approve the 2018 proposed legislation as presented by Deputy Director Miller and authorize staff to submit it to the legislature. The motion was seconded by Mr. Vallet. There was discussion on the motion. The motion carried unanimously.

The 2018 proposed legislation is located behind Tab 9.

**Tab 10: Other, Old Business**

Chairman Wyant asked if there was any old business to bring before the Board.

Chairman Wyant asked Executive Director Fleck if there was any information regarding the RFQ for the vacant actuary position. Executive Director Fleck informed Chairman Wyant that the RFQ has gone to the Purchasing Division.

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

**Tab 11: Other, New Business**

Chairman Wyant asked if there was any new business to bring before the Board.

Mr. Bunn announced he would volunteer to assist staff to create an additional policy for delinquent employers, if needed. Chairman Wyant and Captain Corsaro informed Mr. Bunn that there

is already a policy in place.

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

Chairman Wyant wished everyone a Merry Christmas and a Happy New Year!

Chairman Wyant adjourned the December 20, 2017 meeting of the West Virginia Consolidated Public Retirement Board (CPRB) at 12:50 p.m.



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David Wyant, Chairman  
Consolidated Public Retirement Board



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Jeffrey E. Fleck, Executive Director  
Consolidated Public Retirement Board