

**MINUTES OF THE  
WV CONSOLIDATED PUBLIC RETIREMENT BOARD  
BOARD OF TRUSTEES MEETING  
MEETING OF APRIL 16, 2014**

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 10:08 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*  
Diana Stout, *representing Treasurer John Perdue*  
Donna Lipscomb-Spano, *representing Cabinet Secretary Ross Taylor*  
Joseph Bunn, Esquire  
Andrew Richardson, Esquire  
Jeffrey Vallet

Trustees not present:

Thomas Bradley  
Captain Michael Corsaro  
Joe Lynch  
D. Todd Murray

A quorum was present.

Due notice had been posted.

Also in attendance were:

Jeffrey E. Fleck, CPRB Executive Director  
Terasa Miller, Deputy Director  
Jeaneen Legato, Esquire, CPRB General Counsel  
Jack DeBolt, Esquire, Hearing Officer  
Ray Keener, Esquire, Hearing Officer  
Lenna Chambers, Esquire, Bowles Rice  
Andrew Wyne, Great-West Retirement Services, Outreach Officer  
Eric Sanderson, West Retirement Services  
Amy Heyel, Great West Services  
Aaron Schlupe, Great West Services  
Craig Slaughter, Executive Director, WVIMB  
Phil Kabler, Charleston Gazette  
Cindy Boyd, CPRB Project Manager

Norm Buckwalter, LRWL  
Misty Peal, WVEA  
Tom Zacharias, Deloitte  
Jerry McClure, Appellant  
Mike Del Giudice, Esquire – McClure Appeal  
Heather Drake, CPRB Office Assistant  
Harry Mandel, CPRB Actuary  
Melody Bailey, CPRB Actuary Analyst  
Darden Greene, CPRB CFO  
John Beane, CPRB Chief IT Officer  
Annamarie Short, CPRB Internal Auditor  
Steve Stockton, CPRB Compliance Officer  
Alysia Miller, CPRB Paralegal  
Chrissy Courtney, CPRB Outreach Coordinator  
Eric Stringer, CPRB IT Staff  
Chris Bush, CPRB Uniform Services Retirement Advisor  
Deana Gose, CPRB Uniform Services Manager  
Lisa Trump, CPRB PERS Manager  
Caroline Brady, CPRB PERS Assistant Manager  
Torrie Williams, CPRB PERS Membership

**Tab 1: Approval of the March 5, 2014 Meeting Minutes**

Mr. Bunn made a motion to approve the March 5, 2014 minutes of the CPRB. The motion was seconded by Mr. Fletcher. The motion carried unanimously.

The minutes are located behind Tab 1.

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

Chairman Wyant informed the Board he is making appointments to the following committees:

Todd Murray to serve as Chairman to the WV Investment Management Board (WVIMB) and add Cabinet Secretary Taylor to the WVIMB Committee; and add Jeffrey Vallet to the Accounting and Investment Committee. (A&I Committee)

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

1. Executive Director Fleck thanked Terasa Miller, Deputy Director for filling in for Candi Moore today; Candi had to attend a funeral of a close friend.
2. Executive Director Fleck reviewed the February and March 2014 Teachers' Retirement System (TRS) and Public Employees Retirement System (PERS) retirement and estimate numbers. He reported there were 121 TRS Estimates and

81 TRS Retirements for February. In PERS, there were 224 Estimates and 131 Retirements for February. For March there were 109 TRS Estimates and 72 Retirements and in PERS there were 371 Estimates and 100 Retirements.

3. Executive Director Fleck informed the Board the CPRB had a COMPASS Computer System Kick-off on March 26, 2014. The vender was here from Deloitte and all of the CPRB staff participated. The vender presented a demo for all staff to see what our new computer system would look like once it is implemented. It created a lot of excitement among staff to see how it would be with our new computer system.
4. Executive Director Fleck announced at the last Board Meeting that the Legislative Auditor's would be coming to the CPRB. We met with the Legislative Auditors on March 25, 2014 and responded to some of the questions they had. We are still in the process of that audit.
5. Executive Director Fleck reported on the PERS Pension Press, this goes out with the PERS statements. It lists all of the locations and dates for all seminars that are coming up this year to discuss retirement options.
6. Executive Director Fleck announced the brochures for PERS, JRS, EMSRS, MPFRS, Plan A and Plan B are in the Board Books and Tablets for review.
7. Executive Director Fleck informed the Board the CPRB received recognition from the Governor for our financial reporting. There was a ceremony at the Governor's office and staff was recognized by the Governor for being awarded the Certificate of Achievement for Excellence in Financial Reporting by the Government Finance Officers Association of the United States and Canada (GFOA).
8. Executive Director Fleck reviewed the Teachers' Defined Contribution (TDC) 2014 Educational Meetings. He announced there have been a total of 260 meetings so far this year.
9. Executive Director Fleck reported to the Board the TDC Reality Investing statistics are in the Board books. He announced that Reality Investing had a total of 176 managed accounts with 4,861 participants and \$375,594,200 in total assets as of March 31, 2014.
10. Executive Director Fleck reviewed the delinquent employers list with the Board.
11. Executive Director Fleck reported on the February and March 2014 CPRB Financials; he reported we are at 49.24% of budget as of March 31, 2014.

12. Executive Director Fleck reported on the CPRB Legislation. Director Fleck reported that all of the CPRB Legislation passed and has been approved by the Governor. He commended all staff for all of their hard work during Legislative Session.

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

**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 February 28, 2014. Mr. Slaughter also reported that legislation passed removing percentage limitations on investments.

Amy Heyel, Great-West Retirement Services, reported to the Board on the TDC investments and Reality Investing. She informed the Board that the president and CEO of Great West will be retiring at the end of May, 2014. Ms. Heyel also informed the Board that Great West has bought JP Morgan Recordkeeping Services. The Plan's Investment Data reports are located behind Tab 3.

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

David Fletcher reported the Disability Committee met on April 15, 2014, and the Committee makes the following recommendations to the Board:

<b>System</b>	<b>Approved</b>	<b>Denied</b>	<b>Total</b>
<b>PERS</b>	17	4	21
<b>TDC</b>	2	0	2
<b>TRS</b>	5	0	5
<b>TRS/TDC Transfers</b>	13	0	13
<b>TOTAL</b>	<b>37</b>	<b>4</b>	<b>41</b>

Mr. Fletcher made a motion the Board accept the Disability Committee's recommendations concerning the disability retirement applications. The motion was seconded by Mr. Richardson. The motion carried unanimously. The disability list is behind Tab 4.

**Tab 5: Consideration of Appeals to Hearing Officers – Jack DeBolt & Ray Keener**

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

Mr. Bunn made a motion the Board go into Executive Session to discuss a medical matter as allowed by West Virginia Code § 6-9A-4. The motion was seconded by Mr. Richardson. The motion carried unanimously. The Board went into Executive Session at 10:29 a.m.

Cabinet Secretary Taylor arrived to the meeting at 10:32 a.m.

Chairman Wyant reconvened the Public Session of the April 16, 2014 meeting of the CPRB from Executive Session at 10:36 a.m. Chairman Wyant stated the Board was in Executive Session to discuss a medical matter as allowed by West Virginia Code § 6-9A-4. He announced there were no decisions made during Executive Session.

Chairman Wyant moved the agenda to address Tab #7 Committee Updates

**Tab #7: Committee Updates**

**Accounting & Investment Committee**

Chairman Bunn announced the A&I Committee met this morning and would like to make a recommendation to the Board. The A&I Committee will need action from the Board on the TDC Sharing on the COMPASS Computer System Project. The Committee recommends the Board authorize staff to pay 4.41% of each invoice related to the COMPASS Computer Project expenses from the TDC Revenue Sharing account as invoices are paid. This will occur over a period of 2 to 3 years and is a projected amount of \$1,413,981.

Mr. Richardson made a motion the Board authorize staff to pay 4.41% of expenses of each invoice related to the COMPASS Computer Project from the TDC Revenue Sharing account as invoices are paid. The motion was seconded by Mr. Fletcher. There was discussion on the motion. The motion carried unanimously.

Mr. Bunn announced to the Board the A&I Committee has three TDC funds on watch and based on their performance in the next month, the Committee may come back to the Board for

action on those funds at the Board Meeting in May.

**Internal Audit Committee**

Chairman Taylor announced the Committee met on Monday, April 14, 2014. The Committee reviewed the performance evaluation of the CPRB Internal Auditor, Annamarie Short, and the Committee approved her evaluation.

Chairman Wyant announced the Board would stand in recess until staff has time to copy the Hearing Officers Recommended Decisions for the Board to address.

The Board stood in recess at 10:45 a.m.

Chairman Wyant reconvened the Board Meeting from recess at 10:55 a.m. He announced we will move the agenda to address Tab 5, Appeals from the Hearing Officers.

**Tab 5: Consideration of Appeals to Hearing Officers – Jack DeBolt**

Hearing Officer DeBolt reviewed with the Board the Appeal of Stephen L. Deweese on whether or not the Applicant is eligible to participate in the Deputy Sheriff Retirement System (DSRS) during his tenure as Sheriff of Putnam County and whether or not the Applicant is eligible to purchase military service credit for active duty service in 2003-2005 under federal USERRA provisions. Hearing officer DeBolt recommended that the appeal of Stephen L. Deweese to participate in the Deputy Sheriff Retirement System (DSRS) while serving as Sheriff be denied and that his request to acquire USERRA military service credit for his 2003-2005 military service also be denied.

Mr. Bunn made a motion the Board accept the Hearing Officer's recommended decision and deny the appeal of Stephen L. Deweese to participate in the Deputy Sheriff Retirement System (DSRS) while serving as Sheriff be denied and that his request to acquire USERRA military service credit for her 2003-2005 military service also be denied. Mr. Vallet seconded the motion. The motion carried unanimously.

Hearing Officer DeBolt reviewed with the Board the Appeal of F. Scott Mason on whether or not the Applicant is entitled to service credit in PERS for his period of wrongful discharge, and

also whether or not the Applicant is entitled to an award of attorney fees. Hearing officer DeBolt recommended that pending receipt of full contribution amounts, the Applicant's request for service credit for his period of wrongful discharge be denied. It is further recommended that upon receipt of such contribution his request be permitted. It is further recommended that the Applicant's request for an award of attorney fees be denied.

*Cabinet Secretary Taylor recused himself from the vote on F. Scott Mason.*

Mr. Vallet made a motion the Board accept the recommendation of the Hearing Officer. The motion was seconded by Mr. Fletcher. There was discussion on the motion. Mr. Vallet rescinded his motion and Mr. Fletcher withdrew his second to the motion.

Mr. Garcia made a motion to adopt the Hearing Officer's recommendation with a modification on page 7, the 2<sup>nd</sup> to last line, change "permitted" to "considered", and to correct typographical errors on pages 2 and 6. Ms. Stout seconded the motion. There was discussion on the motion. Mr. Garcia withdrew his motion and Ms. Stout withdrew her second to the motion.

Mr. Richardson made a motion that the Order be amended to state: Applicant's request for service credit be granted for the period beginning on the date of wrongful discharge to the date of termination of employment subject to receipt of the employer and employee contributions and further recommend that staff determine the appropriate wage for the employer and employee contributions. Mr. Vallet seconded the motion. There was discussion on the motion. Mr. Richardson withdrew his motion and Mr. Vallet withdrew his second to the motion.

Mr. Richardson made another motion to amend the Hearing Officer's recommendation and amend the Order to state the following: Subject to receipt of the employer and employee contributions, with interest, on an amount determined by Board staff, the Applicant's request for service credit from the date of wrongful discharge to the date of termination be granted. Mr. Vallet seconded the motion. There was discussion on the motion.

Mr. Bunn made a motion to amend Mr. Richardson's motion by striking "on an amount determined by Board staff" and inserting "\$73,870.57" and for service credit be granted on a pro-rated basis. Ms. Stout seconded the motion. There was discussion on the motion to amend.

Mr. Bunn and Ms. Stout voted in favor of the motion. Mr. Garcia, Mr. Richardson, Mr. Fletcher and Mr. Vallet voted against the motion. The motion to amend the motion failed.

Mr. Richardson called the question. The motion to amend the Order carried, with Mr. Bunn voting against.

Mr. Richardson made a motion to adopt the Hearing Officer's recommendation subject to the modifications of the Order. Mr. Vallet seconded the motion. The motion carried, with Mr. Bunn voting against.

Hearing Officer DeBolt made a brief statement for the record before he addressed the appeal of Mr. Jerry L. McClure. Hearing Officer DeBolt announced to the Board "Mr. McClure wrote me a request to reconsider my recommendation and sent it by certified mail, but because I was out of town for several days, I did not get the request until 4:30 p.m. yesterday afternoon and did not have an opportunity to respond to his request for reconsideration. I spoke with his counsel, Mr. Del Giudice earlier this morning and both the Appellant and Mr. Del Giudice are here at the Board Meeting today. I told him if I would have had time to respond to his request I would have denied it. I asked Mr. Del Giudice if he would like to have this appeal removed from the agenda today or shall we proceed. Mr. Del Giudice said to proceed." "I think this should be made part of the record for today's meeting."

Hearing Officer DeBolt then reviewed with the Board the Appeal of Jerry L. McClure on whether or not the Applicant is entitled to commence an annuity from the Teachers Retirement System. Hearing Officer DeBolt recommended that the request of Jerry L. McClure for an annuity from the Teachers Retirement System be denied.

Mr. Bunn made a motion the Board accept the Hearing Officer's recommended decision and deny the appeal of Jerry L. McClure for an annuity from the Teachers Retirement System. Mr. Richardson seconded the motion. The motion carried unanimously.

#### **Consideration of Appeals to Hearing Officers –Ray Keener**

Hearing Officer Keener reviewed with the Board the Appeal of David A. Lipscomb, Jr. on whether or not the Applicant is physically or mentally totally and probably permanently



incapacitated for the employment within the meaning of and within the character of proof required by Section 5-10-25 of the West Virginia Code and Section 162-2-3.2.a of the Code of State Rules. Hearing Officer Keener recommended that the appeal of David A. Lipscomb, Jr. for disability retirement benefits from the Public Retirement System be denied.

Mr. Richardson made a motion the Board accept the Hearing Officer's recommended decision and deny the appeal of David A. Lipscomb, Jr. for disability retirement benefits from the Public Employees Retirement System. Mr. Fletcher seconded the motion. The motion carried unanimously.

The Appeals are located behind Tab 5.

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

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

Mr. Bunn made a motion the Board go into Executive Session to discuss legal issues and contractual matters as allowed by West Virginia Code § 6-9A-4. The motion was seconded by Mr. Fletcher. The motion carried unanimously. The Board went into Executive Session at 12:14 p.m.

Mr. Bunn left the meeting at 1:45 p.m.

Chairman Wyant reconvened the Public Session of the April 16, 2014 meeting of the CPRB from Executive Session at 2:40 p.m. Chairman Wyant stated the Board was in Executive Session to legal issues and contractual matters as allowed by West Virginia Code § 6-9A-4. He announced there were no decisions made during Executive Session. We will now return to Tab 6 on the Agenda, Reports from Legal Counsel.

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

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

In-House Legal Counsel, Jeaneen Legato 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 LTHS case of Patricia Dougherty, a member of PERS and a former Roane County Chief Tax Deputy convicted on December 12, 2013 of Embezzlement, 2 counts of Falsifying Accounts and Fraudulent Schemes. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Ms. Dougherty.

Mr. Fletcher made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Ms. Dougherty. The motion was seconded by Mr. Vallet. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of Martin Kirby, a member of TRS and a former Kanawha County ROTC instructor who was convicted on January 23, 2014 of Sexual Abuse by a Parent, Guardian, Custodian, or Person in Position of Trust. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Mr. Kirby.

Mr. Garcia made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Mr. Kirby. The motion was seconded by Mr. Fletcher. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of Marjorie Parsons, a member of PERS and a former St. Mary's Correctional Facility employee who was convicted on February 19, 2014 of Imposition of Sexual Actions on a Person Incarcerated and delivery of tobacco to an adult in confinement. She recommended the Board disqualify and proceed with Less Than Honorable Service against Ms. Parsons.

Mr. Vallet made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Ms. Parsons. The motion was seconded by Mr. Fletcher. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of Robert Shirley, a DSRS Retiree and a former Jefferson County Sheriff who was convicted on May 13, 2013 of Deprivation of Rights under Color of Law. Mr. Shirley, at the time of his felonious conduct, was not an active contributor of any of the public pension plans administered by this agency; however he is a current retiree from the Deputy Sheriff Retirement System (DSRS). Ms. Legato announced she would leave this to the Board's discretion.

Chairman Wyant asked the Board if there was any action the Board would like to take against Mr. Shirley. No action was heard.

Ms. Legato, reviewed the LTHS case of Dallas Toler, a member of PERS and a former Mingo County Chief Magistrate who was convicted on March 10, 2014 of procuring a false voter registration application. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Mr. Toler.

Mr. Fletcher made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Mr. Toler. The motion was seconded by Mr. Vallet. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of Bradley Totten, a member of DSRS & PERS and a former Pocahontas County Sheriff's Deputy who was convicted on August 1, 2013 of Sexual Abuse by a Parent, Guardian, or Custodian. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Mr. Totten.

Mr. Fletcher made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Mr. Totten. The motion was seconded by Mr. Garcia. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of John I. Watt, III, a TRS retiree and a former Kanawha County Teacher who was convicted on March 5, 2014 of Third Degree Sexual Assault. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Mr. Watt, III.

Cabinet Secretary Taylor made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Mr. Watt, III. The motion was seconded by Mrs. Stout. The motion carried unanimously.

Ms. Legato reviewed the LTHS case of Justin Wellman, a member of TRS and a former Mingo County Custodian who was convicted on September 11, 2013 of Soliciting a Minor, via the Internet. Ms. Legato recommended the Board disqualify and proceed with Less Than Honorable Service against Mr. Wellman.

Mr. Garcia made a motion the Board adopt Counsel's recommendation, disqualify and proceed with Less Than Honorable Service against Mr. Wellman. The motion was seconded by Mr. Fletcher. The motion carried unanimously.

Ms. Legato reviewed the case of Hicks v. CPRB. She announced we have been in negotiations to settle this litigation. Ms. Legato recommended the Board to move forward in the settlement of this case.

Mr. Fletcher made a motion to give counsel approval to settle the Hicks v. CPRB case. The motion was seconded by Mr. Vallet. The motion carried unanimously. The report of the In-House Legal Counsel is located 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.

Outside Counsel, Lenna Chambers reported to the Board on the Wood v. CPRB, et al case. She reported we received an opinion from the Supreme Court of West Virginia on this case which involved service credit for periods of armed conflict. That decision was made on March 28, 2014 and unanimously upheld the opinion of the Circuit Court ruling against the retirement board and if the board wants to move for a rehearing on that case, the deadline would be April 27, 2014.

Chairman Wyant asked the Board if there was a motion for reconsideration on the Wood v. CPRB, et al case. None was heard.

Chairman Wyant announced as far as this decision is concerned, the Board would ask staff to provide options on how to apply this Supreme Court decision on the Wood v. CPRB, et al case and to report back to the Board at the next meeting. Also, for preliminary and general information, this decision could cost participating employers up to 2% on their annual employer contributions.

The report of Outside Legal Counsel is located behind Tab 6.

Executive Director Fleck reported on the case of Dougherty v. CPRB. He announced there was a status conference held on April 9, 2014 and as a result of that conference, it was agreed that this case will be ready for trial in the fall of 2015.

The report from Pullin, Fowler, Flanagan, Brown & Poe is located behind Tab 6.

Chairman Wyant moved the agenda back to Tab #7, Committee Updates to address the Computer System Update Committee report.

**Tab #7: Committee Updates**

**Computer System Update Committee**

Mr. Garcia announced the Computer System Update Committee met on Wednesday, April 9, 2014. The Committee discussed a change order to the current contract with respect to the new computer system award. During that meeting it was discussed what the change order would look like and based on conversations with the Purchasing Division and since that motion was approved by the Committee, Mr. Garcia made the motion to authorize Director Fleck to approve the proposed Change Order, to modify the sequencing of the project phases to implement Benefit Payments (Phase 4b) prior to Membership (Phase 4a), and receive a credit memo from the vendor of \$292,800.00 subject to approval by the Purchasing Division. Mr. Fletcher seconded the motion. The motion carried unanimously.

**Tab 8: Other, Old Business**

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

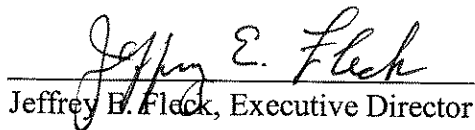
**Tab 9: Other, New Business**

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

Chairman Wyant adjourned the April 16, 2014 meeting of the West Virginia Consolidated Public Retirement Board at 2:58 p.m.



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David Wyant, Chairman  
Consolidated Public Retirement Board



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Jeffrey E. Fleck, Executive Director