

MINUTES OF THE
NEW MEXICO EDUCATIONAL RETIREMENT BOARD
TELEPHONIC/VIRTUAL MEETING

April 17, 2020

1. a. ROLL CALL: QUORUM PRESENT

A Regular Meeting of the New Mexico Educational Retirement Board was called to order on this date at 9:25 a.m. via teleconference. A quorum was present.

Members Present:

Ms. Mary Lou Cameron, Chairwoman
Mr. H. Russell Goff, Vice Chairman
Mr. Larry Magid, Secretary
The Hon. Tim Eichenberg, New Mexico State Treasurer
Mr. Adan Delgado, Deputy Secretary, PED
Dr. Donald W. Duszynski
Mr. Steven Gluckstern

Members Excused:

None.

Staff Present:

Ms. Jan Goodwin, Executive Director
Mr. Rod Ventura, Deputy Director
Mr. Bob Jacksha, Chief Investment Officer
Ms. Susanne Roubidoux, General Counsel
Ms. Elena Cardona, Deputy General Counsel
Mr. Robert Shulman, Assistant General Counsel
Mr. Lawrence Esquibel, Chief Information Officer
Ms. Liz Lorang, Executive Assistant, Board Liaison
Ms. Karla Leyba, Bureau Chief, Member Services

Others Present:

Mr. Allan Martin, Investment Advisor, NEPC
Mr. Joseph Simon, Analyst, LESC
Ms. Chelsea Canada, Analyst, LESC
Ms. Judith Beatty, Board Recorder

OPENING COMMENTS BY CHAIRWOMAN CAMERON

Chairwoman Cameron welcomed everyone to the meeting and stated that she would be deferring public comment on any issue until the June meeting, when she hoped everyone would be meeting face to face, and when there would not be concerns about the limitations of electronic media and whether

or not all of the board members would be able to hear public comments. Except for the board and select staff, the ERB would be muting everyone in this videoconference in order to cut down on ambient noise and audio feedback. She thanked everyone for understanding.

b. Approval of Agenda

Mr. Goff moved approval of the agenda, as published. Dr. Duszynski seconded the motion, which passed unanimously.

c. Approval of Minutes: February 14, 2020

Dr. Duszynski moved approval of the February 14 minutes, as submitted. Mr. Eichenberg seconded the motion, which passed unanimously.

d. Introduction of Guests

None.

2. CONSENT AGENDA

a. Board Travel

Dr. Duszynski requested approval to attend the Annual Southwest Institutional Forum in Santa Fe on September 24.

Mr. Magid moved for approval. Mr. Goff seconded the motion, which passed unanimously.

**3. EXPERIENCE STUDY: RYAN FALLS AND DANA WOOLFREY
GABRIEL, ROEDER, SMITH & COMPANY**

Mr. Falls and Ms. Woolfrey presented this report.

Mr. Falls said the recommended assumptions would provide a very reasonable starting point for ERB to continue to work with stakeholders and legislators to ensure the ERB's sustainability.

- Lower inflation assumption from 2.50 percent to 2.30 percent to better align with current expectations and be consistent with NEPC's capital market assumptions for next ten years.
- Lower COLA assumption from 1.90 percent to 1.80 percent (driven by lower recommended inflation assumption).
- Lower 7.25 percent investment return assumption it to 7.00 percent.

Mr. Gluckstern commended GRS on a thorough analysis, but given the reality of the last 90 days and the impact on the investment portfolio, and not knowing what losses the fund has sustained at this point, he didn't understand how the board could make a decision about a June 30, 2019 valuation.

Mr. Jacksha responded that the ERB would not have March figures until next week, but he was roughly projecting that the fund balance would be about \$12.5 billion, which would put the fund down about 5 percent for the fiscal year and 7 percent for the month of March.

Mr. Falls said the projected return addresses an average over a funding period of up to 40 years. If the ERB is looking at 7.25 percent at the beginning of this year and has factored in 10 percent, that will drag down the average for the next 20 or 30 years, and could argue for taking a step down with a more conservative 7 percent. He discussed the importance of having the best numbers and a good starting point that will allow legislators and stakeholders to make a decision going forward.

Referring to the summary of NEPC's return expectations for ERB on slide 28, specifically, 7.3 percent for 10 years in 2020 and 8.1 percent for 30 years, Mr. Martin noted that those were developed out of NEPC's forecast last year and haven't been adjusted to reflect the lower starting point. While the starting point has been dramatically impacted, the expected returns are higher than one would tend to believe because the markets are starting at a much lower level. He said NEPC's forecast today would be 25-50 basis points higher.

Mr. Jacksha said he would recommend that the board at least consider the 7 percent given the increased volatility and increased uncertainty, which lowers the confidence level in any forecast.

Ms. Goodwin pointed out that the ERB will be going through this process again in another two to three years, when it does the next experience study, and will be looking at all of these assumptions in very fine detail again.

Ms. Goodwin said the danger of lowering the assumption by too much is that the members are doing everything they can in terms of contributions, and they have taken all of the hits they can in terms of benefits, and the only thing that remains to improve sustainability is what the employer contributes in the future. On the other hand, setting the bar too high for them may cause them to try to make more changes to ERB members. She said this is one argument for keeping things at 7.25 percent until the next experience study when everyone knows what the recovery will look like. She commented that is very difficult to set these assumptions given the time frame of up to 50 years; and as Mr. Martin just said, NEPC is looking at 8 percent long term, so it's hard not to factor in what's happening immediately. What the ERB has to do is look to the future and come up with an assumption that will serve the ERB for a long time, but also knowing it can be adjusted in two to three years if necessary.

Responding to Mr. Gluckstern, Ms. Goodwin said the FY 2008 market return was -6 percent, and the following year was -17 percent in 2009; however, in FY 2010 it was +17.7 percent and +19 percent in 2011. She agreed that it was a challenge to take the long-term view at this point given all of the confusion, but the goal of this exercise is to consider what is happening now while looking at the long-term expectations for the markets.

Mr. Gluckstern moved to accept the experience study with all of the assumptions set forth in the presentation, including a 7.0 percent investment return assumption. Mr. Eichenberg seconded the motion, which passed, with Dr. Duszynski in abstention.

4. INVESTMENT REPORTS

a. Amendment to Custody Bank Contract

Mr. Jacksha stated that the current custody contract with State Street Bank & Trust comes due on June 30, and staff is asking the board to extend the contract for another two years with two very minor changes in an amendment, as reflected in the memorandum in the packet. While staff acknowledges that the ERB's custody bank relationship has not been trouble free, it is a big use of resources to change, especially in the transition. Staff has worked with three out of the four large custody banks out there, and while they are not all the same and have different issues, they are about the same in terms in the level of service and quality. For that reason, staff sees no reason to change at this time and will be working with State Street on the issues that now exist. A mechanism called the key performance indicator process will penalize them if they don't perform per the contract, and their fee will be docked accordingly.

Mr. Jacksha requested approval of this extension.

Mr. Goff moved that the Board of Trustees approve a two-year extension of the custody bank contract with State Street Bank & Trust Company, subject to and contingent upon New Mexico State Law and Educational Retirement Board policies. Mr. Magid seconded the motion, which passed unanimously.

b. Investment Committee Report

Mr. Jacksha reviewed actions taken by the Investment Committee at yesterday's meeting:

- Approved a \$100 million commitment to Vista Credit Partners Fund III for the Opportunistic Credit portfolio.
- Approved a \$75 million commitment to Beach Point Tactical Opportunities Fund for the Opportunistic Credit portfolio.
- Approved a \$50 million commitment to Stonepeak Infrastructure Fund IV for the Infrastructure portfolio.
- Approved a \$50 million commitment to Ares ACOF Fund VI, a corporate opportunities fund in private equity.
- Approved a \$50 million commitment to Lightyear Capital Fund V.
- Approved an additional \$40 million commitment to Banner Ridge DSCO Fund, which focuses on distressed, special situations, and credit. The ERB is also executing a contract with Banner Ridge to act as the ERB's consultant for distressed allocations in private equity, which is their specialty.
- Approved a \$60 million commitment to Orchard Liquid Credit Fund for the Diversifying Assets portfolio.
- Recommended approval of a two-year extension to the custody bank contract with State Street Bank & Trust.

c. Other Investment Reports

None.

5. REVIEW OF PROPOSED RULE AMENDMENTS: SUSANNE ROUBIDOUX, GENERAL COUNSEL

Ms. Roubidoux stated that, in October 2019, the ERB held a formal rulemaking hearing, when it adopted rule amendments that were required in order to be consistent with HB 360, which was adopted by the 2019 legislature. In March 2020, SB 111 was approved by the legislature, which effectively repealed many of the provisions that the legislature had put in place through HB 360. Because of that repeal, which was done through SB 111, the ERB will need to make its rules consistent with the statute.

Ms. Roubidoux discussed key provisions in SB 111, which becomes effective on May 20, 2020:

- Repeals the law enacted by HB 360 which would have required that retired ERB members who return to work at .25 FTE or less, and their employers, pay contributions beginning on July 1, 2020.
- Creates a new pathway for ERB retirees to return to work after retirement. Under SB 111, a retired member may return to work and earn up to \$15,000 per year provided they have completed a 90-day layoff after retirement.
- Repeals the law enacted by HB 360 that would have required substitute teachers working greater than .25 FTE to pay contributions beginning July 1, 2020. Under SB 111, an employee who is hired on a day-to-day basis to replace another employee who is temporarily absent will be considered a substitute and will not be covered under the ERB and will not have to pay contributions to the fund. SB 111 also provides that an employee who is engaged to fill a vacant position, including a position vacated by a leave of absence of at least 90 days, will not be considered a substitute and must pay contributions.
- Repeals the law enacted by HB 360 that requires PERA retirees (except for certain retired police officers) who have not suspended their benefit and who work for ERB employers to pay contributions to the fund beginning July 1, 2019. Under SB 111, PERA retirees who work for ERB employers and have not suspended their benefit will not have to pay contributions to the fund beginning May 20, 2020. Employers who hire PERA retirees will continue to pay contributions.

Ms. Roubidoux said that rule changes are also needed because of SB 157 enacted in the 2019 legislature. SB 157 provides that, beginning on July 1, 2020, an ERB member may pay to convert unused sick leave to earned service credit (a/k/a purchasing “sick leave service credit”). The member must pay the actuarial present value, as determined by the board, of the benefit attributable to the conversion. To be eligible to purchase sick leave service credit, the member must have acquired a minimum of five years of contributory employment. SB 157 also mandates that ERB draft rules pertaining to payments for converting unused sick leave to earned service credit.

Ms. Roubidoux stated that the board is being asked today to review the proposed rules and make a determination as to whether it is in favor of that language. If so, the board would authorize the agency to schedule a formal public rulemaking, which would ideally be at the June board meeting.

a. **2.82.2 NMAC Membership**

Ms. Roubidoux reviewed the proposed changes to Rule 2.

Mr. Goff moved approval of the amendments to Rule 2, as presented, and direct the Executive Director to prepare a Notice of Proposed Rulemaking and schedule a public rulemaking hearing at the next available opportunity. Mr. Magid seconded the motion, which passed unanimously.

b. 2.82.4 NMAC Service Credit

Ms. Roubidoux reviewed the proposed changes to Rule 4.

Mr. Goff moved approval of the amendments to Rule 4, as presented, and direct the Executive Director to prepare a Notice of Proposed Rulemaking and schedule a public rulemaking hearing at the next available opportunity. Mr. Magid seconded the motion, which passed unanimously.

c. 2.82.5 NMAC Retirement Benefits

Ms. Roubidoux reviewed the proposed changes to Rule 5.

Mr. Gluckstern moved approval of the amendments to Rule 5, as presented, and direct the Executive Director to prepare a Notice of Proposed Rulemaking and schedule a public rulemaking hearing at the next available opportunity. Dr. Duszynski seconded the motion, which passed unanimously.

d. 2.82.7 NMAC Annuitants and Disability Recipients

Ms. Roubidoux reviewed the proposed changes to Rule 7.

Mr. Goff moved approval of the amendments to Rule 7, as presented, and direct the Executive Director to prepare a Notice of Proposed Rulemaking and schedule a public rulemaking hearing at the next available opportunity. Mr. Magid seconded the motion, which passed unanimously.

6. AGE & SERVICE RETIREMENTS: MONICA LUJAN, MEMBER SERVICES DIRECTOR

Ms. Lujan reported that 501 retirements were approved for the February-March period, broken down as follows: 3 disability applications under age 60; 33 reciprocities; and 465 regular members.

Mr. Magid moved for approval. Dr. Duszynski seconded the motion, which passed unanimously.

7. DISABILITY RETIREMENTS: KARLA LEYBA, MEMBER SERVICES BUREAU CHIEF

Ms. Leyba presented the March status report of disability claims from Maximus Federal.

Mr. Eichenberg moved for approval. Mr. Magid seconded the motion, which passed unanimously.

8. DIRECTOR'S REPORT: JAN GOODWIN, EXECUTIVE DIRECTOR

a. Update on 2020 Retirement Season

Ms. Goodwin reported that there were 406 retirement applications as of last Friday, which is ahead of the previous year but a bit behind of 2018 numbers. The numbers will probably be increasing over the next few weeks, as the ERB has heard from a number of people retiring that they have older

spouses at home and do not want to put them at risk by continuing to work. In addition, the experience of online teaching has presented an unexpected challenge and resulted in some people retiring earlier than they might have otherwise. Finally, there are concerns that the teacher raises approved in the last regular legislative session could potentially be rescinded in the upcoming special session.

Ms. Goodwin also stated that, when it became apparent that ERB staff would be working from home during retirement season, there was immediate concern that all of the necessary information from employers might not be readily available, and the ERB reached out to the Department of Public Education and the Commission on Higher Education for assistance. She said member Adan Delgado and Secretary Stewart were incredibly helpful in assisting the ERB in getting out a letter to all of the superintendents, reminding of the importance of their role in the retirement process and that the ERB needed to process retirement applications.

b. Refund Rate for FY21

Ms. Goodwin said the refund rate for FY 2021, which is based on the yield of the 5-year Treasury as of March 31, will be 0.382 percent for refunds that are on deposit in FY 2021.

c. NMRHCA Update

Ms. Goodwin reported that the NMRHCA's bill to increase the employer/employee contribution rates to help them improve their solvency situation was vetoed by the Governor; however, she has pledged to work on the agency's future sustainability.

d. Agency Activities

Ms. Goodwin referred to the summary of high-level activities that the ERB has been working on in February and March. She said the past month has been incredibly challenging for ERB staff, and commented that everyone has worked above and beyond the call of duty on getting everyone working at home as quickly as possible, with all for the equipment they needed, so the ERB could continue to serve all of its members as seamlessly as possible. She said there has been a huge team effort.

Chairwoman Cameron thanked staff, on behalf of the board, for their hard work. She said she has not received a single complaint during this challenging period.

e. Legislative Update

Ms. Goodwin stated that, as discussed today under the proposed rule amendments acted on today by the board, SB 111 was passed by the legislature. Governor Lujan Grisham has said she will be working with the ERB within the next year to get the fund to 100 percent funding.

f. Other

Ms. Goodwin reported that the monthly payroll was processed yesterday in a timely manner.

Ms. Goodwin noted that pension obligation bonds have been mentioned briefly in the past, and that Mr. Jacksha has always pointed out that the best time to issue a pension obligation bond is during a period of low interest rates, something that is now happening. She said staff has begun preliminary

discussions with the Executive and the Legislature on how this could possibly work, which is that the state would be the issuer, the proceeds would come to the ERB, there would be an immediate improvement in the ERB's funding status, and Mr. Jacksha and his team would have more money to deploy. She stressed that no one has made any commitments one way or another, but staff is being proactive in reaching out to relevant parties so this can be one of many things to be considered in approving the ERB's sustainability.

Mr. Magid remarked that pension obligation bonds are a great idea, and commended Ms. Goodwin in looking at this option.

9. EXECUTIVE SESSION: 12:07 p.m.

- a. Deliberations regarding the Hearing Officer's Recommended Decision in the Appeal of Julie Fuller, Case No. ERB 20-02 (session closed pursuant to NMSA 1978, Section 10-15-1(H)(3)); Attorney General's Office**
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Mr. Eichenberg moved to enter executive session pursuant to Section 10-15-1(H)(3) of the Open Meetings Act for the purpose of discussing and deliberating on the administrative appeal of Julie Fuller. Mr. Magid seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Eichenberg; Mr. Delgado; Dr. Duszynski; Mr. Gluckstern.

Against: None.

[The board was in executive session until 12:45 p.m.]

Chairwoman Cameron moved to come out of executive session, stating that the only matter discussed in executive session was the administrative appeal of Julie Fuller. Mr. Eichenberg seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Eichenberg; Mr. Delgado; Dr. Duszynski; Mr. Gluckstern.

Against: None.

10. ACTION FROM EXECUTIVE SESSION: 12:45 p.m.

Mr. Eichenberg moved to reverse the ERB's decision to deny Ms. Fuller earned service credit for 22 quarters from 1995 to 2005 and adopt the hearing officer's recommended decision that Ms. Fuller is covered under the Educational Retirement Act and continue to be covered for the duration of her employment with CNM, and direct the ERB to reinstate the 22 quarters of earned service credit from 1995 to 2005. Mr. Magid seconded the motion, which passed on the following roll call vote:

For: Chairwoman Cameron; Vice Chair Goff; Secretary Magid; Mr. Eichenberg; Mr. Delgado; Dr. Duszynski; Mr. Gluckstern.

Against: None.

11. NEXT MEETING: FRIDAY, JUNE 19, 2020 – ALBUQUERQUE

12. **ADJOURN**

The meeting adjourned at 1:00 p.m.



Mary Lou Cameron, Chairwoman

ATTEST:



Larry Magid, Secretary

