

PUBLIC EMPLOYEES' RETIREMENT BOARD
25th ANNUAL PLANNING SEMINAR and
RETIREMENT BOARD MEETING MINUTES FOR
Tuesday, September 21 and Wednesday, September 22, 2010

The agenda for this meeting was mailed to every public employer, the news media, and other groups and individuals as requested.

The 25th Annual Planning Seminar of the Public Employees' Retirement Board was called to order by Chairman Stevens at 8:00 a.m., September 21, 2010, in the Convention Center of Harvey's Casino Resort, Lake Tahoe, Nevada. Members present: George Stevens, Mark Vincent, James Green, Bart Mangino, David Olsen, Paul C. Page, and Charles Silvestri. Members absent: None.

September 21, 2010
25th Annual Planning Seminar

The 25th Annual Planning Seminar was an educational program presented by staff to the Retirement Board. The meeting was called to order at 8:00 a.m. and adjourned at 3:00 p.m. There was no action taken at this meeting.

September 22, 2010
Board Meeting

The Board meeting of the Public Employees' Retirement Board was called to order by Chairman Stevens at 8:30 a.m., September 22, 2010, in the PERS' Board Room, 693 West Nye Lane, Carson City. Members present: George Stevens, Mark Vincent, James Green, Bart Mangino, David Olsen, Paul C. Page, and Charles Silvestri. Members absent: None.

I. DISABILITIES

- A. For the record, George Stevens abstained from voting on Kathy Lavietes as she was a Clark County employee that worked with him. On motion of Mark Vincent, the Retirement Board voted unanimously to:
1. Approve permanent and total disability retirement for: Cornelious Arberry II, Eddie Arviso, Kirk Bogan, Joseph Dahlia, Pamela Eastman, Lisa Echan, Joseph Ferrigno, Brock Gregerson, Dorothy Grissom-Scott, Michael Heinrich, Fredrick Hellman, Sonja Jasina, Douglas Jones, Kathy Lavietes, Leanna Lehman, Timothy Lietz, Steven Mott, Brian Newpher, Donna Quintanilla, William Rainford, Brenda Shelton, Carolyn Stanhope, Melissa Stephenson, Patricia Thomas, Dianne Turnbaugh, Mark Whelden, and Sue Williams.
 2. Approve reemployment requests by disability recipients: Edna Banks, Pamela Cercek, Gloria Dondero Pedro, Richard Kissick, David Ladd, Moreen Lasiter, Carol Malone, Amy Peterson, Michael Shorts, Peggy Smith, and Rita Wingate.
 3. Deny the reemployment request by disability recipient Gloria Dondero Pedro.

II. INVESTMENTS

- A. Staff reviewed the proposed modifications to the Investment Objectives and Policies for the PERS' fund. After discussion, on motion of James Green, the Retirement Board voted unanimously to approve the Investment Objectives and Policies for the PERS' fund, as submitted.
- B. Staff presented the investment plans for fiscal year 2011. On motion of Mark Vincent, the Retirement Board voted unanimously to accept the investment plans for fiscal year 2011, as submitted.
- C. Staff reviewed the recommended changes to the Interim Investment Directives for the PERS' fund. On motion of Paul Page, the Retirement Board voted unanimously to approve the Interim Investment Directives for the PERS' fund, as submitted. There were no recommended changes to the Interim Investment Directives for the Legislators' and Judicial funds.

III. BOARD

- A. On motion of Charles Silvestri, the Retirement Board voted unanimously to approve the minutes of the Retirement Board education session and meeting held August 17 and 18, 2010, as submitted.
- B. On motion of Paul Page, the Retirement Board voted unanimously to approve the minutes of the Retirement Board Closed Session meeting held on August 18, 2010, under authority of NRS 286.150.
- C. There were no recommended changes to the Retirement Board meeting dates. Paul C. Page and Bart Mangino mentioned that they would not be able to attend the November 2010 meeting.
- D. There were no recommended changes to the Retirement Board education curriculum calendar.

IV. ADMINISTRATION

- A. Staff highlighted the annual strategic plan revisions for fiscal year 2011. On motion of Paul Page, the Retirement Board voted unanimously to approve PERS' Fiscal Year 2011 Strategic Plan Revision, as submitted.
- B. Staff presented the Service Quality Report for fiscal year 2010. On motion of Mark Vincent, the Retirement Board voted unanimously to accept the Service Quality Report for Fiscal Year 2010, as submitted.

V. LEGISLATION

- A. Staff mentioned that there are three bill draft requests that relate to the Public Employees' Retirement System. Those BDRs are:

BDR #317 – Requested by City of Reno – Limits application of provision which makes employer responsible to employee for impact of wages erroneously reported to the Public Employees' Retirement System.

BDR #425 – Requested by Department of Personnel – Removes insurance premium payments and purchase of additional retirement credit as additional options to lump sum payment of sick leave payout for retired state employees.

BDR #495 – Requested by Public Employees' Retirement System – Makes technical corrections to provisions governing the Public Employees' Retirement System, Legislators' Retirement System and Judicial Retirement System.

There was no action required for this item.

VI. RATIFICATION AGENDA

On motion of Charles Silvestri, the Retirement Board voted unanimously to:

- A. Approve the Administrative Fund disbursements.
- B. Approve all personnel action since the last report.
- C. Approve the Final Benefit Audit Report for June 2009.

VII. APPEALS

- A. Staff reviewed the request by William Luckett that his retirement benefit be restored to the amount before ineligible call-back wages were removed. Mr. Luckett retired from the Reno-Tahoe Airport Authority (Airport Authority) on March 4, 2008. In November 2009, Mr. Luckett's benefit was reduced from \$7,060.81 to \$5,727.88 due to the removal of ineligible call-back wages that were reported in error by his former employer. The benefit overpayment totaled \$26,529.39 from March 2008 through October 2009. Mr. Luckett is requesting that PERS write-off the benefit overpayment and restore his benefit to the amount he was receiving prior to the removal of the ineligible call-back wages.

PERS' Internal Audit Division reviewed the calculation of Mr. Lockett's benefit during the course of auditing the March 2008 retirees in February of 2009. The review of his benefit calculation resulted in staff questioning why Mr. Lockett's wages had increased from \$66,625.58 in fiscal year 2002 to \$111,279.74 in fiscal year 2003, \$113,696.65 in fiscal year 2004, and \$103,475.78 in fiscal year 2005. Staff contacted the Airport Authority regarding the increase in the wages and they explained it was due to call-back based on homeland security regulations.

In April 2009, staff met with the Airport Authority to review the payroll records and time sheets concerning the call-back for Mr. Lockett. After reviewing the information provided by the employer, it was determined that the reported wages did not meet the definition of call-back under NRS 286.025 and PERS' Policy 1.11. The Airport Authority had been previously notified from audits in 1990 and 2003 of a lack in documentation concerning call-back. Documentation of call-back hours from the employee's time sheets as well as the payroll records were incomplete. Furthermore, the Airport Authority's bargaining agreement stated that if an employee worked over 30 hours of overtime and/or call-back, then any hours worked beyond the 30 hours would be reported to PERS as call-back, regardless of the circumstance.

Once it was determined that the reported wages did not meet the definition of call-back, the Airport Authority was contacted to make adjustments to remove these wages. In June 2009, they were directed to remove all ineligible call-back wages for all affected employees from May 2002 to current. The Airport Authority removed ineligible wages in the amount of \$124,712.46 from Mr. Lockett's account from May 2002 through March 2005. The adjustments were submitted on the September 2009 contribution report, and once they were posted his benefit was recalculated. On November 9, 2009, a letter was sent to Mr. Lockett notifying him of the overpayment in the amount of \$26,529.30.

Mr. Lockett claims he has relied upon the allowance calculated by PERS before and after his retirement. He further claims that once he retired and received his first retirement check he became absolutely vested at the amount he received. The Retirement Board has the discretion under the provisions of NRS 296.190(3) and (4) to determine when an error or inequity has occurred and to act to correct that error or inequity. Staff does not feel that an error or inequity exists in this case since PERS did not have knowledge that ineligible call-back wages had been reported in error to Mr. Lockett's account. When Mr. Lockett's benefit was originally calculated, staff was unaware of reporting errors that were made by the Airport Authority and only after extensive research was it determined that the employer had overstated his wages subject to contribution.

Mr. Michael Langton, attorney for Mr. Lockett addressed the Retirement Board requesting that Mr. Lockett's benefit be restored to its original amount. Mr. Langton also mentioned that Mr. Lockett's wife is disabled and that they have detrimentally relied upon the benefit amount that Mr. Lockett began receiving. Mr. Langton also referenced two legal cases; Burns vs. PERS and Nicholas vs. PERS in making his point for his client regarding absolute vesting and limited and vested rights. Mr. Langton

than respectfully requested the Board reinstate Mr. Lockett's benefit and not reduce it for any overpayment amount.

Mr. William Lockett addressed the Board and explained his work situation with the Airport Authority, his wife's situation, and the process he went through arranging his retirement with PERS. He stated that it would be a great hardship for him to receive the lesser benefit amount as he planned according to the higher benefit that was originally calculated for him.

The Senior Deputy Attorney General stated that the Reno Tahoe Airport Authority, Mr. Lockett's former employer, created the error in reporting the wages as call-back wages. They had previously been warned about their lack of documentation in audits performed by PERS. PERS relied on the reporting documents from the employer in calculating Mr. Lockett's benefit.

After discussion, on motion of Mark Vincent, the Retirement Board voted 6-yeas and 1-no to deny William Lockett's request for PERS to write-off his benefit overpayment and to increase his benefit amount with a 90-day implementation date to start his overpayment repayment schedule. Paul C. Page voted no.

- B. Staff explained that Mr. Kenneth Coulon is in the same position that Mr. William Lockett is with a reduced benefit amount due to ineligible call-back wages being reported by his previous employer, the Reno-Tahoe Airport Authority.

Mr. Michael Langton, attorney for Mr. Coulon, expressed the same request that Mr. Coulon's benefit be reinstated and not be reduced for any overpayment amount.

Mr. Kenneth Coulon submitted a letter to the Retirement Board stating the impact on his life the reduced benefit would create for him and his wife.

After discussion, on motion of Mark Vincent, the Retirement Board voted 6-yeas and 1-no to deny Kenneth Coulon's request for PERS to write-off his benefit overpayment and to increase his benefit amount with a 90-day implementation date to start his overpayment repayment schedule. Paul C. Page voted no.

VIII. DENIALS

IX. REPORTS

X. PUBLIC COMMENT

- A. There were no individual statements and/or requests by the members, retired employees and/or the public.

B. The Senior Deputy Attorney General reported that this is her last meeting with PERS as she has taken a position with a non-profit organization. She enjoyed working with the Board and the Executive Staff and appreciated the opportunity to represent PERS.

C. Administrative report by Staff.

- Executive Officer:
1. The Executive Officer thanked the Board for their support of the annual planning seminar that took place on September 21st. She also thanked Karen Kimball for organizing the event and Ken Lambert and Steve Edmundson for developing the program agenda and securing speakers.
 2. The Executive Officer thanked Christine Munro for all her hard work on behalf of PERS and wished her well in all her endeavors.
 3. The Executive Officer mentioned that on Friday, the AG's office filed a motion for dismissal on behalf of the Governor's Office in the lawsuit regarding PERS' Retirement Board appointments.
 4. The Executive Officer stated that Chris Wicker filed PERS' notice of appeal and received an exemption from the settlement process regarding the case Smith vs. PERS.

D. Questions and/or comments by members of the Retirement Board.

- George Stevens:
1. Chairman Stevens thanked all the staff for the great job they did on the seminar.

XI. ADJOURNMENT

The meeting was adjourned by Chairman Stevens at 11:10 a.m.

The following is the time schedule for the meeting:

On September 21, 2010, the 25th Annual Planning Seminar was called to order at 8:00 a.m. by Chairman Stevens and recessed at 3:00 p.m. The September 22, 2010, Retirement Board meeting was called to order at 8:30 a.m. One break was taken at 9:30 for approximately fifteen minutes and one was taken at 11:03 for approximately six minutes. The meeting was adjourned at 11:10 a.m.