

State of Alaska
ALASKA RETIREMENT MANAGEMENT BOARD
MEETING

Teleconference Meeting
11th Floor, State Office Building
Juneau, Alaska

MINUTES OF
August 16, 2010

CALL TO ORDER

CHAIR GAIL SCHUBERT called the meeting of the Alaska Retirement Management Board (ARMB) to order at 10:31 a.m.

ROLL CALL

Seven ARMB trustees were present via teleconference at roll call to form a quorum.

ARMB Board Members Present

Gail Schubert, *Chair*

Sam Trivette, *Vice Chair*

Gayle Harbo, *Secretary*

Kristin Erchinger

Commissioner Patrick Galvin

Tom Richards

Mike Williams

Legal Counsel Present

Mike Barnhill, Assistant Attorney General, Department of Law

Dan Levi, Paul Weiss, Attorneys

Department of Revenue Staff Present

Jerry Burnett, Deputy Commissioner

Gary M. Bader, Chief Investment Officer

Judy Hall, Liaison Officer

PUBLIC MEETING NOTICE

JUDY HALL confirmed that proper public meeting notice requirements had been met.

APPROVAL OF AGENDA

MS. HARBO moved to approve the agenda. MR. TRIVETTE seconded. The motion passed without objection.

PUBLIC/MEMBER PARTICIPATION, COMMUNICATIONS AND APPEARANCES

None.

ACTION – DISCUSSION OF ALLOCATION OF MERCER SETTLEMENT FUNDS

CHAIR SCHUBERT requested that Assistant Attorney General Mike Barnhill lead the discussion on the action item before the Board. MR. BARNHILL stated the purpose of the meeting is to consider how to allocate the net proceeds of the Mercer litigation. The Board filed a complaint on behalf of the PERS/TRS systems against Mercer in December 2007 and settled in June for \$500 million. This netted an amount for the PERS/TRS funds of approximately \$403 million for the trust funds. It is the recommendation of the Department of Law, Paul Weiss and Rob Johnson that the allocation be carried out as set forth in evidence presented by the Board in its expert reports. The best evidence available showed the relative allocation of damages between PERS and TRS would have been approximately 89% damages in PERS and 10.9% in TRS, and that is the recommendation for allocating \$403 million in settlement proceeds.

MS. HARBO asked whether any money was paid from the pension funds to pay for the lawsuit, to the Department of Law attorneys or expert witnesses, etc. MR. BARNHILL replied that no money was spent from trust funds for the litigation, money was spent from funds before filing the lawsuit for investigation - approximately \$800,000 approved by the legislature based on a pro rata share based on net asset value at the time of the appropriation. MS. HARBO opined that the money that was used to fund the lawsuit should be paid out in the same proportion as the settlement. MR. BARNHILL clarified that no trust money was used to fund the lawsuit, it was to fund the investigation from appropriations made in 2006. A request for \$12 million for litigation was not approved by the legislature and a contingency arrangement was made with Paul Weiss to continue the lawsuit in the summer of 2007.

MR. RICHARDS requested clarification on the \$800,000 being taken from the trust funds. MR. BARNHILL replied that the Department of Law initially sought \$400,000 to fund the investigation in 2006, which was split 50/50. Subsequently the department sought an additional appropriation of \$400,000 because of the higher investigation costs. At that time the initial appropriation was reallocated on a pro rata basis based on net asset value from the PERS and TRS trust funds. MR. BARNHILL stated that his recollection was that it was 75%-25% because at that time that was the relative proportion between the funds.

CHAIR SCHUBERT, referring to the memorandum received from legal counsel Paul Weiss provided to the trustees prior to the meeting, invited DAN LEVI to comment. MR. LEVI explained that Paul Weiss took a look at different damage scenarios that experts provided, and determined that Scenario #1 was most likely to succeed at trial and was most supported by the evidence. This scenario showed that based on historical rate setting information, PERS was most

likely to continue escalating contribution rate, but TRS was not as clear since they had set a flat rate of 12% in the early 90s and there was very little evidence to show what they would have done had Mercer recommended different rates. MR. LEVI also reviewed two other scenarios: one used a 13% flat rate as a baseline, and one which would throw out the flat rate and use the Mercer recommendation across the board, with the assumption that the 5% cap which both funds had always followed would remain in place. MR. LEVI stated that very little evidence supported scenarios 2 and 3, so Paul Weiss' recommendation is to adopt scenario #1 as best supported by evidence. MS. HARBO stated that she wished to clarify that in 1992 Mercer supported 12% flat rate in their recommendation to the TRS. MR. LEVI agreed that was the case.

CHAIR SCHUBERT invited comment from the Department of Revenue staff. COMMISSIONER GALVIN stated he had no comments but agreed with the recommendation.

CHAIR SCHUBERT next referred to the action item in packet.

MR. TRIVETTE moved that the Board direct staff to allocate the settlement funds received from the Mercer litigation as follows: 89.0829% to the PERS Health Trust Fund and 10.9171% to the TRS Trust Fund. MS. HARBO seconded.

KRIS ERCHINGER noted a correction to the Action Memo in the Status paragraph, the second to the last line of second paragraph it reads PERS instead of TRS receiving 10.9171%.

MR. TRIVETTE stated that for the record, he believed that Colin England's report supports this conclusion, along with recommendation of the attorneys.

Roll call vote

Ayes: Erchinger, Galvin, Richards, Trivette, Williams, Harbo, Schubert

Nays: None. Commissioner Kreitzer and Martin Pihl absent.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

OTHER MATTERS TO PROPERLY COME BEFORE THE BOARD

There were no other matters to come before the Board.

PUBLIC/MEMBER COMMENTS

There was no one present or listening by telephone who wished to address the board.

TRUSTEE COMMENTS

MR. TRIVETTE requested clarification regarding the confidentiality of certain legal documents provided to the Board for review. MR. BARNHILL replied that the memos from Paul Weiss and


from Wohlforth Johnson should remain confidential, but the expert reports are now public information. MS. HARBO expressed her thanks to the Department of Law for keeping the faith and to Dan Levi for all their hard work. CHAIR SCHUBERT echoed those remarks. MR. BARNHILL replied that the Board has done great work, and they have appreciated the chance to work with the Board on this.

FUTURE AGENDA ITEMS

None


ADJOURNMENT

There being no objection and no further business to come before the board, the meeting was adjourned at 10:50 a.m. on August 16, 2010, on a motion made by MS. HARBO and seconded by MR. WILLIAMS.



Chair

ATTEST:



Secretary