

MINUTES OF MEETING
STATE OF WISCONSIN
EMPLOYEE TRUST FUNDS BOARD

Friday, March 31, 2006

Sheraton Madison Hotel
706 John Nolen Drive
Madison, Wisconsin

DRAFT

BOARD PRESENT:

Marilyn Wigdahl, Chair
John Brown
Theron Fisher
Rick Gale
Wayne Koessler, Vice-Chair
Kathleen Kreul
Robert Niendorf, Secretary
Gary Sherman
Nancy Thompson
Karen Timberlake

BOARD NOT PRESENT:

Irena Macek
Wayne McCaffery

PARTICIPATING ETF STAFF:

Eric Stanchfield, Secretary
Dave Stella, Deputy Secretary
Sari King, Administrator, Division of Retirement Services
Jon Kranz, Director, Office of Internal Audit and Budget
Robert Weber, Chief Legal Counsel

OTHERS PRESENT:

Mark Buis, Gabriel, Roeder, Smith and Company
Bob Conlin, Director, Legislation, Communications, and Planning
Rhonda Dunn, Executive Assistant
Charlotte Gibson, Department of Justice
Jean Gilding, Deputy Administrator, Division of Retirement Services
Audrey Koehn, Division of Retirement Services
Linda Owen, Division of Retirement Services
John Vincent, Administrator, Division of Trust Finance and Employer Services
Gretchen Wegner, Legislative Audit Bureau
Bob Willett, Controller, Division of Trust Finance and Employer Services

Marilyn Wigdahl, Chair, called the meeting of the Employee Trust Funds Board (Board) to order at 8:32 a.m.

Board	Mtg Date	Item #
ETF	06/23/06	1

CONSIDERATION OF PREVIOUS MEETING MINUTES

Motion: Mr. Koessl moved approval of the open and closed session minutes of the December 16, 2006, meeting as submitted by the Board Liaison. Ms. Thompson seconded the motion, which passed without objection on a voice vote.

ELECTION OF OFFICERS

Ms. King requested the action of the Board regarding the election of officers. A memorandum was provided to the Board, which included a list of current officers as well as a current roster of Board members.

- CHAIR, VICE-CHAIR AND SECRETARY

Nomination: Mr. Brown nominated the current slate of officers, Marilyn Wigdahl as Chair, Wayne Koessl as Vice-Chair and Robert Niendorf as Secretary, for another one-year term as officers of the Employee Trust Funds Board. Ms. Timberlake seconded the nomination.

Motion: Hearing no further nominations, Ms. Thompson moved to close nominations and cast a unanimous ballot to elect the current slate of officers to another one-year term (Wigdahl - Chair, Koessl - Vice-Chair, Niendorf - Secretary) as officers of the Employee Trust Funds Board. Ms. Kreul seconded the motion, which passed without objection on a voice vote.

RETIREMENT STATISTICS SUMMARY REPORT

Ms. King referred to the December 2005 – February 2006 quarterly report on recent retirement benefit annuity applications approved and terminated by the Boards. The top option selected continues to be “100% continued to named survivor with 180 payments guaranteed.” The calculation type that yielded the higher annuity continues to be Money Purchase this quarter.

Ms. King mentioned that in January 2006 the Department of Employee Trust Funds (DETF) processed the highest number of retirement estimates in three years.

RETIREMENT STATISTICS ANNUAL SUMMARY REPORT

Ms. King briefed the Board on the 2005 Annual Retirement Annuity Statistics report. She noted trends in retirement annuity activity from January 2003 through December 2005. Retirement estimate requests peaked during the months of February, March and April. The peak months for completing retirement estimates were March, December and July.

Ms. King indicated that although there were only 49 more retirement estimates requested in 2005 (16,878) than in 2004 (16,829); there were 2,300 fewer retirement estimates completed in 2005 (16,367) than in 2004 (18,667). This is due to the impact of staff retirements and staff turnover and

the associated training required for new employees before full productivity is achieved. Workloads have been shifted to meet the demands during peak times.

Gross annuity payments exceeded \$3 billion for 2005, an increase of 8.6% over 2004 (\$2.79 billion). The increase in annuity payments is due in part to the dividend increases for 2005 (fixed, 2.6%; variable, 7%) and to the initial wave of retirements of the "baby boom" generation.

ADMINISTRATIVE RULE – CLEARINGHOUSE RULE # 05-114 – SEPARATE RETIREMENT SYSTEM PARTICIPATION IN THE TRUST FUND

Mr. Weber advised the Board that it is asked to approve the Final Draft Report on Clearinghouse Rule #05-114, concerning the investments by separate retirement systems into the public employee trust fund. The Board has had the authority since 1984 to allow these investments. This rule was first written in 1985 and has been amended twice (in 1991 and 1998). If the Board approves this final draft, it will go to the Legislature, which is the last step before it is promulgated and becomes law.

Motion: Mr. Gale moved approval of the final draft report of Clearinghouse Rule #05-114. Ms. Thompson seconded the motion, which passed without objection on a voice vote.

WISCONSIN RETIREMENT SYSTEM 23rd ANNUAL ACTUARIAL VALUATIONS OF RETIRED LIVES – DECEMBER 31, 2005

Mark Buis of Gabriel, Roeder, Smith and Company (GRS), reviewed the report, *Wisconsin Retirement System 23rd Annual Actuarial Valuations of Retired Lives – December 31, 2005*. The report represents a comparison of annuity reserve balances of the fixed and variable reserves with the present value of annuities being paid within each fund, as well as the methodology used to calculate the annual post-retirement dividend. Mr. Buis reviewed highlights of the annual valuations and responded to questions.

Motion: Mr. Koessl moved to accept the actuary's report and adopt its recommendations. Mr. Brown seconded the motion, which passed without objection on a voice vote.

Mr. Stanchfield added that Mr. Stella contacted the Board Chair on March 6, 2006 and the annuity adjustments were approved at that time.

MISCELLANEOUS

Actuarial Audit Mr. Stella advised that the Legislative Audit Bureau is required by statute to contract for the performance of an actuarial audit of the WRS at least once every five years. An actuarial audit requires a high level of expertise in a technical area. After a formal request-for-proposal process, Milliman USA was selected to perform the audit. They will commence their review and attend the ETF Board meeting in June to present their findings and recommendations.

OPERATIONAL FLEXIBILITY / BUDGET ISSUES

Uniform Management of Public Employee Retirement Systems Act (UMPERSA) Mr. Stella indicated that the Board had expressed an interest in having a presentation on UMPERSA as well as a discussion of the Secretary's and the Board's authority under statute.

Mr. Weber provided a slide presentation regarding UMPERSA. It is a model for trustee independence and one of a number of laws written by the National Conference of Commissioners on Uniform State Laws. It provides independence, including budget and staffing power to trustees, exclusive authority over retirement system assets, and established duties and standards of conduct. UMPERSA is currently in effect in three states to varying degrees.

Mr. Stella clarified that WRS currently has most of the elements of UMPERSA, however, the trustees do not have the budget and staffing independence that UMPERSA would grant them.

Secretary's Authority vs. Board Authority Mr. Stella referred to Mr. Weber's memo dated March 24, 2006. He added that both the Board and the Department have only the powers that are expressly conferred upon them by the statutes under which they operate, plus any powers necessarily implied from those statutes.

In general, the ETF Board's powers and duties are, for the most part, regulatory, advisory and policy-making, and not administrative. The Secretary of DETF is vested with all the administrative powers and duties of the Department.

Agency Biennial Budget Themes Mr. Kranz, Director, Office of Internal Audit and Budget, described the process that the Department will follow while developing the budget request that is due in the State Budget Office on September 15, 2006. He indicated that DETF will adopt a budget strategy that takes into account the attainment of resources necessary to meet current and projected customer service needs. He pointed out the importance of maximization of efficiencies through information technology investments. Mr. Kranz noted the need to establish statutory flexibility to respond to unpredictable short-term workload fluctuations. Clarification of the ETF Board's and the Department's authority to contract for legal and other services will be sought. These overall themes will be taken into account with a goal of obtaining sufficient resources and greater flexibility to meet the needs of a growing customer base.

Secretary Stanchfield pointed out the increasing complexity of programs and the ongoing need to keep participants informed. He added that the Department will continue to update the Board on the budget process.

The Board took a break from 9:58 to 10:22 a.m.

UPDATE ON RECENT COURT DECISIONS / FAZIO AND BUSS

Ms. Gibson provided information on the *Fazio* court decision. The *Fazio* case is a class action suit seeking interest on lump sum death benefits. The plaintiffs felt entitled to receive interest on benefits between the time of death and the time that the application was filed. The Court of

Appeals had reversed the Circuit Court and held that plaintiffs weren't entitled to the interest. The Supreme Court affirmed the Court of Appeals. The holding of the case was based on the principle that plaintiffs are not entitled to interest because there is no property interest until the plaintiff applies for the benefit.

Ms. Gibson also briefed the Board on the *Buss* case, which is currently pending in Circuit Court. This case has been certified as a class action suit. Plaintiffs applied for lump sum death benefits and separation benefits. During the injunction of the Act 11 legislation, plaintiffs were paid the amount they would have received without that legislation. The plaintiffs are requesting interest payment from the time of application until the rest of the payment was made. Each lump sum payment was calculated manually in order to maximize each person's benefit. This was quite a lengthy process. Some people received payment immediately and others waited for more than two years.

A month ago the Judge ruled that the plaintiffs were not entitled to any interest or damages prior to the lifting of the injunction because their lawyer had failed to answer discovery that would have revealed whether or not they were represented in the Act 11 litigation. The court also ruled, however, that the plaintiffs were entitled to damages after the lifting of the injunction because DETF had taken so long to pay the supplemental benefits.

DETF moved for reconsideration, arguing that delay never constitutes a basis for a takings claim. If that motion fails, there will be a trial on damages on July 6 and 7, 2006. An issue to be resolved on the takings claim is whether this is an obligation against the trust fund or the state.

She also provided an update on the *Helgeland* case, which has been stayed on the merits because some parties wanted to intervene in the case and felt they were denied that right. These parties appealed to the Court of Appeals. The Department of Justice has received an order from the court stating that the case was submitted on briefs with no oral argument. The panel has decided how they will rule and will be writing the ruling on the intervention issue soon. Once the intervention issue is determined, the lower court will decide the case on the merits. There is a motion pending for judgment on the pleadings.

MOTION TO CONVENE IN CLOSED SESSION

Ms. Wigdahl announced that the Employee Trust Funds Board would convene in closed session, pursuant to the exemptions contained in Wis. Stat. § 19.85 (1) (a) for quasi-judicial deliberations.

Motion: Ms. Thompson moved to convene in closed session, pursuant to the exemptions contained in Wis. Stat. § 19.85 (1) (a) for quasi-judicial deliberations. Mr. Koessl seconded the motion, which passed on a roll call vote.

Members voting aye: J. Brown, T. Fisher, R. Gale, W. Koessl, K. Kreul, R. Niendorf, G. Sherman, N. Thompson, K. Timberlake, M. Wigdahl

Members voting nay: none

The Employee Trust Funds Board convened in closed session at 10:32 a.m. and reconvened in open session at 12:20 p.m.

**ANNOUNCEMENT OF ACTION TAKEN ON BUSINESS DELIBERATED DURING
CLOSED SESSION**

Ms. Wigdahl announced that the Board took the following actions during the closed session:

- **2004-016-ETF and 2004-036-ETF.** The Board denied the petition for rehearing.
- **2002-024-ETF.** The Board adopted the hearing examiner's proposed decision.
- **2004-012-ETF.** The Board adopted in part and rejected in part the hearing examiner's proposed decision.
- **2004-054-ETF.** The Board adopted in part and rejected in part the hearing examiner's proposed decision.
- **2004-053-ETF.** The Board adopted in part and rejected in part the hearing examiner's proposed decision.
- **2004-048-ETF.** The Board adopted the hearing examiner's proposed decision with amendments as recommended by counsel.
- **2005-003-ETF and 2005-032-ETF** The Board adopted in part and rejected in part the hearing examiner's proposed decision.

ADJOURNMENT

Motion: Mr. Koessl moved adjournment. Mr. Brown seconded the motion, which passed without objection on a voice vote.

The meeting of the Employee Trust Funds Board adjourned at 12:25 p.m.

Date Approved: _____

Signed: _____

Robert Niendorf, Secretary
Employee Trust Funds Board