

South Carolina Public Employee Benefit Authority Meeting Minutes

Tuesday, October 16, 2012

2nd Floor Conference Room
202 Arbor Lake Drive
Columbia, South Carolina 29223

Board Members Present:

Mr. Art Bjontegard, Chairman (in person)
Ms. Peggy Boykin (in person)
Mr. Frank Fusco (in person)
Ms. Cynthia Hartley (in person)
Ms. Stacy Kubu (in person)
Sheriff Leon Lott (in person)
Mr. Steve Matthews (in person)
Mr. Joe "Rocky" Pearce (in person)
Mr. Audie Penn (in person)
Mr. John Sowards (in person)
Mr. David Tigges (in person)

Others present for all or a portion of the meeting:

David Avant, Robbie Bell, Susan Brownlee, Geneva McIntosh, Greg Meetze, Lisa Phipps, Stephen Van Camp, and Justin Werner from the South Carolina Public Employee Benefit Authority (PEBA); Paul Patrick and Kara Brurok from Ways and Means, Daniel Brannon and Brian Deroy from the State Treasurer's Office, Will Kinney from Mullikin Law Firm, Mike Shealy from Senate Finance, Hershel Harper and Sara Corbett from the South Carolina Retirement Systems Investment Commission, Wayne Bell from the South Carolina State Retirees Association, Melissa Carter from the Municipal Association of South Carolina, Greg King from the Palmetto State Teachers Association, Comptroller General Richard Eckstrom, Eric Ward and Jim Holly from the Comptroller General's Office, Rachel Fulmer from the State Budget Office, Adam Beam from The State, Jeff Moore from the South Carolina Sheriff's Association, Cathy Hazelwood from the South Carolina State Ethics Commission

I. CALL TO ORDER; ADOPTION OF PROPOSED AGENDA

Chairman Bjontegard called the meeting to order at 10:00 a.m., and Mr. Pearce gave the invocation. Ms. Brownlee confirmed meeting notice compliance with the Freedom of Information Act. Following introductions, Chairman Bjontegard announced the Finance, Administration, Audit and Compliance Committee would meet at 2:00 p.m. and then introduced a discussion of future Board and committee meeting dates. The November meeting is scheduled for November 21, 2012, and the December meeting for December 12, 2012. The Chairman also announced that most of the 2013 Board meetings will be held the

3rd Wednesday of every month, except for a proposed retreat at Wampee, possibly January 31-February 1, 2013.

A motion was made by Mr. Matthews to approve the proposed agenda. It was seconded by Mr. Penn and approved unanimously.

Several amendments were recommended to the draft minutes of the September 26, 2012, Board meeting. Mr. Sowards moved to approve minutes as amended. The motion was seconded by Mr. Matthews and was approved unanimously.

II. OVERVIEW OF THE STATE ETHICS ACT

PEBA General Counsel Stephen Van Camp introduced Cathy Hazelwood, Deputy Director and General Counsel for the SC State Ethics Commission. Ms. Hazelwood presented an overview of the State Ethics Act. All PEBA Board members must file a Statement of Economic Interests or amend their existing forms. She explained lobbyist and lobbyist principals law, referred to a list of registered lobbyists and principals on the Ethics Commission website and noted several examples. She explained that should a lobbyist principal invite one of the Board members to an event in his/her official capacity, all Board members should be invited, and the cost per person cannot exceed \$60. Upon questions from Chairman Bjontegard, Mr. Fusco, and Mr. Sowards, Ms. Hazelwood advised the Board members to check the online list themselves when in doubt as to whether an individual or group is a lobbyist or lobbyist principal and/or check with General Counsel. Ms. Hartley asked for clarification regarding matters unrelated to PEBA, and Ms. Hazelwood confirmed matters related to the Board members' private lives are not at issue. She also confirmed that attendance at any events for a lobbyist principal must be declared on their Statement of Economic Interests. Reimbursement for travel for speaking must be reported as well.

Ms. Hazelwood then explained the Rules of Conduct and conflicts of interest. Board members may not use their position for their own financial gain and may not use PEBA staff for matters related to their private affairs and/or personal business/employment. Board members must recuse themselves any time there is a conflict of interest. Recusal must be in writing and must be included in the minutes. Using Mr. Pearce's work with Chartis, a health insurance company as an example, she explained that Mr. Pearce would have to recuse himself if Chartis ever brought business before the Board. Ms. Boykin inquired whether this would apply to her husband—a physician—if he did not have direct interaction with the Board. Ms. Hazelwood responded that Ms. Boykin's husband's interest would be on a large-class scale as he would be affected the same as all other physicians as a group. Upon question by Chairman Bjontegard, Ms. Hazelwood clarified that a law firm with a particular client would not require a lawyer/Board member to recuse, but that the lawyer should be mindful of any potential lawsuit. Mr. Fusco asked what a Board member should do with respect to executive session if he/she were affiliated with a firm who is representing a party in a lawsuit against PEBA. Ms. Hazelwood responded that the Board member would need to leave the room, refraining from participation in any discussion. She further explained that lawyers may not personally represent someone before the Board—though their firms may. She also explained that, for a Board member to be awarded a contract solicited by the Board, the state procurement/bidding guidelines must be followed and the member must recuse himself as soon as relevant discussions begin.

Ms. Hazelwood briefly discussed penalties for not filing the Statement of Economic Interests

or filing late. Chairman Bjontegard asked whether a member's status as a retiree of an affiliated business or organization would pose any ethics concern with serving on the Board, and Ms. Hazelwood responded it does not generally pose a concern.

III. OVERVIEW OF THE INVESTMENT COMMISSION

Chairman Bjontegard introduced Hershel Harper, the Chief Investment Officer for the SC Retirement System Investment Commission (RSIC). Mr. Harper began with a brief historical overview of the RSIC which was established, October 1, 2005. He gave various statistical information regarding the net-of-fee and benchmark returns as of June 30, 2012, and the portfolio returns from 1970 forward. He also provided information on the portfolio's 3-year return ranking and the 2012 portfolio characteristics. Chairman Bjontegard asked about the change in the assumed rate of return from 8 to 7.5 percent and whether Mr. Harper would have come to the same conclusion if SCRSIC were responsible for deriving this rate. Mr. Harper answered that he would not have used this rate of return for the short term. Upon question by Mr. Penn, Mr. Harper explained that the RSIC investment portfolio looks more like that of a foundation or endowment and then explained the investment philosophy of the RSIC with regard to risk/cost/return considerations. Mr. Matthews asked about the final maturity on a direct-lending transaction, and Mr. Harper responded it would typically be written for a five-year term, with the possibility to refinance within three years.

Upon questions by Ms. Hartley and Mr. Matthews, Mr. Harper explained the process of determining the need for new managers and conducting due diligence and that the managers have discretion over their individual investments. Mr. Penn asked whether there are assessments conducted to ensure managers are not all investing in the same things, and Mr. Harper confirmed analyses to ensure diversity of investments. Chairman Bjontegard suggested Mr. Harper provide the Board with copies of the *Annual Investment Plan* and the *Statement of Investment Objectives and Policies*. Mr. Harper noted these documents are posted on the SCRSIC website and agreed to provide copies to the Board members. Mr. Sowards asked Mr. Harper whether he had seen the actuarial report provided by GRS to the Board in the September 26, 2012, meeting. Mr. Harper stated that he had seen projections included in the report, but not the final. Upon question by Mr. Sowards, Mr. Harper explained how the RSIC communicates with PEBA, working with actuary and consultants, along with Mr. Blume. In response to a question by Mr. Fusco regarding comparing manager performance, Mr. Harper responded that RSIC seeks managers in the upper 50%, but that they will not fire a manager for poorer performance during short time periods; they would be more likely fire a manager for extended periods of performance below benchmarks, significant changes in investment team, organizational structure, and/or style drift. Mr. Matthews asked how the General Assembly arrived at the 7.5 percent rate of return, noting the actuary's area of expertise is not market performance. Mr. Harper surmised that the actuaries have certain general assumptions they can make to come up with this rate. Chairman Bjontegard noted Mr. Blume's serves as the PEBA Board's liaison to the RSIC.

IV. BUDGET AND CONTROL BOARD AND PEBA

Chairman Bjontegard introduced Comptroller General Richard Eckstrom. Gen. Eckstrom explained that, as co-trustees, the Budget and Control Board (BCB) maintains some responsibility and explained that the PEBA Board's responsibility extends beyond just the liability. Both the PEBA Board and the BCB have a duty to maintain communication with the RSIC. The BCB also has the responsibility to communicate with the PEBA Board and vice versa. He encouraged representation at each other's board meetings.

He reconfirmed that, the assumed rate of return is an estimate and the rate-setting responsibility resides with the General Assembly. He encouraged the PEBA Board to have open discussions with the actuary about the assumed rate of return. Gen. Eckstrom explained the retirement formula and the actuarial information used to make various assumptions regarding the unfunded liability. If the unfunded liability gets too large, you must increase contribution rates. If too small, benefit enhancements may result through legislation that re-extend the liability. He stated the General Assembly made changes last year to make the system more sustainable, and the BCB decided that the contribution rates should be increased and shared.

Chairman Bjontegard asked General Eckstrom to speak to the health insurance side. Gen. noted it is also a balancing act; health care costs are increasing and that benefit adjustments would be necessary to help hold premium contribution increases down. He encouraged the Board to make its decisions based on mathematics rather than politics. Upon question by Mr. Matthews, Gen. Eckstrom confirmed the PEBA Board does not have any oversight authority over the RSIC, and Mr. Matthews voiced his concern.

Gen. Eckstrom concluded by explaining the spending transparency requirement for state agencies, with regard to posting transaction data online. He explained that new entities are granted a six-month grace period to comply.

At 11:45 a.m., Chairman Bjontegard requested to break for a few minutes and return for executive session.

V. EXECUTIVE SESSION

At 11:55 a.m., upon motion by Mr. Matthews and second by Mr. Sowards, the Board voted unanimously to enter into executive session to receive legal advice and information on data security. The Board then entered into executive session.

Meeting resumed at 1:00 p.m. following the executive session. No action was taken.

VI. OLD BUSINESS

Chairman Bjontegard asked whether there was any old business. There was none.

VII. NEW BUSINESS

A. Electronic File Sharing

Robbie Bell gave a brief overview of the PEBA SharePoint site to allow the Board to review reading material between meetings and manage their personal calendars according to events on the Board's calendar. He advised that if they have any information they would like posted on the site to send that information to Ms. Brownlee. Any problems with accessing the site should also be directed to her.

B. Round Table Comments

Mr. Fusco recommended the PEBA Board see the three-year forecast for the general fund request for insurance benefits before it is sent.

Chairman Bjontegard asked the members what more or less or different can be done that will help the board, particularly with the information being received. Mr. Fusco stated that he appreciated Chairman Bjontegard's quote in the article in *The State* newspaper. He explained that, as the Board starts looking at health insurance, they employ the research capabilities available to determine how to achieve the best, most effective health care with the dollars available. Mr. Fusco expressed his hope that the Board will review the administrative costs to the health plan. He distributed a draft framework for consideration. Chairman Bjontegard stated that he believed the Board has "triaged" the needs of the retirement systems and now must change direction to focus on health care. Mr. Penn commented that the pace for getting the Board members up-to-speed has been good.

There being no further business, Mr. Matthews moved to adjourn, Mr. Sowards seconded and the Board voted unanimously to adjourn at 1:15 p.m.

**South Carolina Public Employee Benefit Authority
Board of Directors Meeting**

**Tuesday, October 16, 2012
10:00 a.m.**

South Carolina Public Employee Benefit Authority
Main Conference Room
202 Arbor Lake Drive, Columbia, SC 29223

Draft Agenda

- I. Call to Order**
 - A. Adoption of Proposed Agenda
 - B. Approval of Meeting Minutes — September 26, 2012
 - C. Meeting Schedule for November and December of 2012 and for 2013

- II. Overview of State Ethics Act**

Cathy Hazelwood, SC State Ethics Commission

- III. Overview of the Investment Commission**

Hershel Harper, SC Retirement Systems Investment Commission

- IV. Budget and Control Board and PEBA**

Richard Eckstrom, SC Comptroller General

- BREAK

- V. Executive Session to Discuss Security and Receive Legal Advice Pursuant to S.C. Code of Laws § 30-4-70(2),(3)**

- VI. Old Business**
 - A. Action Report

- VII. New Business**
 - A. Electronic File Sharing
 - B. Roundtable Comments

Adjournment

PEBA Board Committees

Finance, Administration, Audit and Compliance

- Steve Matthews (chair)
- Peggy Boykin
- Leon Lott

Health Care Policy Committee

- Cindy Hartley (chair)
- Rocky Pearce
- Stacy Kubu
- Audie Penn

Retirement Policy Committee

- John Sowards (chair)
- David Tigges
- Frank Fusco

Executive Committee

- Art Bjontegard
- Vice Chair (vacant)
- Cindy Hartley
- Steve Matthews
- John Sowards



William M. Blume, Jr., CPA
Executive Director

South Carolina Public Employee Benefit Authority Meeting Minutes

Wednesday, September 26, 2012

2nd Floor Conference Room
202 Arbor Lake Drive
Columbia, South Carolina 29223

Board Members Present:

Mr. Art Bjontegard, Chairman (in person)
Ms. Peggy Boykin (in person)
Mr. Frank Fusco (in person)
Ms. Cynthia Harley (in person)
Ms. Stacy Kubu (in person)
Sheriff Leon Lott (in person)
Mr. Steve Matthews (in person)
Mr. Joe "Rocky" Pearce (in person)
Mr. Audie Penn (in person)
Mr. John Sowards (in person)
Mr. David Tigges (in person)

Others present for all or a portion of the meeting:

Bill Blume, David Avant, Robbie Bell, Geneva McIntosh, Stephen Van Camp, Justin Werner, Lisa Phipps from the South Carolina Public Employee Benefit Authority (PEBA); Joe Newton and Danny White from Gabriel, Roeder, Smith & Company, Paul Patrick from Ways and Means, Kara Brurok from Ways and Means, Daniel Brannon from the State Treasurer's Office, Cindy Konduros from Stewart Konduros & Associates consulting, Jeff Moore from Sheriffs of SC, Jarrod Bruder from SCLEOA, Wayne Bell from the State Retirees Association, Rob Tester, Wayne Pruitt from the State Retirees Association, Sara Corbett from the South Carolina Retirement Systems Investment Commission, Warren Harley from the Municipal Association of South Carolina, Greg King from the Palmetto Teachers Association, Brian Gaines from the South Carolina Budget and Control Board (BCB), Rachel Fulmer from the State Budget Office, Adam Beam from the State Newspaper, Shelvie Belser from BlueCross BlueShield of South Carolina, Joanie Lawson from South Carolina Education Association, Carlton Washington from the South Carolina State Employees Association, Robert Croom from the S.C. Association of Counties, Angie Willis from Senate Finance Committee, Deanne Gray from Senate Minority Leaders Office

I. CALL TO ORDER; ADOPTION OF PROPOSED AGENDA

Chairman Bjontegard called the meeting to order at 10:10 a.m. Ms. Brownlee confirmed completion of oaths of office and statements of economic interest by the board members and meeting notice compliance with the Freedom of Information Act.

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II. INTRODUCTION OF BOARD MEMBERS AND STAFF

Chairman Bjontegard gave the invocation and asked the board members to provide some unique information, not included in the biographical information provided in the meeting notebooks. Each member shared something meaningful with the group. At the chairman's request, the visitors introduced themselves, and then Mr. Blume introduced himself and the PEBA staff in attendance.

III. REQUEST FOR APPROVAL OF PEBA RETIREMENT BENEFITS ACTUARIAL VALUATION AND EMPLOYEE/EMPLOYER INCREASE IN COSTS

Chairman Bjontegard asked for, and received, unanimous consent to use the Interim Board Meeting Procedures, so the Board may conduct necessary business at its first meeting. Chairman Bjontegard then asked Mr. Blume to proceed with the business at hand. Mr. Blume explained the latest actuarial valuations of the five retirement plans managed by PEBA, and he provided background information on the change in actuarial assumptions and the need to stay within a 30-year amortization period for funding future annuity obligations. To meet this amortization, which is a government accounting standard, contribution rates would be adjusted. Mr. Blume explained each of the increases needed for each of the retirement plans, based on revised actuarial information, and summarized the items requiring Board action:

1. Accept the GRS actuarial valuations for Fiscal Year 2013-14 for the South Carolina Retirement System (SCRS), Police Officers Retirement System (PORS), General Assembly Retirement System (GARS), Judges and Solicitors Retirement System (JSRS) and the National Guard Retirement System (NGRS)
2. Approve the needed increase in PORS contribution rates to 7.84 percent for employees and to 12.84 percent for employers, effective July 1, 2013 (increase of approximately \$8 million per year)
3. Approve the needed \$4.063 GARS employer contribution increase, effective July 1, 2013 (funded by the General Assembly)
4. Approve the needed increase in the JSRS employer contribution rate to 47.33 percent July 1, 2013 (increase of approximately \$400,000 per year; the employee contribution rate is set by statute).
5. Approve the needed NGRS employer contribution increase to \$4.539 million, effective July 1, 2013 (funded by the General Assembly; the employee contribution rate is set by statute)

There were questions and discussions of the information and the action items. The need for changing actuarial assumptions was explained by Mr. Blume and Mr. Newton. Changes in mortality rates, increases in pay, and experience-rating data all necessitated the change in assumptions. Mr. Blume noted that SCRS and PORS contribution rates are self-adjusting and have a fixed ratio between employer and employee contribution rates, based on statute. He also explained that if the amortization period is not held within 30 years, it adversely affects the state's credit rating. If the PEBA Board approves accepts the valuations and approves the increases, the BCB will then vote whether to approve the PEBA Board's decision. Mr. Blume further explained that the timing for this is tied to the budget process in progress. Mr. Tigges expressed concern for taking action at this first meeting without more

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familiarity with the information and process. Once the SCRS and PORS contribution rates are increased, they cannot be decreased until the plans are 90 percent funded.

Ms. Boykin asked whether any attempt was made to phase in the contribution rate for the JSRS. Mr. Blume responded that there was no opportunity or discussion to phase it in, noting a parallel study and experience study investigation by GRS occurred during the legislative process. Significant differences in the experience, led to the changes and timing. It was asked whether the JSRS increase could be phased in, such as over two years. It was also noted that the increase should not exceed the recommended 30-year amortization, although not required by statute. Mr. Newton noted the funding policies and accounting standards will be changing in the near future. Upon question by Mr. Fusco, it was confirmed that the SCRS contribution rate increase would result in a 25-year amortization.

Mr. Blume reviewed several presentation slides, noting a \$13.4 billion unfunded liability as of July 1, 2010. Adding unamortized losses to this shows the magnitude of the situation. There were both demographic as well as economic losses that are trending in the wrong direction. This is what prompted the parallel study. Mr. Newton noted the assumption change in the cost-of-living adjustment, unrecognized asset losses and the smoothing concept to adjust for market volatility and to avoid having to react to adjust to short-period market swings, such as for contribution rates. He confirmed using a five-year smoothing period vs. ten. He reviewed the main adjustments in assumptions, based on their findings:

- Decrease the inflation assumption from 3.00 percent to 2.75 percent
- Decrease the investment return rate from 8.00 percent to 7.50 percent
- Improve the mortality assumption
- Modify the asset smoothing method (this, combined with the amortization period is the funding policy)

Mr. Newton confirmed all investment expectations are lower than they were a few years ago. Most funds are split 60/40, risky vs. non-risky assets. Mr. Blume added that the demographic information for the plans is pretty accurate, while the inflation and investment assumptions are both the most critical and hardest to pinpoint. Some of the South Carolina Retirement Systems' investments, such as hedge funds, are difficult to classify as to risk.

Mr. White continued the presentation, explaining the legislative changes and their impact on the retirement plans. He reviewed a chart that shows the changes for both SCRS and PORS plans, including contribution rate increases, benefit adjustments, the TERI program ending, earnings limitation for retirees, service purchase costs, disability retirement criteria, vesting, average final compensation calculation, retirement eligibility, and no longer being able to include unused leave in retirement benefit calculations.

Mr. Newton then reviewed the information on the valuation results for SCRS and PORS, explaining the unfunded actuarial accrued liability (UAAL), noting the funding ratios and how they have declined the past ten years. Part of the employer contributions are applied toward the UAAL; employee contributions go toward actual benefits, not toward the UAAL, since they may withdraw their contributions. Mr. White noted the investment return assumption for Fiscal Year 2012-13 is projected at 0.6 percent. Upon question by Mr. Sowards, Mr. Newton confirmed \$6-6.6 billion in deferred investment losses. Based on smoothing, the data will be

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readjusted in 2015 to determine the actual investment performance, whether the assumptions held and their impact on the amortization period.

Mr. White reviewed the valuation results for GARS, JSRS and NGRs, noting their funding requirements are based on dollars vs. contribution percentages. Mr. Newton gave the closing comments.

Chairman Bjontegard asked for a motion. Mr. Sowards moved that the PEBA Board accept the actuarial valuations of July 1, 2011, for SCRS, PORS, GARS, JSRS and NGRS. The motion was seconded by Ms. Hartley for further discussion. Mr. Fusco asked for point of clarification that additional motions would be forthcoming, and Chairman Bjontegard confirmed this. Mr. Sowards asked for discussion. He echoed understanding of Mr. Tigges' earlier concern and asked Mr. Tigges whether he was comfortable with moving forward. Mr. Tigges asked for legal clarification; this is a substantive vote that we are obligated to increase the contribution rate. Mr. Van Camp confirmed that, by accepting the valuation and amortization period, the statutory increases for SCRS and PORS would apply. Chairman Bjontegard asked for further discussion, there being none, the vote was called, and the motion passed unanimously.

Mr. Sowards then read the motion that the PEBA Board approve:

1. The contribution rate increases in the actuarial report, as required, effective July 1, 2013, for PORS to 7.84 percent for employees and to 12.84 percent for employers to maintain a 30-year amortization period, according to Act 278, splitting the contribution rate equally between the employer and the employee.
2. The increase GARS employer contribution in the actuarial report, as required, to \$4.1 million from \$2.8 million
3. The increase JSRS employer contribution in the actuarial report, as required, effective July 1, 2013, to 47.33 percent from 45.09 percent
4. The increase NGRS contribution in the actuarial report, as required, to \$4.5 million from \$3.9 million.

Ms. Hartley seconded the motion for discussion. Mr. Fusco asked about the phase in for the JSRS; if the motion passes as is, whether the BCB could modify the PEBA Board's decision to phase it in. Mr. Van Camp confirmed that Board "approval" as stated in the Act, would imply an approval or rejection authority, not to modify or alter a PEBA Board decision. Upon question from Mr. Sowards and point of clarification from Ms. Boykin regarding budget concerns for the JSRS, given this increase, Mr. Blume confirmed the General Assembly did not have the JSRS contribution increase information when they phased in the SCRS and PORS rate increases. Mr. Sowards offered to amend his motion with respect to the JSRS plan to permit the BCB to consider phasing in that contribution. Ms. Hartley seconded. There was additional discussion and concerns expressed regarding the budget process and where funds would come from to cover the increase. Mr. Matthews suggested separating the 3rd part of the second motion made by Mr. Sowards into two parts: one to approve the amount of increase and another to phase it in. Upon request by Chairman Bjontegard, Mr. Sowards withdrew his proposed amendment to the second motion and restated his original motion. It was noted that phasing in the JSRS contribution rate increase would extend the amortization period beyond 30 years, although there is no statutory requirement to stay within a 30 year amortization period for JSRS. Chairman Bjontegard called for a vote on the

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motion carried unanimously. Mr. Sowards then made a motion that the BCB consider phasing the JSRS increase over a period of time to be determined. The motion was seconded for discussion. Mr. Penn asked over what time period and by what amounts would the increase occur. Mr. Van Camp confirmed a more specific decision would need to be presented to the BCB. Mr. Sowards then withdrew his motion.

IV. QUESTIONS

There being no additional questions at this time, the Board broke for lunch at 12:30 p.m. [Sheriff Lott excused himself from the meeting at this point due to another commitment.] and reconvened at 12:50 p.m.

Based on data just presented by GRS, Mr. Matthews presented a summary of two motions: one to reopen and reconsider what was just passed. Under reconsideration, the JSRS contribution rate would move to amend the JSRS contribution increase. The second motion would be to recommend the increase be phased in over two years. This would accomplish both goals of phasing in the increase while keeping the amortization period within 30 years: Motion was made to reopen the previously passed motion. Ms. Boykin seconded for discussion. There was no discussion, and the motion carried unanimously. Mr. Matthews proposed an amendment to Mr. Soward's motion that the increase in the JSRS contribution rate increase be changed from the originally proposed 47.33 percent to 47.39 percent. Mr. Sowards accepted the amendment. Ms. Hartley seconded, and the Board voted unanimously to reopen the motion for amendment. The original motion, as amended, was seconded by Ms. Hartley and carried unanimously. Mr. Matthews made a new motion that the PEBA Board recommend to the BCB to implement the recommended JSRS contribution increase in two equal installments over two fiscal years, effective July 1, 2013: 46.24 percent the first year, then to 47.39 the second year. The motion was seconded by Mr. Penn, and the motion carried unanimously. [Mr. Matthews excused himself from the meeting due to another commitment.]

V. CONFIRMATION OF NEXT MEETINGS

Chairman Bjontegard asked for a set meeting date. He asked for shorter meetings and to meet Tuesdays, Wednesdays or Thursdays, preferably toward the end of the month. Upon discussion, the next meeting was scheduled for Tuesday, October 16, 10 a.m. – 1:00 p.m.

VI. INTRODUCTION TO THE PEBA BOARD STRUCTURE

Mr. Van Camp presented a high-level overview of the laws affecting PEBA and its new Board. He noted that, aside from Act 278 which created PEBA and the PEBA Board, Title 9 of the S.C. Code of Laws governs much of the retirement benefits; Title 1 governs much of the insurance benefits. Mr. Van Camp continued his explanation of the PEBA Board structure, detailing the composition of the Board; qualifications needed to be a member; length of terms; and minimum meeting requirements. He explained the Board's duties as they related to the retirement and insurance plans. He stated that policy determinations made by the PEBA Board are subject to approval by the State Budget and Control Board who serves as co-trustee of the retirement and insurance plans.

Mr. Van Camp noted that members of the PEBA Board are public officials and are subject to the same rules and standards as other elected officials. He discussed the Freedom of

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Information Act (FOIA) and how it applies to the Board and provided a list of other laws that Board members should be mindful of as they conduct the Board's business. He concluded that the Board has the power to set its own governance policies and procedures. There was additional discussion.

Justin Werner gave an overview of the Fiduciary Duties and Liability of the Board. He explained the basic fiduciary duties as trustees of the retirement and insurance plans. He stated that the three principle duties that govern fiduciary responsibilities are the duty of loyalty, duty of prudence and the duty to comply with plan terms and applicable law. He then provided an explanation for each principle duty. Mr. Werner then discussed how each trustee must personally perform their fiduciary duties. He concluded by reviewing fiduciary liability insurance coverage and the potential liability that can result from breach of trust.

There were a few questions and brief discussion following the presentation.

VII. PEBA RETIREMENT BENEFITS OVERVIEW

David Avant gave a retirement benefits overview. He briefly described the plans administered by PEBA. He provided various statistical data for all the plans, including total membership, number of participating employers, average benefit amount and total benefits paid. Mr. Avant explained the Teachers and Employees Retention Incentive (TERI) program; how benefits are calculated and how employee and employer rates are set. He also detailed the provisions of Act 278. There was brief discussion. Mr. Avant concluded by advising the Board that, after December 31, 2013, they will also be trustees over the South Carolina Deferred Compensation program.

VIII. PEBA INSURANCE BENEFITS OVERVIEW

Robbie Bell gave an insurance benefits overview. He outlined some specifics about what drives the decision-making process regarding insurance benefits, including federal laws, the Public Service Act of 1944 and the various applicable regulations and statutes. He outlined the types of participating employers and discussed the eligibility requirements for subscribers and dependents.

Mr. Bell briefly reviewed the employee benefits provided by PEBA: several health plans, two dental plans, vision insurance programs, four life insurance products, two long term disability programs, a long term care program and four pretax MoneyPlu\$ programs under a cafeteria plan. The MoneyPlu\$ programs are only available to active employees. He explained that the State Health Plan is self-insured (self-funded) and explained the difference between self-insured and fully insured. Mr. Bell then reviewed the program changes for January 1, 2013. He also explained how insurance premiums are established and how contributions are set.

Mr. Bell commented on a 50-state survey, conducted every year to compare the State Health Plan's design and the total employee and employer composite premiums not only to national averages, but also to regional averages. He reviewed and discussed some of the data from the last survey with the Board.

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He talked briefly about the local subdivision groups which are permitted by statute to enter into the plan and withdraw under statutory guidelines with minimum four-year participation. He explained how these groups are experience rated and how their premiums are.

IX. APPOINTMENT OF HEALTH CARE POLICY COMMITTEE AND DISCUSSION OF OTHER COMMITTEES AND COMMITTEE MEMBERSHIP

Chairman Bjontegard referred to the proposed committees, noting four: Finance, Administration, Audit and Compliance (FAAC); Health Care Policy; Retirement Policy; and Executive. He confirmed the four Board members who agreed to serve as chair. He asked the FAAC to determine whether bylaws are needed and to draft those bylaws or operating procedures. He also asked that a Vice Chair be selected and that the structure of the committees be determined. Committee chairs will determine when and how to meet. Chairman Bjontegard also introduced the Susan Brownlee, the Board Liaison.

He stated that there may be a number of technical amendments needed to be made to Act 278 and asked the three committees to review the amendments and discuss whether and how to proceed. With respect to a media policy, upon discussion, the consensus of the Board was for Chairman Bjontegard to represent the Board in addressing media inquiries.

Chairman Bjontegard asked for input on how to make the meetings productive and asked for suggestions. All board members provided input, and it was agreed to include these suggestions in upcoming meetings. Chairman Bjontegard then asked Mr. Blume if he had any remarks. Mr. Blume confirmed that a lot of the Board's work will be done within the various committees. He also noted that the retirement benefits side of PEBA experienced a tough legislative year trying to get the reform legislation passed. While he thinks work on the retirement side is not complete, the next legislative session will probably be devoted to health care issues. Mr. Penn asked about electronic files being distributed to the committees so the information can be available electronically. Mr. Blume confirmed development of electronic file sharing was in progress. There was brief discussion regarding various electronic data-sharing programs.

There being no further comments, the meeting was adjourned at 4:10 p.m.

Staff Note: In compliance with S.C. Ann. §30-4-80, public notice of and the agenda for this meeting were posted to the PEBA websites, to parties who requested notice, and were posted at the entrance, in the lobbies, and near the 2nd Floor Conference Room at 202 Arbor Lake Drive, Columbia, SC, on September 24, 2012.

**THE ETHICS, GOVERNMENT ACCOUNTABILITY,
AND CAMPAIGN REFORM ACT OF 1991**

Cathy L. Hazelwood

Deputy Director and General Counsel
South Carolina State Ethics Commission
803-253-4192

I. THE ACT AS IT RELATES TO ...

- Lobbyist/Lobbyist's Principal
- Rules of Conduct
- Financial Disclosure
- Campaign practices

II. JURISDICTION

- Lobbyist/Lobbyist's Principals
- Public Officials/Candidates
- Public Members
- Public Employees

III. LOBBYISTS/LOBBYISTS' PRINCIPALS

A. Lobbying, Lobbyist and Lobbyist's principal definitions. §2-17-10(12), (13) and (14)

- Exceptions to Lobbyist definition:

- personal opinion
- public meeting
- public employee or member

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- professional services
- press
- church
- running for an office elected by the General Assembly
- plant manager exception

B. Interactions with lobbyists/lobbyist's principals

- Lobbyists may not give anything of value to members of the General Assembly, constitutional officers and public officials and employees of state agencies. §2-17-80.
- Lobbyist's Principals may host functions (group invitation/spending limit rules apply)(MUST BE DISCLOSED ON SEI). §2-17-90.
- EXCEPTION TO GROUP INVITATION/DOLLAR LIMIT:** Speaking at a Lobbyist's Principal's event (EXPENSES AND REIMBURSEMENT OF EXPENSES MUST BE DISCLOSED ON SEI). §2-17-100.

IV. RULES OF CONDUCT

A. Section 8-13-100 various definitions

- (1) (a) **'Anything of value' or 'thing of value'** means
- (i) a pecuniary item, including money, a bank bill, or a bank note;
 - (ii) a promissory note, bill of exchange, an order, a draft, warrant, check, or bond given for the payment of money;
 - (iii) a contract, agreement, promise, or other obligation for an advance, a conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 - (iv) a stock, bond, note, or other investment interest in an entity;
 - (v) a receipt given for the payment of money or other property;
 - (vi) a chose-in-action;
 - (vii) a gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
 - (viii) a loan or forgiveness of indebtedness;
 - (ix) a work of art, an antique, or a collectible;
 - (x) an automobile or other means of personal transportation;
 - (xi) real property or an interest in real property, including title to realty, a fee simple or partial interest in realty including present, future, contingent, or vested interests in realty, a leasehold interest, or other beneficial interest in realty;
 - (xii) an honorarium or compensation for services;
 - (xiii) a promise or offer of employment

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- (xiv) any other item that is of pecuniary or compensatory worth to a person
- (b) "Anything of value" or "thing of value" does not mean:
- (i) printed informational or promotional material, not to exceed ten dollars in monetary value;
 - (ii) items of nominal value, not to exceed ten dollars, containing or displaying promotional material;
 - (iii) a personalized plaque or trophy with a value that does not exceed one hundred fifty dollars;
 - (iv) educational material of a nominal value directly related to the public official's, public member's, or public employee's official responsibilities;
 - (v) an honorary degree bestowed upon a public official, public member, or public employee by a public or private university or college;
 - (vi) promotional or marketing items offered to the general public on the same terms and conditions without regard to status as a public official or public employee; or
 - (vii) a campaign contribution properly received and reported under the provisions of this chapter.
- (3) **'Business'** means a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self-employed individual.
- (4) **'Business with which he is associated'** means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.
- (11) (a) **'Economic interest'** means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.
- (b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.
- (15) **'Family member'** means an individual who is:
- (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, **brother-in-law**, **sister-in-law**, grandparent, or grandchild; or
 - (b) a member of the individual's immediate family.

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- (16) **'Gift'** means anything of value, including entertainment, food, beverage, travel, and lodging given or paid to a public official, public member, or public employee to the extent that consideration of equal or greater value is not received. A gift includes a rebate or discount on the price of anything of value unless it is made in the ordinary course of business without regard to that person's status. A gift does not include campaign contributions accepted pursuant to this chapter.
- (18) **'Immediate family'** means:
- (a) a child residing in a candidate's, public official's, public member's, or public employee's household;
 - (b) a spouse of a candidate, public official, public member, or public employee; or
 - (c) an individual claimed by the candidate, public official, public member, or public employee or the candidate's, public official's, public member's, or public employee's spouse as a dependent for income tax purposes.
- (20) **'Individual'** means one human being.
- (21) **'Individual with whom he is associated'** means an individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

B. Section 8-13-700, et al. rules of conduct

1. May not use official office/position for financial gain - knowingly. §8-13-700(A).

2. Recusal provisions for conflicts. §8-13-700(B).

3. May not receive or give anything of value with intent to influence (Anti-Bribery Statute). §8-13-705.

4. May not accept an honorarium for speaking engagements in one's official capacity. May accept payment for actual expenses. §8-13-715.

5. May not accept additional money for assistance given while performing one's duty. §8-13-720.

6. May not use confidential information gained through employment for personal gain. §8-13-725.

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7. **Dual water/sewer service prohibited. §8-13-735:** (A) Except as provided in subsection (B), no person who serves at the same time:
- (1) on the governing body of a state, county, municipal, or political subdivision board or commission; and
 - (2) as an employee of the same board or commission or in a position subject to the control of that board or commission may make or participate in making a decision that affects his economic interests.
- (B) No person shall serve at the same time as:
- (1) a nonappointed member of the governing body of the board or commission for a water or sewer district or a nonprofit water or sewer corporation or company organized pursuant to the provisions of state law; and
 - (2)(a) an employee of the same board, commission, corporation, or company; or (b) in a position subject to the control of that board, commission, corporation, or company; or
 - (c) in a decision-making position concerning the operation and functions of that board, commission, corporation, or company.
- (C)(1) Any person violating the provisions of subsection (B) may be assessed a civil penalty of fifty dollars per day to be remitted to the general fund of the board, commission, corporation, or company.
- (2) If a lawsuit is brought to force the person to vacate either his position held pursuant to subsection (B)(1) or subsection (B)(2), and the person is found in circuit court to have violated subsection (B), the person must pay the civil penalty in subsection (C)(1) plus court costs, attorney's fees, and any damages required by the court.
 - (3) Any individual or entity served by the board, commission, corporation, or company has standing to bring a lawsuit in the circuit court pursuant to this subsection.
8. Representation prohibitions. §8-13-740.
9. No member of the General Assembly may represent clients before an agency under specific conditions. §8-13-745.
10. May not cause the employment, promotion, or transfer of a family member to a position in which one supervises. Prohibits discipline of one's family member. §8-13-750.
11. Post-employment restrictions. §8-13-755. (Government lawyers see Rule 407 of Appellate Court Rules, Rule 1.11 Successive Government & Private Employment).
12. Breach of ethical standards for an employee participating in procurement to resign and accept employment with a person contracting with the governmental body. §8-13-760.
13. May not use government personnel/materials in an election campaign. §8-13-765.

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14. A public official/employee may not have an economic interest in a contract with the State or a political subdivision if the public official/employee is authorized to perform an official function relating to the contract. §8-13-775.

V. FINANCIAL DISCLOSURE

A. Statement of Economic Interests to be filed on or before April 15th of each year of service.

B. Section 8-13-1120(A)(9) requires the filer to disclose on his SEI:

...the source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

(a) a person, if there is reason to believe the donor would not give the gift, gratuity, or favor but for the official's or employee's office or position; or

(b) a person, or from an officer or director of a person, if the public official or public employee has reason to believe the person:

(i) has or is seeking to obtain contractual or other business or financial relationship with the official's or employee's agency; or

(ii) conducts operations or activities which are regulated by the official's or employee's agency if the value of the gift is twenty-five dollars or more in a day or if the value totals, in the aggregate, two hundred dollars or more in a calendar year.

C. An elective official or candidate is prohibited from knowingly soliciting campaign contributions from employees in the elective official's area of official responsibility. §8-13-1180.

VI. CAMPAIGN PRACTICES

•A person may not use/authorize public funds to influence the outcome of an election. A governmental entity may not use public funds, property, or time in an attempt to influence the outcome of a ballot measure. §8-13-1346.

•All printed matter to influence the outcome of an election must contain name and address of the purchaser. §8-13-1354.

VII. PENALTIES

A. **Section 8-13-320(10)(I)** The written decision as provided for in subitem (k) may set forth an order:

(i) requiring the public official, public member, or public employee to pay a civil penalty of not more than two thousand dollars for each violation;

(ii) requiring the forfeiture of gifts, receipts, or profits, or the value thereof, obtained in violation of the chapter, voiding nonlegislative state action obtained in violation of the chapter; or

(iii) requiring a combination of subitems (i) and (ii) above, as necessary and appropriate.

B. **Section 8-13-705(G)** provides for imprisonment of not more than 10 years and fined not more than \$10,000 and that the . Permanently disqualified as public official or forfeits public employment. §8-13-705.

C. **Section 8-13-1510: (A)** Except as otherwise specifically provided in this chapter, a person required to file a report or statement under this chapter who files a late statement or report or fails to file a required statement or report must be assessed a civil penalty as follows:

(1) a fine of one hundred dollars if the statement or report is not filed within five days after the established deadline provided by law in this chapter; and

(2) after notice has been given by certified or registered mail that a required statement or report has not been filed, a fine of ten dollars per calendar day for the first ten days after notice has been given, and one hundred dollars for each additional calendar day in which the required statement or report is not filed, not exceeding five thousand dollars.

(B) After the maximum civil penalty has been levied and the required statement or report has not been filed, the person is:

(1) for a first offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days;

(2) for a second offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not less than two thousand five hundred dollars nor more than five thousand dollars or imprisoned not less than a mandatory minimum of thirty days;

(3) for a third or subsequent offense, guilty of a misdemeanor triable in magistrates court and, upon conviction, must be fined not more than five thousand dollars or imprisoned for not more than one year, or both.

D. **Section 8-13-1520** provides that a violation of the Rules of Conduct is a misdemeanor and on conviction one may be fined not more than \$5,000 or be imprisoned not more than 1 year or both. A person guilty of violating the campaign reporting provisions is guilty of a misdemeanor,

and must be fined a minimum of \$5000 and a maximum 500% of the amounts that should have been reported, and may be sentenced to up to one year in prison.

E. **Section 8-13-780** provides that the Commission may issue a public reprimand.

VIII. STATUTE OF LIMITATIONS

- Action cannot be taken on a complaint filed more than 4 years after the violation is alleged to have occurred. §8-13-320(9)(d).

IX. STATE ETHICS COMMISSION website is <http://ethics.sc.gov>.

- Electronic filing and public reporting.
- The Ethics Reform Act.
- All advisory opinions.