

Note: These minutes from the January 7, 2020 Legislative Committee meeting were approved and executed at the August 11, 2020 meeting.

**NHRS Legislative Committee of the Board of Trustees
January 7, 2020
PUBLIC MINUTES**

**New Hampshire Retirement System
54 Regional Drive
Concord, NH**

Committee Members in attendance: Trustees Scott Myers, Chair, and Richard Gustafson; *participating by telephone:* Trustees Ben Jean, Sue Hannan, and Robert Maloney.

Staff: George Lagos, *Executive Director*, Tim Crutchfield, *Chief Legal Counsel*; Mark Cavanaugh, *Associate Counsel and Compliance Officer*; Diana Crichton, *Hearings Examiner*; Gerard Murphy, *Director of Finance*; Larry Johansen, *Director of Investments*; Marty Karlon, *Public Information Officer*; Nancy Miller, *Director of Member Services*; and Margaret Astles, *Executive Assistant*.

Chair Myers called the meeting to order at 1:32 p.m. Due to the participation of members by telephone, all motions were acted upon by roll call vote.

Having established a quorum, Chair Myers called for a motion to accept the Legislative Committee minutes of October 8, 2019. On a motion by Trustee Gustafson, seconded by Trustee Myers, the Committee voted to approve the minutes of October 8, 2019, as presented, on a roll call vote. *Abstaining:* Trustee Jean.

Marty Karlon, *Public Information Officer*, gave a brief overview of the 2020 NH House Bills specific to the NH Retirement System, as of January 3, 2020. He began with HB 1204, which excludes hours worked for emergency response and training by retired members working for municipal fire departments from the annual limitations on hours worked by NHRS retirees working for retirement system participating employers.

On HB 1205, Mr. Karlon noted that it would have a significant impact on many of our active members, as it links the current recalculation of a Group I retiree's annuity at age 65 to his or her full retirement age under the federal Social Security system, which is currently 67 for anyone born in 1960 or later.

HB 1235 is a "study committee" bill to ensure workforce maintenance that would look at possible enhancements to the benefit structure of the

retirement system. This bill also makes an appropriation of \$100,000 for the purposes of the study.

HB 1326 requires that the quarterly investment report by the Independent Investment Committee (IIC) to include a description of investment management fees and requires that the IIC reports be published on the system's website. This information is already available each month in the Board's meeting materials.

HB 1341 changes the application of 2011 amendments to certain Group II retirement system provisions for Group II members who are in vested status prior to July 1, 2021. Mr. Karlon noted that this is the most costly legislation introduced this year.

Trustee Hannan joined by telephone at 1:40 pm.

Mr. Karlon explained that HB 1434 would repeal the premium contributions for state and judicial retirees who are Medicare-eligible and receiving state retiree health benefits. This affects NHRS only through the deductions that the system administers.

HB 1447 is a revision to the penalty for an NHRS retiree working part-time for a retirement system employer who exceeds the maximum hours during the calendar year. The revised penalty is a 23% deduction from the retiree's part-time compensation for the remainder of the year. Mr. Karlon noted that the system feels the bill is vague and somewhat unworkable because the annual hours worked are only reported following the calendar year. Chair Myers asked for an explanation of line 10 of HB 1447, which states "*sums deducted shall be paid to the state annuity accumulation fund.*" Mr. Karlon replied that the state annuity accumulation fund is the portion of money in the trust fund generated from employer contributions.

Trustee Maloney joined by telephone at 1:45 pm.

HB 1494 eliminates the retirement system offset for workers' compensation benefits applicable to Group I accidental death benefit annuities. This bill also establishes a state death benefit for a municipal or state public works heavy equipment operator killed in the line of duty. The death benefit is \$100,000, and it would not be provided through the retirement system.

HB 1550 extends accidental death benefits paid from the trust fund for Group II members suffering fatal heart attacks.

Mr. Karlon then reported that HB 1561 allows county commissioners to exempt the county chief administrative officer from compulsory NHRS membership.

HB 1634 exempts members who had a part-time position with another employer concurrent with their full-time employment from the statutory 28-day waiting period on part-time employment with a participating employer following retirement.

SB 543 allows members with at least 10 years of Group II service hired for certain management positions with the state Department of Corrections to continue to be classified as Group II members.

Mr. Karlon then addressed LSR 3020, noting that staff is concerned by this LSR, as it appears to amend the current statutory wording in RSA 100-A:27 to limit the authority to correct NHRS records to only those instances when, due to fraud, a beneficiary's benefit is higher than it should be. In instances where there is no fraud involved, NHRS is unable to determine whether the proposed language in paragraph II is intended to limit the power to correct an erroneously calculated benefit, regardless of whether the error results in a higher or lower benefit.

The proposed legislation appears to eliminate NHRS' authority under RSA 100-A to adjust member records in the ordinary course of business, as required and in accordance with general fiduciary trust law and the Internal Revenue Code, which requires that a member or beneficiary only receive a benefit in the amount to which he/she is entitled.

On a motion by Trustee Gustafson, seconded by Trustee Hannan, the Legislative Committee unanimously voted by roll call to recommend to the full Board that it oppose LSR 3020, because it appears to eliminate NHRS' authority under RSA 100-A to adjust member records in the ordinary course of business, as required and in accordance with general fiduciary trust law and the Internal Revenue Code.

Mr. Crutchfield reported on the ongoing medical subsidy issue relating to authorized medical insurance premium deductions for state retirees. He noted that NHRS utilizes a long-standing administrative practice when paying the medical subsidy on behalf of eligible state retirees and how that payment coordinates with the related premium deductions. NHRS currently pays the full subsidy owed prior to taking any premium deduction. NHRS interprets the phrase in RSA 100-A:52, "shall pay the cost of" as imposing an absolute obligation on NHRS to pay the full subsidy for which a retiree is eligible up to the total medical insurance premium. In a few cases, for retirees eligible for multiple subsidies, the total amount of the subsidy payable exceeds the total medical insurance premium. In that case, NHRS limits the subsidy payment to the total premium and no premium deduction is taken from the retiree's monthly annuity payment.

It is the understanding of NHRS that the State believes that the use of the phrase "which shall be in addition to and notwithstanding any amounts

payable by the retirement system pursuant to RSA 100-A: 52” in RSA 100-A:54, III, requires that a retiree’s share of the premium must be deducted, even if the total subsidy payable exceeds the total cost of the medical insurance. NHRS’ view of this phrase is that it is ambiguous and could be interpreted to mean that the State is entitled to the authorized premium deduction and the full subsidy to which a retiree is entitled such that the State receives in total an amount in excess of the full cost of the medical premium, a conclusion that NHRS believes is untenable. Staff prepared a draft of two alternative suggested legislative changes that seek to clarify the legislative intent under RSA 100-A: 54, III(c).

On a motion by Trustee Hannan, seconded by Trustee Gustafson, the Committee recommended to the full Board that it seek legislation to clarify RSA 100-A:54, III, relative to administration of the medical subsidy, as presented. The motion carried unanimously on a roll call vote.

With no further business to discuss, on a motion by Trustee Gustafson, seconded by Trustee Maloney, the Committee unanimously voted to adjourn the meeting, on a roll call vote.

Respectfully submitted,

Margaret M. Astles
Executive Assistant