

Legislative Committee  
NHRS Board of Trustees  
June 14, 2011

**Note:** The public minutes from the June 14, 2011 Legislative Committee meeting were approved and executed at the June 21, 2011, meeting.

**Legislative Committee  
of the  
Board of Trustees  
June 14, 2011**

**THE PUBLIC MINUTES**

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

*Committee Members:* Sam Giarrusso, *Chair*; Jill Rockey, Rep. Ken Hawkins, Mike Macri, Dr. Kate McGovern.

*Trustees:* Justin Cutting, Germano Martins, Sen. Bradley (@ 9:40 a.m.).

*Staff:* Kim France, *Interim Executive Director*; Larry Johansen, *Director of Investments*; Jack Dianis, *Director of Finance*; Tim Crutchfield, *Chief Legal Counsel*; Marty Karlon, *Public Information Officer*; Bill Spead, *Regulatory Compliance Officer*; Denise Call, *Director of Employer Services*; Cecile Merrill, *Project Manager*; Shannan Hudgins, *Administrative Coordinator*.

*Guests:* Ian Lanoff, Esq., Groom Law Group; David Kausch and Judy Kermans, Gabriel Roeder Smith & Company (GRS), Consulting Actuaries.

Chair Giarrusso called the meeting to order at 9:01 a.m. On a motion by Rep. Hawkins, seconded by Dr. McGovern, the minutes from the May 31, 2011, Committee meeting were approved.

Mr. Giarrusso asked Kim France, Interim Executive Director, to discuss pending legislation. She focused her discussion on SB 3, which had been adopted by the New Hampshire Legislature and was awaiting action by Governor Lynch. She discussed the meeting she and Jack Dianis had with the Governor the previous day to discuss SB 3, stating the discussion specifically focused on sections related to vested members, non-vested members, new hires, with a further breakdown by teacher, employee, police and fire members.

In response to a question from Trustee Rockey regarding the “Findings; Intent” language in the beginning of SB 3, Ms. France stated that the meeting with the Governor did not include discussion about the intent language. She had, however, pointed out difficulties with vesting language, particularly paragraph I(b) under section 1 Findings; Intent, as identified by Groom Law Group, the NHRS Fiduciary Counsel. She had wished to make clear with the Governor and his staff that vesting was not completely accurate as written; for example, the language did not account for members age 60 or older entitled to a benefit, regardless of service. Additionally, the Intent section might lead to potential contractual-impairment litigation.

Trustee Rockey raised legal challenge concerns with the legislation and moved that the Legislative Committee recommend that the Board of Trustees publicly oppose Senate Bill 3 for reasons of inaccurate comments in Findings and Intent section and vesting issues within the bill. Seconded by Trustee Macri, an extended discussion followed. Atty. Lanoff asked for an explanation of the motion, reiterating his comments to the Board at its May meeting that the Board’s opposing legislation because it might cut member benefits was not a sound fiduciary stance. Trustee Rockey identified the specific portions of SB 3 that she opposed on the grounds that NHRS would be legally challenged. Rep. Hawkins discussed the changes to the definition of earnable compensation. Atty. Lanoff stated that a Board’s principle and only reason to oppose legislation should be its potential to damage the funding of the system and not in anticipation of litigation.

Chair Giarrusso allowed the following amendment to the motion on the floor from Trustee Rockey: That the Legislative Committee recommend that the Board of Trustees publicly oppose sections of Senate Bill 3 as follows [2011-2289-CofC]: Roman Numeral I, pages 4 and 5 earnable compensation, page 6 average final compensation, page 7 creditable service, page 8 vested service, pages 9, 10, 11, 12, and 17 regarding the Special Account, and §30 recertifying the employer rates. With the stated accepted amendment to the motion, the Chair called the question. The motion passed, as follows:

*Ayes:* Trustees Macri, McGovern, Rockey.

*Nays:* Rep. Hawkins.

*Abstention:* Chair Giarrusso.

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At 9:26 a.m., Rep. Hawkins excused himself for commitments at the State House, noting he would return when possible.

Chair Giarrusso asked for discussion regarding the memorandum from Groom Law Group dated May 26, 2011. Hearing none, he progressed to item 4 on the Agenda. Reading from meeting minutes dated May 31, 2011, Chair Giarrusso entered into record the following:

On a motion by Dr. McGovern, seconded by Trustee Macri, the Legislative Committee voted to report to the Board that on the advice of fiduciary counsel, the proposed language in SB3 will not impede the NHRS Board of Trustees's authority to set the rates at 7.75% for FY 2012 and 2013.

Dr. McGovern moved that the Legislative Committee recommend to the Board that if legislation requiring a recertification of 2012-2013 employer contribution rates becomes law, the most current assumptions shall be used, including the 7.75%/3.75% assumption rates adopted at the May 10 Board meeting. Seconded by Trustee Rockey, the motion carried as follows:

*Ayes:* Chair, Giarrusso, Trustees Macri, McGovern, Rockey.

*Nays:* None.

Chair Giarrusso then asked Ms. France to discuss the draft fiscal analysis of SB 3 prepared by GRS, dated June 13, 2011, located behind Tab 4 in the published Board materials, with additional copies distributed at the meeting. She stated that she had requested GRS to prepare two supplemental valuations to SB 3 as amended by 2011-2288s, with one using 7.75%/3.75% assumptions and one using 8.5%/4.5% assumptions, noting she had been unclear to the Board's wishes. She stated she was seeking guidance from both the Committee and the Board for clarification on which assumptions to use for fiscal analysis.

On a motion by Dr. McGovern, seconded by Trustee Macri, the Committee unanimously voted to recommend that the Board of Trustees use the Fiscal Note Option A (based on the new assumptions), page 21 of GRS report dated June 13, 2011, for Fiscal Note purposes for Senate Bill 3. Although he was not a member of the Committee, Sen. Bradley voiced his objection to the motion.

Trustee McGovern moved that she would like the Board of Trustees to provide to the Governor, the Legislature, and the public, information to

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correct misinformation in the Preamble of Senate Bill 3 referencing NHRS' solvency. Seconded by Trustee Rockey, the motion was approved unanimously by the Committee. Ms. France asked if the motion provided an appropriate avenue for the Board to provide a public statement, as recommended by governance consultant Nancy Williams, Esq., during a previous Board meeting. Following discussion among Committee members, Ms. France emphasized that such a statement should be a Board statement.

Chair Giarrusso set the next meeting for Tuesday, July 12, 2011, at 9:00 a.m., unless a special meeting was warranted. He provided a recapitulation of the four motions he would bring before the full Board at the 10:00 a.m. meeting:

1. Board statement of correct information.
2. Use of GRS' Option A for fiscal analysis.
3. NHRS use of 7.75%/3.75% assumptions for legislatively-driven recertification.
4. Formal opposition to specifically noted sections of SB 3.

On a motion by Trustee Rockey, seconded by Dr. McGovern, the Committee meeting adjourned at 9:51 a.m.

*Respectfully submitted,*  
*Shannan Hudgins*