

Municipal Police Employees' Retirement System
Minutes of the Legislative Committee Meeting
December 13, 2023

The Legislative Committee of the Municipal Police Employees' Retirement System held a meeting on Wednesday, December 13, 2023 at the system's office at 7722 Office Park Boulevard in Baton Rouge, Louisiana.

A. Call to Order

The meeting was called to order by Major Raymond Burkart, Jr. (Chair) at 9:49 am.

B. Roll Call

Members Present

Major Raymond Burkart, Jr, Chairman
Major (Retired) Kelly Gibson
Lt. (Retired) Chad King
Mayor Greg Cromer (joined the meeting after roll call)

Members Absent

Others Present

Mr. Benjamin Huxen II, MPERS Executive Director and General Counsel
Ms. Taylor Camp, MPERS, Chief Financial Officer
Ms. Emily Thurston, Accountant
Ms. Melissa Frazier, MPERS, Benefits Administrator
Ms. Ashlee McNeely, Executive Management Officer (virtual)
Ms. Christie Ziadeh, (virtual)
Mr. David Barnes, NEPC, Investment Consultant
Ms. Sheri Morris, Daigle, Fisse, & Kessenich
Mr. Greg Curran, Curran Actuarial Consulting, Actuary
Chief David Addison, MPERS Board member
Asst. Chief Jason DiMarco, MPERS Board member
Mr. Julius Roberson, State Treasurer designee/MPERS Board member
Lt. Tyrone Warren, MPERS Board member
Chief Christopher Wilrye, MPERS Board member
Mr. Joey David, Legislative Analyst (House Retirement Committee)
Mr. Tyler Brannan, PhD, Curran Actuarial Consulting, Actuarial Analyst
Mr. Ted Alpaugh, New Orleans FOP, Attorney
Mr. Michael Glaser, City of Kenner, Mayor (virtual)
Mr. Keith Conley, City of Kenner, Chief of Police (virtual)
Mr. Kenneth Herbold, Actuary for the LLA (virtual)
Mr. Shinji Hain, Analyst for the LLA (virtual)

Ms. Sarah Carson (virtual)
Ms. Brook LeBoeuf (virtual)

C. Public Comment

Public comments were taken later in the meeting.

D. Approval of the November 15, 2023 Committee Meeting Minutes

Motion by Major (Retired) Kelly Gibson, seconded by Lt. (Retired) Chad King, to approve the minutes of the meeting held November 15, 2023. Without objection, the motion carried.

E. New Business

1. Discussion and Action Regarding Legislation for the 2024 Regular Session

Ben Huxen notified the committee that he had advertised for all of the bills included on the list at last month's legislative committee meeting. He then asked if anyone had any questions about or changes to recommend on any topic other than reemployed retirees.

Major Raymond Burkart recommended that they wait until next year to deal with a proposed constitutional amendment to create a new revenue source for MPERS since 2025 will be a fiscal session. Mr. Huxen stated that they had taken it off the list for 2024.

Mr. Huxen informed the committee that he would need a motion to authorize the system's actuary and executive director to work on language for changes to the partial dissolution law including a cumulative test which could be over a three- or five-year period. Mr. Huxen stated that this topic was still unwritten. Mr. Curran stated that he had Tyler Brannan from his office coming with some materials for the committee in case they wanted to further discuss the possible changes. He stated that the issue was complicated, and that staff needed to be careful in designing an approach. Mr. Curran stated that they found that 61% of members are employed by the largest 11 employers even though there are 168 employers with participating members. The current trigger based on a reduction in members of 50 members on an annual basis is much less likely to affect an employer with 300 members than the system's largest employers like New Orleans with almost 1,000 members. Mr. Curran stated that there were a number of employers that have reduced their membership levels by well over 50 members over time. The concern is that an employer could drop participant levels by 40 members each year for 10 years and never hit the limit (including the 30% limit depending on their size). Mr. Curran stated that he understood that employers were not necessarily making active decisions to lower their participation levels, but that circumstantial decreases in membership levels affect the level of responsibility held by each employer.

The goal of the dissolution statute is not to help fund the plan. It is only to protect employers from each other. The amount of funding needed by the plan is unaffected and must be collected by law, but how much each employer owes is determined by their payroll. As an example, the City of New Orleans has dropped in membership levels from over 1,300 to just over 900 members. According to the annual GASB 68 valuation that splits up many of the valuation figures by employer, the future contribution percentage for New Orleans has dropped a lot over this period. Beyond just the amount of money that is shown on the employers' financials according to GASB 68, the actual dollars contributed is determined by payroll so that employers with lower payroll pay less of the total. If the plan has less payroll over time or less growth in payroll, then the employer contribution rate must increase to collect enough contributions. The law is intended to put the onus back on employers that lose sufficient membership so that the contribution effort doesn't fall to other employers.

Mr. Curran asked the committee if they wanted to have a full discussion of the details of possible changes to the dissolution statute or preferred having Mr. Huxen and Mr. Curran sit down to work on a proposal prior to the next meeting.

Motion by Lt. (Retired) Chad King, seconded by Major (Retired) Kelly Gibson, to authorize Mr. Huxen and Mr. Curran to work together to develop a proposal for amending the partial dissolution law. Without objection, the motion carried.

Mr. Huxen discussed an issue brought to MPERS from the Chief of Police for Kenner. He was elected at an age above 50. In the old days, a chief of police who entered the plan over the age of 50 would have been enrolled in MERS, but the law was changed to require membership in MPERS. The City of Kenner has term limits that will not allow the new chief of police to serve more than 8 years. Under MPERS' law, a member cannot vest in a benefit with less than 12 years. Mr. Huxen stated that he thought MERS had done something about this. Mr. Curran stated that a couple of systems that faced issues with term limits had added an eligibility rule requiring only 7 years of service (just less than two terms) with retirement at ages 65 or 67 depending on when a member joined. The higher age was used to limit the cost of such changes since these rules don't only apply to term limited elected officials. Mr. Curran stated that the public safety plans originally required a minimum of twelve years to be eligible to retire. This included the Sheriffs' plan. He stated that he feared employer cost increases if the plan simply lowered the minimum level of service for retirement below the 8 year level.

Major Burkart stated concerns about making exceptions. Mr. Curran stated that current law allowed such members to transfer their service to another plan, transfer time in from another plan, or take a refund of employee contributions. Mr. Huxen asked if the system could draft something allowing

a city to pay the actuarial cost of a lower service eligibility for a term limited chief of police. Mr. Curran stated that nothing like that existed in law, but that one way to handle it would be to allow the city to purchase airtime service in that limited circumstance, which would make the chief of police eligible. Mr. Curran stated that he certainly was not recommending the addition of airtime purchases for the plan because of the potential for cost increases despite the actuarial charges. He added that based on current investment return estimates and assuming no additional negative experience in the future, the plan already had an expected employer cost increase of over 4% in the coming four years. Mr. Curran stated that when the committee considered any change that could cause cost increases, they needed to remember that those increases would not be to the rate being collected today but were expected to be added to a rate 4% higher. He also stated that if Fiscal Year 2024 investment returns did not reach 6.75%, the cost increases would be even higher. Mr. Curran finished his comments by stating that the board and the legislature were the policy makers and that they must decide what level of cost is reasonable, but that he had concerns with making changes that add cost based on what the system had been hearing in recent years about costs. He emphasized that the committee needed to consider that future costs are already expected to be higher.

Major Burkart stated that he felt that those seeking an office could work out those issues with the city in a contract. He stated that this was how it was done in New Orleans.

[Mayor Cromer joined the meeting]

Major (Retired) Gibson commented that he did not think that MPERS should relax their rules for an elected position. He stated that if Kenner were concerned about these issues, they could set term limits to 12 years.

Asst. Chief DiMarco stated that it seems unfair that the city contributes, and the term limited chief contributes and when the chief leaves office he receives his portion, but the city loses theirs. He stated that in that limited situation they should be allowed to put their money into something else. Mr. Huxen stated that it was unfair for a lot of people when they choose to leave police work. The law allows this to help fund other people's benefits. He stated that this was different only because of the term limits. He asked Mr. Curran about allowing an annuity based on the time in the plan to be paid for by the city.

Mr. Huxen asked Mayor Cromer about whether Slidell had term limits. He expressed his concern with the issue. Mr. Curran stated that although they could consider allowing such term limited members to opt out of the plan, his concern would be that those who would not opt out would be the ones that have prior service from working for a department and would eventually receive a lifetime benefit. Only enrolling those chiefs of police would cause

a cost increase compared to current statutes. Mr. Curran discussed possible ways to word a limited fix and discussed issues with them.

Major Burkart suggested that this issue needed a lot of research and a review of the cost impact before making any change. Mr. Huxen stated that it was an issue that they needed to continue to look at.

Chief Conley for the City of Kenner asked to comment while attending the meeting remotely, but the committee was unable to hear his comments due to technical difficulty.

The next item for discussion was the consideration of changes to the system's rehired-retiree provisions. The Chairman recognized Mr. Ted Alpaugh, Attorney for the New Orleans Fraternal Order of Police, for public comment on the issue. Mr. Alpaugh stated that it was his understanding that the Board was considering legislation to repeal R.S. 11:2220(J) that restricts retired police officers from working as civilians for the agency that they retired from or another agency covered by MPERS by denying them their pension. He stated that he believed that the provision is counterproductive since it prohibits retired officers from making skilled contributions as civilian employees. He stated that the New Orleans FOP asked the committee to recommend repeal of those provisions.

The Chairman asked Mr. Huxen for an update on the issue. Mr. Huxen stated that he put a survey out on the issue. The majority of responses were in favor of change, perhaps with some limitation for age and service. Mr. Huxen stated that whatever is done, he suggested that it be tied to two other things – the removal of optionality through affidavits and the cleanup of the definition of employee to match the Attorney General's opinion. The cleanup of the definition of employee would clarify that civilian employees of the police department must be enrolled in MPERS. New Orleans is ignoring this and has been enrolling those employees in NOMERS (the plan for non-police city workers in New Orleans). This would also affect plans for the City of Baton Rouge and MERS. MERS has started getting certain affected employees moved over to MPERS. The latest information regarding New Orleans is that they requested an actuarial study of the issue. They disagree with the Attorney General's opinion. If you take the AG opinion as the correct interpretation of law, there is another statute that governs how you move someone's service over if they were enrolled in the incorrect retirement system. That law gives 30 days to move the members. Mr. Huxen stated that staff were going to send a list of names that the auditors found enrolled in the incorrect system since the issuance of the Attorney General's opinion on the subject. Upon the request for New Orleans to move those members currently enrolled in NOMERS to MPERS, the enrollment error law would give New Orleans 30 days to make the change.

Chief Bergeron asked a question about New Orleans using civilian employees working traffic accidents. The committee discussed the

definition of employee as it relates to such cases. Mr. Huxen stated that if you accept the AG's opinion and you removed the retire rehire restrictions, anyone hired full-time would have to be in MPERS. If they do that job and it's part-time, they would not qualify for any system. Mr. Curran stated that many systems allowed a rehired retiree to earn the difference between the average final compensation at the time of their retirement and their maximum benefit without stopping the benefit when rehired. Such limitations are meant to avoid the problem of incentivizing members to retire early to earn their pension and a full salary. Mr. Curran stated that there was a reason for the twelve-month period. The actuary actually recommended a longer separation period at the time it was decreased from twenty-four months to twelve months. If members have the opportunity late in their career to retire without loss of benefits and return to employment, they could receive a benefit equal to say 75% of pay plus their full salary. Mr. Curran stated that this created a significant incentive for members to retire earlier and return to employment which would increase costs. To understand the cost, there will be a mixed bag. For some, it will not change the timing of their retirement, but for others it would. Even with data on those who have retired since the twelve-month limitation was passed, the actuary cannot properly estimate the cost or savings of that provision without knowing what members would have done without the change. Mr. Curran stated that the Board had been working for the past few years to change the statutes to lower costs and yet costs have grown. He stated that he felt confident that costs would be higher without those changes, but that he understood the frustration of the Board members who sought lower costs. He stated that he definitely recommended requiring employers to contribute on rehired retirees so that employers were not incentivized to hire retirees instead of new active members. Mr. Curran stated that there was a natural tension between what is best for officers and the costs employers pay. He stated that if asked he could do some analysis on a few scenarios to help demonstrate the impact of changes in the law.

Major (Retired) Gibson stated that he opposed the rehire limitation period from the start. He stated that the system offered retirement at 25 years of service, and he does not think it is the business of MPERS to dictate where someone can work if it does not directly affect MPERS. He stated that no one was asking to allow members to go to work for another MPERS employer and earn another MPERS pension. It is a money grab by MPERS to penalize people who are going to work as an employee in a non-MPERS position. Some jobs are limited, and some jobs may be only filled in small towns with an MPERS retiree. Major Gibson stated that he did not participate in the survey because he did not like the way the answers were structured as it was pretty limited.

Asst. Chief DiMarco stated that the current statute punishes police officers. He asked if MERS retirees could go to work for the fire department or police department. Mr. Curran stated that he believed the answer was yes without limitation. Mr. DiMarco stated that police couldn't go to work for the city or

the fire department while someone from the city can retire and come to work for the police department without losing his pension. He expressed his feeling that officers were being punished. Mr. DiMarco stated that he could not even hire a retired officer with 20 years of experience working a festival to come back part-time to work that festival in the twelve months after retirement. He stated that it is wrong to do that.

Mr. Curran stated that although he understood the frustration, these provisions were changed to avoid a situation that was happening with Firefighters' Retirement System. He stated that firefighters were not restricted from retiring and going to work for the parish in a non-firefighting role. There was a lawsuit alleging that Jefferson Parish rehired retired firefighters in positions that the parish had not deemed firefighting positions covered by the system, but the system alleged were in fact covered positions. Mr. Curran stated that the change made it super clear. There is no need to get into the job description under the current law. Such changes were made since MPERS' employer contribution rates are the highest of the statewide systems.

Mr. Curran stated that as costs grew, legislation was passed to offset the incentive of employers to not put members in the plan. Not having all officers in the plan leads to higher employer contribution rates.

Mr. Huxen stated that the current law was unanimously approved when passed. He stated that whatever we do, we need to keep things the same going forward. At this point it is a policy decision.

The committee discussed the fact that there will be a number of new legislators on the committees in the upcoming session. Lt. (Retired) King stated that he didn't hear from a lot of people who want to return to work 60 days after retiring. Mr. Curran stated that he has testified that reemployed retiree bills have the potential to cause large cost increases. He stated that if the Board kept the change very limited by only allowing police officers to retire and return to work for a municipality in a position not covered by MPERS, the cost impact would likely not be large. If instead a police officer could retire and come back in their old department after 60 days receiving their benefit and salary, the cost impact would be greater.

The committee discussed whether to include any restrictions based on service credit at retirement.

Mr. Curran stated that he believed that the legislative auditor's actuary would score the bill as a cost bill requiring two-thirds vote of the legislature. Major Burkart recommended having a full package. Mr. Huxen stated that most retirement bills are non-controversial. Many MPERS bills have required a two-thirds vote and have passed without opposition.

Mr. Huxen stated that there definitely are mayors with valid concerns about who they can bring back as an employee. Mayor Cromer stated that if MPERS gets the mayors against the bill, LMA would be against the bill and it would be hard to pass. Major (Retired) Gibson stated that he had heard from many officers who feel this law is unfair. He stated that he intended to make a motion to amend the law. Lt. (Retired) King stated that he too had heard from many officers.

Chief Wilrye asked if they would have an issue finding an author for the bill. Mr. Huxen stated that he felt MPERS could find someone and if FOP is behind the bill, they could help find an author.

Motion by Major (Retired) Kelly Gibson, seconded by Lt. (Retired) Chad King to recommend to the full Board that they support a bill to reduce the period for suspension of benefits within R.S. 11:2220(J) from one year to 60 days. Without objection, the motion carried.

Other Business

There was no other business brought before the committee.

F. Adjourn


Motion by Lt. (Retired) Chad King, seconded by Major (Retired) Kelly Gibson, to adjourn the meeting at 11:03 a.m. Without objection, the motion carried.

The next meeting date is January 17, 2024.

To the best of my knowledge, the foregoing minutes accurately represent the actions taken at the meeting held December 13, 2023.



Major Raymond Burkart, Jr.
Legislative Committee Chairman



Ben Huxen,
Executive Director and General Counsel