

# MINUTES

## METROPOLITAN EMPLOYEE BENEFIT BOARD

### PENSION COMMITTEE

**August 15, 2017**

The Metropolitan Employee Benefit Board's Pension Committee met on Tuesday, August 15, 2017 in the Sonny West Conference Room, Howard Office Building, 700 2nd Avenue North, Nashville, Tennessee, at approximately 9:48 a.m.

Committee Members present: Chair: W. Todd Henry; Vice-Chair: Talia Lomax-O'dneal; Members: Christine Bradley and B. R. Hall, Sr. Alternate member(s): Edna J. Jones and Stephanie Bailey.

Board Members present: Jerry Hall and Shannon B. Hall

Others present: Christina Hickey, Metro Human Resources, and Nicki Eke, Attorney, Metro Legal.

### BENEFIT BOARD ITEMS

The Human Resources staff submitted the following for the Committee's consideration and appropriate action:

Christina Hickey noted that there is some new medical information for the Committee to review and that this Committee only makes a recommendation to the full Board for a vote.

1. Determination of pension plan status.

Christina Hickey stated that this employee recently contacted our office in June 2017 inquiring as to which pension plan she is a participant. According to staff records, the employee is in the Division A pension plan. The employee contends that she made election to transfer to the Division B pension plan during the participation window in 1995, however there is no documentation reflecting this change. If an employee did not provide a written application requesting to change, they would remain in Division A. Ms. Hickey stated that the November 1995 Pension Committee minutes show the Board Office conducted 272 meetings regarding the new pension plan and stated the Board Office would notify department heads as to the employees who had not yet made an election. She also stated that a report generated on December 15, 1995 lists the employee as an employee who had not made an election. She further stated that a printout of pension elections as of January 3, 1996 shows the employee in Division A.

The employee and Maura Lee Albert, SEIU representative, were present.

Rick Beasley, ECC/SEIU negotiator, was present.

Christi Mayo, HR staff, was also present.

W. Todd Henry informed the Committee that the employee is requesting to transfer to Division B, however, according to the law and an audit, that can not be done. Mr. Henry stated that the individual would have to prove that she did sign up during the timeframe.

Maura Lee Albert addressed the Committee regarding what the employee did during that time period when the transfers from Division A to Division B were done in 1995.

Rick Beasley also addressed the Committee regarding the process during the transfers from Division A to Division B, and the employee being given erroneous information by HR staff when she requested an estimate.

Christi Mayo described to the Committee how the transfer from Division A to Division B was handled. She described the form, how they were collected and tracked. She stated that departments were notified of those that had not made an election. She also stated that there were employees that did not submit a form and if the employee did not submit a form they remained in Division A. Ms. Mayo also stated that all correspondence (perc statements, benefit and confirmation statements) sent to the employee regarding benefits show the employee is in Division A. She stated that with regards to the incorrect estimate the employee received, there is no way to know whether she told him she was in Division B, and the benefit calculator is only for Division B. Ms. Mayo also noted other items in the file (emails) that indicate that she did not fill the form out to transfer.

There was some discussion regarding the meetings and signing in at those meetings.

There was discussion regarding the Board determining eligibility and not someone who conducted an audit.

There was discussion regarding the forms, being defaulted and that employee's had to make positive elections to transfer.

The Committee discussed the first notification after the transfer and that there has not been a situation where HR did not have a copy of the transfer forms.

There was some discussion regarding the implications if the employee is allowed to switch plans.

Nicki Eke, Legal Department, stated that in accordance with the Code, the employee had to make an affirmative decision to transfer from A to B by filling in the application and submitting it prior to January 1, 1996. She also stated that the employee did not need to do anything to stay in A. She also stated that in order to let the employee be in Division B, the Board has to find by a preponderance of the evidence that this individual did submit that application prior to the deadline. She also noted that the Board does not have the authority to vary what the Code says.

There was some discussion regarding meeting the threshold of preponderance of the evidence.

Nicki Eke stated that the Committee has to look at the credibility of the information presented. She stated that you would have to find that by more than 50% the appellant has met the burden that they submitted an application prior to January 1, 1996 to switch to division B.

The difference in the pay-out cost between the systems was brought up.

Christi Mayo stated that staff does not know what the difference in the payout would be, but this would set a precedent for anyone in Division A to also say that they made an election and would allow them the opportunity to move over to Division B.

There was discussion of the employee's statements in previous emails regarding the transfer.

The Committee discussed whether or not there has been a situation where an employee has been able to produce a document that HR did not have.

Christi May stated that there has not been any situation where an employee had a Division B election form and HR did not.

The Committee discussed what the Code states and the fact that there was a mistake made in doing the pension estimate, but this is a decision that cannot be reversed.

The Committee also discussed the fact that there is over 10 years worth of information that was supplied correctly to the employee, the fact that this is a legal issue and is there evidence to support that.

The employee addressed the Board regarding when she and another employee, who is now retired, came to HR to obtain retirement information and pension estimates. She also stated that the estimate had all of her correct information on it.

Christi Mayo stated that the information for estimates is housed in the pension calculation program and it automatically pulls in the salary history/earnings and the pension plan is not. She stated that the staff member that did the estimate did not have to look anything up in the system. She also stated that the person she came with was in Division B.

There was further discussion as to whether or not everyone had to fill out a form.

There was discussion that the PERC statements are rerun and recalculated each year.

Rick Beasley brought up the issue of the 2017 statements being incorrect and had to be done over.

Christi Mayo stated that only affected a handful of employees. She stated the issues that came up affected those that had split service, Hospital Authority employees and those that terminated in 2017. She stated that there were no issues with anyones pension plan status and or this employee's statement.

The employee stated that she contacted HR when she received her statement and who she spoke with regarding her pension plan status.

Talia Lomax-O'dneal moved that the employee remain in Division A.

The motion failed due to lack of a second.

The Committee discussed filling out the forms and the meetings.

There was discussion of the steps the employee has taken and the length of time in between those steps, what information is in the employee's file and where the pension plan election form and other information is kept.

The Committee further discussed the law, if any other employee's questioned their status and those that did transfer to Division B.

Christi Mayo did note that there have been a couple of employees that did formally request to transfer to Division B and those requests were denied.

The Committee further discussed the fact that the employee had to make the positive election to transfer to Division B and if they did not they would remain in Division A.

B.R. Hall moved to allow the employee to switch to Division B. Todd Henry seconded and the motion failed with a tie vote with B.R. Hall and Todd Henry in favor and Talia Lomax-O'dneal and Christine Bradley opposed.

It was noted that this item will go to the full Board without a recommendation from the Committee.

With nothing further presented, the meeting adjourned at approximately 10:50 a.m.

ATTEST:

APPROVED:

---

**Shannon B. Hall, Director**  
**Human Resources**

---

**W. Todd Henry, Chair**  
**Pension Committee**