

Bill as Introduced

HB 227-FN - AS INTRODUCED

2011 SESSION

11-0369
10/05

HOUSE BILL **227-FN**

AN ACT relative to the membership of the retirement system board of trustees.

SPONSORS: Rep. Hawkins, Hills 18; Rep. Reagan, Rock 1; Rep. Kurk, Hills 7; Sen. Bradley,
Dist 3; Sen. Boutin, Dist 16; Sen. White, Dist 9

COMMITTEE: Special Committee on Public Employee Pensions Reform

ANALYSIS

This bill reduces the number of members of the board of trustees of the New Hampshire retirement system.

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to the membership of the retirement system board of trustees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Retirement System; Administration; Membership of Board. Amend RSA 100-A:14, I to read as
2 follows:

3 I. The administration of this system is vested in a board of ~~[14]~~ 8 trustees. Each newly
4 appointed or reappointed trustee shall have familiarity with or experience in finance or business
5 management. The state treasurer shall be an ex officio voting member of the board. The governor
6 and council shall appoint 2 trustees, to be known as non-member trustees, who shall be qualified
7 persons with investment and/or financial experience as provided in this paragraph and not be
8 members of the system, and who shall serve for a term of 2 years and until their successors are
9 appointed and qualified. The non-member trustees of the board shall have substantial experience in
10 the field of institutional investment or finance, taking into account factors such as educational
11 background, business experience, and professional licensure and designations. The original
12 appointment of one of the non-member trustees shall be for a term of one year. The remaining ~~[11]~~ 5
13 members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2 permanent~~
14 ~~firemen]~~ **one group I member, one group II member**, one member of the senate who shall be
15 appointed annually by the senate president, one member of the house of representatives who serves
16 on the executive departments and administration committee and who shall be appointed annually by
17 the speaker of the house, and one person representing management in local government. Whenever
18 a vacancy occurs, the senate president or the speaker of the house shall fill the vacancy in the same
19 manner by appointing a senate or a house member who shall serve for the unexpired term. The
20 New Hampshire state employees' association, the New Hampshire education association, the
21 New Hampshire police association, the New Hampshire state permanent firemen's association, and
22 the New Hampshire Local Government Center shall each annually nominate from their members a
23 panel of 5 persons, all of whom except for the panel of the Local Government Center shall be active
24 members of the retirement system, or one of the 4 predecessor systems, no later than May 31 of each
25 year, and the panels so named shall be filed with the secretary of state no later than June 10 of each
26 year. From ~~[each of]~~ the above named panels, the governor and council shall appoint ~~[one person~~
27 ~~annually to]~~ **the members of** the board ~~[, except for the panel of the Local Government Center, which~~
28 ~~shall have one person appointed every 2 years]~~ **as needed so as to maintain the representation**
29 **on the board.** Members appointed to the board in the manner aforesaid shall serve for a term of 2
30 years. Each member so appointed shall hold office until his or her successor shall be appointed and
31 qualified. Whenever a vacancy occurs, the governor and council shall fill the vacancy by appointing

1 a member who shall serve for the unexpired term [~~from the same panel from which the former~~
2 ~~member was appointed~~]. The governor shall designate one of the non-member trustees to serve as
3 chairman of said board of trustees. *The other non-member trustee shall serve as the vice-chair.*

4 2 Quorum. Amend RSA 100-A:14, IV to read as follows:

5 IV. Each trustee, including the chairman, shall be entitled to one vote in the board of
6 trustees. [~~Seven~~] *Five* trustees shall constitute a quorum for the transaction of any business of the
7 board of trustees. [~~Seven~~] *Five* votes shall be necessary for any resolution or action by the board at
8 any meeting.

9 3 Application; Board of Trustees Membership. Members of the board of trustees for the
10 retirement system on the effective date of this section shall serve for the remainder of their terms.
11 In order to conform to RSA 100-A:14, I as amended by section 1 of this act, the 6 retirement system
12 member trustees whose terms are the first to expire after the effective date of this section shall not
13 be appointed, provided the board maintains at least one group I and one group II member, and those
14 positions shall be eliminated from the board of trustees.

15 4 Effective Date. This act shall take effect 60 days after its passage.

LBAO
11-0369
12/29/10

HB 227-FN - FISCAL NOTE

AN ACT relative to the membership of the retirement system board of trustees.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2011 through 2015.

Amendments

Amendment to HB 227-FN

"Not Adopted"

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 Retirement System; Administration; Membership of Board. Amend RSA 100-A:14, I to read as
4 follows:

5 I. The administration of this system is vested in a board of ~~[14]~~ **10** trustees. Each newly
6 appointed or reappointed trustee shall have familiarity with or experience in finance or business
7 management. The state treasurer shall be an ex officio voting member of the board. The governor
8 and council shall appoint **2** trustees, to be known as non-member trustees, who shall be qualified
9 persons with investment and/or financial experience as provided in this paragraph and not be
10 members of the system, and who shall serve for a term of 2 years and until their successors are
11 appointed and qualified. The non-member trustees of the board shall have substantial experience in
12 the field of institutional investment or finance, taking into account factors such as educational
13 background, business experience, and professional licensure and designations. The original
14 appointment of one of the non-member trustees shall be for a term of one year. The remaining ~~[11]~~ **7**
15 members of the board shall consist of ~~[2 employees, 2 teachers, 2 permanent policemen, 2 permanent~~
16 ~~firemen]~~ **one employee member, one teacher member, one permanent policeman member, one**
17 **permanent fireman member**, one member of the senate who shall be appointed annually by the
18 senate president, one member of the house of representatives who serves on the executive
19 departments and administration committee and who shall be appointed annually by the speaker of
20 the house, and one person representing management in local government. Whenever a vacancy
21 occurs, the senate president or the speaker of the house shall fill the vacancy in the same manner by
22 appointing a senate or a house member who shall serve for the unexpired term. The
23 New Hampshire state employees' association, the New Hampshire education association, the
24 New Hampshire police association, the New Hampshire state permanent firemen's association, and
25 the New Hampshire Local Government Center shall each annually nominate from their members a
26 panel of 5 persons, all of whom except for the panel of the Local Government Center shall be active
27 members of the retirement system, or one of the 4 predecessor systems, no later than May 31 of each
28 year, and the panels so named shall be filed with the secretary of state no later than June 10 of each
29 year. From ~~[each of]~~ the above named panels, the governor and council shall appoint ~~[one person~~
30 ~~annually to]~~ **the members of** the board~~[-except for the panel of the Local Government Center, which~~
31 ~~shall have one person appointed every 2 years]~~ **as needed so as to maintain the representation**
32 **on the board.** Members appointed to the board in the manner aforesaid shall serve for a term of 2

Amendment to HB 227-FN

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1 years. Each member so appointed shall hold office until his or her successor shall be appointed and
2 qualified. Whenever a vacancy occurs, the governor and council shall fill the vacancy by appointing
3 a member who shall serve for the unexpired term from the same panel from which the former
4 member was appointed. The governor shall designate one of the non-member trustees to serve as
5 chairman of said board of trustees. *The other non-member trustee shall serve as the vice-chair.*

6 2 Quorum. Amend RSA 100-A:14, IV to read as follows:

7 IV. Each trustee, including the chairman, shall be entitled to one vote in the board of
8 trustees. [~~Seven~~] *Six* trustees shall constitute a quorum for the transaction of any business of the
9 board of trustees. [~~Seven~~] *Six* votes shall be necessary for any resolution or action by the board at
10 any meeting.

11 3 Application; Board of Trustees Membership. Members of the board of trustees for the
12 retirement system on the effective date of this section shall serve for the remainder of their
13 appointed terms. In order to conform to RSA 100-A:14, I as amended by section 1 of this act, the
14 retirement system member trustees in each classification whose terms are the first to expire after
15 the effective date of this section shall not be appointed, and those positions shall be eliminated from
16 the board of trustees.

17 4 Effective Date. This act shall take effect 60 days after its passage.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # HB 227 Date 2/11/11

Committee Special Committee on Public Employee Relations Reform
 ** Please Print All Information ** Kevin Pratt Raymond X

Name	Address	Phone	Representing	(check one)	
				Pro	Con
Doug Patch	One Eagle Sq, Concord	223-9161	NH Assn of Fire Chiefs		X
SENATOR KNIGHT	48 LANDING LANE - LACONIA	455-9321	NHREA		X
SENATOR	RAY WHITE		DISTRICT 9	X	
Dean Michener	Concord	228-2061	NH School Boards	✓	
Sen. David Bastin	Hooksett		District 16	✓	
Rep. Mike Buxton	Nashua		Dist 24		✓
Steve Duxton	Nashua	891 1200	Dist 23		✓
Sandy Ambaw	39 Cowing Rd Hudson		NHPSA		✓
Connie George	1042 Montana Dunbarton, NH 03046		NHREA		✓
Judith Gici	105ct 179 Melvin Village NH				✓
Eileen Cabrel	45 Beacon St East		City of Laconia	✓	
Donna Woodman			City of Laconia	✓	
Diana Lacey	Concord		SEA NH		X
Elizabeth Sargent	NH Assoc of Chiefs of Police				X
BARBARA C FRENCH	HENNIKER				X
Stephen Arnold	Portsmouth		NE Police		X
Bob Blawie	Concord		NH Police Association		X
Jim Demers	Concord		NH Trooper Association		X
Kathy Kimball	25 Beaver Dam Rd, Andover		NHSTA		X
Claude Dumont	79 Maclean Rd, Alstead				X
David Kelley	46 Edgewood Dr, Hampton, NH				X
Mary Robinson	341 Province Rd, Gilman, NH				✓
Tom Robinson	341 Province Rd, Gilman, NH				✓

Robert R. Phelan 19 Melody Lane Pelham X

Hearing Minutes

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

PUBLIC HEARING ON HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

DATE: February 11, 2011

LOB ROOM: 201 & 203 **Time Public Hearing Called to Order:** 10:00 a.m.

Time Adjourned: 11:00 a.m.

(please circle if present)

Committee Members: Reps. Reagan, Hawkins, Shuler, Sedensky, W. Smith, Moran, Infantine, Kurk, Jaspe, B. Patten, Blankenbeker, Winter, Shurtleff, Baroody, Long and D. Sullivan

Bill Sponsors: Rep. Hawkins, Hills 18; Rep. Reagan, Rock 1; Rep. Kurk, Hills 7; Sen. Bradley, Dist 3; Sen. Boutin, Dist 16; Sen. White, Dist 9

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

REP HAWKINS INTRODUCED. REDUCES THE SIZE OF THE BOARD. AMENDMENT FROM LAST WEEK 2011-0167N.

BARBARA REID NH MUNICIPAL ASSOCIATION. **SUPPORT**. STUDIES OF PUBLIC PENSION BOARDS SHOWS BETTER INVESTMENT EARNINGS WITH SMALLER BOARDS AND *** BROUGHT COPIES OF THE STUDY ATTACHED.

ARTHUR BEAUDRY NHSPFFRA9 RETIRED FIRE FIGHTERS) **OPPOSED** ***PROVIDED WRITTEN TESTIMONY. THE REASON WE ARE HAVING THIS SITUATION IS BECAUSE OF THE ACTUARIES AND NOT THE TRUSTEES. NJ HAD THE SAME ACTUARIES AND FIRED THEM BECAUSE OF THE SAME PROBLEMS. NJ FIRED THEIR ACTUARIES BEFORE WE DID. THE BOARD LISTENED TO THE PROFESSIONALS, CHANGING THE BOARD WOULD NOT HAVE CHANGED THE RESULT AND CHANGING THE BOARD NOW WILL NOT EITHER.

LAURA HAINEY: PRESIDENT OF THE AFT-NH. **OPPOSED** ***WRITTEN TESTIMONY.

WILLIAM PERRON NHREA: **OPPOSED** LONG HISTORY AS AN APPOINTED MEMBER OF THE PENSION BOARD. NO BENEFICIARIES CAN BE ON THE BOARD. OTHER STATES DO ALLOW BENEFICIARIES ON THE BOARD. MEMBERS ARE ALLOWED ON OUR BOARD, BUT BENEFICIARIES CAN ONLY BE ON THE BOARD BY APPOINTMENT BY THE SPEAKER OR BY THE GOV. MEMBERS CERTIFY THE RATES THAT THE ACTUARY PREPARES. MEMBERS, BY POLICY DO NOT VOTE ON BENEFITS. CHANGING THE MAKE UP OF THE BOARD WILL NOT FIX THE PROBLEMS.

DAVID WEBBER ASSOCIATE PROF OF LAW AND BOSTON LAW SCHOOL. **OPPOSED.** ***
WRITTEN TESTIMONY. STATES RESEARCH THAT PLAN PARTICIPANTS ARE MORE
SUCCESSFUL STEWARDS OF PENSION FUNDS BECAUSE THEY HAVE SKIN IN THE GAME.
HOWEVER, NH RETIREMENT SYSTEM IS UNDERFUNDED ALTHOUGH IT HAS BEEN
MANAGED BY THE PLAN PARTICIPANTS. REP JASPER ASKED WHY HE IS HERE. HE IS
NOT IN THE SYSTEM, DOESN'T LIVE IN THE STATE, NOT A LOBBYIST, IS NOT BEING PAID
BY ANYONE, HE IS CONDUCTING RESEARCH IN THIS AREA AND HAS PUBLISHED PAPERS
IN THIS AREA. HE WAS CONTACTED BY THE NH RETIREMENT COALITION. PROPOSES A
50/50 BALANCE WITH 50% TRUSTEES BEING BENEFICIARIES. WOULD LIKE TO SEE
BENEFICIARY MAJORITY.

JUDITH CASI REITRED TEACHER: **OPPOSED** EMPLOYEES ARE THE ONLY ONES WHO
HAVE MOTIVATION TO PROTECT THE EMPLOYEE BENEFITS. EMPLOYEE REPS DID NOT
CHOOSE THE FUNDING, THE REPS WHO DID CHOOSE THE FUNDING HAVE RESIGNED.
FEEL THERE ARE PUNITIVE ISSUES WHEN THEY TAKE CHANCES TO PRESERVE THE
FUND.

ADJURNED AT 1100. CHAIRMAN REGAN WILL HEAR FROM OTHERS AT THE END OF
TODAY'S PUBLIC HEARINGS. 2 PINK CARDS LEFT AS FOLLOWS:

DAVID LANG PROFESSIONAL FIRE FIGHTERS OF NH: **OPPOSED**

ERIC S. WERNER, JR. SELF: **SUPPORT**

Respectfully submitted,

Rep. Lynne F. Blandkenbeker
Clerk

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

PUBLIC HEARING ON HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

DATE:

LOB ROOM: ~~206~~ ²⁰¹⁻²⁰³ Time Public Hearing Called to Order: 1005

Time Adjourned: 1100 .

(please circle if present)

Committee Members: Reps. Reagan, Hawkins, Shuler, Sedensky, W. Smith, Moran, Infantine, Kurk, Jasper, B. Patten, Blankenbeker, Winter, Shurtleff, Baroody, Long and D. Sullivan

Bill Sponsors: Rep. Hawkins, Hills 18; Rep. Reagan, Rock 1; Rep. Kurk, Hills 7; Sen. Bradley, Dist 3; Sen. Boutin, Dist 16; Sen. White, Dist 9

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

- * written testimony by Mr. Beaudry
- * Barbara Reid NH municipal ason white paper
- * Laura Heiney - testimony
- * David Webber - testimony + research papers

Testimony

White Paper on Pension Governance

Prepared for the HB 876 Commission to Make Recommendations to
Ensure the Long Term Viability of the NH Retirement System

Kate McGovern, MPA, MA

Abstract

In all public retirement systems a dynamic tension exists between the plan sponsor (the state) and the fiduciaries (the trustees). Clear governance practices and system autonomy allow trustees to adhere to fiduciary duty absent undue political constraint.

The legislature and key stakeholders, including plan members, retirees and public employers, play significant roles. Political interests interact with member benefit and public employer interests, impacting public policy choices. A working understanding of the complex interrelationships can inform the strategies that assure the best practices of plan governance. A range of studies and findings are available concerning public plan governance from scholarly and professional sources. This paper integrates theory and practice to inform policy development.

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Chapter One: Overview of best practices

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- Template of roles

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Chapter Four: Summary

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Appendices

- Appendix A: Findings of Mitchell & Yang
- Appendix B: Excerpt from NHRS Board Minutes, March 1991
- Appendix C: Definitions of terms
- Appendix D: RSA 100-A:14-15 and Excerpts from the Uniform Management of Public Employees Retirement Systems Act

Introduction

The challenge of public pension fund governance is gaining attention for good reason. The first in a 3-part series in *Governing* magazine declared, "Public funds are responsible for managing more than \$3 trillion in assets – money that will or already does pay retirement benefits to as many as 14 million public servants and 7 million retirees and their family members...And yet, very little is known, either in or out of government, about the boards, how they're governed and who's in charge of overseeing the many calculations, estimations and factors that go into managing a public pension fund."

Experts in the field of pension management have estimated the cost of ineffective governance at around 100 basis points, (one percentage point), the equivalent of \$60 million per year in additional return based on the current NHRS plan assets.

In an interview for *GRS Insight*, a publication of the actuarial firm, Gabriel Roeder Smith (GRS), John Por and Tom Iannucci of Cortex Applied Research discussed common pitfalls. Por and Iannucci identified "excessive and often unrecognized risk taking, a tendency to concentrate on low-impact decisions, insufficient attention to managing costs, and a failure to adequately consider the organizational consequences of investment decisions."

"The good news", according to Por and Iannucci, "is that these risks can be minimized with effective trustee education and by committing to a governance improvement program. By applying good governance principles, most common mistakes can be avoided. Boards will not only achieve better long-term investment results but will also be able to demonstrate a higher degree of rigor in the exercise of their fiduciary duties. Enhancing one's board governance practices is one of the most critical factors in achieving long-term success."

Academic studies underscore the findings of practitioners and consultants. In *Pensions in the Public Sector*, Michael Useem and David Hess explained, "The governance policies of a pension fund can thus be key to its performance: designed well, investment risks will be appropriate and returns will be superior; structured poorly, more tax revenues may be required to make up for the otherwise avoidable and predictable shortfalls. Good governance, then, stands between a fund's success in servicing the public and its failure to do so. (Useem & Hess in Mitchell & Husted, 2001, p.141-142)

Chapter 1

Overview of Principles: Fiduciary Duty, Autonomy, Transparency

Fiduciary Duty

The cornerstone of good pension plan governance lies in strict adherence to fiduciary duty. System trustees function as fiduciaries, a legal status carrying specific responsibilities. Pension fund administrative staff and consultants also function as fiduciaries, to the degree that the trustees delegate fund management duties to them. Fiduciary duties include *Care* and *Loyalty*.

Duty of Loyalty

The duty of loyalty is exclusively owed to plan members and beneficiaries, which includes active members, retirees, and those receiving survivor benefits. The trustees must "manage the fund so as to enable the system to meet its obligations not only to current retirees, but also to those expected to retire in the future."

The U.S. Supreme Court has ruled that trustees have "an unwavering duty of complete loyalty" to the members and beneficiaries of an employee benefits plan. And further, the "duty to the trust beneficiaries must overcome any loyalty to the interest of the party that appointed the [trustee]." Trustees may not substitute any other interest for the well-being of the fund.

- No fiduciary duty is owed to a sub-group of "constituents"
- No fiduciary duty of loyalty is owed to an appointing authority

To assure adherence to the duty of loyalty, trustees should develop methods for resolving conflicts of interest between the sponsoring organization and the pension plan, as well as between the plan and its vendors (e.g., external investment managers), in ways that are not disadvantageous to the pension plan from an ex ante perspective. (Logue, 2007)

Duty of Care

According to Commission member Dennis Logue, the duty of care requires a fiduciary to study issues intensively, to hire outside experts when appropriate, and to do the proper analysis. For example, trustees should:

- Participate in and oversee the development of the pension investment policy statement. This statement should include broad guidelines regarding strategic asset allocation, acceptable investment strategies, and permissible types of transactions, or alternatively, the types of transactions that are prohibited (for instance, writing uncovered call options). This statement should also indicate whether the chief investment officer (CIO) is allowed or expected to overlay decisions made by portfolio managers. For example, the statement should address whether or

not the CIO is allowed to take positions in futures that increase or reduce the equities exposure of individual managers.

- Establish a risk tolerance for the pension plan that reflects the circumstances and preferences of both sponsors and beneficiaries. The pension plan fiduciary should actively participate in assessing risk, in setting limits on the total acceptable dollar loss (value at risk), and in developing policies that will keep the plan invested in a way that is consistent with the risk tolerance.
- Hire a Chief Investment Officer with the appropriate educational credentials and experience to serve as a competent administrator.
- Decide whether internal or external management of the pension plan will produce the highest risk-adjusted, cost-adjusted investment returns that are consistent with the risk tolerance set for the fund.
- Select investment managers based on clearly defined, rational criteria, such as historical performance (i.e., performance that yields insight into predictable future behavior), anticipated future investment, strategies, ability to handle administrative tasks, willingness to participate in the monitoring process, compensation, trading style and activity, and use of soft dollars.
- Establish investment guidelines for each manager. These guidelines should specify the minimum and maximum exposure to each relevant asset. For example, this might limit a manager to owning less than 5% of a company and investing no more than 10% of the managed portfolio in a company
- Monitor the performance of investment managers for investment returns as well as for their level of adherence to the previously agreed upon investment guidelines.
- Assure that all administrative and clerical functions are performed accurately and in a timely manner
- Commit to continuing education to stay current with the latest advances in theory and practice.

Standards of Prudence

The standard of prudence has evolved in pension case law, beyond the "prudent man" rule that required fiduciaries simply to act in good faith. The standard found in the *Harvard v. Amory* case set general criteria:

"All that can be required of a trustee to invest is that he shall conduct himself faithfully and exercise sound discretion. He is to observe how men of prudence, discretion, and intelligence manage their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income, as well as the probable safety of the capital to be invested." (*Harvard. v. Amory* in Logue, 2007)

The *prudent investor* standard requires the use of modern portfolio theory to improve the level of assets, not simply to conserve them. In 1940, the Trust Division of the American Bankers Association established the Model Prudent Man Investment Act:

"In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing the property for the benefit of another, a fiduciary shall exercise the judgment and care, under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own funds, considering the probable outcome, as well as the probable safety of their capital."

(American Bankers Association in Logue, 2007)

The highest standard is that of *prudent expert*. It requires fiduciaries to become experts and/or to hire, carefully delegate and rigorously monitor those charged with fund management duties. Good faith is not a defense to imprudence. Further, a good outcome does not absolve fiduciaries of liability for imprudent conduct – standards of fiduciary duty must be adhered to, irrespective of investment results. The American Law Institute drafted a new standard that has been adopted in the majority of states, including the following components:

- Any and all investments must be considered as part of the portfolio and not be judged on an individual basis.
- No investment should be considered inherently prudent or imprudent.
- In the majority of cases, trust assets must be diversified.
- Inflationary effects must be given consideration in investment decisions. That is, the focus must be upon real values. (This is a significant departure from the original notion that the primary risk to protect against was the erosion of normal principal.)
- Investment skill must be demonstrated by the fiduciaries

Summary: The Seven Deadly Sins of A Fiduciary

Fiduciaries oversee a broad scope of functions in plan management. There are two core businesses in each retirement system: investment of funds and administration of benefits. In a presentation on pension governance, Commission member Dennis Logue delineated *The Seven Deadly Sins of a Fiduciary* which are: Apathy, Cowardice, Laziness, Ignorance, Excessive Self-Reliance, Financial & Social Self-Enrichment and Deception. Retirement systems can protect themselves against such fiduciary breaches through strict adherence to best practices.

In order to meet fiduciary obligations, trustees must learn as much as possible about pension plan governance and investment management to maintain a high level of competence, and be as faithful as possible to the interests of pension plan beneficiaries. Service as a trustee should include attention to:

- The specifics of any investment, including reading the prospectus for new securities, and the recent financial experience of portfolio companies;
- The current financial theory supporting the application of a particular investment strategy;

- The operations and investment strategies of peer pension investors;
- The legal ramifications from the use of different financial instruments;
- The estimated risk-to-reward ratios for any given total portfolio composition;
- Monitoring of any activity that is delegated outside the immediate authority of the fiduciary
- The decision-making process and its documentation, the data used, the philosophies followed, the competence of involved parties, and the policies used to reduce conflicts of interest.
- Measurement of Liabilities, Actuarial Estimates, Discount Rate
- Measurement of Returns on Illiquid Assets, Real Estate, Venture Capital, Private Equity
- Smoothing of annual contributions

In a broad sense, trustees need an operational understanding of the common pitfalls in public plans such as true "cost" versus "guesstimated cost" and outlandish estimates of future returns. Trustees must make a commitment to sound actuarial funding methodology using conservative estimates and discount rates. They must also work openly, providing full public disclosure.

The appointment of qualified trustees with an appropriate level of investment knowledge and judgment (rather than simply seeking representatives of various constituencies) is extremely important. Given the dynamics of public plan management, trustees must be proactive in developing good governance procedures that anticipate and reduce the potential for adverse political influence. (Logue, 2007)

Autonomy

The pension system's ability to function autonomously from state government is critical to good governance. Under pension law, the legislature functions as *settlor*: the entity that established the trust. The legislature is not a fiduciary. Governmental entities are accountable to the citizens who have elected them, not exclusively to plan participants.

During times of fiscal stress or intense political rivalry, legislature and/or executives may seek to divert pension assets and/or reduce pension contributions. The most common occurrences were during the recession of 1991. An article in Fortune magazine characterized the trend as "The Great Pension Robbery" observing that "The immediate victims of any cut in contributions or attachments of assets are the public employees whose retirement funds are being raided. But taxpayers may be on the hook too: they could have to make up the difference if, thanks to the raids, public plans lack the wherewithal to pay retirement benefits in the future." (Deutschman & Fefer in Fortune, January 13, 1992)

In the article, *Investment Practices of State and Local Fund*, Alica H. Munnell and Annika Sunden reviewed the aftermath of the aforementioned efforts by state governments.

In most cases, litigation was required to enforce state obligations. In 1991, the California legislature reduced its contributions to CalPERS by \$1.6 billion and continued to under-contribute in ensuing years. Following a lengthy court battle, "the California Supreme Court ruled that workers had a right to an actuarially sound pension system, and ordered the state to pay back the money to the pension system." (Munnell & Sunden in Mitchell & Husted, 2001, p. 175)

The study also reviews cases in New York and New Jersey, concluding that "the evidence of states trying to use pensions as a safety valve indicates that affected parties will sue, and the courts will protect the rights of participants" (Munnell & Sunden in Mitchell & Husted, 2001, p. 177). The fact that retirement systems may find the need to litigate against the legislative and/or executive branch underscores the importance of autonomy. Systems must have the authority to establish actuarially sound contribution rates, and to hire and compensate independent legal counsel. Without functional autonomy, systems may lack the capacity to defend plans from actuarial manipulation or under-funding. Fiduciary duty requires systems to act solely in the interests of plan participants, regardless of political considerations.

Transparency

The principle of transparency goes beyond the common understanding of public right to know laws. It fundamentally addresses the question of how stakeholders can gain sufficient knowledge and information to make reasonable judgments concerning public pension funds.

In his article, Asset/Liability Management in the Public Sector, Michael Peskin describes the self-interests of each of the stakeholders – members, elected officials, and taxpayers. Based on the interest of plan members in good benefits and taxpayer interest in low costs, Peskin identifies the political incentive to trade short term accommodation for long-term costs. He observes that "the time horizon of elected officials rarely extends much beyond the next election. In hard-fought battles for budget resources, long-term concerns are least represented." Peskin suggests "the solution to this political imbalance is to adopt a rigorous and disciplined framework within which to calculate liabilities and assets and to establish policies. Such a framework must make the price of options and transfers of costs or risks to future generations transparent."

(Peskin in Mitchell & Husted, 2001, p. 203)

Chapter 2

Board Composition and Governance

Review of the literature

Several significant studies have examined the role of member trustees and plan governance in as variables in plan funding. *Public Pension Governance, Funding and Performance: A Longitudinal Appraisal* (2005), co-authored by Olivia S. Mitchell and Tongxuan (Stella) Yang, measured management practices, board composition and reporting practices, with respect to investment performance. The study indicated a negative correlation between fund earnings and the presence of active members on pension boards and a strong negative correlation with retired members. In his study, *Protecting and Politicizing Pension Fund Assets*, (2005) David Hess examines the role of politically affiliated trustees and member trustees. An earlier study by Hess with Michael Useem, *Governance and Investment of Public Pensions* (Chapter 7 in Mitchell & Husted, 2001) examined the size and composition of the boards in conjunction with the scope of responsibility.

Identified limitations of member trustees

While Mitchell and Yang qualify their findings concerning the negative impact of member-trustees, each qualification is balanced with explanations that support the findings. Along with David Hess and other scholars, Mitchell and Yang acknowledge that plan members are highly motivated to work for positive investment outcomes. The members' motivation, however, is balanced by an apparent lack of financial expertise, and a possible tendency to be overly cautious with the investments. The passage below is typical of these studies, opening with a positive quality and moving to the problematic aspects of member-trustees:

Most likely, plan participants will be more concerned with their benefits and push for better funding, than would politically affiliated members such as appointed and ex-officio representatives. On the other hand, Mitchell (1988) suggests that Board members who are not financially expert may find it difficult to monitor plan performance, in which case having more active members or retired members may permit lower funding...We hypothesize that having more participants on the Board may lead to lower returns due to a more conservative approach to investment."

(Mitchell & Yang, 2005, p. 11-12)

In his study, David Hess identifies a myriad of political dynamics that have compromised plan funding levels. (Hess, 2005) One of his findings supports Mitchell and Yang's study of member trustees. While acknowledging the member-trustees were highly motivated to be good stewards, Hess pointed to the findings of the Myners Report regarding their limitations. According to Hess, the Myners Report found that "trustees' lack of expertise caused them to rely heavily on the opinions of consultants and follow the actions of funds in their peer group without giving adequate consideration to what their fund should have as an investment objective." (p.211)

However, he pointed out that trustees who are union members have an informational advantage because unions tend to provide retirement education programs.

Hess goes on to discuss the optimal number of seats for member trustees, suggesting a tipping point where the advantages of independence and commitment are outweighed by the issues of expertise. His findings suggested a diminishing return once boards consist of 47% member trustees. He also draws a distinction concerning the function of the board as a whole, finding that the funds perform worse when the board is directly responsible for setting the portfolio's asset allocation. Hess' work can be seen in conjunction with that of Mitchell & Yang:

...Supportive of previous research, we find that public plan governance has an important impact on plan investment performance and funding status. Having more retired employees on the Board can depress investment performance, stock funding, and flow funding, while having more active employee participation can depress stock funding...

...plan governance structure could be enhanced to boost investment performance and funding status. One way would be to include more expert Board members; another might be to provide better training to Board representatives, especially if they are active or retired employees...

(Mitchell & Yang, 2005 p. 20-21)

Identified limitations of politically affiliated trustees

There is enough blame to go around in the states that are suffering substantial pension deficits. Expanding upon a minor theme in the Mitchell & Yang study, Hess distinctly identifies a motivation on the part of governmental sponsors to reduce or avoid pension contributions, particularly during times of slow economic growth. He notes the impact, "consistent underfunding ultimately shifts current funding problems on to future taxpayers." (Hess, 2005, p. 193)

Posing the question, "The Board of Trustees: Stewards or Politicians?" Hess reviews the motivations and limitations of each category of trustee. He refers to corporate governance literature based on agency theory to draw a distinction between "politically affiliated trustees" (appointed or ex-officio) with "inside directors." He considers member elected trustees "outside directors." The inside directors, Hess explains, are expected to side with management, while the outside directors are "generally considered to be sufficiently independent from the CEO that they can protect the shareholders' rights when they may be harmed by top management's behavior." (p. 196-196)

In this context, Hess is considering the CEO as the plan sponsor (the state government). He provides several examples of potentially negative consequence of political influence on investments. Politically affiliated trustees may support local economically targeted investments (ETI's) that pose undue risk or provide insufficient return to the fund; or they may select fund managers on a preferential basis. He provides examples of such occurrences in California and Maryland, commenting, "taken together, these problems have led commentators to argue that

public pension funds with trustees who are susceptible to political pressure will perform slightly worse than funds with boards having more politically-independent trustees." (p.198)

Hess goes on to describe how politically affiliated trustees went along with efforts by states to reduce necessary plan contributions. While the activities listed above may hinder returns, the manipulation of actuarial assumptions for political purposes is far more costly:

...In the early 1990's the New York State pension fund raised its expected rate of return from 8% to 8.75% in order to reduce contributions by \$325 million and balance the state budget. In 1991, the governor of California explicitly stated his desire to raise the expected rate of return on the state's pensions from 8.5% to 9.5% to reduce the state's contribution to pension plans by approximately \$400 million per year. (Hess, 2005, p. 203)

Putting the gravity of the situation in context, Hess describes the extent of the current underfunding problem. Using Census Bureau statistics, he points out that, "93% of all state pension funds were underfunded in 2003... at the end of the strong market in the 1990's...only 31% of the pension systems were underfunded, and the average system had a funding level of 115%."

Returning to recent history, he identifies factors that lead to success and those that put plans in deficit. He noted a change in investment practices leading to the positive returns in the 1990's. Several states had statutory restrictions on the extent of exposure to equities. These legal and philosophical restrictions were steadily removed, as public pensions increased their equity investments. Plan holdings were less than 40% equities in 1990, and rose to nearly 60% by 2000. By the end of 2003, the average equity allocation was 65%. (Hess, 2005, p. 195)

Board size and composition

According to the study, "Developments in State and Local Plans," conducted in 1996, the average pension board size varied, with teacher retirement systems averaging 10.3 members, state employee systems averaging 9.24 members, and police and firefighter systems averaging 7.5 members. The average composition was 46% appointed, 35% elected, 16% ex-officio, and 3% other. (Mitchell, McCarthy, Wisniewski & Zorn in Mitchell & Husted, 2001)

The period from 1990-1996 was examined by Michael Useem and David Hess, as reported in their article, *Governance and Investments of Public Pensions* (Chapter 7 in Mitchell & Husted, 2001). During the early 1990's, the removal of restrictions on equity investments resulted in improved performance by many public funds. "From 1992-1994, 20-25% of the pension funds faced a constitutional or statutory equity cap of 35% or less (below generally recommended asset allocations at the time), but by 1996 the fraction of funds facing this cap dropped to 14%." (Useem & Hess in Mitchell & Husted, 2001)

Useem and Hess examined the composition and authority of boards in conjunction with their

investment authority. While the removal of state restrictions on equity investments accounted for much of the improved performance by public funds, governance was found to be a significant factor as well:

The relative constancy of the governing board size – eight trustees give or take three throughout this period – implies a curvilinear optimum somewhere in the range. By way of inference from research on the performance of units ranging from produce teams to corporate boards, too few members is to deny the board the diverse experience, expertise, and wisdom that make for good decisions, but too many is also to undermine its communication, consensus, and responsibility that also make for effective actions. A governing body of five members is suboptimal, and so too is a board of twenty-five. (Yermack, 1996, in Useem & Hess, p. 137)

The study, which included 171 systems, highlighted two in particular, the California Public Employees' Retirement System (CalPERS) and the South Carolina Retirement System (SCRS). Looking solely at the variable of board size, South Carolina's board was considered to be smaller than optimal, with only five members. CalPERS' board was larger than most, with 13 members, but its use of four committees was noted, as well as the guidance of a Chief Investment Officer (CIO) whose previous experience included management of an \$8 billion corporate retirement fund. Considering board meetings and committees, CalPERS trustees typically spent four days per month on their duties. While other significant variables provided CalPERS an advantage over SCRS, it was noted that CalPERS' seven year average rate of return exceeded that of SCRS by 82 basis points. (Useem & Hess in Mitchell & Husted, 2001)

Criteria: Motivation and Competence

Keith Ambachtsheer's work, *The Three Grades of Pension Fund Governance Quality: Bad, Better, Best* is based on corporate performance theory. Citing the work of Peter Drucker, Elliot Jaques, and John Carver, Ambachtsheer focuses on governance in an operational context, stating that oversight boards must pass two tests: motivation and competence. In the aspect of motivation, he seems to concur with Hess on the value of committed member trustees, but it is clear that competency criteria must be met, and specific governance practices in place, in order to have optimal results.

The Myners Principles for Institutional Investment Decision Making found that public pension boards fell short of optimal governance and performance standards in a series of respects.

- Trustees are often asked to take crucial investment decisions without either appropriate resources or expertise to make informed judgments; as a consequence, trustees rely heavily on a small number of investment consulting firms, whose advice and performance they are not sufficiently expert to examine, or evaluate;
- Trustees also commit a low level of resources to asset allocation decisions and advice. The lack of attention these decisions receive is likely to affect investment performance;
- The objectives set for fund managers are often unrelated to the long-term objectives of the pension fund. Fund managers are often assessed against the performance of a 'peer

group': this encourages managers to herd around a benchmark and undermines active fund management;

- There is also a lack of clarity about the timescales over which fund managers' performance is to be judged. This uncertainty leads to an unnecessary emphasis being placed on achieving short-term results;
- Fund managers appear unnecessarily reluctant to engage with companies in relation to corporate underperformance, despite the possible benefits this might have for their clients. Trustees also do not generally mandate such engagement;
- The substantial costs of broking commissions are subject to insufficiently clear scrutiny and control.

(Myners in Logue, 2007)

Consideration of roles in relation to duties

Scholarly studies and professional guidelines both speak to the importance of fiduciary duty in two critical respects – competence and loyalty. While issues of competence may not be fully resolved with educational programs, additional training is a recommended strategy. The Clapman Committee's report on "Best Practice Principles" recommended that boards "should engage in an annual evaluation of trustee skills and, where appropriate, should develop a plan for improving and expanding the board's competencies." (Clapman in Ambachtsheer, 2007)

Professional practitioners provide valuable insight on the complicated, yet critical aspects of plan governance. Cortex Applied Research principals, John Por and Tom Iannucci point out the consequences of failure to take a proactive approach to good governance, "Experience suggests that if the plan sponsor begins to perceive that its financial responsibilities to its pension plan are untenable, two things usually happen: somebody will be blamed, and some high profile (although not necessarily effective) remedy will be imposed...Trustees need to create their own conditions for change (e.g. board self-assessment, executive director performance evaluation, enhanced investment performance measurement, etc.)."

Further, issues of loyalty may be addressed through a prerequisite understanding of the obligations carried as a trustee. The challenges presented by each category of trustee are delineated on the following page. The development of an appropriate strategy addressing the potential weaknesses in each category should enhance the chances for a cohesive board adhering to its fiduciary responsibility.

The article "Developments in State and Local Plans," (Chapter 2 in Mitchell & Husted, 2001) also noted a recommendation by the National Conference of Commissioners on Uniform State Laws encouraging states to adopt certain standards for public pensions. "The Management of Public Employee Retirement Systems Act (MPERSA) is intended to modernize investments decision making in public pensions." (Wisniewski, 1999 in Mitchell et. al) While the ideal model has yet to take hold among state legislatures, progress has been made with certain elements, particularly fiduciary standards.

Template of Roles

Each of the trustee categories brings advantages and risks. Good governance may be achieved by the development of a comprehensive framework that maximizes the strengths of each trustee while mitigating the risk. It may be possible to identify the risks and value intrinsic to each category of trustee. The following template considers the questions: How do they get on the board? What's the worst that can happen? What's the best? Once the range of possibilities is understood, one may identify ways to prevent the worst and assure the best.

Public appointments – prominent citizens; who may also be friends, contributors, or political allies of the governor.

Best scenario:

- Civic minded people with financial expertise, dedicated to public service
- With the ability to withstand political pressure and fulfill fiduciary duty.

Worst case scenarios:

- Use the position for personal financial gain.
- Help political allies balance the state budget by under-funding the system.

Member appointments – may be a friend or political ally of association or union president

Best scenario:

- Employees dedicated to be good stewards of the fund
- With the ability to withstand peer/political pressure and fulfill fiduciary duty

Worst case scenarios:

- Take positions based on what is popular or unpopular with the rank & file, without regard to actuarial soundness.
- Function as advocate for greater benefits

Employer trustees – may be selected from an association of managers or municipal officials or by a governor or mayor

Best scenario:

- Public managers dedicated to be good stewards of the fund
- With the ability to withstand peer/political pressure and fulfill fiduciary duty

Worse case scenarios:

- Take positions based on what is popular or unpopular with peers in their professional association or the elected official who appointed them.
- Function as an advocate for cutting benefits

Legislative appointments – generally appointed by the leadership of the majority party

Best scenario:

- Legislators with expertise to function as liaisons with the legislative branch, sponsoring responsible, appropriate legislation at the behest of the board.
- With the ability to withstand peer/political pressure and fulfill fiduciary duty.

Worst case scenarios:

- Help political allies balance the budget by under-funding the system
- Sponsor legislation based on special interest, misinformation or personal bias, which passes because their colleagues assume it's backed by the board.

Chapter 3

Consideration of perspectives on board composition & governance relative to NHRS

Composition

Based on the studies by Mitchell & Yang, and Hess, the NHRS Board composition is not optimal. It is larger and has more active plan members than the scholars recommend (the 9th active member was added, effective 7/1/07). However, there is no board seat for a retired member, which is the role that Mitchell & Yang found to be most detrimental.

The NHRS Board currently has 14 members:

- Two trustees "who shall be qualified persons with business experience and not be members of the system"
- Two trustees from the N.H. Legislature; one Senator and one House member
- Two trustees from each of the 4 membership classifications
- One trustee from local government management
- The State Treasurer (ex-officio)

RSA 100-A:14 (Appendix D)

Concerns about politically affiliated trustees

The scholarly research points out concerns with both politically affiliated trustees and member-trustees. In 1988, the NHRS Board was expanded from 11 to 13 members, adding seats for House and Senate appointees. In 1991, a former NHRS legislative trustee was the sponsor of HB 51 that introduced the Open Group Aggregate methodology and increased the assumption rate to 9.75%. However, the majority of other trustees and the actuary (reluctantly) went along with it. A closer examination of the interaction between politically-affiliated and other trustees is merited in the case of NHRS.

Election vs. Appointment of member-trustees

New Hampshire's system is actually a hybrid between two systems described in the literature. David Hess and others draw a distinction between member-elected trustees and trustees appointed by the executive. Hess cited his findings of improved outcome with trustees appointed by the executive; theorizing that they may be better qualified than elected-member trustees. (Hess, 2005) The executive-appointed trustees in Hess' study were most likely public members. The member trustees in New Hampshire are appointed by the Governor & Council, from a panel of 5 members proposed by each of five named organizations: the New Hampshire state employees' association, the New Hampshire education association, the New Hampshire police association, the New Hampshire state permanent firemen's association, and the New Hampshire Local Government Center (RSA 100-A:14:I).

Whether or not the two-tiered selection process results in a higher level of qualification than trustees who are directly elected by constituent groups, remains to be studied. Anecdotally, the Texas County and District plan's board consists entirely of member-trustees, all appointed by the executive; according to the 2006 Public Funds Survey, the Texas plan is 110.2% funded. The specific variable concerning member-trustees who are nominated by constituency groups and subsequently appointed by the executive is not evident in the studies.

Motivation of stakeholders

Each of the studies acknowledges that member trustees play a valuable role in governance, due to their stake in the fund. As Hess points out "the board of trustees must be able to prevent the political misuse of the fund's assets and have the expertise and motivation to ensure successful investment performance. Similar to the role envisioned for independent directors in corporate governance, there is a role for member-elected trustees. These trustees are motivated, accountable to plan beneficiaries, and independent of political influence. A growing body of empirical evidence suggests they are potentially good stewards of pension assets. (Hess, 2005)

Evidence of the motivation of member-trustees to resist attempts to under-fund the pension systems can be found during the legislative controversy in 1991. During the debate around the passage of HB 51, which imposed an earnings assumption rate of 9 ³/₄%, several member trustees consistently challenged the usurpation of the board's fiduciary duty. An excerpt from the Minutes of Board meeting March 12, 1991 is in Appendix B.

Training and expertise

Two of the NHRS trustees are required by statute to have expertise; the development of expertise on the part of all trustees is articulated as a board goal. The NHRS Draft Governance Manual articulates a Trustee Education Policy: In order to permit Trustees to discharge their fiduciary duties with care, skill, prudence, and diligence and to ensure that all Trustees have a full understanding of the issues facing NHRS, the Board has adopted orientation and continuing education programs; encourages education; and makes available appropriate periodicals to foster Trustee awareness of relevant developments. Trustees are provided in-house orientation sessions and the opportunity to attend educational seminars and conferences.

According to the *GRS Insight's* interview with Por and Iannucci, "the key to effective governance is the trustees' ability to shift from a 'hands-on' operational perspective to a 'policy and oversight' perspective. This is difficult, as most trustees are 'doers' in their non-trustee life and are unaccustomed to playing a strictly oversight role.

A fiduciary audit, prepared by Independent Fiduciary Services in 2002, noted, "Representatives of participant groups sometimes begin their terms expecting their role to be that of an advocate of their constituency, rather than a fiduciary responsible for the whole of the fund...The required education goes beyond just "learning the ropes." IFS believes best practices suggest a formal, consistent basic training in fiduciary principles and investment concepts is a necessary step for a Trustee to become an effective member of the Board." (IFS report, 2002, p. 26)

There is a significant qualitative difference between knowing how to read the financial reports and understand the investment terms and concepts, and the ability to provide critical analysis. The function goes beyond learning how to ask the right questions; there is a need to strategically evaluate the overall investment program. The IFS audit suggested supplementing the role of the trustees with enhanced staff capacity. They observed that "If the investment consultant's recommendations were critically tested by a knowledgeable CIO, or other experienced investment staff professionals, before being presented to the Board....if there was positive constructive tension between the consultant and in-house staff, which in turn, would contribute to the reliability of the advice provided to the trustees." (IFS, 2002, p.40, p.133)

Optimal size for a deliberative body

There are differing views on the best size for pension boards, and the proper use of committees. In the interview with Governing.com, Gary Findlay reported that the MOSERS board runs as a committee of the whole. While acknowledging that it's a matter of preference, Findlay is confident that it works for them. (Governing.com, 2007) According to their website, the MOSERS board has 11 members.

A review of fund performance between 1990-1996 by Michael Useem and David Hess suggested that optimal board size was eight members. However, it was noted that CalPERS functioned well with a 13-member board through the use of committees. (Useem & Hess in Mitchell & Husted, 2001)

Current (as of 11/07) operation of the NHRS Investment Committee as a committee of the whole (14 members) is not aligned with best practices. The IFS audit noted, "We believe that the use of a committee is consistent with good governance and "best practices." Committees make full use of board members' expertise, valuable time and commitment, and ensure diversity of opinions on the board. A smaller group allows for more focus and increases the likelihood of achieving a result. A smaller group can work more efficiently and less formally. (IFS, 2002, p. 50)

Alternative Investment Committee Model

According to the website of Texas ERS, state statute authorizes the Board of Trustees to establish advisory committees as it deems necessary. The Investment Advisory Committee (IAC) was created to consult and advise the board on investments and investment related issues. Generally, the IAC meets the day before each board meeting to consider investment related issues in depth. The committee of experts is currently chaired by a professor of Finance at the University of Texas.

Transparency

In an interview with Governing.com, Executive Director of the Missouri State Employees Retirement System (MOSERS), Gary Findlay linked the issues of transparency and autonomy. In response to the question, "How do you protect the authority you're given?" Findlay responded, "It requires a lot of openness and transparency. All of our reports are on our website

and available to anyone. (<http://www.mosers.org/>) I think the way to protect the authority you're given is not to abuse it, but to use it to do the best job you can. Then the results speak for themselves." (Governing.com, 2007)

It is of some concern that the minutes of the NHRS board meetings no longer provide the level of detail that allow readers to understand the basis for any decisions made by the trustees. A key element in transparency is the opportunity to see the deliberative process.

Autonomy

New Hampshire's statutes and Constitution require that the retirement system be managed solely in the interest of plan participants. These requirements are based in the common law, case law and federal law concepts of fiduciary duty and prudent investor standards.

RSA 100-A:15 (I) ... All of the assets and proceeds, and income therefrom, of the New Hampshire retirement system, and all contributions and payments made thereto, shall be held, invested or disbursed in trust solely in the interest of the members and beneficiaries of the system for the exclusive purpose of providing those benefits and defraying those reasonable administrative expenses....

Article 36-a of the New Hampshire State Constitution prescribes that "Retirement System funds are to be used only to benefit the System."

State Supreme Court: *NHRS v. Sununu, 126 NH 104, 108 (1985)*. (Holding that the NHRS Board is independent of the executive branch)... "Under the common law of trusts, the board of trustees owes the System's members and beneficiaries a fiduciary obligation to manage the System for the benefit of its members and beneficiaries..."

During the legislative sessions of 2001-2003, statutory gains were made in the categories recommended in best practices. NHRS was provided permanent use of prudent investor standards with the removal of a five year sunset provision. The system also gained autonomy for the purpose of creating positions and compensating employees, hiring independent legal counsel, and purchasing authority. While attention is still needed for the appropriate coordination of audit requirements, NHRS has established clear legal and functional independence from the legislative and executive branches. Such autonomy is essential to the optimal operation of a public retirement system.

Chapter 4 Summary

A pension plan can be viewed as a contractual arrangement between the public employer and public sector employees that sets aside deferred wages in exchange for current service...The key reason for funding public pension plans is to improve intergenerational equity – that is, to reduce the transfer of unfunded costs of currently accruing benefits to later generations of taxpayers.

Michael Peskin,
Asset/Liability Management in the Public Sector

Effective problem solving

The structure of governmental plans provides the two essential roles of fiduciary (the trust) and plan sponsor (the state). The board of trustees must assure that retirement funds are invested prudently, for the sole benefit of members and beneficiaries. The legislative branch of the state government is responsible for establishing the level of benefits, and paying required contributions into the trust.

The strategies for continuous improvement in motivation and competence on the part of the system are relatively straightforward. (Ambachtsheer, 2007) However, good governance alone will not solve the problems associated with NHRS. History has shown that the complications arise in interaction of the system with the legislative branch of state government. Problems created by legislative action in 1991 remained uncorrected, although they were readily apparent. As Commission member Rep. John Reagan reported, the long-term impact of the Open Group Aggregate methodology and the overly aggressive 9% assumption rate, combined with the gains sharing of investment returns, were identified in a Performance Audit by Ernst & Young in 1994. Neither the board of trustees nor the legislature took action on the findings; passing significant costs forward to future taxpayers. (Ernst & Young, 1994, in Reagan, 2007)

The formation of special commissions in 1991 and 2007 were motivated by a perception of crisis. The charge of the 2007 Commission is to make recommendations to ensure the long-term viability of the NHRS. Indications are that continuous improvements in system governance, strict adherence to fiduciary duty, and the strengthening of system autonomy are fundamental to long-term viability. Indications are that these elements must be coupled with appropriate, constructive collaboration with the legislature.

Funding Sustainability

The on-going challenges facing public pensions are discussed by Ray Henry in "Public Pension Plan Design for the Future" (2005), a paper presented at a conference organized by the Labor and Worklife Program at Harvard Law School. Henry describes a range of issues, and suggests proactive strategies to ensure funding sustainability. Acknowledging the dichotomy of the long-term structure of a pension plan with the short-term budget and political cycles, Henry notes that

"Funding of public plans must avoid any significant contribution rate volatility and must not fall prey to undetected economic or demographic trends that result in gradually increasing rates over long periods...Success is also highly dependent upon the actuarial methods employed..." (Henry, 2005, p. 8) In this respect, the reestablishment of the Entry Age Normal methodology by HB 653 is extremely significant. The level funding method will reduce the volatility in employer rates, thereby lessening the temptation and to artificially alter assumption rates. Henry explains the value of the participation of stakeholders in the process as extending, beyond the oversight function.

Henry cites five elements that should involve all stakeholders: "(1) good governance, (2) professional administration and communication, (3) professional money management, (4) forward-looking decision support capabilities, and (5) clear, long-term strategic directions. Public pension plans are financial services organizations, and as such they must be forward-looking, learning organizations with the ability to recognize and negotiate future risk and change." (Henry, 2005, p.16)

Conclusion

Based on a review of the literature and best practices, the Commission charged with making recommendations to assure the long-term viability of New Hampshire Retirement System has the opportunity to make a significant contribution. A critical aspect of effective plan governance is reliant upon a genuine on partnership among the stakeholders. Responsibility for the plan is bifurcated between the legislature and the trustees. Problems festered over the past 15 years, with each party lacking the power to unilaterally change policy. Employers, taxpayers, retirees and active plan members are now impacted by ill-conceived policies of the past. The opportunity now exists to establish policy based on reasoned recommendations. And, to create a mechanism to proactively manage the plan that integrates the stakeholders into a functioning partnership.

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HB 227

2/11/2011
10 AM

A fiduciary duty is the highest standard of care at either equity or law. A fiduciary is expected to be extremely loyal to the person to whom he owes the duty (the "principal"): which in this case is the members of the retirement system, he must not put his personal interests before the duty, and must not profit from his position as a fiduciary, unless the principal consents. The word itself comes originally from the Latin fides, meaning faith, and fiducia, trust.

Fiduciary duty requires board members to stay objective, unselfish, responsible, honest, trustworthy, and efficient. Board members, as stewards of public trust, must always act for the good of the organization, rather than for the benefit of themselves. They need to exercise reasonable care in all decision making, without placing the organization under unnecessary risk

Examples of performing the duty of loyalty include clearly making a reasonable and good-faith effort, when acting as a Board or staff member, to:

- Always be thinking about, and focusing on, priorities of the nonprofit, and not that of yourself or another organization.
- Share ideas, opinions and advice to forward the progress of the nonprofit.
- Represent the nonprofit in a favorable light.

The legislature has made significant changes to the board of trustee's over the past several years.

First; when the legislature felt they needed a conduit between the Board and the Legislature they added a State Senator and a member of the House to the Board of Trustees'.

Second; when the Local Government Center complained that they didn't have any say on the board the legislature added a member of the LGC.

The third and last time the legislature made a change, it was in response to perceived lack of investment knowledge on the part of the board. The legislature establishes an Independent Investment Committee even though under the definition in RSA 100A:14 states, two non-member trustees shall be qualified persons with investment and/or financial experience.

The Independent Investment Committee consists of 3 members whom shall be persons who are not members of the board and 2 members of the Board of Trustees appointed by the chairman of the Board. All members shall have substantial experience in the field of institutional investments or finance.

The New Hampshire State Permanent Firefighters' Retirement Association believes that the legislature has responded to the concerns addressing the board and that no further changes are necessary at this time. We ask that you ITL HB-227. *and The amendment*

Thank you,

Arthur J Beaudry

President

Good morning Mr. Chairman, members of the Committee. My name is Laura Hainey and I am President of the American Federation of Teachers here in New Hampshire and a partner in the New Hampshire Retirement Security Coalition.

I am here to testify on HB227 relative to the membership of the retirement system board of trustees.

Each board member of the New Hampshire Retirement System is required under trust law and the New Hampshire state constitution to act solely in the interests of the trust and its members and beneficiaries. Board members have a legal fiduciary duty to make decisions to act solely in the interests of the beneficiaries of the System and have a fiduciary responsibility to makes decisions to protect the funds of the System. Currently, the NHRS board of trustees includes 8 plan participants (2 from each associated employment groups), giving them eight seats on the 14-member board.

Under trust law we believe each of the 14 trustees has equal responsibility and fiduciary duty. (~~The exercise of the duty is paramount beyond the body of their appointment.~~)

Representative Hawkins bill reduces the number of participant members from 8 to 4. Perhaps a smaller board could provide more streamlined decisions; this is a reasonable conversation we would be pleased to undertake. However, it seems to us and many others who have done research on Board Governance that the best persons to watch over these funds are beneficiaries themselves. You will hear (or heard from) from David Webber, Associate Professor of Boston University who will provide/provided expert testimony that references his academic research that shows that the more beneficiaries sit on the board, the higher the investment returns are.

There is another concern I would like to raise at this time regarding the State Representative and State Senator serving on the board. While elected members of the general court may enjoy

sovereign immunity protections in their actions as legislators we are concerned those protections do not carry forward in the exercise of their fiduciary duty as NHRS trustees. This creates a problematic environment whereby as members of the General Court they are settlers of the trust ^{and its trustee} ~~(and further responsible for creating the plan design that is administered by the NHRS)~~ ^{responsible to administered and} Implementing ^{the} that plan design ^{is} ~~under the Purview~~ ^{of the responsibility} of the NHRS trustees who are bound to look at the plan from a fiduciary prospective not a political or legislative one. This creates an inherent conflict whereby these two legislators virtually have one foot in each camp. ***You cannot both be looking out for the best interests of the trust, its members and beneficiaries and carry the competing interest of cutting benefits not to improve the health of the fund, but merely to reduce employer costs. The moral hazard associated with these competing interests is a serious matter that is easily addressed. Other states have resolved these potential conflicts of interest by*** ~~Therefore we~~

~~recommend to this committee to making legislators non-voting (ex officio) members of the board. Legislative action of this kind would accomplish two public goods, while eliminating potential conflicts of interest, reducing the number of voting members as supported by the chair, and~~ while continuing to insure that the legislature through the participation of ~~these~~ ^{as non-voting} members continues its important oversight function.

Several states have chosen to make their State Representatives and Senators ~~ex officio~~ ^{non-voting} members of their retirement systems' board of trustees, including Massachusetts, Maryland, and Rhode Island. ~~(You can find the entire list of states and board make-up in the 2010 NEA publication, "Characteristic of Large Public Education Pension Plans,")~~ ^{If you would like the full list I will provide it for} but the point is that it has been done and can be done here in New Hampshire, and we feel it is an avenue worth exploring to protect the integrity of the NHRS and its Board of Trustees.

I urge you to vote Inexpedient to Legislate on House Bill 227

Thank you.

David H. Webber
Associate Professor of Law
Boston University Law School
dhwebber@bu.edu
617-358-6194

plan participants = beneficiaries throughout

Testimony before the Public Employee Pensions Reform Committee of the New Hampshire House of Representatives in Opposition to the Proposed Amendment to House Bill 227.

Thank you for inviting me to speak here today.

I oppose the proposed amendment because it reduces the influence of ^{*plan participants*} beneficiaries on the board of trustees of The New Hampshire Retirement System. I urge you to find that this bill, in its current form, is Inexpedient to Legislate.

Empirical research has shown that ^{*plan participants*} beneficiary board members engage in more active and successful stewardship of public pension funds than other types of board members, such as politicians and political appointees. I have attached to this submission copies of academic studies demonstrating that ^{*plan participants*} beneficiary board members correlate with higher returns for the funds. I have also submitted my own research demonstrating that ^{*plan participants*} beneficiaries are more likely to aggressively pursue perpetrators of securities fraud than are other types of board members. *plan participant,*

plan participant

Why do beneficiaries perform better as pension fund trustees? As Warren Buffett might say, it's because they have skin in the game. If the public pension fund performs poorly, the beneficiaries' own retirement may be at risk, and so is that of their colleagues, friends, and perhaps family members. For the same reason that corporate managers who own a stake in their companies tend to obtain better results, beneficiary board members who are personally invested in the funds they oversee get better results for those funds. There is ample evidence supporting both of these propositions.

Some might object that because many public pension funds are defined benefit funds, the beneficiaries are indifferent to the health of the fund since they are "guaranteed" certain retirement benefits. What we are seeing in the current financial crisis is that this is not the case. Many states and municipalities have either already cut or are actively seeking ways to reduce the benefits and salaries of public employees, usually by indirect methods such as increasing workloads or increasing the cost of health care. Recent discussion in the U.S. Congress about allowing states to go bankrupt so that they may abrogate their pension obligations similarly demonstrates the vulnerability of even defined benefit obligations. Concern for the safety and security of their own retirement may explain why beneficiaries have proven to be better trustees.

Other types of board members such as politicians and political appointees, though they may have the best of motives, simply lack the same incentives as beneficiary board members. On the whole, politicians and political appointees tend to rely on other resources for their retirement security, and on average, have greater earning power than most public employees. Their personal financial security rarely depends on the performance of public pension funds, if at all. Moreover, politicians and their

appointees report to a broader constituency than beneficiary board members. Politicians around the country have elected not to fund public pensions, even when they are fiduciaries for those pensions, in favor of other priorities.

I believe that reducing the proportion of beneficiaries on the NHRS board to less than half—consequently creating a majority of board members with little or no stake in the fund—would be a mistake. It does not get the incentives right. It is like handing control of a corporation to people who have no personal stake in its success. Even if they are well intentioned, they do not have the same motivation to maximize performance.

I would like to mention one final concern. Unfortunately, much of the public pension fund world in the last couple of years has lived under a cloud of “pay-to-play” allegations—allegations that politicians trade access to the pension fund’s resources in exchange for campaign contributions. I say that this is unfortunate both because in a few instances it has proven true, and because in many instances it has created suspicion where no such suspicion is warranted. Because beneficiaries do not receive campaign contributions, they generally are not accused of engaging in this quid pro quo. Politicians are not so fortunate. Even where there is no actual impropriety whatsoever, there can be an appearance of it. By creating a fund controlled by elected officials, I fear you will be more susceptible to generating such an appearance. ^{But effects of this problem will lessen and practices} Funds that have a majority of beneficiary board members are better shielded from such accusations than funds that are controlled by politicians. That’s because the most important decisions requiring board approval will have been made by funds controlled by beneficiaries, who do not receive contributions. That is the current status of the NHRS. That will not be true if this bill passes.

Because beneficiaries have proven to be better stewards of public pension funds, I would urge the House to maintain the current board composition. Because some of the empirical research suggests that a board composition of around half beneficiaries is optimal, a good compromise might be to have a board of ten members with five beneficiaries. But reducing beneficiary board membership to just 40% would not be optimal. It creates a board structure that history has shown works less well than the one you have now.

I look forward to discussing these issues with you. Thank you again for inviting me.

Recent changes to pay-to-play rules by the SEC will help solve both the actual problem and the appearance of it.

Complete Document

Can Be Viewed

In Bill Folder

Protecting and Politicizing Public Pension Fund Assets: Empirical Evidence on the Effects of Governance Structures and Practices

David Hess*

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	(.02)	(.03)
Assets (log)	.58***	.73***
	(.16)	(.16)
Constant	-10.62***	-15.01***
	(2.27)	(2.70)
n	567	268
Pseudo R-sq	.21***	.38***

*p<.10; **p<.05; *** p <.01 (two-tailed tests)

Complete Document

Can Be Viewed

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BOSTON UNIVERSITY

LAW REVIEW

IS "PAY-TO-PLAY" DRIVING PUBLIC PENSION FUND ACTIVISM
IN SECURITIES CLASS ACTIONS? AN EMPIRICAL STUDY

David H. Webber

Volume 90

October 2010

Number 5

IS "PAY-TO-PLAY" DRIVING PUBLIC PENSION FUND ACTIVISM IN SECURITIES CLASS ACTIONS?

AN EMPIRICAL STUDY

DAVID H. WEBBER*

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* Associate Professor of Law, Boston University Law School. I would like to thank Marcel Kahan for his thoughtful comments on this Article and for his mentorship. I would also like to thank Ashwini Agrawal, William Allen, Jennifer Arlen, Miriam Baer, Alan Gotthelf, Joseph Grundfest, Yair Listokin, Florencia Marotta-Wurgler, Seth Poloner, Mark Ramseyer, Roberta Romano, Gary Simon, Irit Tau-Webber, Randall Thomas, Monika Trapp, Natalya Vinokourova, David Walker, Tracy Yue Wang, Mayris Webber, Elliot Weiss, and participants in the 20th Annual American Law & Economics Association Conference and the Corporate Law Policy Analysis Seminar at NYU Law School for their helpful comments. I am grateful to the NYU Pollack Center for Law & Business for financial support during the composition of this article. Thanks also to Daniel Evans and Isaac MacDonald for excellent research assistance.

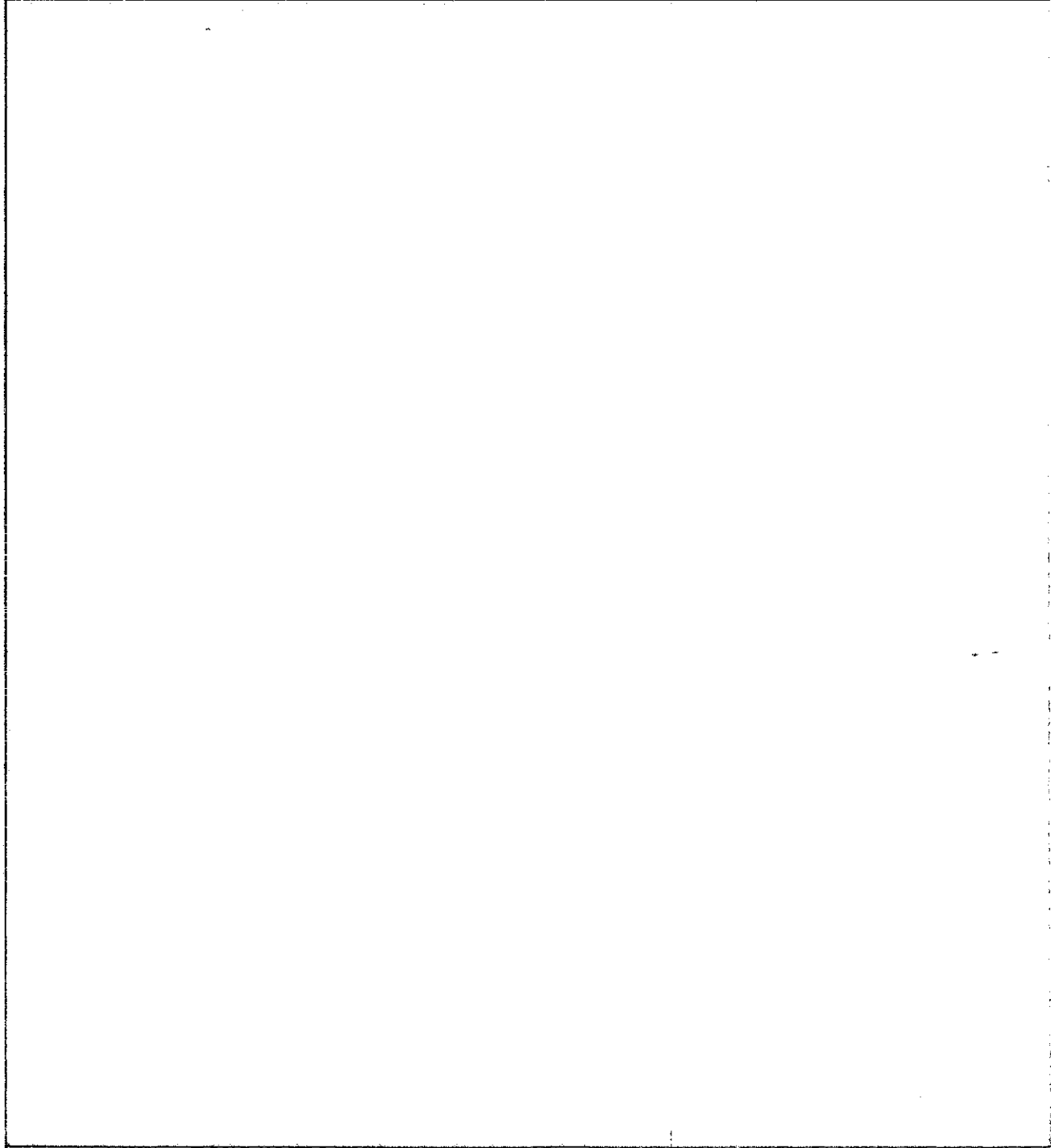
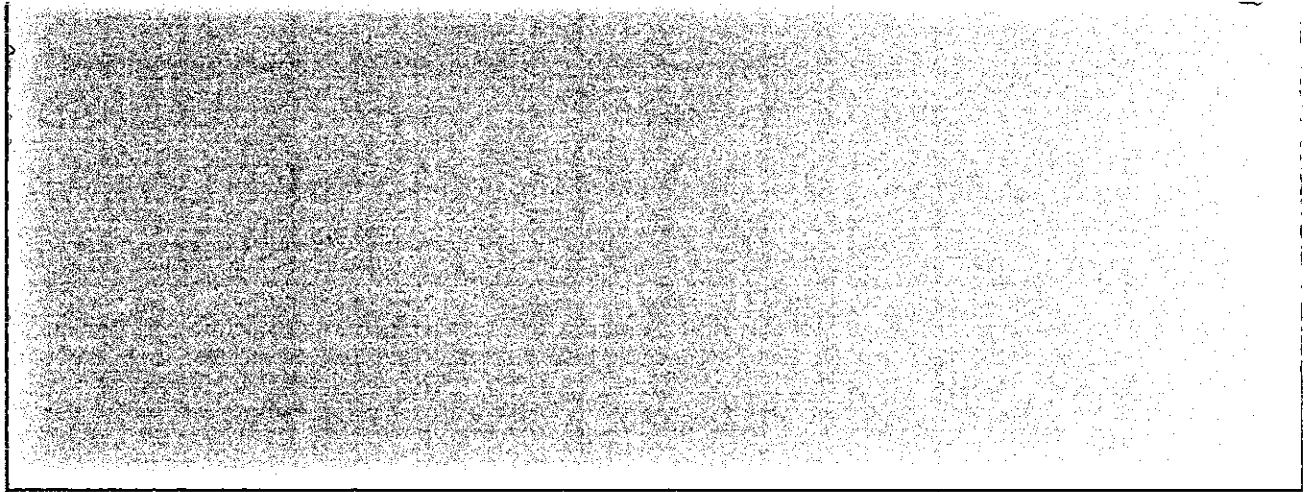
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The recent emergence of public pension funds as frequent lead plaintiffs in securities class actions has prompted speculation that the funds' litigation activism is driven by "pay-to-play." Pay-to-play alleges that politicians drive the high rate of public pension fund lead plaintiff appointments; the politicians purportedly direct the funds to pursue securities class actions in return for campaign contributions made to them by plaintiffs' lawyers. This Article provides a comprehensive analysis of the securities litigation activity of 111 such funds from the years 2003 through 2006. Three of the Article's findings cast doubt on the pay-to-play theory, including that: (1) politicians and political control negatively correlate with lead plaintiff appointments; (2) beneficiary board members – and outright beneficiary control of the board – positively correlate with such appointments; and (3) the degree of a pension fund's underfunding positively correlates with lead plaintiff appointments, particularly when the fund is controlled by beneficiaries. This evidence suggests that beneficiary board members (not politicians) drive these cases for reasons having to do with the financial soundness of the fund. The Article analyzes the substantial role played by these members in securities class actions in light of prior research comparing such board members to corporate managers with an equity stake in a corporation. The Article also finds no support for the theory that unions drive beneficiary board members to obtain lead plaintiff appointments, and offers evidence that resistance by politicians to lead plaintiff appointments correlates with the degree of business influence in the politicians' home states.

INTRODUCTION

Over the past year, the prospect of pay-to-play in securities class actions has generated worrying headlines and scolding editorials. The *Wall Street Journal* alone has run a front-page article and two lead op-eds on the subject since November 2009.¹ This alarmist press has complemented a furious lobbying effort in Washington; the U.S. Chamber of Commerce has pressed for securities litigation reform, and against the recently established consumer

¹ See, e.g., *Pay-to-Play Torts*, WALL ST. J., Oct. 31, 2009, at A18 (calling for investigation of purported pay-to-play between plaintiffs' law firms and public pension funds); Mark Maremont et al., *Trial Lawyers Contribute, Shareholder Suits Follow*, WALL ST. J., Feb. 3, 2010, at A1 (describing campaign contributions made by plaintiffs' law firms, including contributions to politicians on public pension fund boards who pursued securities class actions with contributing law firms); *Progress on Pay to Play*, WALL ST. J., Feb. 12, 2010, at A22 (praising reforms designed to reduce purported pay-to-play).



Voting Sheets

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

DATE: March 4, 2011

LOB ROOM: 305 & 307

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.) **RETAIN**

Moved by Rep. Kurk

Seconded by Rep. Avard

Vote: 11-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

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Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

RETAIN

Moved by Rep.

KURK

Seconded by Rep.

AVARD

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM

Bill #: HB 227 Title: _____

PH Date: 1/1/11

Exec Session Date: 3, 4, 11

Motion: RETAIN

Amendment #: _____

MEMBER	YEAS	NAYS
Hawkins, Kenneth, Chairman	X	
Sedensky, John B, V Chairman	X	
Shuler, Wyman E		ABSENT
Smith, William B	X	
Moran, Edward P		ABSENT
Infantine, William J		ABSENT
Kurk, Neal M	X	
Winter, Steven J, Clerk	X	
Avard, Kevin A	X	
Cohn, Seth	X	
Waddell, James A	X	
Bowers, Spec		ABSENT
Shurtleff, Stephen J	X	
Baroody, Benjamin C	X	
Long, Patrick T		ABSENT
Sullivan, Daniel J	X	
11-0		

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

DATE: September 29, 2011

LOB ROOM: 305 & 307

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Shurtleff

Seconded by Rep. Sullivan

Vote: 11-0 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 11-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

HOUSE SPECIAL COMMITTEE ON PUBLIC EMPLOYEE PENSIONS REFORM

EXECUTIVE SESSION on HB 227-FN

BILL TITLE: relative to the membership of the retirement system board of trustees.

DATE: September 29, 2011

LOB ROOM: 305 & 307

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

SHORTLIFF

Seconded by Rep.

SULLIVAN

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Steven Winter, Clerk

SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM

Bill #: HB 227

Title: _____

PH Date: ____/____/____

Exec Session Date: 9 / 29 / 11

Motion: ITL

Amendment #: _____

MEMBER	YEAS	NAYS
Hawkins, Kenneth, Chairman	X	
Sedensky, John B, V Chairman	X	
Shuler, Wyman E		
Smith, William B		
Moran, Edward P		
Kurk, Neal M	X	
Winter, Steven J, Clerk	X	
Avard, Kevin A		
Cohn, Seth	X	
Waddell, James A	X	
Bowers, Spec	X	
Laware, Thomas W		
Shurtleff, Stephen J	X	
Baroody, Benjamin C	X	
Long, Patrick T	X	
Sullivan, Daniel J	X	
<p>11-0 CONSENT</p>		
TOTAL VOTE:		

Committee Report

CONSENT CALENDAR

October 4, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on SPECIAL COMMITTEE PUBLIC
EMPLOYEE PENSIONS REFORM to which was
referred HB227-FN,**

**AN ACT relative to the membership of the retirement
system board of trustees. Having considered the same,
report the same with the following Resolution:**

RESOLVED, That it is INEXPEDIENT TO LEGISLATE.

Rep. Stephen J Shurtleff

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM
Bill Number:	HB227-FN
Title:	relative to the membership of the retirement system board of trustees.
Date:	October 4, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill would reduce the membership on the New Hampshire Retirement System Board of Trustees by Group I and Group II Members. Since the same language of this bill was already passed in HB 2 and SB 3, this bill became redundant and unnecessary.

Vote 11-0.

Rep. Stephen J Shurtleff
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM

HB227-FN, relative to the membership of the retirement system board of trustees. **INEXPEDIENT TO LEGISLATE.**

Rep. Stephen J Shurtleff for **SPECIAL COMMITTEE PUBLIC EMPLOYEE PENSIONS REFORM.**

This bill would reduce the membership on the New Hampshire Retirement System Board of Trustees by Group I and Group II Members. Since the same language of this bill was already passed in HB 2 and SB 3, this bill became redundant and unnecessary. **Vote 11-0.**

Original: House Clerk
Cc: Committee Bill File

HB 227

ITL

This bill would reduce the membership on the New Hampshire Retirement System Board of Trustees by Group I and Group II Members. Since the same language of this bill was already passed in HB 2 and SB 3, this bill became redundant and unnecessary.

Stephen Shurtleff

A handwritten signature in black ink, appearing to read "S. Shurtleff", with a long, sweeping flourish extending to the right.

COMMITTEE REPORT

COMMITTEE: PENSION REFORM

BILL NUMBER: HB 227

TITLE: Relative to the membership of the retirement system board of trustees

DATE: 9/29/11 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

STATEMENT OF INTENT:

This bill would reduce the membership on the ~~State~~ Retirement System board of trustees by Group I and Group II members. Since the same language of this bill was already passed in HB 2 and SB-3 this bill became redundant and unnecessary

COMMITTEE VOTE: 11-0

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Stacy Spentley
For the Committee

Kh. [Signature]