



STATE OF CONNECTICUT

RETIREMENT SECURITY BOARD

CO-CHAIRS: STATE COMPTROLLER KEVIN LEMBO & STATE TREASURER DENISE NAPIER

Connecticut Retirement Security Board

Meeting Minutes

Thursday, February 11, 2016

1:00 p.m.

55 Elm Street, Hartford, 7th Floor Treasurer's Conference Room

Members Present:

Hon. Kevin Lembo, State Comptroller, Co-Chair

Mary Phil Guinan (on behalf of Hon. Denise Nappier, State Treasurer, Co-Chair)

Carl D. Guzzardi (on behalf of Commissioner Scott Jackson)

Michael Callahan (via phone)

Kenneth Floryan (via phone)

George Kasper (via phone)

William Kosturko (via phone)

Jamie Mills (via phone)

John Sayour (via phone)

Members Absent:

Sal Luciano

Brendan Maher

James Russell

Special Guests:

Michael Kreps, Groom Law Group (via phone)

Other Participants:

Genevieve N. Ballinger, Research Analyst, Office of the State Comptroller

A. Call to Order

Comptroller Lembo called the meeting to order at 1:04 p.m.



B. Approve Legislative Language

Comptroller Lembo suggested that rather than going line by line through the bill language that if the Board has comments or questions they could just share them. Genevieve Ballinger read the comments on behalf of the Board members that could not be at the meeting. James Russell proposed that the following be added:

In Section 11. Distribution b. (6) "creation of a captive insurance company for the purpose of issuing non-profit annuities to participants."

Mr. Russell's thoughts were that this language would keep the legislation consistent with the Board's previous discussions. Michael Callahan recalled that the Board did not include the idea of captive insurance because they were concerned about the reserves that had to be established and that it would compete with local insurance companies. Ken Floryan added that mutual insurance companies have the ability to take long term capital through debt. The Board had concluded that it would be a challenge to do this. Captive insurance companies would not charge fees to cover marketing expenses. Any fees would be charged back to the annuitant. This would in turn offer a more attractive annuity. It would take years to get enough annuitants to have multiple annuities. The Board could do this but would have to put it in future legislation. Mr. Callahan inserted that it could add potential liability to the state if the annuity fails. Comptroller Lembo added that the Board intentionally decided not to include captive insurance and that it would be left up to the future Board. After discussion of the Board members present, the Board decided to reject Mr. Russell's proposed addition.

Carl Guzzardi explained Commissioner Scott Jackson's comments. The Connecticut Department of Labor (CT DOL) has a concern with Section 3(d) where the draft legislation defines compensation as defined in Section 31-222(b)(2) of the general statutes. The DOL thinks that Section 31-222(b)(1) would be more appropriate defining "total" wages, as opposed to the section currently listed which defines "taxable" wages and has exceptions not relevant to the new program. Mr. Guzzardi pointed out that changing the wages from total to taxable would not change the intentions of the legislation. The Board decided that this proposal be conditionally accepted with the approval of the attorneys. When Mr. Kreps entered the conference call, Genevieve asked him if changing the definition of taxable to total wages would change the meaning of the language. Mr. Kreps stated that it was fine and did not change the meaning.

In Section 5(a)(14) CT DOL had another concern. Depending on the way the Connecticut Retirement Security Authority is set up, the DOL may or may not be able to share information necessary for the operations of the program. This issue may still be applicable, even if an MOU is created. As discussed previously, under federal laws/regs (20 CFR 603) and state law (31-254) we can only share unemployment insurance (UI) data with other public officials in the course of their public duties – with very limited exceptions that are not applicable to the new program. This would need to be vetted with the US Department of



Labor before any formal decision could be made on our ability to share UI data. If we are allowed to share UI data, there will be costs associated with all activities related to that sharing. The Board indicated it heard CT DOL's concerns and believed the statute is worded to only share legally permissible data.

Section 12(b) states that failing to remit contributions will be considered a violation of 31-71, which is currently enforced by the Labor Department's Wage and Workplace Standards Division. Mr. Guzzardi indicated that a fiscal note may need to be added to this legislation to incorporate additional resources needed to handle increased activity. The same applies to Section 12(c) for failing to enroll a covered employee - as either the covered employee or the Labor Commissioner may bring a civil action. Mr. Guzzardi raised a concern about enforcement. As the legislation is currently drafted, CT DOL would act as the enforcement agency. Ms. Ballinger added that the Board did not want to place additional burden on the DOL. Comptroller Lembo suggested that the Board should keep this concern in their minds as they move forward with the legislation and that an additional line may need to be added regarding sharing costs with respect to the enforcement activities. The Board agreed.

In Section 15, the statute provides for the CT DOL to receive bond dollars to loan to the new quasi agency and arrange for repayments. The CT DOL is not currently set up to receive and/or disburse the funds to be used in this new program. Other agencies (CHEFA, CHFA) do this work as a matter of course. Mr. Guzzardi pointed out that if the CT DOL were to be tasked with this responsibility, a significant fiscal note would be required. Ms. Ballinger explained that they put the CT DOL in the language because bond money cannot go directly to a quasi; however this could be changed. Ms. Guinan suggested that they could fill in the appropriate state agency at a later date or use generalized language. The Board decided to allow the attorneys to replace it with a more appropriate agency.

Mr. Callahan had questions on sections 3k, 3f and 9a regarding the eligibility requirements. In order to be eligible for the program the Board decided on 24 months of part time employment rather than the 36 months. He wondered if the age should be raised from 18 to 19 in order to not have small accounts. Ms. Ballinger stated that other states have changed this to be 20-21 years of age. The Board agreed to change the age to 19.

Under section 9a(iii)b, Mr. Callahan asked what would be a qualified plan. If looking at a profit sharing plan it would make decisions around a tax planning year. Such a plan would have a look back period to Oct. 1. He wondered what a continuous plan by IRS standards would be. Mr. Callahan believes a dormant plan would be forced by the IRS to be closed and these rules do not allow for a lot of dormant plans. Comptroller Lembo suggested that the section be removed unless counsel gives a compelling argument as to why the section should be included. He suggested that counsel work with Mr. Callahan to craft that section. Mr. Callahan agreed. George Kasper agrees as well. The Board agreed to defer to the attorneys on removing this section.

Mr. Callahan raised a concern with Section 9(f) explaining he was concerned with the length of time that an employer holds the contribution from the employee. He inquired if the



language should follow the federal statute. Ms. Ballinger explained that the language as written is modeled after the federal requirements. Ms. Guinan suggested that the contribution be remitted as close to the day as possible from when it was withheld. Mr. Kasper added that the rule of the 15th business day was created but in the federal law a 7 day safe harbor was added for small businesses. Mr. Guzzardi pointed out that small businesses, under the current language would be remitting the employee contributions once a month. Mr. Sayour suggested that we change the amount of time to 20 business days. Mr. Floryan agreed. Ms. Ballinger pointed out that by changing the wording the Board would be creating new language rather than following the federal statute and she hesitated to create something that does not exist already without checking with counsel. Comptroller Lembo recalled that the Board discussed keeping the 15 business days standard. Ms. Phil Guinan suggested changing the amount of time to twice a month. Mr. Floryan added that he was fine with once a month and 20 business days to make it timely, but agreed that counsel should be asked. He also asked Mr. Guzzardi if there was a DOL precedent. Mr. Guzzardi answered that it was not the amount of time that the employer has, either way an employer would be processing payroll every week. The difference between 7 days versus 20 days allows them to do it once a month instead of once a week only if they combine certain pay periods, but that could be a difficult calendar to follow. Ms. Ballinger stated that some businesses have pointed out that they only do payroll once a month. Ms. Guinan suggested that the Board reach out to Department of Revenue Services. William Kosturko and Comptroller Lembo proposed that the language should be left as presently drafted. The Board agreed to leave the language as presently drafted, but to ask the attorneys their thoughts on the 7 day safe harbor rule.

Mr. Callahan also wondered, in regards to Section 7, if there needed to be language that mentioned anything about following the rules of the Financial Industry Regulatory Authority (FINRA) or the Securities and Exchange Commission (SEC). This concern will be brought to the attention of the attorneys.

Mr. Callahan also inquired about Section 11(4) regarding the Social Security normal retirement age language. He was concerned that employees retire at different ages. Under the federal rules employees retire at age 65 but they can defer the social security age. The new age minimum to obtain any retirement distributions are under 70 1/2. Ms. Guinan inquired if this language allowed for the legislation to follow the employees' age at retirement. Mr. Kasper raised a concern that if the Board does not follow the IRA rules than they are creating a whole separate plan. The Board wondered if they should use the rules surrounding the required minimum distribution (RMD). Mr. Callahan pointed out that the RMD rule is not at the age of 65, IRAs have no retirement age. Mr. Kreps suggested that a date be chosen by the Board to automatically annuitize. According to Mr. Kreps the best proxy for that is the Social Security normal retirement age. Mr. Kasper wondered if that could be done for IRA products, if that would be an investment option. Mr. Kreps responded that there are a lot of products that are available through an IRA that have built in annuitization that begin at a certain date. He stated that if the Board wanted this built into the plan it would not be impermissible to do so. This plan would mirror a lifetime income investment and would



provide flexibility. He stated that this is a policy question rather than a legal question. Mr. Sayour asked if by doing this the Board would be eliminating the Qlac option which would allow employees to not have RMDs. Under the law, the IRS allows plans to ignore certain rules if certain insurance products are purchased. The Board agreed to change the age to the age in the RMD rule.

Ms. Guinan raised Treasurer Nappier's concerns. In Section 4 she wanted to add that she and the Comptroller would be voting members on the future Board. The Board agreed. The Treasurer also wanted to know when this bill would become effective. Mr. Kreps responded that depending on the section it would become effective at different times. Treasurer Nappier also had a question if the Board should add additional language in Section 4 phasing in the program over time for businesses with larger payrolls to compile. Mr. Kreps responded that the legislation language gave the ability to delay the effective date for different categories of employers. Ms. Guinan indicated she was happy it left flexibility for the Authority to choose how to do that. Ms. Guinan also suggested that in Section 13 it allows for the implementing Board to study a Multiple Employer Plan (MEP) since it may be more attractive to the employer and could save the employee a higher amount and allows for employer match. Comptroller Lembo asked the Board in regards to appointments in Section 4 if they wanted the members to be Connecticut residents. The Board agreed.

Mr. Floryan also wondered what would happen to this legislation if there was more than a two party system. If there was an individual that was elected that did not caucus with the Democrats or Republicans. Comptroller Lembo responded that if that happened the legislation would then be reexamined along with all the other Boards with similar appointment schemes.

A vote was then taken to defer on the mentioned points and accept all the other changes. A motion to approve as amended the Board's second report was made by Ms. Guinan and seconded by Mr. Callahan. The motion was approved unanimously.

C. Approve the Cover Memo

Comptroller Lembo proposed that he and the Treasurer work on the cover memo. The work that they do on the memo will reflect what the Board discussed. A motion was moved by Mr. Floryan and seconded by Mr. Sayour to allow the Comptroller and the Treasurer to work on the memo. The motion was approved unanimously.

D. New Business

Ms. Ballinger pointed out that the Labor and Public Employees Committee was currently discussing whether to raise the concept of this plan. She also told the Board that the legislative briefing went well and was on CT-N. She thanked AARP.

E. Public Comment



There was no public comment.

F. Adjournment

A motion was made by Ms. Guinan to adjourn and seconded by Mr. Floryan. The motion was approved unanimously. The meeting adjourned at 2:26 p.m.