



STATE OF CONNECTICUT

RETIREMENT SECURITY BOARD

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

Connecticut Retirement Security Board

Meeting Minutes

Thursday, February 4, 2016

9:00 a.m.

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

Members Present:

Hon. Kevin Lembo, State Comptroller, Co-Chair
Hon. Denise Nappier, State Treasurer, Co-Chair
Carl D. Guzzardi (on behalf of Commissioner Dennis Murphy)
Michael Callahan
Ken Floryan
George Kasper (via phone)
William Kosturko (via phone)
Brendan Maher
Jamie Mills
James Russell (via phone)
John Sayour

Members Absent:

Sal Luciano

Special Guests:

Michael Kreps, Groom Law Group
Ernie Lorimer, Finn, Dixon & Herling
Scott Mayland, Groom Law Group

Other Participants:

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

A. Call to Order

Treasurer Nappier called the meeting to order at 9:16 a.m.



B. Adoption of Meeting Minutes

A motion was made by Ken Floryan to adopt the Meeting Minutes of January 6, 2016. John Sayour seconded the motion. The minutes were adopted unanimously at 9:17 a.m.

C. Legal Team Presentation on Draft Legislation

Groom Law Group presented to the Board on the draft legislation that they crafted. In this legislation, Groom incorporated all the recommendations from the Board while looking at other best practices of other states. It is crafted to fit within the Department of Labor (DOL) guidelines and mirrors ERISA in terms of providing consumer protections. The draft legislation provides flexibility for the future implementing body. Comptroller Lembo pointed out that in the preamble section he would like to see reference to the feasibility study so that it is clear that the draft legislation is built upon previous work. The draft legislation includes the definition of a qualified employer who will be subject to the mandate and the qualities of such an employer, such as having five or more employees, doing business in Connecticut, being in business since at least the start of the previous year, and does not include the state or federal government. Even if an employer is not part of the mandate, they are able to elect to participate. There was some discussion as to what is meant by doing business in Connecticut. Michael Callahan asked if a business hub was located in Florida and they only had two employees in Connecticut whether or not the two Connecticut based employees would be subject to enroll in the plan. Michael Kreps clarified that in fact those two employees would have to be covered. There was then some discussion as to if the whole business would be mandated to comply since they are doing business in Connecticut. Mr. Kreps pointed out that under constitutional law an employer cannot be mandated to enroll employees outside of Connecticut in the plan. Brendan Maher pointed out that an employer would be subject to the rules within the state to do business. Problems would arise if the employees were treated differently; however it is a policy question if the Board wants to make all the employees comply with the mandate. Comptroller Lembo explained that he believes that the intent of the legislature was to capture Connecticut companies with five or more employees. He believes that the legislation should be as straight forward as possible. An amendment could be attached later.

Groom then presented on the definition in the draft legislation of covered employees. This is defined as a person age 18 or older, who works in Connecticut, who would be eligible for unemployment compensation and has been employed at a qualified employer for at least 4 months and is not able to participate in a retirement plan at work. Jamie Mills raised a concern with the amount of time it would take for a part-time employee to be covered. In section 3(f) number 5(ii) the draft legislation states that an employee must be employed for a 36 month period before the plan would apply to a part-time employee working over 500 hours at an employer that offers a retirement plan to its full-time employees. Ms. Mills felt that this was a long time for an employee to not be eligible for the plan. The lawyers responded that they took this language from the federal auto-IRA legislative proposal. The Board discussed whether or not they wanted to lower the waiting period. Mr. Kreps maintained that the time should not be lowered to 120 days since it will work counter to what the Board is trying to accomplish and that employees would move in and out of the plan as well as establish small accounts. Treasurer



Nappier did not feel that this timeframe should be changed. Mr. Maher explained that the 36 months would only apply if the employer already offered a plan of their own, but the part-time employee was ineligible for it. The Board raised the concern that some employees even after working 1000 hours would not be eligible for the plan by virtue of their position. Mr. Maher would like the draft legislation to say if the employee works 1000 hours and they are not covered by the employer's plan, they should be auto-enrolled in the program after 120 days. Part time employees that work more than 500 hours would be eligible for the plan after two years of employment rather than three years. Mr. Floryan agreed that it should be two years and not three years. Carl Guzzardi stated that the age is relevant since within the three years an employee starting at age 18 would be 21. Mr. Callahan suggested basing the years on calendar years. The Board agreed to change the waiting period to enroll in the plan after two years. Mr. Guzzardi raised a concern about a loophole if the qualified employer changes their business entity so they are not in business for a calendar year. Mr. Kreps responded that this loophole was not closed and that they are assuming this would not happen since an employer would have to change business every two years. The covered employees would then have the choice of opting out, changing the percentage of their wages they would like to contribute and whether or not to use a traditional or Roth IRA.

The investment choice would be set up as either a target date fund or another option for the employees' contributions. The employee may select a lifetime income investment at retirement age. The authority may also require that a certain percentage of retirees' account balance be invested in a lifetime income option. In section 13, the Board decided to remove the "defined benefit plan" and just leave a multiple employer 401 (k) plan or other tax- favored retirement savings vehicle. The draft legislation also touches on disclosures to the employee. The disclosures to the employees would be as follows: at the time of enrollment, quarterly, annually and before retirement. Other educational information could be provided about the plan. The Board raised concerns with who would be providing education on the plan. The Board wants to ensure that it is a knowledgeable person to answer an employee's questions and to show them the difference between Roth and traditional IRA options. Mr. Kreps clarified that it would be a knowledgeable person employed by the private sector provider contracted to manage the program. Treasurer Nappier asked the question about how small businesses learn about the program. Ms. Ballinger inserted that the Secretary of the State has a list of employers who file in Connecticut and the list is not confidential like the list for Department of Revenue Services and the Department of Labor. Employees could be contacted through that list.

Groom also presented that the enforcement of the program rules would be done by the Attorney General to investigate and enforce Board and staff's compliance with fiduciary duty requirements. Employers must remit covered employees' contributions in a reasonable amount of time and failure to do so will be enforced through wage theft laws. Additional enforcement mechanism for qualified employees who fail to enroll covered employees will be determined. Jamie Mills suggested that employees be given a right of action to sue the employer for failure to enroll them in the program, with the remedy being attorneys' fees and enrollment into the program. The draft legislation proposes that a quasi-public entity would run the program but it also could be a state agency. Some of the disadvantages of using a quasi- public agency to run the program are that it has no enforcement powers and information sharing with other agencies



may be constrained by confidentiality provisions. The advantages of using a quasi- public agency to administer the plan is that it has independent budgeting outside the State. Treasurer Nappier felt that this was important that it be outside of the legislature so as to not be perceived as part of the legislature. Mr. Guzzardi raised a concern regarding the inability of the DOL to share unemployment data with non-public officials, however if the quasi-public agency was an extension of the state he questioned whether the DOL could share information with them. Ms. Ballinger suggested that we put it as a place holder for now in the draft legislation. The program would be run by a Board of Directors. The draft legislation proposed that the governor make five appointments. Comptroller Lembo suggested that the governor have one appointment as well as one appointment from both the house and senate majority and minority parties. Treasurer Nappier agreed that both sides of the aisle need to be represented. There was also some discussion around the name of the plan. Comptroller Lembo asked that Board members email their ideas to Ms. Ballinger. Another draft of the legislation will be completed and a phone meeting will take place in order to finalize the legislation.

D. Legislative Briefing

The labor committee has asked for a legislative briefing on the feasibility study that was conducted by Mercer and Boston College. The Board members are invited but do not have to attend.

E. Financial Report

Comptroller Lembo reported that the financial report is included in the packet. The only change is to the amount that has been spent for Groom and Finn & Dixon.

F. New Business

Comptroller Lembo told the Board that Ms. Ballinger is in contact with payroll providers. All agencies are looking at cutting their budgets and what we do not complete we may need to leave to the next Board.

G. Public Comment

There was no public comment.

I. Adjournment

A motion was made by Mr. Floryan to adjourn. Treasurer Nappier seconded the motion. The meeting adjourned at 11:31 a.m.