

**WASHINGTON STATE INVESTMENT BOARD**  
**Administrative Committee Meeting Minutes**  
**June 16, 2005**

The Administrative Committee met in open session at 9:00 a.m. at the Washington State Investment Board (WSIB) office at 2100 Evergreen Park Drive SW, Olympia, Washington.

Committee Members Present:       George Masten, Chair  
  Patrick McElligott, Vice Chair  
  Debbie Brookman  
  Glenn Gorton  
  Treasurer Mike Murphy

Others Present:                     Joe Dear, Executive Director  
  Kristi Walters, Executive Assistant  
  
  Paul Silver, Assistant Attorney General

[Names of other individuals attending the meeting are not included in the minutes, but are listed in the permanent record.]

Chair Masten called the meeting to order and identified members present.

**ADOPTION OF MINUTES – APRIL 21, 2005**

**Ms. Brookman moved to adopt the April 21, 2005, Administrative Committee minutes. Vice Chair McElligott seconded and the motion carried unanimously.**

**AGENCY REQUEST LEGISLATION**

Mr. Dear said that agency request legislation to be submitted for the 2006 legislative session is due to the Office of Financial Management (OFM) and the Governor's Office in September. He said that staff is proposing a change that attempts to deal with risk facing the Board. Mr. Dear said that staff has been working on an enterprise risk management program, which identified risks with the daily valued funds activity. Risks have also been identified for trustees and staff with respect to decisions made by the Board.

Mr. Dear referenced the indemnity provision contained in the Department of Retirement Systems (DRS) Plan 3 statute relating to valuation of the TAP, which provides that DRS and its employees are not liable if errors are made. There is no such provision for the daily valued funds. WSIB has a stringent control system in place within policy to ensure values are correct; however, the risk analysis identified that, if a mistake is made, there is no means to correct it to be able to compensate the participant. Mr. Dear said the probability of a mistake is very low and the consequences are fairly small in financial terms.

Mr. Dear said that the proposed legislation also would extend the liability protection that is currently given to the nonvoting members of the Board, to voting members and staff. Mr. Bill Song, fiduciary counsel, raised the issue that the current statute applies two different

standards of liability protection for nonvoting versus voting Board members. The statute could be misconstrued to the disadvantage of the voting members and staff, in that even existing indemnity protection elsewhere in the RCW might not be afforded to voting members.

Mr. Dear said that staff is seeking the Committee's recommendation for Board approval to move forward, and then will discuss the proposed legislation with stakeholders prior to introducing the bill for the 2006 session.

Treasurer Murphy asked if other states had similar provisions. Mr. Silver said that a lot of states have sovereign immunity. Washington State is different. He said that the states that have opened up their potential liability like Washington have explored their options and have some variation of insurance, in addition to their state's self-insurance role.

Treasurer Murphy said that when the Board dealt with the daily valued funds issue previously, relative to overpayments made by the Board to a participant, a proposed solution was made, but was not accepted by the former DRS Director. He said the proposal was to retain a portion of the money and wait 20-30 days before providing the balance. This is a consistent practice with mutual funds. Chair Masten said that Board previously considered several solutions.

A discussion ensued about liability protection of state employees. Treasurer Murphy questioned why Chapter 4.92 RCW was referenced in the proposed legislation. Mr. Silver said that Washington State courts have been construing statutes as either general or more specific. If there are both general and specific statutes, the court said the legislature must let the more specific statute control. The proposed legislation attempts to clarify that 4.92 still applies to the Board's activities. Mr. Silver said the standard that applies to nonvoting Board members is not available to voting members or staff. The question is: what higher standard is supposed to be met? Staff is attempting to clarify the standards in the liability limitation statute.

Treasurer Murphy asked if the liability mentioned in the proposed language affects personnel management. Mr. Dear said that if staff commits a firing offense, they would be fired and this language would not protect them.

Mr. Dear said that approval by OFM to proceed would not require that the proposed bill be introduced in the 2006 legislative session.

**Mr. Gorton moved that the Administrative Committee recommend that the Board move forward with Agency Request Legislation in the 2006 Legislative Session subject to review by the Office of Financial Management and the Governor's Office. Ms. Brookman seconded and the motion carried with Chair Masten voting no.**

There was no further business to come before the Committee. The meeting adjourned at 9:25 a.m.