



Louisiana State Police Retirement System

Board Meeting Minutes

Meeting Title	Louisiana State Police Retirement System Board Meeting
Date of Meeting	September 4, 2014
Where	8401 United Plaza Blvd, 4 th Floor, Baton Rouge, LA 70809
Start Time	3:00 p.m.

- 1) Shelley Sebastian, Administrative Assistant, called roll as follows:

Frank Besson, Jr., President, LSTA, Chairman, PRESENT
Col. Michael Edmonson, Superintendent, Office of State Police, Appearing Thru
Charles Dupuy, Designee for Office of State Police, NOT PRESENT
Sen. Elbert Guillory, Senate Retirement Committee, NOT PRESENT
John Kennedy, State Treasurer, PRESENT
Stephen Lafargue, Retired/Active Representative, PRESENT
Kevin Marcel, Active Representative, Vice Chairman, PRESENT
Thurman Miller, President, Central State Troopers Coalition, PRESENT
Commissioner Kristy Nichols, Div. of Administration, Appearing Thru
Andrea Hubbard, Designee of DOA Commissioner, PRESENT
Rep. Kevin Pearson, House Retirement Committee, PRESENT
Bobby E. Smith, Retired Representative, PRESENT

{Let the record show, Senator Elbert Guillory joined meeting after roll call.}

The records reflect that the following persons were also present:

Denise Akers, Attorney	Kimberly A. Gann, Assistant Director
Tausha Facundus, Benefits Analyst	Robert Klausner, Attorney
Irwin L. Felps, Jr., Executive Director	Shelley Sebastian, Administrative Assistant

*****See Exhibit A for a complete list of the meeting attendees*****

- 2) Chairman Frank Besson opened the meeting with the pledge of allegiance. The prayer was led by Bobby Smith. At this time, Chairman Frank Besson asked for a moment of silence to honor the passing of Ms. Shirley Bourg, surviving spouse representative on the Board of Trustees.
- 3) Denise Akers presented the Board with a proposed Public Comment Policy (*****See Exhibit B*****) noting that the Board has not formally adopted a policy in the past. You as a board have the right to adopt a reasonable policy. The proposal allows 90 minutes for public comment with a 3 to 5 minute limit person. The original policy was modified after input for board members and other interested persons. At this time we will accept public comment on the proposed policy only.

Chairman Frank Besson asked for public comment on the proposed policy only. Upon questioning by John Kennedy, Ms. Akers noted that the development of the policy was a joint effort by herself, Irwin Felps, and Kimberly Gann. Mr. Kennedy asked for clarification on the issue with allowing an open policy as opposed to the policy presented. Ms. Akers stated that there is no problem but considering the interest in the present issue and the fact that a policy was never adopted, she advised the board that a

policy should be adopted for this issue and future use by the board. Mr. Kennedy noted that, in his opinion, it is the Board Chairman's responsibility to control a meeting and that includes public comment. He sits on several boards and not one of them limits comments. Ms. Akers advised this is simply an attempt to conduct orderly meetings at which Mr. Kennedy noted once again that the Board Chairman should oversee the conducting of an orderly meeting, noting that he believes the policy to be inadequate. At this point Chairman Besson reiterated that this is simply a proposal and can be changed and adopted at the board's pleasure.

Rep. Kevin Pearson asked the board to defer the adoption and discussion of this policy to the next board meeting. A **MOTION** was made by Rep. Pearson to defer action on the public comment policy to another date. The **MOTION** was seconded by John Kennedy. No opposition. The motion passed.

- 4) A **MOTION** was made by Kevin Marcel to approve the July 16, 2014 Board meeting minutes. The **MOTION** was seconded by Thurman Miller. No opposition. The motion passed.
- 5) Chairman Frank Besson opened the discussion of Act 859 by asking for a public comment period. He asked everyone present to be respectful and direct comments to Act 859 only.

*****See Exhibit C for a transcript of Public Comment*****

- 6) Chairman Frank Besson thanked the public for their interest and comments. Chairman Besson opened the board discussion of Act 859 by thanking Irwin Felps, Kimberly Gann, and their staff for their professionalism and patience throughout this process. We have all been through a lot these past few weeks and there has been a lot of misinformation and a lot of criticism of the board and staff. He expressed his gratefulness at the professional attitude of the board and staff. Chairman Besson announced that Col. Mike Edmonson has issued a letter to the board and the board has asked Chris McClellan to read the letter (*****See Exhibit D for the letter from Col. Edmonson*****).

Upon questioning by John Kennedy regarding the contents of the letter and the origin of the amendment, Mr. Kennedy was informed that Mr. McClelland has no knowledge of the information but was simply asked to read the letter just prior to the beginning of the meeting. In fact Mr. McClelland is attending because he was asked to drive Mr. Bobby Smith, the board's retiree representative who is blind as a result of a service connected injury years ago, to the meeting.

John Kennedy asked if anyone was in attendance from the Colonel's office who could possibly answer questions regarding the amendment and letter. No one was present representing the Colonel. At this point Mr. Kennedy asked if we could hear testimony on the cost of the amendment.

Chairman Besson calls Charles Hall, System Actuary, to the podium.

Transcript of Mr. Charles Hall's testimony follows:

Charles Hall – My name is Charles Hall and I am the actuary for the La. State Police Retirement System. I have been the actuary for about 24 years. Do you have a specific item?

John Kennedy – Yes. How much would it cost?

Mr. Hall – The cost of the bill relative to the benefit improvements and I had to price it for the current valuation process that we are involved in right now. It was \$359,159. That covers the increase in the benefits the bill would have provided.

Mr. Kennedy – What does that mean? If the bill takes effect, it already has taken effect, when the two beneficiaries retire; they get an extra amount of money than they would otherwise? How much is that on an annual basis?

Mr. Hall – That is a pretty close description on how the benefit improvement works, but not actually correct. The benefit improvement that the two gentlemen would have received would have been an enhancement to their benefit, keeping in mind they have already participated in DROP. The way the amendment was drafted, they would receive a benefit based upon what they would have received had they not participated in DROP and that benefit would then be adjusted because they had already participated in DROP and that is a non-forfeitable election that they had made. Because they have existing DROP accounts, we could not just liquidate those. We are not talking about rescission of the DROP election, what we are talking about is a way to calculate a benefit enhancement. The benefit was designed to give them the benefit they would have received had they not participated in DROP, but since they did participate in DROP, that benefit enhancement would be reduced by an equivalent amount that you could annuitize that DROP account balance. So, if the DROP account balance was say, equivalent to a \$500 a month annuity for the rest of their life, then the benefit enhancement would be reduced by that amount of money. So in fact, what we have is a benefit enhancement that is similar to what we call an IBO, which is a benefit where the member can, at retirement, look at their maximum benefit they had earned and make an election to receive part of that maximum benefit as a lump sum and if they make that election then the amount of the lump sum that they elect, not more than 36 months' worth of benefits, is annuitized and then the maximum monthly benefit is reduced by that equivalent annuity. So this is in effect what is happening with this piece of legislation, except, instead of the annuity being reduced by up to 36 months' worth of benefits, it is being reduced by an annuitized value of the existing DROP account and so that increases the benefit. The benefit is increased by a monthly amount that has been reduced by the annuitized value of the DROP account. That increase annuitized over the participants lifetime, the present value of that in this case, both participants turned out to have a value of \$359k.

Mr. Kennedy – So the \$359k is the present value?

Mr. Hall – Correct

Mr. Kennedy – What discount rate did you use?

Mr. Hall – The board approved discount rate used for valuation purposes which is 7%.

Mr. Kennedy – If you didn't discount it at present value, based on what the table says about longevity, what would be the gross amount?

Mr. Hall – I can calculate that for you, but I don't know off the top of my head.

Mr. Kennedy – Can you get me in the ballpark? Is it like 10X that?

Mr. Hall – If you don't mind, I would like to go calculate that.

Mr. Kennedy – Yes, if you could just get me that.

Mr. Hall – Sure

Mr. Kennedy – I would like to look at the discounted value as well as the gross value.

Mr. Hall – Keep in mind, it is not only discounted for interest, and it is also discounted for mortality and morbidity.

Mr. Kennedy – Right. Were you consulted on this bill?

Mr. Hall – I was consulted about a possible amendment that may take place.

Mr. Kennedy – When were you contacted?

Mr. Hall – I believe the last day of the session was on a Monday and I was contacted on that preceding Friday.

Mr. Kennedy – Who contacted you?

Mr. Hall – Actually, the Director of the retirement system indicated to me a request had been made that I call a trooper to discuss a possible amendment to a legislation that was being contemplated at the time. So, I made the call and spoke to the trooper involved and after some discussion, it was clear they wanted to introduce some type of amendment that would provide an enhanced benefit. As you know, when you talk to actuaries, sometimes the communication level is not what you would like for it to be and my initial thought was they were trying to resend the DROP which I was totally opposed to. In fact, that is not what they were trying to do. They never had any intention to resend the DROP. It was a flaw in communication and once it was resolved that they were talking about an enhancement, the discussion revolved around prior benefit enhancements that had been made at the troopers retirement system and other state retirement systems. Basically, the issue came about, how the enhancement could be calculated in light of the fact a DROP account did exist and so the discussion evolved into treating it like an IBO equivalent benefit.

Mr. Kennedy – What trooper were you asked to talk to?

Mr. Hall – Charlie Dupuy

Mr. Kennedy – Was he handling the drafting? Who did the drafting?

Mr. Hall- He had a Senate staffer there with him that was going to actually do the drafting.

Mr. Kennedy – Who was that?

Mr. Hall – Ms. Laura Gail Sullivan

Mr. Kennedy – Were you consulted after that, at all?

Mr. Hall – During that conversation that I had with him, once the concept of the benefit enhancement had been determined, I was asked if it would be all right if they sent me a copy of the draft to the proposed amendment to see if they had captured the benefit enhancement properly, as well as the funding of it. So, I did receive an email that indicated the initial draft. I had several concerns with the original draft and I re-wrote part of it for them to ensure the funding of it would be handled properly so as not to hurt the retirement fund and I sent the email back. I then, over the weekend, got another email inquiring as to what the cost of the bill would be. At that time, it was only going to affect one trooper and the estimate was #300k. It was a ballpark estimate and I believe that was the only communication I had on it.

Mr. Kennedy – Who did you receive the emails from?

Mr. Hall – Ms. Sullivan

Mr. Kennedy – So you were told it was only going to impact one beneficiary?

Mr. Hall – Yes

Mr. Kennedy – When did you find out it would impact another trooper?

Mr. Hall – Not until after the session ended.

Mr. Kennedy – Did you do the actuary?

Mr. Hall – I did not do an actuarial note other than to send an estimate as to what would be the cost of the one trooper.

Mr. Kennedy – Ok. You were first contacted on a Friday?

Mr. Hall – I believe that is correct.

Mr. Kennedy – The session ended Monday? Would you get me that “gross” figure? I understand the present value, but if you could get me the gross, that would be very helpful.

Mr. Hall – Ok

Chairman Besson – Mr. Hall, you talk about the IBO, it is similar to, you said?

Mr. Hall – Yes

Chairman Besson – You said this benefit was given before to other troopers?

Mr. Hall – No. We have used benefit enhancements in the past for not only State troopers but other State retirement funds.

Chairman Besson – Ok

Mr. Kennedy – Is a benefit enhancement that same thing as “more money”?

Mr. Hall – Well, certainly! What you are doing is adding another level to the benefit they have already accrued. You are increasing the benefit.

Mr. Kennedy – Increasing your retirement pay?

Mr. Hall – Correct

Mr. Kennedy – It is not like an extra health insurance or something like that?

Mr. Hall – No. It is not a bonus. It is increasing the benefit. It is sort of like, when a group will lobby to have their accrual rate changed from 2½% to 3%. That is a benefit enhancement because it is done retroactively for all the service you have earned.

Chairman Frank Besson – It is similar to what we did in 2003?

Mr. Hall – Correct

Mr. Felps – Mr. Chairman, one other comment: Refers to the description Mr. Hall used, IBO, Initial Benefit Option. In the 13 ½ years that I have been Director, we have had one trooper, that I am aware of, that used the IBO option and he had a specific reason for wanting to do that. He knew exactly how much he needed per month to live on and he needed a lump sum to pay down some bills. It is a very cost ineffective way for the trooper to receive a lump sum distribution and that is why it is so infrequently used and only been used once in my tenure.

Mr. Hall – Can I give a point of clarification?

Chairman Besson – Sure

Mr. Hall – The reason I used the analogy of IBO was because that is what was used in the discussion in the drafting of the amendment. The reason it was used was that when they were discussing the benefit enhancement, due to the fact the member had already participated in DROP. I felt like you could not give a benefit enhancement that would take them up to 100% of their current final average compensation benefit because in this case the individual did have thirty years of service and 33 1/3 would have been 100% of their final average compensation. It would not have been fair to do that in a benefit designed because the DROP balance existed. So, if you are going to give a benefit that brought the benefit up to a 100% of final average compensation, the fact that the DROP account balance did exist, meant it had to be some type of offset. So, if that annuity equivalent of DROP account balance were used to reduce the maximum benefit enhancement, then that would have made it equivalent of very similar to the IBO. It is not an IBO but would have made it similar to the IBO.

Stephen Lafargue – Mr. Chairman, you referenced this was done in 2003? For the people on the board, could you clarify what took place? How many people were affected?

Mr. Hall – When?

Mr. Lafargue – 2003

Mr. Hall – a good number

Mr. Lafargue – Was it the same type of benefit?

Mr. Hall – It was a benefit improvement. We couldn't change the benefit, because the fact these people had participated in DROP. I think there was an accrual increase.

Mr. Felps – That was 2001 and the accrual was increased and those people who had gone into DROP before that time were penalized. The legislature came back and approved, through the proper legislative process, the re-calculation of benefits for those individuals. I believe the number was in the ballpark of 50 or 60 at that time and there were another 15 or 20 who did not receive any benefit enhancement in the 2001 legislation. In 2004, we came back with a 20% bonus provision that was sponsored by Senator Lambert Boissiere, and it went through the House, the Senate and approved by the legislature and then signed by the Governor, giving those troopers who had gone into DROP before 2001 and had received no increase in benefit in the 2001 legislation, a 20% bonus on their retirement benefit. Those are the two examples of situations that have occurred.

Chairman Besson – Was it a minimum of 20% and could have been more?

Mr. Felps – No. They received at least 20%, everybody.

Mr. Kennedy – Where did the idea come from to take the money, for the two beneficiaries, out of the Experience account?

Mr. Hall – From me

Mr. Kennedy – Where was the money originally coming from?

Mr. Hall – There was no original offer, where the money was to come from. It was asked of me, where it was to be funded? I was concerned of the funding of it.

Mr. Kennedy – Who asked that?

Mr. Hall – It was in conversation with Mr. Dupuy. I understand that there is a lot of misinformation, misunderstanding, but the reality of the situation is that the Experience account or accounts, for the four state systems, were basically created to provide a mechanism for the board of trustees, for board sponsored benefit improvement to be funded through the Experience accounts. It was not just limited to retirees. It was designed for any type of benefit, initially, and the reason I know this is because I designed the Experience account. It was done under the premise that we receive employer contributions and employee contributions. Before the Experience accounts were created the employer received all the benefit of the investment improvements or excess interest earnings above what was needed to cover the valuation rate. Those contributions earned interest and earned the excess interest as well. Part of the philosophy was they would share the excess interest. This all came about because of the constitutional amendment which required that we fund the system actuarially. There was no way the board of trustees of these 4 systems would be able to fund the benefit improvements. So, this was a mechanism that was designed to do that. Over the years, it is no secret that the majority of benefits that have been funded from the Experience accounts have been COLA's and over time, the retirees just assumed that it was exclusively for them. The reality of the situation is that we have funded benefit improvements for survivor benefits out of LASERS, Teachers and other systems through the Experience account. We have even swept balances of the Experience account to reduce the unfunded accrued liability. We even used the Experience accounts for a number of different issues. I suggested that we use the funds in the Experience account because this proposed amendment fit the criteria. When I say fit the criteria, what I meant was, my main concern wasn't whether or not this amendment was defined good or bad. My main concern was, would I be able to protect the retirement system. If I could take the money out of the Experience account, I knew two things: (1) what we now know as ACT 859 already passed through the session, it just needed the Governor's signature and we have every indication that it was going to be signed. What that told me was that the Experience accounts were going to be capped at certain amounts, depended upon our funded position, so on a go forward basis, I could only put a certain amount of money into the Experience account and then it was capped. Then anything over that capped amount would revert back to reduce the employer contribution rate. So, I knew that was in play. If I took the \$359k out of the Experience account, the other thing I knew (2) that I was going to meet the cap because State troopers already had sufficient funds in the Experience account to grant the current COLA, which was due on June 30, 2014, and probably have enough, it was going to be close, as to whether or not they could grant the second COLA. If I took the money out of the Experience account to pay for this benefit, it did a number of things: (1) it assured the benefit was going to be funded immediately on June 30, 2014 (2) based upon the projections that we had, we were going to exceed the 7% rate of return for this fiscal year as well, which meant more money was going to be put into the Experience account. If I took the money out of the Experience account, which we had done in the past, I was going to put it right back in immediately, and that is done in the valuation process. In my mind, the retirees were not going to be hurt because they were not going to lose a dime with regards to what was going to be available for COLA's and it permitted a mechanism so that the flow back would go back to the employer, which is the Dept. of Public Safety, who pays for it through their budget. If you are going to fund this benefit directly, it would be funded through that mechanism.

Mr. Kennedy – Besides Ms. Sullivan and the Deputy Superintendent, did you deal with anybody else on this bill?

Mr. Thurman Miller – Mr. Kennedy, we have got specifics in front of us. We know what we are here for. This is a board meeting on this bill we are talking about. This gentleman is not on trial. He should not have to call these names out. We know who did what and what have you. Can we move on with the business? Again, this gentleman is not on trial, this is not court.

Mr. Kennedy – I don't think he is on trial either. I never suggested he was. Can you tell me who else you dealt with Mr. Hall?

Mr. Hall – I did not meet with anybody, but, I had telephone conversations. Mr. Felps asked me to call the trooper and I did. I felt incumbent upon to call Mr. Felps and tell him what transpired, and naturally he was upset.

Mr. Kennedy – Did you talk with any other legislatures or members of the system?

Mr. Hall – No. As a matter of fact, I didn't even know if the amendment was actually going to be tacked on to a bill and if it was, I didn't know what bill.

Mr. Kennedy – We didn't either.

-End of Charles Hall's testimony-

Chairman Besson calls a 5 minute recess

The meeting was called to order with Chairman Frank Besson continuing the discussion of Act 859 - with a presentation by the system's legal counsel and special counsel, Robert Klausner and Denise Akers (*****See Exhibit E, Klausner/Akers Opinion*****)

Robert Klausner – Since there doesn't seem to be much confusion about the criticisms of the ACT, I would like to focus on the two things that have been the subject of discussion today, although I will be happy to answer any questions you all have, the discussion is "Remedy"; Should the system be filing suit?

Mr. John Kennedy – Can we ask you questions about the legal part?

Mr. Klausner – Sure; you can ask me anything you want.

Mr. Kennedy – First, thank you for your good work and thank you to Denise. Excellent opinions. I am very impressed. On the legal part, do you have an opinion about whether the legislation impairs the obligation of contracts, which is a violation of the State Constitution.

Mr. Klausner – I think that could be raised in the context of the use of the Experience account because if the Experience account was designed to be used for the enhancement of benefits and reduction of unfunded accrued actuarial liability, what concerned Ms. Akers and myself and why it was mentioned in the opinion is because, the use of that fund in lieu of employer contribution, we believe impaired the rights of the membership to the exclusive use of benefit of that aspect of the fund. To that extent, Article 10, section 29 of the constitution says, "Louisiana is one of only 8 states that had entwined its constitution a specific contractual protection for pensions. As you know, Article 1 of the La. Constitution also has a general impairment of contract provision, as do 47 of the state constitutions, but Louisiana

voters went a step further when they added Article 10, section 29E". The short answer to the question is "Yes". That argument would certainly be presented if that benefit were to be implemented.

Mr. Kennedy – If I go into DROP, I sign a contract with my system, is that a contract?

Mr. Klausner – Sure; as our courts have said with regard to the DROP agreements; there was a case with the Sheriff Relief Fund that where the 1st Circuit Court of Appeals said that the signature on DROP agreements are not ornaments.

Mr. Kennedy – What about equal protection of the laws; did you look at that?

Mr. Klausner – I did and I didn't find that there would be an equal protection issue. Mrs. Akers and I discussed this at length. Generally any contract involving economic rights stands much lower in the scale of where the courts will look at equal protection and excused governments making of differentiation. The best juris prudence on that issue actually came from the 5th Circuit Court of Appeals when the Mississippi Highway Patrol some years ago created a second tier; two troopers riding in the same car; the guy on in the right seat asked how come the guy driving the car is getting a better benefit than me just because he is older; the 5th Circuit said "as long as there is a rational basis for the difference, you can do that". Is there a rational basis for this particular difference? There are cases where benefits exclusively for a small group; even a single individual, in courts have excused it when government articulated the view that it was necessary to either retain the persons service or whatever reason. I felt it was, in light of the very strong other issues too attenuated from the central point to put it in the opinion.

Mr. Kennedy - So when you talk about rational basis, basically the courts will go and ask the question, does the reason that the legislature passed the law have a rational basis.

Mr. Klausner – Correct. If you try to limit free speech or religion, which are fundamental, then the government has to show some extraordinary compelling state interest and the burden rest on government to justify this intrusion into the personal liberties. With economic regulations such as this the government is given broader discretion with regard to the creation of categories. This is the same reason why you ask do you have to be 18 to vote or 21 to drink or 18 to get drafted. The answer is "because".

Mr. Kennedy - Will it matter, in the argument, if the six members of the conference committee, the governor did affidavits that said "we were misled"? We didn't know it only impacted a couple of people. Would that matter in terms of rational basis.

Mr. Klausner - Generally, no; Louisiana generally does not permit evidence from a legislator about their intent to passing a law. And I think there is a sound legal evidentiary reason for that; plus generally one branch of government fiduciary should not be questioning the wisdom of the other. If you have a strong-point do not go to a weaker one, so try to disregard that which I think has less potent argument. I think the things that Mrs. Akers and I focused in the opinion are in our view and of course laws are presumed constitutional until the judicial branch says otherwise, but we believe there makes a compelling argument for the invalidity of the law.

Mr. Kennedy - Does the fact that the actuarial note showed up three days after the bill passed violate any rules, laws or due process in your opinion?

Mr. Klausner - The actuarial note is supposed to accompany the Bill. Nothing came to my attention that it was untoward, but it is difficult to know what the impact is. If they had Mr. Hall's note; that would have been sufficient to guide them, but if there had been a dispute between what Mr. Richmond's note would

have been and Mr. Hall's note, it would have been problematic. From what I understand the notes ultimately agreed.

Mr. Kennedy - Thank you.

Mr. Klausner - I want to get to the heart of what I think you all want to talk about and that is what do we do about this? This is going to be the first time probably in a very long legal career where I tell people please don't send me any money. The reason why we think the board should not file a lawsuit is it's a lot cheaper if somebody sues you; that would not cost you anything. Louisiana has a very broad access to the courts for taxpayers, noting that I am a taxpayer in Louisiana also, so being concerned with public finances as well, the question is how much of an impact do you need. The answer is about nothing or very little and a taxpayer can challenge it. However, a government officer generally cannot challenge the statute which directs them to do something. We would have addressed it in the opinion had I known this was such a concern, but Mrs. Akers and I spent the last couple of days looking at a long line of cases dating back to 1895 and it's called the Hard Rule because that was the case involving the New Orleans Canal and Banking Company and that goes all the way up to interestingly enough the Cash Balance lawsuit of 2013. I think the board does not have the standing to bring a lawsuit. The easiest thing for you, and I do not generally counsel civil disobedience to clients either, but I figured somebody would sue you eventually, to either make you pay or keep you from paying. Or the legislature will repeal the law, and I think pre-filing starts in January for retirement bills. I will tell you the Cash Balance case moved very quickly.

Vice Chairman Kevin Marcel – To reiterate, are you saying that we do not have a ground to stand on to sue?

Mr. Klausner - **You don't satisfy the legal doctrine of standing.** In order to be a plaintiff in a lawsuit you have to have a legal interest to act. One could say doesn't an agency have the authority to seek a declaration as to whether or not it should pay. If you did that, I still don't think you can challenge the constitutionality of the statute which really is the heart of what ought to happen. The better thing to do would be for a taxpayer to sue the system and say we want an injunction prohibiting you from enforcing Act. 859. You would then be called upon to defend the case or not. I say don't defend it; confess judgment. If the Attorney General wants to come in and defend the statute, that's his prerogative and under our constitutional structure for the executive branch I would be surprised if that were going to happen although I can't speak for the Attorney General Caldwell. In that instance you would incur no cost. Your answer would be admitted. You send that in and probably pay two bucks to file a paper over in the courthouse and you are finished. That's the way to get this done. And any person who is a taxpayer could file that lawsuit. I have been advised that there may be a lawsuit coming today or tomorrow. Mrs. Akers said that she received some advice from a lawyer contending that he represents unidentified plaintiffs who are going to file such a case. If you do get sued don't defend it; that solves your problem, but I think that you would risk wasting money by trying to file the suit yourself because the judge on his or her own determination could say I don't think you satisfy the standing requirement because it could create a precedent of unfortunate affect because agencies could challenge what the legislature say they ought to be doing. You may well see a judge who acted independently in that fashion because as you know jurisdictional questions which are standing are always the first thing resolved in any litigation, and that's why I don't recommend that you sue.

Vice Chairman Marcel – Have you pursued litigation on behalf of a board in the past and if so how much did it cost?

Mr. Klausner I have defended litigation on behalf of boards and it is expensive. I can tell you in litigation that mouse runs really fast in the treadmill and the lawyers are generally the primary beneficiaries of litigation. I can tell you from the Cash Balance litigation I have no idea what the Governor spent but our

end of it was about \$75,000. That was to take it to trial with three appearances in court, one motion hearing on exceptions which took an hour or two and there was briefing of course. There was the trial in front of Judge Morvant downtown and that took one day and the oral argument at the Supreme Court which took one hour. So that case generated well into six figures. Ideally since you have no interest to defending this statute, somebody sues you. That's the best thing and by not acting today **I don't think you breach any of your fiduciary duties.** I am well familiar with the provisions of Title 11:261 and the Sections which follow it and what is the fiduciary duty. I teach this to the retirement systems in almost 30 states and the Territory of the American Samoa and the answer is always the same; know what your job is, but also know what your job isn't. In this particular case, I don't think it is your job under the structure of the law in Louisiana to be the plaintiff in this lawsuit, but I would also tell you that you have no duty to defend such a case if brought against you because you happen to agree that the statute is invalid and you would be acting appropriately in not defending it.

Mr. Kennedy – I understand the cash balance, without taking sides on the lawsuit, you did a great job and you won. The Governor fought like a tiger, but I don't think in the litigation regardless of who brings the lawsuit that it will be as disputed because we may never find out who was behind this bill but whoever it was I don't think they are going to come into a court of law and stand up and say we got caught but we are still for it. I think it will be cheaper; if you do a Declaratory Judgment it will be cheaper. But in terms of the standing what if board designated a single board member as a taxpayer to be the plaintiff; would he have standing?

Mr. Klausner - **If he or she were a taxpayer in Louisiana the answer is yes. They would have standing, but you cannot use system assets to pay for it.**

Mr. Kennedy - What if I bring a lawsuit as a taxpayer against the system and/or board saying I want an injunction and I think this law is a bad law, bad policy and unconstitutional because it was passed inappropriately. Can the board consent to that judgment or pleadings?

Mr. Klausner - In my opinion the board can consent to that judgment but you can't vote. If you are the plaintiff you are precluded under Title 42 from voting, but yes the board can consent to a judgment.

Mr. Kennedy - Well that's our solution. You are a damn smart lawyer

Mr. Klausner - That's what my mother used to say.

Mr. Kennedy - I will file the lawsuit and no offense I will have to name the system as the defendant and ask for an injunction and then the board can do whatever it thinks is appropriate.

Mr. Klausner - As long as you don't bring it in your capacity as treasurer, or trustee, but instead as a citizen and taxpayer.

Mr. Kennedy - I won't. Believe me I pay taxes like everybody else. I will bring it in my individual capacity and that seems to me that it solves the problem.

Mr. Klausner - And what I would recommend happen is if such a lawsuit were filed that you convene a meeting within the appropriate period because you have fifteen days after you get served to do something and take a vote as to whether you are going to defend the case or consent to a judgment. In such a case, because you are challenging the constitutionality of the statute, notice would also have to be given to the Attorney General who may or may not choose to defend. That would be the most elegant solution to your problem.

Mr. Kennedy - Okay. I volunteer to do that if it will save us money. I will foot the bill as the plaintiff personally and you all can make the decision that you want to make at that point. I will have you served; not personally. I move that we do that.

Rep. Kevin Pearson – I appreciate that Treasurer Kennedy would do that and I would like to get to that but I do have a few questions. Mr. Klausner, you cannot rule on the constitutionality of a bill. It has to be a judge ruling on that.

Mr. Klausner - I can pronounce all I want but it doesn't matter.

Rep. Pearson – You are telling a board to ignore laws that are passed by the legislature and somehow you don't think that goes against the fiduciary duty of the board to uphold the laws because the board does and is, I believe, sworn in to swear to uphold the constitution and the laws of the state. I am really confused here.

Mr. Klausner - What I told them is "don't sue now". I did say later that if nobody does anything then maybe you take a shot at it, but I think you have other fiduciary duties, which is don't spend the system's money . If there is a legal reason why you can't, which gets into the standing question; you are in a difficult situation and that's why I offered this suggestion that somebody in the room file a lawsuit who is the taxpayer and then you just get out of the way. I don't counsel civil disobedience. I said don't do anything yet because I think this thing is going to get repealed. I started to mention that the Cash Balance case started in August and ended the following June when the Supreme Court issued its opinion. That's ten months. The legislature is going to have been here and done something long before any litigation would be over absent a consent judgment and absent an appeal. If the board is the defendant and it consents to the judgment, there isn't going to be an appeal. That is the quickest way to go. I said if nobody does it then maybe you will have to revisit this question, but I said it would be better to wait and see if someone sues you. The issue isn't even ripe yet. Neither one of these people has applied for a benefit. They are both working and my view is seeing if you can force somebody to sue you.

Rep. Pearson – You are not saying never; the board at some point and time would need to because it is difficult to retroactively go take away something that has been granted because you have argued before our committee that once a benefit is granted it cannot be diminished or impaired.

Mr. Klausner - If a law is invalid it never conferred a benefit.

Rep. Pearson –If a law is invalid it had to be declared invalid.

Mr. Klausner - Somebody is going to have to do that and if someone had made a demand for the payment and you didn't pay it, the person who didn't get the money that wanted the money sues the person who has the money in which case then you would be in the position to defend. I don't think you have standing to be a plaintiff. If somebody sues you then you have no choice but to litigate the action.

Rep. Pearson - But if we are here to represent the interest of the beneficiaries of the system and now that you have told us as our legal representative, and Mrs. Akers that you believe absolutely and provided evidence of why the law is unconstitutional, then we are I think a little in the crack because as fiduciaries we are supposed to uphold the law as it is written and acting as fiduciaries we also have this other issue where we have been informed by counsel that the law is unconstitutional. Then we still don't go towards at least seeking a Declaratory Judgment, which I would hope wouldn't be a much and probably wouldn't be fought. I don't see why we wouldn't have standing while we are representing the beneficiaries the system.

Mr. Klausner - Because your Supreme Court said that suing in an official capacity as government officer cannot challenge the statute under which they operate. I didn't write that but that has been your Juris Prudence for 120 years. Quite frankly it's the Juris Prudence in other states as well because the chaos that if one branch of government sued the other branch of government would be significant. What I told you is don't act now; wait until the thing comes to a head and then make a decision of what you really have to do. The only reason this is at a head now is because it is a matter of some public interest, but no one has applied for the benefit that I am aware of. It's also not ripe for determination and judges don't like to issue declarations under the Section 963 of the Code of Civil Procedure that are academic in nature. This one would end up being academic if there is no application. I think we would end up spending money and not getting there, which is why I made the suggestion today; that there is a way to bring to a head where you don't have to spend system money nor do you have to be the one that challenges the statute. You are under no obligation to defend the statute. The Attorney General is the one who defends constitutionality. Not the agencies; the agencies may have an interest in doing so to protect its authority.

Rep. Pearson – if someone did apply for the benefit tomorrow, then you are saying that we should just simply ignore it and let them file suit.

Mr. Klausner - I would tell them no because of the reasons that we outlined in the opinion and make them sue you. I don't think that is inappropriate. You might get sued on the other end by beneficiaries that said you knew the thing was unconstitutional yet you handed out the cheese anyway and you would be between Scylla *and* Charybdis as the Greek legends go and the better answer for you is to say in that case you bring the matter to a head by doing that. If it got to the later point one of you could bring a Declaratory Relief Action as a citizen and that's why I told you if you want to do it now, do it now, but don't do it as a trustee and don't use the system money. What does it cost to file a lawsuit here? A couple of hundred bucks?

Mrs. Akers - \$475.00

Mr. Klausner - Wow, it got expensive. Basically for \$500.00 a citizen could bring the matter to an end and relieve you of the future obligation to act if the issue came to a head.

Rep. Pearson – Still concerns me a little because it seems we are saying “legislature, any law you pass, simply because perhaps on advice of counsel, good or bad, just don't follow it, and let someone come a sue you to make you follow the law”. I think the precedent is concerning to myself and perhaps Senator Guillory that it is basically saying don't follow the law.

Mr. Kennedy – What do you think we should do? I really want to know.

Rep. Pearson – On advice to say that we just ignore law; I am just a little offended as a legislator because it's like we don't need to go to Baton Rouge anymore and I am sure a lot of people would probably be glad we didn't, but there is a purpose for the balance and powers and for the legislators. If we are sitting here saying to someone else just ignore law we are saying it to every agency in government and that concerns me.

Mr. Klausner - I disagree with you for this reason; suppose a legislature passed a law tomorrow that said “write a check for \$600M and give it to the governor and use it for something else”. You wouldn't do it. You would absolutely not do it. Because you would know that the law was invalid and despite the fact that the law said what it said; it may even have passed in accordance with the right procedure, but since it was taking money, which belonged to the member and beneficiaries of the system then the right answer would be to make the governor sue you to get the money. That's because you now have to balance what are in essence conflicting responsibilities under Title 11 with what it says to do under this

bill that was tacked on to a police bill of rights bill and that's why trustees are entitled to exercise their discretion. I don't think you get to pick the laws you want to follow or don't want to follow. I am suggesting that the better course of action for you was to precipitate a set of circumstances which enables you to have your voice heard on the invalidity. That is why I made the suggestion to you today about the easiest, cheapest and fastest way to do it and the one that involves the least amount of lawyer time.

Mr. Kennedy – I am going to come back to the remedy but we have a letter from one of the beneficiaries saying that he is not going to accept the benefits, Do we have anything in writing from the other beneficiary?

Mr. Irwin Felps – Mr. Treasurer we do not. I have spoken with Mr. Boquet two or three times and he has confirmed each time that he will not be taking that benefit, but I have nothing in writing. We were waiting for the meeting today to determine the outcome.

Chairman Frank Besson – I am pretty sure he would be willing to put something in writing if we wanted him to or asked him to I should say.

Mr. Kennedy – If a beneficiary says in writing, "I don't want to take the benefits", can he change his mind?

Mr. Klausner - Depends on the nature of the waiver; you are allowed to waive your constitutional rights and if they had engaged in a knowing and intelligent waiver then the answer is "no", that you cannot change your mind. For example, criminal defendants waive their right under the 5th Amendment of the Constitution or the 4th Amendment on searches and seizures all the time and if it was a knowing and intelligent decision, they don't get to go back later and say "I changed my mind". On the civil side, parties to divorce proceedings agree to split because of the Community Property Law that it belongs to both of them anyway, but one member says to other one, "I will relinquish my claim to your pension if you give me the house". Ten years later if the house had termites you don't get to go back and change your mind. As long as the procedure at which the waiver took place was consistent with the civil code and with the constitution then I would be satisfied that it is one that you can't change your mind about.

Mr. Kennedy – So if a beneficiary did change his mind, he would allege that he didn't waive it knowingly and voluntarily.

Mr. Klausner - Yes and then you would be able to either defend that one or not as you chose to do so and we do have people just as I mentioned that Sheriffs' case some years ago. The guy entered DROP and then decided that he didn't like his benefit election that he chose and he tried to change it in the courthouse and the court said he made a knowing and intelligent to take "a" and not "b" and it's too late.

Mr. Kennedy – Are these benefits in Act. 859 community property?

Mr. Klausner - Assuming that a benefit would be validly granted, yes that would be considered community property, but if the law was to be determined invalid in the beginning then no property right was created and it would not involve a former spouse or a current spouse who may have had some community in it depending on the circumstance of their situation.

Mr. Kennedy – Right now we have a law and all laws are presumed constitutional.

Mr. Klausner - Today it's community property. If the court says otherwise it will have never been community property.

Mr. Kennedy – If it's community property and one of the beneficiaries has waived his right and suppose, God forbid that he is caught in a divorce proceeding, could his spouse claim part of the benefit?

Mr. Klausner - Possibly; If you assume for that purpose of that question that the benefit was not void, then yes, the spouse could claim that they gave away something that belonged to me.

Mr. Kennedy – Suppose one of the beneficiaries, God forbid, passes, could his heirs claim the benefit?

Mr. Klausner - Only to the extent that it was an inheritable interest. If under the statute the interest could only go to the spouse or only go to a child then the answer is no as to heirs generally but if it was a generally inherited interest under the structure of the plan then an heir could claim. That is generally not something that goes through a succession unless it is a return of contributions. Generally it is a distribution directly to a beneficiary outside of an estate.

Mr. Kennedy – Let me get back to the Representative's excellent questions and I know the Senator has concerns about this as well. I am glad they are here; they are both Chairman of Retirement Committees'. When the legislature passes a budget it comes to me and there are different lines saying "Kennedy, write this check for this amount". Everybody has an opinion on the way public money should be spent and sometimes I disagree with what the legislature has done, but I don't have a choice but to write that check. I have been directed by the legislature. I think what Kevin is saying here, and if I get something wrong then tell me but we have a law here. It's a bad law in my judgment, but it's the law. It passed the legislature. For whatever reason the Governor signed it and it is the law. We are sitting here saying we are just not going to follow it. Do we have that discretion?

Mr. Klausner - Because it conflicts with your other responsibilities under Title 11, I think you can. Or what you could do is precipitate the litigation, which would allow it to be cleared. The unfortunate thing that the standing issue presents is that the board can't question the issue. I think that the board can file Declaratory Relief Action that says, "We are in doubt as to whether we have an obligation to pay", but you can't challenge the constitutionality of the statute. I know that sounds like lawyer hair splitting, but it won't ultimately solve your problem because you can't advocate as a system for the finding that is unconstitutional. A Declaratory Relief Statute, and Louisiana is one of 47 state that adopted the uniform Declaratory Judgments Law is to address doubts either under a either contract or a statue. You certainly have doubts as to whether you should pay or shouldn't pay because you have the conundrum that Rep. Pearson raised. Somebody somewhere is going to have to advocate the reason that you have the doubt is because you believe it's unconstitutional and the court may say that is a very good argument Board of Trustees, but I don't believe that you have a leg to stand on to make it, and that is why I didn't find that to be the most useful remedy.

Mr. Kennedy – If we did file a lawsuit, the Attorney General would answer it?

Mr. Klausner - The Attorney General would have the right to step in and defend the constitutionality of the statute to the extent that it was an injunction to prohibit the board from doing something. That's the judgment you could confess to.

Mr. Kennedy – The alternative would be for a taxpayer and I am a taxpayer, to file a lawsuit against the board and say, "I need an injunction"; I think this law is bad law, bad policy and unconstitutional and then the board would be within its rights to say we agree.

Mr. Klausner - Yes, absolutely.

Mr. Kennedy – If the board didn't appeal and I didn't appeal

Mr. Klausner - That would be the end of that case

Mr. Kennedy – Unless the Attorney General appealed

Mr. Klausner - The Attorney General has the discretion to defend or not defend a case.

Mr. Kennedy – So if he thinks it's a good law, he can enter in, but we don't know that one way or the other

Mr. Klausner - We have no idea whether he will enroll in the case or not and I have not spoken with him to ask.

Mr. Kennedy – I want to do, well we all want to do what's right here, and I mean a lot has been said; a lot of which is beyond our control. I think the State Police as an institution is one of the institutions of state government that people are most proud of. I really believe that. I do substitute teaching every now and then and usually they only let me teach the middle grades, and I always talk to the kids about what they want to do when they get out of school. Not a single time that I have substitute taught that at least one kid didn't say I want to be a state trooper. It always makes you feel good and I do think this Act has hurt the reputation of the state. I think it has unfairly hurt the state police as an institution, so I think we ought to do something about it and I think we all agree on that. I want to do what is effective. I am prepared to file this lawsuit and I will pay the court cost myself. I share Kevin's concern; I see his point. I am open to suggestions. Bob I just want to see us do something because I have been around legislative sessions for a long time, and for me, too long. But it's hard to pass a bill; it's easy to kill a bill and I am going to say again, this bill didn't just pass for no reason. Somebody pushed hard for this and I don't think it's going to be as easy to repeal this as some might think. I don't know that the Governor would sign it; I know what he said recently, but I haven't talked to him. Maybe you have, but I haven't talked with him, so I think the safest thing to do is figure out a way to get a lawsuit filed; to get this thing declared unconstitutional, null and void from the date the legislature passed it. The other thing I want to say and I promised Dan I would do this; Laura Gail Sullivan' name came up when we talking about this and I want to make it very clear that Laura Gail is a staff attorney and a good one for the Senate. She does what she is told; she had nothing to do with this legislation. A Senator, I don't know who, but a Senator told her to do what she did and that is why she did it, so I don't want to disparage Laura Gail.

Mr. Klausner – Can I add something to that because I work with all of the legislative staff lawyers on retirement? With Laura Gail, Margaret Corly and with Stephanie Little; you have very talented lawyers who work for you and are very dedicated to the best interest of this state and of the legislator that they work for and it's a privilege to work with them. I like all them very much as people and I admire them as colleagues, so I wouldn't let anybody in my presence question their honor.

Mr. Kennedy – I agree. I guess what I am saying is, we have got to do something folks in my opinion to repair the damage that has been done and I think damage has been done. I think it needs to be a lawsuit. I think we are taking a great risk by saying "well, let's wait and see what the legislature does next spring". I think there is going to be some people there trying to make sure the legislature is not doing anything.

Sen. Elbert Guillory – If that is a motion to move I second the motion.

Mr. Kennedy – Okay. I will make in a motion to litigate. We can talk about how to litigate in a second, but I move that we litigate.

Mrs. Akers – You have heard the recommendation that we would not have standing as a system; the system doesn't have authority for instance to tell you to litigate, so we need to think about it in perspective of what the system can do.

Mr. Kennedy – I know what you are saying and as usual you are being a good lawyer. I think what the Senator wants us to do, and if I get this wrong you tell me, we take a vote that we want to litigate; then we talk about how we will litigate.

Mr. Klausner – Can I make suggestion for a motion based on where I think you are going?

Mr. Kennedy – Sure.

Mr. Klausner - I think the best action you could take is to make a determination that if the system is sued by a taxpayer that the board resolves that it will not defend Act. 859 and would confess to a final judgment enjoining it from enforcing the Act. That is in my mind the best step you could take. I think that is what Senator Guillory meant and I think that is what the meant but I not trying to put words in your mouth.

Mr. Kennedy - I understand the Senator's sentiment. I am okay if he is okay and if he wants to litigate, I appreciate that. I will tell you right now if that is what we do, I will bring the lawsuit in my individual capacity as a taxpayer. It won't cost the system anything.

Mr. Klausner - Right and it won't cost them anything not to defend it either.

Mr. Kennedy - And if we choose to consent, it won't cost anything to file a pleading that says we consent. Now if the Attorney General intervenes and says "no, I think this is a good law", then we will just have a lively debate.

Mr. Klausner - Well, the system will be out of it. You can consent. If you have got two people who are defendants then the system still doesn't have to litigate the thing. You just sit on the sidelines. I know many times your office is sued or you're sued in your capacity as Treasurer and you're sued so that jurisdiction will be complete over your office as the holder of the public treasury, but you don't take a position because you don't need to have one.

Mr. Kennedy - I will tell you this, if that is the approach we use, and the system can step aside and somebody does intervene and says this is a good law, I am going to take some depositions. I am going to send out some subpoenas, and we will find out then what happened, but I am okay with that if you all are okay.

Chairman Besson – Can you clarify your recommendation again?

Mr. Klausner – My recommendation would be that if the system is sued by a taxpayer seeking an injunction to prevent the enforcement of Act. 849, that the Board authorizes it lawyers' to consent to judgment agreeing to such an injunction.

A **MOTION** was made by Vice-Chairman Kevin Marcel that in the event that the Louisiana State Police Retirement System is sued by a taxpayer challenging the constitutionality of Act 859, that the Board of Trustees' authorizes it lawyers to consent to a judgment that there be an injunction against the enforcement of that Act by the system. The motion was seconded by Thurman Miller. No opposition. The motion passed.

Mr. Kennedy – So the record will reflect that it passed unanimously?

Chairman Besson – Yes.

Mr. Kennedy – Thank you.

Mr. Klausner – Thank y'all for the opportunity to work with you; this was an interesting one.

Mr. Kennedy – Thank you Bob and Denise. That was very good work.

Sen. Elbert Guillory – Very briefly, I would like to explain a little bit about how the Senate operates as this matter originated on the side of the Senate. A Senator will contact a staff person and the communication is between that Senator and that staff person. Our rules of confidentiality will not permit the staff to discuss with any other Senator what is taking place. That is how the rules operate now and that is how they have operated. The staff in the Senate are among the best on earth that I have seen. In 43 years of lawyering, our staff lawyers are among the best that I have ever seen, and I just wanted to make that very clear. They were not part of any under-handedness; not part of kind of shenanigans. They followed the rules of their employment and did it to the letter of the law.

Vice-Chairman Kevin Marcel – I want to address the retirees who this very system is for and what I want to say is I want to apologize for the lack of communication on the Board's behalf from this whole issue, but there was a reason behind it and that is what I want to talk about. I learned something about 7 years ago when I made Lieutenant with the State Police going and following up on crashes and fatalities; that there was a new social media going on with blogs. Every time we had a fatality we had people getting on different media outlets and having conspiracy theories about how this guy got killed, but they had someone else in the car and they gave him drugs and it was one thing after another. Of course, the family read these blogs and they would call me up and say I need you to follow up on this. They would say it's written in black and white so it has to be true and we did. It wasn't long before we realized that was the state of our society today and no matter what happened or however cruel that is, that is the world we live in. You have read several things about our board not calling for an investigation; that is simply not true. From our July meeting we called for an investigation and to go further, so there was no hint of impropriety on this issue, we hired one of the nation's premier retirement system Attorney. I should get a little plug right there from Klausner, but the reason we did that is because we wanted the best to look at this issue and give us a ruling on it and I think we have gotten it. It simply wasn't true what you were seeing out there. The second issue that you saw that was made on these blogs was that we were not going to call for a meeting and that we were going to postpone it until Lord knows when or just hope that it went away. We took the first available date that we could, which was today. Our Attorney, after rendering a decision on it was out of the country for two weeks in August. Our Chairman, who is very vital obviously to this board, was out of the state for much of last month. This was the first available meeting date that we had. Did we respond? No, we didn't; we didn't respond to all these blogs and everything because we want to be a professional body, at which I think we are. We have the utmost integrity, the best system Director out there, and anybody who has dealt with Irwin knows his reputation. Then you heard that we were going to be influenced, especially the state troopers on this board by the Colonel's staff, by the Governor's office and Lord knows what else and I had spoken earlier whenever Bob Landry got up to speak, that I didn't receive any emails, phone calls, or no pressure of any kind. The only pressure I received; the only bullying tactics I received was from the people that would have you believe that they were doing it on your behalf. Those were the bullying techniques that I received. I could show the emails that I have gotten over the last two months and a lot of them simply weren't true. They had some truth to some of them, but a lot of them simply weren't true. Let's look at the facts. You are all retired troopers and the state police deals with facts. The facts are that since 2009 this system has taken its assets from \$250M to over \$600M today; within 5 years; more than doubled our investments. Like I said before, we have the best system Director. Irwin Felps and his staff are second to none. We have an outstanding Board. This Board gets along on most issues and if we do have problem we get together and speak about it openly and honestly and

transparently. We are the smallest state system out there. Out of the four state systems we are the smallest, but our investments are going neck and neck with every other state system with a very small staff and it was not fair to our staff, it was not fair to our board members the way we were being treated, but we took the high road. I just think y'all are owed an explanation on why we were not communicating, because if we were communicating every time something came up; everything that you read in a blog, then we would have been defending ourselves each and every day to statements that just weren't true and I just wanted to make that clear to y'all.

Chairman Besson – Thank you Kevin and very well put.

Mr. Kennedy – Well I appreciate the trustees' and the troopers' comments. I really do. This is a tough business sometimes a tough, tough business, but I will tell you I made no bones about this. I have tried not to personalize this, but the retirement systems are under the Department of Treasury and the retirement systems are independent entities, but they have to be housed somewhere in state government. The people, through the Constitution put them under the Department of Treasury and I, along with Kevin and Elbert sit on the Boards for most of the retirement systems. We don't control them and I think that is a good thing. The Boards are run by the members and I think that is a very good thing, but we have got a \$19B problem in terms of our unfunded accrued liability. Part of the reason we have that unfunded accrued liability; it's not because troopers, the state employees and the teachers didn't pay into the system; they don't have choice, because it's taken out of your check. It's because a) the state has not always contributed what it was supposed to contribute and, b) a long time ago, and Kevin and Elbert have helped clean it up, but a long time ago the legislature used to go pass a special bill, and giving special treatments to people without putting up the money. Now, that is what happened here and you can pretty it up all you want to, but that's what happened here and think this entire Board is owed an explanation about what happened. We are not going to get it, but I think the legislators involved and the Governor's executive's counsel and the state troopers involved do owe this Board an explanation. They owe the taxpayers an explanation and the troopers an explanation because we have all been put in a hell of a spot. So, I agree with your eloquent comments, but I believe this entire Board is owed an explanation. We didn't do anything wrong here. Nobody on the Board, who is here, did anything wrong, but somebody did. I am going to say it again, there has only been one Immaculate Conception that I am aware of and it wasn't this Bill; it came from somewhere.

Rep. Kevin Pearson – When is our next board meeting?

Mr. Felps – The next scheduled board meeting is September 17th.

Rep. Pearson – Okay. What I would just like to say to the members, certainly Treasurer Kennedy I would like to help with the lawsuit.

Mr. Kennedy – Let's file the lawsuit together; we can do that next week.

Rep. Pearson – If we could do it proportionately with our salaries, legislative vs. treasurer salary, we could work on that too {laughter}.

Mr. Kennedy – I will pick up the tab.

Rep. Pearson – I want to say though, just to those in the audience, and to those back home, if somehow this did not get filed by the time of the next board meeting, I will be right back, ready to address and urging the Board to file litigation, but this is the presumption that litigation will be filed and that is what I would like to see and if it is it kind of releases the Board from that, otherwise I will be right back here encouraging that of the Board. That's it for me.

Chairman Frank Besson – Any other comments? Any other questions? Can I get a motion to adjourn?

- 7) A **MOTION** was made by Vice-Chairman Kevin Marcel to adjourn. The motion was seconded by Senator Elbert Guillory. No opposition. The motion passed.



Frank Besson, Chairman
Louisiana State Police Retirement System
Board of Trustees