ADVOCATES FOR COLA RESTORATION AND PENSION REFORM

RESPONSE

TO

THE REPORT OF THE PENSION ADVISORY WORKING GROUP

"When you ask the same people the same questions, you get the same answers."

Sandra Paquette

John Breguet

Brian Kennedy

W. David Shallcross

Debi Catamero

Aldo Palazzo

RESPONSE OF

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TO

THE REPORT OF THE PENSION ADVISORY GROUP

On February 26th, 2024, the Pension Advisory Working Group ("PAWG") issued its Report. PAWG was charged by the Legislature with reviewing the Employee Retirement Fund of the State of Rhode Island ("ERSRI")., as well as to determine the unintended consequences of the 2011 RI Retirement Security Act. The legislation delegated the responsibility of appointing the panel members to Treasurer James Diossa ("Diossa").

THE CONTENT OF THE PAWG REPORT WAS FLAWED

What is glaringly absent from the panel is an individual representing retirees. The enabling legislation[1] specifically authorized the Treasurer to appoint to the panel, among other individuals, members of pension advocacy groups. One such group with over 3,800 members, Advocates for COLA Restoration and Pension Reform ("Advocates"), nominated one of its members for appointment to the PAWG. This individual, a retired State employee with over 25 years' experience in the State budgeting process, would have brought a retiree point of view to the panel. Not only was he not selected, but he did also not even get the courtesy of a reply to his offer to serve.

The general antipathy towards retirees was further demonstrated by another action. Various union officials representing their individual unions testified at the November 30th, 2023 meeting. Advocates and the Clifford Group[2] requested the same courtesy, that is, to have individuals testify as representatives of their group. Both groups were informed that they would have to testify solely as individuals at the December 14th, 2023 hearing. While both groups then resorted to having individuals testify sequentially, such a presentation is less cohesive and certainly less convincing.

Another significant issue with the December 14th hearing at CCRI was the delay in allowing retirees to testify. The meeting started at approximately 3:16 p.m. An estimated 300 retirees were present. The panel had a list of pre-designated speakers: union officials (Boudreau and Pouliot); the head of the Rhode Island Superintendent Association, a Brown University Official, Fire Fighters, a member of the panel, etc. Testimony from actual retirees began at approximately 5:04 p.m. and lasted until approximately 8:02 pm. The problem for many retirees that night was that sunset was at 4:16 p.m. As is well known, older people do not like to drive at night, particularly when the temperature is in the low 30's.[3] As a result of the delay in the opportunity of retirees to testify, many who wished to testify left and were gone by the time that they had the opportunity to testify.

As a result, many of the consequences of the 2011 law were not brought out to the committee. But, in all reality, it didn't actually matter. **The testimony of those who did testify is nowhere reflected in the**

[1] RIGL 36-10.2-11
[2] The Clifford Group is a separate group solely representing retirees interested in litigation.
[3] Temperature that day ranged from a high of 37 degrees to a low of 30 degrees. See weatherspark.com.

Report. A reader of the Report will never know the hardships, the losses, the frustrations, the fears that were foisted on retirees. PAWG in its report simply ignored this.

That is not the only information ignored by the PAWG Report. The report also fails to cite the testimony of Mr. Tom Sgouros, a Fellow at Brown University and who is leading a Pension Accounting Reform group at the University. He specializes in accounting principles for establishing funding levels. He criticized establishing funding levels (such as the 80% funding rule) as an invalid measure. Whether or not PAWG agrees or disagrees with Mr. Sgouros is not the issue; the issue is that this, an important critique of the present system, should have been included in the Report. Its omission will leave the Legislature with the belief that there is no criticism of the necessity of the 80% rule.

THE COMPOSITION OF THE PANEL

The aim of this section Is not to Impugn the character of the members of the panel. The members supported the Report as drafted and most likely believed that it properly reflected their opinions. They likely assumed that the presentations of GRS were factually correct.

However, there also are serious issues with the composition of the panel. Mr. Diossa has gone on record as being opposed to changes in the current level of benefits. He has stated that "any restoration of benefits will prolong the forecast of 2031 COLA return, increase unfunded liability, and be a financial burden on the taxpayer."[4] His opinion is reflected in his selection for membership on this panel.

The appointees are primarily management and fiscal personnel. Mr. Ernest Almonte is president of the Rhode Island League of Cities and Towns. Mr. Thomas Huestis is a member of the Public Resources Advisory Group, an organization that "... is a leading independent financial advisory firm serving state and local governments." Mr. Eric Atwater is an employee of Aon PLC, a company that is a "... management consulting firm that offers a range of risk-mitigation products." Mr. Michael DiBiase is President and CEO of the Rhode Island Public Expenditure Council, a group that advocates that the Legislature focus "... on rejecting spending increases "and "... prepare to curtail spending growth." [5] Mr. Jonathan Womer, Director of the Rhode Island Department of Administration whose Department drafts budget proposals and must balance resources against vested interests, himself has a vested interest in curbing spending.

There were three union officials on the panel. Mr. George Nee, President of the AFL-CIO, Mr. John Maguire who, although a retired teacher, was on the panel representing active teachers, and Mr. Patrick Crowley, Secretary Treasurer of the AFL-CIO. Because there is an inherent conflict between union members and retirees, the U.S. Supreme Court has ruled that unions cannot represent retirees. This conflict is reflected in Mr. Crowley's statement that he will "prioritize active employees" over retirees. [6]

FACTUAL ISSUES WITH THE REPORT

The Report essentially consists of what GRS, the ERSRI actuary, reported would be the costs of some of the alternatives that were suggested by various stake holders. The undersigned do not pretend that they

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[4] Providence Journal, May 4th, 2023.
[5] See RIPEC's "Rhode Island Budget in Transition, Four Key Issues in Transition and Beyond FY 2025," p. 27
[6] Providence Journal, November 27, 2023.

are actuaries. Even if we were, we do not have access to the data used by GRS to formulate GRS's calculations and, even if we had such data, it would take too much time to analyze the data.

However, we do have basic math skills and, as discussed below, we have been able to determine that some of GRS's calculations are most likely incorrect. Bluntly put, the cost figures of the Report that common mathematics can be used to calculate are wrong.

On page 47 of the Report, there is a section entitled "Full restoration of a compounding COLA for members of ERSRI that retired before July 1, 2012, with a benefit adjustment for all previously suspended COLA's". The Report concludes that the cost to the state of implementing a proposed 3% COLA solely for pre-2012 retirees would be $39.6 million dollars and $70.8 million dollars for pre-2012 teacher retirees. (There is no entry for what the cost for municipal retirees would be.) It should be noted that state retirees, teacher retirees and municipal retirees are in different categories and the cost of municipal retirees is not included in teacher retirement costs.

On January 31st, 2024 GRS distributed a hand-out entitled "The Rhode Island Pension Advisory Working Group, Study of Options Presented to the Working Group." In that handout there was a section entitled: "3% for those retired before July 1, 2012, (Current benefit adjustment for all previously suspended COLA's)". That section if implemented would have the same effect, that is, a 3% compounded COLA, for the pre-2012 state retirees as in the paragraph above. GRS reported on that date that the cost to the state of instituting this benefit would be $67.9 million for state pre-2012 retirees. (There is no entry for what the cost would be for pre-2012 teacher retirees.).

The readers of the Report cannot know which estimate is correct. Will this benefit for state retirees cost 67.9 million or will it cost $39.6 million. After all, these two estimates are $28 million apart. Further, other than a bland statement that these would be the cost there are no calculations to demonstrate the validity of the claimed (and contradictory) costs to provide the above benefit to pre-2012 teacher retirees. And, as demonstrated below, the GRS and PAWG figures are both wrong.

As stated above, the Report at page 47 claims that the cost of reinstituting a 3% to pre-2012 retirees would be $39.6 million dollars. GRS at page 28 of its GRS 2023 lists the number of State retirees who in the previous year received benefits from ERSRI. .

For the sake of the calculations in this paragraph, it shall be assumed that all retirees were pre-2012 individuals.[7] Using the GRS figures found on page 28 of the GRS 2023 Actuarial Valuation Report for State retirees, in 2023 there 9,171 State retirees receiving an average of $32,960.00 for a cumulative total for the year of $302,276,160.00. That page also reflects that in 2023 the 839 State disabled retirees received an average of $23,321.00, that is, a cumulative total of $19,566,319.00. That year the 1,318 State beneficiaries received an average of $19,660.00; that total for the year was $25,911,880.00 Thus, adding the three totals, ERSRI in 2023 paid a total of $347,754,359.00. A 3% COLA would cost $10,432,630.77, not $39.6 million as reported by PAWG or $67.9 as claimed by GRS. Furthermore, and as this benefit applies solely to pre-2012 retirees, the initial $10,432,630.77 cost will be further reduced each time a pre-2012 retiree dies.

[7] The Report does not differentiate how many of these individuals retired after 2012; as these individuals (post-2012 retirees) would not receive a COLA under this proposal, the actual cost of a 3% COLA would be reduced if their numbers were removed from the computation

The same problem exists with the supposed cost of instituting a 3% COLA for pre-2012 teacher retirees. The Report at page 47 claims that a 3% COLA to pre-2012 teacher retirees would cost $70.8 million. Page 29 of the 2023 GRS Pension Valuation Report, a copy of which is attached hereto, states that in 2023 there were 10,576 teacher retirees averaging $43,343.00 dollars per retiree per year; there were 382 disabled teacher retirees receiving $29,738.00 per retiree per year and there were 637 teacher retiree beneficiaries receiving $25,744.00 per year. This means that teacher retirees that year received a total of $458,395,568.00 per year; disabled retirees got a total of $11,359,916.00 per year, and beneficiaries got a total of $16,398,928.00, for a grand total of $486,154,412.00. A 3% COLA would cost $14,584,632.00, or nearly **five times** less than what the Report claims.

Another problem with GRS's figures is found at page 48. In this section, PAWG evaluates what it would cost to repeal the 80% rule for pre-2012 retirees. It states that repealing the rule would cost $8.2 million for State sector retirees and 14 million for teacher retirees. There are two problems with this claim. If the 80% rule were eliminated for pre-2012 retirees, they would receive a 3% COLA by operation of law; as discussed above, this would have the same effect as the proposal to grant pre-2012 retirees a 3% COLA. The findings of page 48 (cost of eliminating the 80% rule would be 8.2 million for State retirees and 14 million for teacher retirees) contradict PWAG's evaluation that grating pre-2012 retirees (see above) a 3% increase would cost 39.6 million for State retirees and 70 .6 million for teachers.

Next, while evaluating that the rescission of the 80% rule would have an annual cost of 22.2 million dollars, the Report also states that $10.3 million per year will suffice. the PAWG Report states that one alternative method to fund this benefit would be for the Legislature to appropriate $36.2 million dollars annually for a period of ten years. The problem with this alternative is that the pre-2012 retirees are dying; GRS (Mr. Newton) has admitted that the reason that he anticipates 80% funding by 2031 is that the pre-2012 retirees will be mostly dead by 2031. In 2011 the average retiree was 72 years old. The 2022 life expectancy table submitted by GRS (See "Employee Retirement System of Rhode Island, Actuarial Experience Investigation, June 22, 2022" at page 34), a copy of which is attached, shows that approximately half of the male pre-2012 state retirees will have died by the end of this 2024. By 2031, most male pre-2012 retirees will be dead; females will follow soon after. Thus, the issue of COLA solely for pre-2012 retirees will, by the obvious fact of mortality, be irrelevant in 15 or so years. Further, if $10.2 million suffices for one year, how can GRS even consider suggesting $36 million for ten years as an alternative?

The haste in which this Report was prepared can be found on page 48. The care that whoever wrote this Report exercised when drafting this section is shown by the contradiction contained in the second paragraph and the chart at the bottom. In the second paragraph, the Report states that this option would cost the State 13.8 million dollars and the municipalities 8.4 million. The chart shows the reverse: that the State will pay 8.2 million and municipalities 14 million dollars. And in the next to last paragraph, the cost of this option could be 4.0 million for state retirees and 6.3 million for teachers.

It is interesting to note that PWAG – other than the six official meetings listed in Mr. Diossa's website – never met to discuss the contents of the report.[8] The members of PWAG at none of the six official meetings ever discussed the accuracy of the GRS information, never asked for documentation, never discussed alternatives, never discussed

[8] A request dated February 29, 2024 requested copies of all agendas and minutes of PWAG meetings other than the six cited ones. A response from the Treasurer's office indicated that no such documents existed.

unintended consequences. It is difficult to understand how any group can vote on an $2 billion program without such discussions.

CONCLUSION

Despite GRS's assurances that ERSRI is on track to reach 80% funding by 2031, and despite its recommendation to PAWG on November 2d, 2023 to "stay the course," GRS failed to inform the panel that GRS testified to the ERSRI Board on 18 December 2023 that the probability of reaching 80% by 2031 was only 54%. The PAWG panel is probably unaware that Mr. Eric Baggesen, Chief Investment Officer for the State of Rhode Island, on 24 February 2024, testified to the ERSRI Board that progress on reaching 80% funding was merely 'marginal." As was testified by one official at the December 14th, 2023, PAWG hearing, "the current system is pushing people out." It is unfair to retirees; it is unfair to current public employees. The Legislature should not rely on questionable cost figures generated by GRS, a consultant with a vested interest in supporting its recommendation to "stay the course."

Instead, the Legislature should listen to the testimony of various stake holders who appear before the members and, after listening to the members, vote based on that testimony.

2024 COST OF A 3% COST OF LIVING ALLOWANCE TO ALL RETIREES

The chart below is based on publicly available information from ERSRI. The first four columns are from pages 28 and 29 of the 2023 ERSRI GRS Actuarial Report. As the actuarial tables used by GRS and/or ERSRI were not available, the IRS "Period Life Table, 2020, as used in the 2023 Trustees Report" was used. Since we did not have available the male/female breakdown of the retirees, as the majority of teachers are women the female table was used to compute mortality rates of teachers. Similarly, the male table was used for State retirees. GRS has acknowledged that its stated goal of reaching 80% funding by 2031 is calculated on the basis that most pre-2012 retirees will be dead by that date. In 2011, the average State retiree was 72.2 years old. We have requested, but as of yet have not received, the breakdown of pre-2012 and post 2012 retirees. As pre-2012 retirees as a rule have significantly better retirement benefits than post-2012 retirees, and as the average State retiree in 2011 was 72.2 years old, and as the pre-2012 retirees shall have an ever increasing mortality percentage, that information (the number of pre-2012 retirees still receiving benefits and the average amount of those benefits) when available will accelerate the reduction in ERSRI total benefits.

	Number of retirees 2023	Age In 2023	Benefit amount 2023	Total all benefits 2023	IRS mortality 2023	Number predicted to die 2024	Savings 2024	50% of savings to beneficiary 2024	**NET SAVINGS 2024**
Teachers									
Service	10,756	75.2	43,343	458,393,505	2.7%	291	16,612,813	8,306,813	
disabled	382	66.8	29,738	11,360,020	1.2	4	118,952	59,476	
beneficiary	637	76.0	25,744	16,398,735	3.0	19	489,136	244,568	
			TOTAL	**486,152,260**		**TOTAL**	17,220,901	8.610450	**8,610450**
State									
Service	9,171	74.9	32,960	302,277,248	4.0	367	12,096,320	6,048,160	
disabled	839	67.0	23,321	19,566,319	2.1	18	419,778	209,889	
beneficiary	1,318	76.6	19,660	25,911,880	4.9	65	1,277,900	638,950	
			TOTAL	**348,255,447**		**TOTAL4**	13,793,998	6,896,999	**6,896,999**

COST OF 2023 RETIREE BENEFITS FOR STATE AND TEACHER RETIREES.	**834,497,707**
COST OF A 2024 3% COST OF LIVING ALLOWANCE FOR ALL RETIREES:	**25,034,931**
SAVINGS RESULTING FROM 2023 MORTALITY RATES:	**15,507,449**
NET COST OF A 3% COST OF LIVING ALLOWANCE	**9,527,482**

Addendum

2024 COST OF A 3% COST OF LIVING ALLOWANCE TO ALL RETIREES

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