

NEBRASKA TAXPAYERS FOR FREEDOM ISSUE PAPER: OMAHA PUBLIC SCHOOLS PENSION SYSTEM GROSSLY MISMANAGED, AGAIN.

BACKGROUND. Several years ago, the Omaha Public School District suffered public shame following the revelation that the district had lost millions in its pension system from bad investment advice from shady investment firms and gross mismanagement of pension funds. (See NTF issue paper OPS23.doc). The school district pledged to make the system solvent and strictly adhere to correct and accepted accounting principles together with using better investment advice. Its pledges were empty. Currently, there are insufficient pension funds to cover future liabilities. A \$1.4 billion unfunded liability, a \$269 million increase in 1 year. While the state employee pension fund now comfortably 94% funded, the OPS fund only 57.7%, meaning that money does not exist to pay future retiring teachers.

GOVERNANCE. The Unicameral thankfully passed a law in 2022 forcing OPS to surrender control of operating its retirement fund to the NE Public Employees Retirement Board (NPERB) which will operate the program beginning in 2024. Unfortunately, NPERB is not financially responsible or liable for the funding obligation of the OPS retirement system, which remains with the district, nor is it responsible for investing of funds. The NE Investment Council invests the pension funds. The legislature in 2021 passed **LB 147**, which gave management oversight of the pension system to the OPS School Board, which now has authority to appoint 7 members to the pension board of trustees. The trustees include the superintendent, 2 school board members, 2 pension administration members, and 2 business people. The school board also appoints the pension administrator. The bill also mandated that the pension fund administration transfers to the NPERB on 9-1-2024. OPS employees must contribute 9.78% of their annual salary to their pensions, and the district must pay the greater of 101% of employee contributions or the actuarially determined contribution rate.



NEW REVELATIONS. Several significant errors noted throughout the course of the audit. The State Auditor of Public Accounts (APA) discovered that OPS had mismanaged over \$1.4 billion in pension accounts, the retirement fund for over 15,000 present or retired OPS employees. Auditor Mike Foley declared that his department was aghast at the error-ridden administration of the retirement system. Failures noted in a previous audit never addressed or resolved. Not only previous year errors never corrected but serious new problems found. Accounting errors abound, attribution of several of the problems to employees never trained to calculate correctly, causing taxpayer dollars paid out in error and account balances not balanced. Auditors examining 25 accounts found wrong balances in 24. The excess balances in over 9,000 accounts reached over \$8.4 million. Almost \$7 million in misstatements and incorrect accounting entries totaling about \$1.6 million in refund payments. Significant multiple delays in the Auditor receiving needed information during the audit when requests made and obligated within 21 days.¹ 65 days until pension membership files submitted. 28 days until listing of all new 2022 retirees submitted. 60 days until accrual basis financial statements submitted. 38 days until required notes to financial statements submitted. 37 days until update of cash flow memo, investment memo, benefit memo, contributions memo, and payroll process memo submitted. 35 days until questions related to pension board minutes submitted.

NO DILIGENCE. The pension board of trustees held only 2 meetings during 2022, despite a law that requires the board to “supervise the affairs of the retirement system related to the administration of benefits and recommend to the board of education any changes in the administration of the retirement system essential to the actuarial requirements of the retirement system.” During a prior audit, the auditor cautioned that the pension system did not use the correct Consumer Price Index to determine cost of living adjustments (COLA) and did not apply COLA to the annuity parts of member benefits. OPS never acknowledged adjusting the benefit amounts to fix this error until past the required deadline. No response to auditor questions about the pension board current duties or what the pension board would do to correct these refund payments.² Prior findings in the 2021 state audit not addressed or resolved, pertaining to use of incorrect COLAs, incorrect methodology used to calculate medical COLAs for members and failure to follow up to determine if adjustments needed, and failure to apply the annual COLA to the State service annuity part of member benefits and failure to follow up to determine if adjustments needed. The auditor cautioned that good internal controls require procedures and records to produce reliable financial information or risk inaccurate financial reporting and determined that OPS pension handling

¹ Audit Report of the Omaha School Employees’ Retirement System Pension Trust Fund of OPS for Year 2022, June 21, 2023, p.2.

² Ibid., p. 3.

now significantly deficient. The auditor lectured OPS that it should ensure having sufficient knowledgeable staff and resources to produce reliable financial reporting.³

FURTHER BLUNDERING. Pension staff used unauthorized methods to calculate and post interest to member accounts. Auditors found 3 separate issues related to the calculation of interest. First, the interest calculation changes were made retroactive, dating back to each member's first contribution. Second, the method to calculate the interest appeared incorrect. By state law, districts must calculate interest based on a member account balance at the end of the prior fiscal year (August 31). After the unauthorized change, the interest mistakenly calculated on the balance at the end of each prior month. Finally, the interest rate used in the calculation was incorrect. The interest rate accordingly must change



once annually, effective September 1 of each year. However, the unauthorized change to the system caused the September 1, 2022, interest rate to factor the entire calendar year 2022. In 24 of 25 member accounts examined in calendar year 2022, the unauthorized interest change resulted in inaccurate interest calculations or account balances on December 31, 2022.⁴ The auditor identified the problem with the interest calculations and communicated the problem to OPS, which acknowledged the communication and the mistakes. However, by that time, OPS had issued refund payments to members for 2 months based on incorrect, and in most cases, overstated account balances, totaling \$2.7 million in refunds and interest.⁵ The audit also found a refund payment in March, 2023 for \$121,096 reversed in the accounting system and not paid to the member.⁶ Other refunds issued prematurely or sent to deceased retirees. The system lacked procedures to ensure that member account balances reduced properly after issuing a refund⁷. Failures to use computer programs correctly.

UNBELIEVABLE. OPS recorded investment manager fees inaccurately as a payable. Several fees reported as fees on the custodial bank statements, others not reported. OPS failed to record all investment expenses that it reported on the custodial bank statements, including NE Investment Council fees, custody expenses, foreign income taxes, etc.⁸

TAKE ACTION NOW. If you promise retirees a stable retirement system, a good retirement pension benefit, you must make sure that monies are available to cover future liabilities. We can only sympathize with OPS staff dreading their upcoming retirements. The OPS pension system has suffered mismanagement for too long, and OPS feeble attempts to reform it, even with State help, have failed miserably. OPS invariably will demand that resident taxpayers pay the deficit. The only viable solution is to dismantle this school district and reconstitute 3 smaller districts in its place, North Omaha, South Omaha, and West Omaha. New administrations and school boards can assume responsibility and work with more competent employees and the legislature to rectify the current pension disaster, so that local taxpayers will not bear responsibility for the gross mismanagement. Using the information above, lobby your state senator to take appropriate action to protect your tax dollars. Email netaxpayers@gmail.com for state senator contact information and join our NTF *Education Watch Project*.

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³ Ibid., p. 4.

⁴ Ibid., p. 5.

⁵ Ibid., p. 6.

⁶ Ibid., p. 7.

⁷ Ibid., p. 16.

⁸ Ibid., p. 9.