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Documents Submitted by the Public to the State Employee Benefits Committee

Public Comment
By
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PUBLIC COMMENTS FOR THE 11/18/24 RHBAS MEETING - SUBMITTED BY ROBERT CLARKIN, 11/12/24

With Governor elect Meyer's transition process getting under way, I believe the RHBAS is presented with an opportunity to inform the incoming administration of healthcare issues of importance to State retirees. Below are three such opportunities that I would like to suggest that the Subcommittee consider for sharing with the incoming administration: Surplus Escheat Funds, Updates to Table A3 in the 12/31/23 RHBAS Report, and a One-Time Unintended Opportunity to address Pre-65 retiree premium rate issues.

A: Surplus Escheat Funds

During September 2024, $199.1 million was deposited into the OPEB Trust Fund from surplus State of Delaware Escheat funds (unclaimed property and unclaimed estate assets). This is the largest single deposit ever made to the OPEB Trust Fund and is in addition to the $100 million surplus Escheat funds deposit made last year. This year (FY25), codified Trust Fund contributions consisting of 1% of the prior years budget ($56M) and the 0.36% OEC rate ($19.4M) will equal $75.4M. The two year combined surplus Escheat fund contributions total $299.1M or four years worth of codified FY25 contributions. These one-time contributions present a mechanism for making real progress towards reducing present and long-term OPEB liability. There is no guarantee that there will be surplus Escheat funds each year, however, everyone concerned needs to be vigilant that the annual Bond and Capital Improvement Budget Act continues to contain language that grants the Secretary of Finance authority to transfer the surplus Escheat funds to the OPEB Trust Fund. **I would like to recommend that the RHBAS craft a correspondence encouraging the Governor elect and the Legislature to maintain the current Surplus Escheat Fund language in future Annual Bond and Capital Improvements Budget Acts and to make similar one-time contributions to the OPEB Trust Fund whenever other surplus funds are available.**

B: Updates to RHBAS 12/31/23 Report — Table A3, Page 18, OEC Incremental Comparison Chart, .25 Incremental Increases

The size and underfunding of the current and future OPEB liability has been a major concern of bond rating agencies in the past, which, in turn, was a major factor as the state planned to move Medicare eligible retirees from Medicfill supplemental coverage to a Medicare Advantage plan. The RHBAS has completed significant efforts to secure Medicfill coverage for Medicare retirees and to address the OPEB liabilities. As the OPEB valuation process is complicated and, at first glance, the OPEB liabilities seem overwhelming, I believe it is very important to communicate to the incoming administration the impact of the many new efforts to adequately prefund the OPEB Trust Fund and reach a reasonable funding ratio over time. To this end, I believe the below listed updates will provide the RHBAS with a valuable to tool to do just that.

Column #2 - Expected Budget For clarity, as the 1% Carveout is applied to the previous year's budget, the title of this column should be changed to Expected Previous Year's Budget.

The expected budget data in this column are extremely important as they determine the amount of the 1% Carveout. 4,770.0 and 5,100.0 are correct for 2023 and 2024 respectively, however, the projections of 5,280.0 for 2025 and 5,470.0 for 2026 are much too low. The actual for 2025 is 5,607.0 and the actual for 2026 is 6,129.0. The data for 2025 and 2026 needs to be corrected and the subsequent projections need to be updated. The chart should also conain a footnote that indicates the projected annual budget growth rate.

Column #4 - Trust Deposit This column reflects the sum of the 1% Carveout and the OPEB Prefund % of Payroll. The sum does not include the Surplus Escheat fund deposits (100.0M in FY24 and 199.1M in FY25). A new column needs to be added to capture these important Trust Deposits and they need to be included in the total Trust Deposit column.

Column #5 - PayGo The PayGo totals reflect the annual PayGo rate applied to covered payroll. The PayGo rate itself reflects anticipated costs. Therefor, there are two variables that determine the PayGo column projected data — projected covered payroll increases and projected cost increases. The chart should contain a footnote that indicates the projected annual covered payroll and cost growth rates.

Column #7 - OPEB Prefund % of Payroll While this column reflects the codified OPEB Prefund % of Payroll rates, there is not a column that indicates the projected prefund totals. A column needs to be added that indicates the projected prefund totals.

The projected prefund totals are determined by applying the prefund rate to the covered payroll. The chart should contain a footnote that indicates the projected annual covered payroll growth rate.

Columns #8 - #12 Each of these columns will need to be updated to take into consideration the above recommended updates. **As an "Other Post-Employment Benefits (OPEB) Valuation Report - Update" is included on the agenda for the 11/18/24 RHBAS meeting, particular care needs to be taken to assure the data in Table A3 agrees with the assumptions and data presented during the Valuation Report Update.**

C: A One-Time Unintended Opportunity

As we all know, the adoption of a new policy or administrative action can present unintended consequences. On the other hand, such actions can sometimes present unintended opportunities. I believe that the 27% across the board FY25 GHIP rate increase presents an important one-time unintended opportunity to more equitably allocate the Pre-65 and Medicare retiree premium contributions between the two groups and, to normalize the state and retiree premium shares based on experience and reasonable cost projections.

This document presents an argument for taking advantage of this one-time opportunity by reallocating OPEB fund retiree premium and revenue streams. It takes awhile to build the argument, so I hope you will find the time to consider what following,

Background

Other Post-Employment Benefits (OPEB) Fund

The OPEB Fund (Other Post-Employment Benefits Fund) was established in 2001 by Delaware Code, Title 29, Chapter 52B, Section 5281 (a) and (b) which read as follows: "There shall be established an OPEB Fund, a trust fund, separate and distinct from the funds established under §§ 5541 and 5601 of this title and § 8393 of Title 11, to which state appropriations and other employer contributions shall be deposited, and which earnings on investments, refunds and reimbursements shall be deposited upon receipt, and from which the State's premiums as defined in 5202(b) of this title shall be paid, and any fees and expenses authorized by the Board *(Board of Pension Trustees)* shall be paid. **No money shall be disbursed from this fund except for the purposes of the payment of the State's premiums for post-retirement insurance for employees retired under Chapters 55 and 56 of this title and Chapter 83 of Title 11 (underlining added)**, (b) The amounts remaining in the trust, if any, after all premiums, fees, and expenses have been paid for any year shall be retained in such trust for future payments until all state liabilities for post-employment benefits have been satisfied.".

FY25 Operating Budget (SB325), General, Section 7 (f) (g) Section 1 reads as follows: "this Act provides funding for a state employee pension rate of ~~23.04~~ 24.10 percent. The components of the rate are ~~12.61~~ 13.33 percent for pension liability, ~~9.07~~ **<u>10.41 percent for retiree health insurance costs</u>** and 0.36 percent for the Other Post-Employment Benefits fund ~~and 1.00 percent for the Post-retirement Increase Fund"~~.

Chart 2 below indicates that data contained in materials presented during the 9/23/24 SEBC meeting project that, during FY25, the <u>10.41%</u> OEC rate, also known as the Pay-Go rate, and retiree share contributions will generate <u>319.0M</u> in Retiree Premiums to cover **<u>"retiree healthcare costs"</u>**.

<u>Please Note:</u> Important as it is, neither the SEBC nor the Board of Pension Trustees reviews and/or approves the final OEC (Pay-Go) rate before it is placed in the Governor's Recommended Budget Act. The draft Budget Act, traditionally introduced in late January, usually contains the previous year's OEC rate as a place holder. Once the SEBC acts on new premium rates for the coming fiscal year, traditionally in March or April, the Pension Office calculates the total premium cost based on the premium rates. The cost is then provided to OMB, and during the budget process, OMB establishes the final OEC rate that is contained in the Budget Act.

<u>Please Note:</u> There are not separate OEC rates for Pre-65 retirees and Medicare retirees. There is a single OEC rate that when applied to the "covered payroll" generates the State share of both Pre-65 and Medicare Retiree Premiums during the applicable fiscal year.

Based upon presentations and discussions during recent SEBC meetings, it has become apparent that the Premiums, Revenues, and Rebates that accrue to the OPEB are pooled by the State along with non-OPEB funds and used to offset aggregate GHIP costs, to include the direct medical and prescription program costs attributable to active employees, as well as the costs of programs and services that are only available to non-Medicare eligible participants such as Surgery Plus, Prudent RX, and other special services and pilot projects. In order to maximize OPEB Fund capital gains, interest, and dividends all OPEB contributions should be deposited in the fund immediately upon receipt — not pooled in a separate GHIP account(s).

As **<u>"No money shall be disbursed from this fund except for the purposes of the payment of the State's premiums for post-retirement insurance for employees retired under Chapters 55 and 56 of this title and Chapter 83 of Title 11"</u>**, it appears that the State is in violation of Delaware Code, Title 29, Chapter 52B, Section 5281 (a) and (b).

This apparent violation of Section 5281 is evidenced by the following data contained in Charts 1 and 2 below:

a. The projected FY25 Medicare Retiree Premium Contributions and Revenues (Refunds and Reimbursements) will total 345.2M against Total Expenses of 312.3M and a Minimum Reserve of 6.8M, resulting in a surplus of 26.2M.

b. The projected FY25 Pre-65 Retiree Premium Contributions, Revenues (Refunds and Reimbursements), and OMB Payback will total 143.9M against Total Expenses of 161.9M and a Minimum Reserve of 3.6M, resulting in a deficit of 21.6M.

c. The projected surplus in OPEB revenues minus expenses is 4.6M.

d. The OPEB surplus of 4.6M in OPEB Premiums and Revenues (Refunds and Reimbursements) is projected to be used to increase the overall GHIP surplus by 4.6M, from 28.1M to 32.6M, rather than remaining in the OPEB fund as required by Delaware Code, Title 29, Chapter 52B, Section 5281 (a) and (b).

Chart 1	A	B	C	D
FY25 Projections	**Active Only**	**Pre-65 Only**	**Medicare Only**	**All Groups Combined**
Premiums	940.5	126.9	192.1	1,259.5
Pay Back tp OMB	(5.8)	(1.5)	0.0	(7.3)
Revenues	101.4	18.5	153.1	273.0
Total Revenues	1,036.1	143.9	345.2	1,525.2
Claims	951.4	155.8	300.7	1,407.8
Expenses	34.8	6.1	11.6	52.6
Total Expenses	986.2	161.9	312.3	1,460.4
Net Income	49.9	(18.0)	32.9	64.8
Balance Forward	0.0	0.0	0.1	0.1
Ending Cash Balance	49.9	(18.0)	33.0	64.9
Claims Liability	0.0	0.0	0.0	0.0
Minimum Reserve	21.8	3.6	6.8	32.3
Surplus	28.1	-21.6	26.2	32.6

Source of Data: August 2024 Fund Report and Financial Update, Long Term Projection Scenarios, September 23, 2024 SEBC Meeting

Chart 2	A	B	C
FY25 Projections	Pre-65 Only	Medicare Only	Retiree Total
Premiums	126.9	192.1	319.0
Pay Back tp OMB	(1.5)	0.0	-1.5
Revenues	18.5	153.1	171.6
Total Revenues	143.9	345.2	489.1
Claims	155.8	300.7	456.5
Expenses	6.1	11.6	17.7
Total Expenses	161.9	312.3	474.2
Net Income	(18.0)	32.9	14.9
Balance Forward	0.0	0.1	0.1
Ending Cash Balance	(18.0)	33.0	15.0
Claims Liability	0.0	0.0	0.0
Minimum Reserve	3.6	6.8	10.4
Surplus/Deficit	(21.6)	26.2	4.6

Source of Data: August 2024 Fund Report and Financial Update, Long Term Projection Scenarios, September 23, 2024 SEBC Meeting

<u>Steps Necessary To Take Advantage of This One-Time Unintended Opportunity</u>

Thus far, three important points have been established:

1. Section 5281 is clear that "there shall be established an OPEB Fund, a trust fund, separate and distinct from the funds established under §§ 5541 and 5601 of this title and § 8393 of Title 11, to which state appropriations and other employer contributions shall be deposited, and which earnings on investments, refunds and reimbursements shall be deposited upon receipt, and from which the State's premiums as defined in 5202(b) of this title shall be paid, and any fees and expenses authorized by the Board *(Board of Pension Trustees)* shall be paid". And further, "No money shall be disbursed from this fund except for the purposes of the payment of the State's premiums for post-retirement insurance for employees retired under Chapters 55 and 56 of this title and Chapter 83 of Title 11".

2. The across the board 27% FY25 rate increase is projected to produce a Medicare retiree surplus of <u>26.2M</u> which is larger than the projected Pre-65 retiree deficit of <u>21.6M</u>, resulting in an overall surplus of <u>4.6M</u>. As required by Section 5281 these funds, and the surplus finds, should solely benefit Pre-65 and Medicare retirees.

3. The current construct of the GHIP pools premium contributions, revenues, and rebates. In order to maximize OPEB Fund capital gains, interest, and dividends all OPEB contributions should be deposited in the fund immediately upon receipt — not pooled in a separate GHIP account(s).

<u>Step One</u>

The first step in taking advantage of this one-time unintended opportunity is to adjust the Medicare retire premium rate, and the retiree and state shares. The Medicare retiree share percentage will remain at 0% or 5%, whichever is appropriate. As per Chart 3 below:

1. The FY25 Medicare retiree premium contributions are projected to be <u>192.1M</u>, resulting in a surplus of <u>26.2M</u>. Consequently, the premium results in an overcharge of <u>13.6%</u>.

2. The FY25 Medicare retiree premium w/Rx is <u>$612.39</u>, adjusting for the <u>13.6%</u> overcharge reduces the premium to <u>$529.10</u>.

3. The FY25 Medicare retiree premium wo/RX is <u>$347.19</u>, adjusting for the <u>13.6%</u> overcharge reduces the premium to <u>$299.97</u>.

4. The FY25 State and Medicare retiree share contributions are reduced proportionately, and the Medicare retiree share percentage remains at 0% or 5%, whichever is appropriate.

5. The 25%, 50%, and 100% premium share paid by early Medicare retirees will be reduced by 13.6%.

6. A minimum reserve of $3.6M is included in the calculation of the FY25 Medicare premium OEC (Pay-Go) rate of 10.41%.

7. The actions in steps 1 - 5 above will free $26.2M in Medicare retiree premium contributions to be reallocated to Pre-65 retirees. Reallocating these funds will not increase total retiree premium costs.

8. The revised Medicare retiree FY25 rates in Chart #3 can be used as a starting point for determining the FY26 rates based on Medicare retiree FY25 experience and FY26 trend assumptions.

Chart 3	A	B	C	D
FY25 Rates	**Medicare Retiree State Share**	**Medicare Retiree Share**	**Medicare Retiree Share %**	**Medicare Retiree Rate**
Medicfill w/Rx	$581.77	$30.62	5.0%	$612.39
Medicfill wo/Rx	$329.83	$17.36	5.0%	$347.19
FY25 Overcharge	13.6%	13.6%		13.6%
Revised Medicfill w/Rx	$502.65	$26.46	5.0%	$529.10
Revised Medicfill wo/Rx	$284.97	$15.00	5.0%	$299.97
FY25 Projections	**Pre-65**	**Medicare**		
Premiums	126.9	192.1		
Surplus/Deficit	(21.6)	26.2		
Experience Premium *	148.5	165.9		
Premium Adjustment	17.0%	-13.6%		

*** Includes 2% Minimum Reserve**

Step Two

The second step in taking advantage of this one-time unintended opportunity is to adjust the Pre-65 retire premium rates, and the retiree and state shares. The Pre-65 retirees will be held harmless from increases in their share dollar amounts. The Pre-65 retiree share percentages will be reduced. As per Charts 4 and 5 below:

1. Chart 4 reflects the current FY25 Pre-65 premium rates, state share amounts, retiree share amounts, and retiree share percentages.

2. Chart 5 reflects allocating the Medicare retiree surplus (26.2M) to the Pre-65 FY25 rates in order to eliminate the Pre-65 retiree deficit (21.6M). As per Chart #3, this action requires an increase of 17% in the FY25 Pre-65 retiree rates.

3. As Pre-65 retirees are not responsible for the reoccurring historic trend of their premium rate levels not covering costs, in Chart 5, the Pre-65 retirees are held harmless from increases in their retiree share dollar amounts.

4. In Column D of Chart 5, the total Pre-65 premium rates are increased by 17%, as indicated in Chart 3, for each plan and each plan level.

5. In Column A of Chart 5, the Pre-65 State share is determined by subtracting the held harmless Pre-65 Retiree share from the total Pre-65 retiree premium.

6. In Column C of Chart 5, the Pre-65 retiree share percentage is determined by dividing column B by Column D. This results in lowering the Pre-65 first State Basic percentage from 4.0% to 3.4%, lowering the CDH Gold percentage from 5.0% to 4.3%, lowering the Aetna HMO percentage from 6.5% to 5.6%, and lowering the Comprehensive PPO percentage from 13.25% to 11.3%.

7. Lowering the Pre-65 retiree share percentages will require legislative action.

8. The revised Pre-65 retiree FY25 rates in Chart #5 can be used as a starting point for determining the FY26 rates based on Pre-65 retiree FY25 experience and FY26 trend assumptions. **Please Note:** Any one of the FY26 Actuarial Value Scenarios found on pages 19-23 of the September 2024 Fund Report and Financial Update Presentation for the 10/28/24 SEBC meeting may be used to populate Chart 5 as long as the Medicare Retiree surplus is reallocated to the Pre-65 Retiree group and the Pre-65 Retiree group is held harmless from increases in their retiree share dollar amounts.

Chart 4	A	B	C	D
Current FY25 Pre-65 Rates	Pre-65 Retiree State Share	Pre-65 Retiree Share	Pre-65 Retiree Share %	Pre-65 Retiree Rate
Employee				
First State Basic	$1,007.60	$41.98	4.0%	$1,049.58
CDH Gold	$1,031.98	$54.32	5.0%	$1,086.30
Aetna HMO	$1,024.50	$71.21	6.5%	$1,095.74
Comprehensive PPO	$1,039.48	$156.76	13.25%	$1,198.24
Employee + Spouse				
First State Basic	$2,084.66	$86.88	4.0%	$2,171.54
CDH Gold	$2,139.74	$112.62	5.0%	$2,252.36
Aetna HMO	$2,160.08	$150.18	6.5%	$2,310.26
Comprehensive PPO	$2,157.00	$329.48	13.25%	$2,486.48
Employee + Child				
First State Basic	$1,531.64	$63.82	4.0%	$1,595.46
CDH Gold	$1,576.70	$82.98	5.0%	$1,659.68
Aetna HMO	$1,567.24	$108.96	6.5%	$1,676.20
Comprehensive PPO	$1,602.02	$244.68	13.25%	$1,846.70
Family				
First State Basic	$2,605.92	$108.60	4.0%	$2,714.52
CDH Gold	$2,718.36	$143.06	5.0%	$2,861.42
Aetna HMO	$2,695.30	$187.38	6.5%	$2,882.68
Comprehensive PPO	$2,696.58	$411.86	13.25%	$3,108.44

Chart 5	A	B	C	D
Revised FY25 Pre-65 Rates	Pre-65 Retiree State Share	Pre-65 Retiree Share	Pre-65 Retiree Share %	Pre-65 Retiree Rate
Employee				
First State Basic	$1,186.03	$41.98	3.4%	$1,228.01
CDH Gold	$1,216.65	$54.32	4.3%	$1,270.97
Aetna HMO	$1,210.81	$71.21	5.6%	$1,282.02
Comprehensive PPO	$1,245.18	$156.76	11.3%	$1,401.94
Employee + Spouse				
First State Basic	$2,453.82	$86.88	3.4%	$2,540.70
CDH Gold	$2,522.64	$112.62	4.3%	$2,635.26
Aetna HMO	$2,552.82	$150.18	5.6%	$2,703.00
Comprehensive PPO	$2,579.70	$329.48	11.3%	$2,909.18
Employee + Child				
First State Basic	$1,802.87	$63.82	3.4%	$1,866.69
CDH Gold	$1,858.85	$82.98	4.3%	$1,941.83
Aetna HMO	$1,852.19	$108.96	5.6%	$1,961.15
Comprehensive PPO	$1,915.96	$244.68	11.3%	$2,160.64
Family				
First State Basic	$3,067.39	$108.60	3.4%	$3,175.99
CDH Gold	$3,204.80	$143.06	4.3%	$3,347.86
Aetna HMO	$3,185.36	$187.38	5.6%	$3,372.74
Comprehensive PPO	$3,225.01	$411.86	11.3%	$3,636.87

Conclusions

1. The actions in Steps One and Two above will simply reallocate the projected FY25 Medicare retiree surplus to the projected FY25 Pre-65 retiree deficit. These actions will not result in increased premium costs to the state.

2. The actions in Steps One and Two above will result in a $4.6M surplus in FY25 retiree revenues. These funds should remain in the OPEB fund and could be used during FY26 to partially cover the increase in the Minimum Reserve from 2% to 4%.

3. The actions in Steps One and Two above will present the State with the opportunity to rate the Active Employee, Pre-65 Retiree, and Medicare Retiree groups separately beginning in FY26 and to determine their respective rate actions based on their individual experience and trend assumptions.

4. It has been the practice of the State to identify the funds comprising the State premium shares as State funds. This can be misleading as State funds can be understood to be the State General Funds appropriated by the annual Budget Act. As per Chart 6 below, FY25 total retiree premium contributions are projected to amount to $319.4M, of which $142.0M (44%) are Non-State General Funds. When you include Revenues in the amount of $171.6M into the mix and account for the payback of $1.5M to OMB, the Non-State General Fund contributions increase to 64%. Consequently, State General Funds contribute to just 36% of retiree healthcare costs. There are many revenue streams other than State General Funds that contribute to covering retiree healthcare costs. These funds greatly reduce the impact retiree healthcare costs upon the State Operating Budget.

Chart 6	A	B	C
FY25 GHIP Budget	**State Share**	**Retiree Share**	**Total**
Retiree Premiums			
Payroll			
Pre-65	97,000,000	13,500,000	110,500,000
Medicare	167,700,000	8,700,000	176,400,000
Non-Payroll			
Pre-65			16,800,000
Medicare			15,700,000
Total			319,400,000
State Share Total	264,700,000		
General Funds (67%) *	177,349,000		
Non General Funds (33%)	87,351,000		
Non General Funds (33%)	87,351,000		
Retiree Share Total	22,200,000		
Retiree Non-Payroll Total	32,500,000		
Total	142,051,000		
General Funds	177,349,000	56%	
Non-General Funds	142,051,000	44%	
Total	319,400,000		

*** Source: March 2024 Fund Report and Financial Update, Long Term Projection Chart, Page16, April 22, 2024 SEBC Meeting (GHIP deficit $36.7M, GF share $24.6M, 67%)**

Chart 7	A	B	C
Total Revenue	**Pre-65**	**Medicare**	**Total**
Premiums	126.9	192.1	319.0
Revenues	18.5	153.1	171.6
Pay Back tp OMB	(1.5)	0.0	(1.5)
Total	143.9	345.2	489.1
Total General Funds	**177.4**	**36%**	
Total Non-General Funds	**311.7**	**64%**	

Source of Data: **August 2024 Fund Report and Financial Update, Long Term Projection Scenarios, September 23, 2024 SEBC Meeting**