

**BOARD OF REGENTS
MINUTES OF THE MEETING
Board of Regents Central Office (Teleconference)
Pierre, South Dakota
January 29, 2016**

The Board of Regents convened by teleconference at 9:00 a.m. (central time)/8:00 a.m. (mountain time) on January 29, 2016 with the following members in attendance:

ROLL CALL:

Randy Schaefer – PRESENT
Bob Sutton – PRESENT
Terry Baloun – PRESENT
John Bastian – PRESENT
Harvey Jewett – ABSENT
Kathryn Johnson – PRESENT
Jim Morgan – PRESENT
Joe Schartz – PRESENT
Kevin Schieffer - ABSENT

Also present were Mike Rush, Executive Director and CEO; Monte Kramer, System Vice President of Finance and Administration; Paul Turman, Vice President of Academic Affairs; Guilherme Costa, General Counsel; Kayla Bastian, System HR Director; Janelle Toman, Director of Communications; Molly Weisgram, System Director of Student Affairs and Executive Administrative Assistant to the CEO and Board; and other members of the regental system, public at-large, and media.

Regent President Randy Schaefer called the public meeting of the Board of Regents to order and declared a quorum present.

IT WAS MOVED by Regent Baloun, seconded by Regent Sutton that the Board of Regents dissolve into Executive Session at 9:00 a.m. on Friday, January 29, 2016, in order to discuss personnel matters, pending and prospective litigation, and to consult with legal counsel; that it rise at 9:30 a.m. to resume the regular order of business and to report its deliberations while in executive session.

ROLL CALL:

Schaefer - AYE
Sutton - AYE
Baloun - AYE
Bastian - AYE
Jewett - ABSENT
Johnson - AYE
Morgan - AYE
Schartz - AYE
Schieffer - ABSENT

The MOTION CARRIED.

The Board of Regents reconvened in open session at 9:45 a.m. to resume the regular order of business and to report its deliberations while in executive session.

ROLL CALL:

Randy Schaefer – PRESENT
Bob Sutton – PRESENT
Terry Baloun – PRESENT
John Bastian – PRESENT
Harvey Jewett – PRESENT
Kathryn Johnson – PRESENT
Jim Morgan – PRESENT
Joe Schartz – PRESENT
Kevin Schieffer – PRESENT

APPROVAL OF THE AGENDA

The agenda was approved as published.

SUSPENDING THE PROHIBITION ON MULTIYEAR EMPLOYMENT CONTRACTS TO PERMIT THE HIRING OF A REPLACEMENT HEAD FOOTBALL COACH FOR THE UNIVERSITY OF SOUTH DAKOTA AND DIRECTING A REVIEW OF THE UNDERLYING POLICY

Guilherme Costa, system general counsel, explained that after Joe Glenn, USD head football coach, announced his retirement on November 23, 2015, the search for a replacement began immediately in order to afford the incoming head coach the opportunity to direct the recruitment of prospective players from the high school class of 2016.

He explained that it quickly became apparent that the market expectations for NCAA Division I head coaches has developed to a point where an offer of a multiyear appointment has become a base requirement. This now settled market expectation diverges from a provision in Board Policy No. 4:1(3)(A) that, “Non-faculty exempt contracts may not be more than one year in length.”

He said this turn of events presents an emergent situation within the meaning of By-Law § 5.5.1 that would justify Board policy action outside the standard two readings requirement. The present item is intended to accommodate the immediate need to hire a new head football coach for USD by suspending the prohibition on multiyear employment contracts for this specific instance. The prohibition will remain in place as to all other non-faculty exempt contracts.

He offered that the recommended motion also directs the Executive Director to conduct a review of the policy to determine whether similar modifications may be necessary to respond to distinctive market conditions that may exist for additional classes of employees. Recommendations will be submitted for a first reading at the Board’s March 30-April 1, 2016 meeting in order to permit a second reading at the Board’s May 2016 meeting.

Dr. Rush offered another option. He said that rather than suspending the policy, the regents could opt to wait until a policy is drafted and address the issue in one action.

Regent President Schaefer said he does not see the value of suspending the board policy if a draft policy for this purpose is in creation and will be presented to the board in a coming meeting.

Dr. Rush said that if the Board prefers to wait, no motion is needed. Rather, he said, he needs direction that the Board office should continue its work on a multi-year employment policy to be considered by the Board in an upcoming meeting.

A copy of Suspending the Prohibition on multiyear employment contracts to permit the hiring of a replacement head football coach for the University of South Dakota and directing a review of the underlying policy can be found on pages ___ to ___ of the official minutes.

REPORT AND ACTIONS OF THE EXECUTIVE SESSION

After convening at 9:00 a.m. on Friday, January 29, 2016, the Board dissolved into executive session in order to discuss personnel matters, pending and prospective litigation, and to consult with legal counsel; rising from executive session at 9:30 a.m. to report its deliberations in executive session and to resume the regular order of business.

Regent Baloun reported that while in executive session, the Board considered personnel matters, pending and prospective litigation, and consulted with legal counsel, and gave directions to its executive director and general counsel concerning these matters.

IT WAS MOVED by Regent Baloun, seconded by Regent Sutton that the Board approve directions given to the executive director and the general counsel with respect to matters discussed in executive session, that it:

1. Accept the recommendation regarding *MPC Computers, LLC, Case No. 08-12667 (PJW) (Bankruptcy Court Dist. of Delaware)* and settle the Board's claims on the terms to be filed with the court.

ROLL CALL:

Schaefer - AYE
Sutton - AYE
Baloun - AYE
Bastian - AYE
Jewett - AYE
Johnson - AYE
Morgan - AYE
Schartz - AYE
Schieffer - AYE

The MOTION CARRIED.

A copy of the Report and Actions of the Executive Session can be found on pages ___ to ___ of the official minutes.

LEGISLATIVE UPDATES

A. BOARD OF REGENTS SPONSORED BILLS

Dr. Janelle Toman explained the 2016 Legislature adopted joint rules outlining changes in the budget setting process and a new schedule for hearing special appropriations bills. Although the five bills sponsored at the request of the Board of Regents do not seek general-fund appropriations, they are considered special appropriations because they request authorization to spend other funds.

As a result of this new schedule, the five BOR bills already have had a hearing before the Joint Appropriations Committee. Instead of meeting separately as House and Senate Appropriations committees, the hearing included all 18 members of both committees. This should expedite the hearing process to some extent.

The Joint Appropriations Committee heard the five bills on Jan. 19. Dr. Monte Kramer presented the bills and representatives of SDSU, USD, DSU, and NSU also were on hand to testify about their respective bills and answer committee questions.

Dr. Toman explained that four of the five bills passed through the Joint Appropriations Committee with a due pass motion on January 27. However, HB1017, the bill seeking authorization to build a new science and mathematics building at Northern State University, was not approved. The appropriators tabled the bill on a 16-0 vote, so the expectation is that this bill is dead for this legislative session.

Regent Harvey Jewett asked for clarification about whether any effort to bring this bill back would be successful. It was clarified that appropriators have indicated that no such effort would be successful.

A copy of the Legislative Updates – BOR Sponsored Bills can be found on pages ____ to ____ of the official minutes.

B. SENATE BILL 13 – SOUTH DAKOTA RETIREMENT SYSTEM SUMMARY

Kayla Bastian provided a brief overview of Senate Bill 13, which seeks to establish a new benefit structure for SDRS members who are hired on or after July 1, 2017. She summarized the most significant parts of the bill, including an increase to the retirement age, the elimination of special early retirement provisions, the addition of a variable retirement account, and changes to the cost of living adjustment.

A copy of the Legislative Updates – SB13 Retirement Summary can be found on pages ____ to ____ of the official minutes.

C. OTHER

Guilherme Costa explained that Senate Bill 102 was introduced on Wednesday, January 27 by a group led by Senator Tidemann. He explained that this Bill amends current law that prohibits the granting of either “on-sale” or “off-sale” licenses of alcoholic beverages on the

campus of any state educational institution. He clarified that on-sale is for consumption on the premises where sold and where off-sale is for consumption off the premises where sold.

He explained that the amendment would result in three primary changes. First, it would change the definition of “campus” to no longer include the area immediately surrounding the buildings used for athletic facilities. Second, it would allow the issuance of alcoholic beverage license for malt beverages and wine for consumption on site at times and places authorized by the Board of Regents that involve the performing arts, intercollegiate athletics, fund raising, a reception, a conference, or an occasional or scheduled event at a facility used for such activities. Third, it would allow the issuance of a special events license for a special event authorized by the Board of Regents that involve the performing arts, intercollegiate athletics, fund raising, a reception, a conference, or an occasional or scheduled event

He reminded the group that at its regular December Board of Regents’ Meeting in Spearfish, the Board addressed the topic of alcohol on campus through two motions:

1. In authorizing the Executive Director to submit proposed bills during the 2016 legislative session, the Board specifically decided against submitting a proposed bill that would repeal the prohibition of alcohol sales at state educational institutions; and
2. The Board directed the Board staff to develop a menu of BOR policy proposals that would more narrowly draw the scope of alcohol availability at fundraising and other limited special events on campus for vetting at public for a

He described two significant benefits should Senate Bill 102 be signed into law. First, it removes an obstacle in current law that prohibits alcohol sales on campus that would have to be removed should the Board decide to allow alcohol sales to take place on our campuses at some point in the future. Second, it does not require that alcohol sales be allowed on campus and defers to the Board of Regents to determine the times, places, and special events at which such alcohol sales will be permitted.

He recommended that the Board authorize the Executive Director to support Senate Bill 102. Regent Jewett asked for clarification about current law. It was clarified that institutional presidents currently are able to designate where alcohol can be served on campus but not sold.

Dr. Rush explained that the legislation would be permissive. The Board of Regents would have to create a policy that would delineate what approvals and permissions would be allowed and required at the institutions. The legislation would result in the Board drafting a policy and would not require the regents to meet to approve requests instance by instance.

Regents Baloun and Morgan expressed their support.

IT WAS MOVED by Regent Morgan, seconded by Regent Sutton to authorize the Executive Director to support Senate Bill 102.

ROLL CALL:

Schaefer - AYE

Sutton - AYE
Baloun - AYE
Bastian - AYE
Jewett - AYE
Johnson - AYE
Morgan - AYE
Schartz - AYE
Schieffer - AYE

The MOTION CARRIED.

ADJOURN

IT WAS MOVED by Regent Sutton, seconded by Regent Schartz to adjourn the meeting of the full board at 10:11 a.m. All voting AYE, the MOTION CARRIED. Meeting adjourned.