

# 733

# TEACHERS' RETIREMENT SYSTEM



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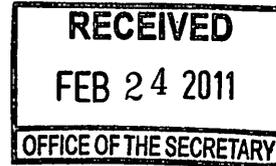
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BRIAN SCHWEITZER, GOVERNOR

## STATE OF MONTANA

February 18, 2011

Elizabeth M. Murphy, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090



RE: SEC File No. S7-45-10  
Release No. 34-63576

Dear Ms. Murphy:

On behalf of the Teachers' Retirement System of the State of Montana (Montana TRS), I am writing in response to the Security and Exchange Commission's (SEC) Release No. 34-63576 and proposed rules 15Ba1-1 through 15Ba1-7, which rules would define appointed members of the governing body of a public pension system (who are not *ex officio* members) as "municipal advisors, and require them to register as such with the SEC and with the MSRB. Montana TRS believes the proposal to include its appointed board members under the definition of "municipal advisors" is contrary to the intention and plain meaning of the Dodd-Frank Act and would have immeasurable adverse impact on the responsible governance of the retirement system.

Montana TRS is a public retirement system established by the legislature and laws of the State of Montana, and governed by an appointed, citizen board of trustees who are fiduciaries of the retirement system by provision of the Montana Constitution and subject to the ethics laws applicable to all state employees and elected officials. The retirement board is further constrained in its administration of the retirement system by all state laws applicable to the administration of all other state agencies, including laws requiring open meetings and public participation in agency action, and is subject to ongoing financial and performance audits and legislative oversight. Montana TRS board members receive \$50 plus per diem and reimbursement for lodging for each board meeting they attend; they receive no other compensation for serving.

Montana TRS board members act as a single governing body. No board member has independent authority or control to make administrative decisions for the retirement system. The board speaks as a single governing voice, and the retirement system acts only through the authority of the board. The Dodd-Frank Act explicitly exempts the

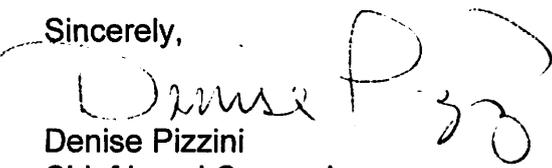
Municipal Advisor Comments of Montana TRS  
Page 1 of 2

"municipal entity" and the "employees of the municipal entity" from the definition of "municipal advisors" that would be deemed to provide advice to the municipal entity. The exemption of the "municipal entity" from the definition of "municipal advisors" is devoid of meaning if it is not understood to refer to the governing body of the municipal entity. And the obvious and rational construction of "municipal entity" as referring to the governing body of a retirement system does not vary with respect to the appointment mechanism of the individual members of the governing body.

Identification of an individual board member as an "advisor" to the board he/she serves on would create an appearance of impropriety/conflict of interest arising from the performance of the very duties and obligations the board member is called upon to perform as a fiduciary of the retirement system. Further, the requirement to register with two federal agencies, and to meet current and proposed professional qualification requirements and rules and standards of conduct, as well as submit to disciplinary actions, etc., would impose unwarranted and onerous burdens on citizen board members who already work diligently, tirelessly, and without compensation on behalf of all members of the Montana TRS. I have no doubt the burden of its board members being "municipal advisors" will make it very difficult for Montana TRS to recruit and maintain qualified and committed board members. In fact, it may turn out that the only people who are willing to fill positions on public retirement boards are individuals who are, indeed, municipal advisors, and would see potential for personal advantage in serving on such boards.

Thank you for this opportunity to comment, and for your consideration of the concerns of public retirement systems.

Sincerely,



Denise Pizzini  
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Montana Teachers' Retirement System  
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