

HOUSE COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEM

February 11, 2003 Hearing Room E
3:00 PM Tapes 16 - 17

MEMBERS PRESENT: Rep. Tim Knopp, Chair
Rep. Alan Brown, Vice-Chair
Rep. Jeff Barker
Rep. Tom Butler
Rep. Greg Macpherson
Rep. Mary Nolan
Rep. Dennis Richardson
Rep. Wayne Scott

MEMBER EXCUSED: Rep. Deborah Kafoury, Vice Chair

STAFF PRESENT: Cara Filsinger, Administrator
Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: Employer Proposal on PERS – Public Hearing
HB 2004 – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
Tape 16, A		
003	Chair Knopp	Calls meeting to order at 3:03 p.m. and opens a work session for the purpose of introduction of a committee bill.
<u>INTRODUCTION OF COMMITTEE BILLS – WORK SESSION</u>		
005	Rep. Brown	MOTION: Moves LC 1670 BE INTRODUCED as a committee bill.
-13		VOTE: 8-0-1
	Chair Knopp	EXCUSED: 1 - Rep. Kafoury Hearing no objection, declares the motion CARRIED.
	Chair Knopp	Opens a work session on HB 2004 for the purpose of receiving testimony on comments made previously.
<u>HB 2004 – WORK SESSION</u>		
022	Greg Hartman	Bennett, Hartman, Morris & Kaplan, LLP. Submits letter to the committee in response to comments by Bill Gary (EXHIBIT A). Comments on Lipscomb decision.
062	Hartman	Reads sentence from decision in an Oregon State Police Officer's case. States that it is from that portion of the case in which the court determined it was inappropriate to require participants in PERS and other pension system to pay six percent of their income, even though they may have made arrangements to have it picked up. States that the court will be looking at the total package and thinks the court will apply the standards unless the court can be convinced new standards are appropriate.
065	Rep. Richardson	Comments on possibility of bankruptcy by governments, and asks Hartman what he would do to protect the financial integrity of the state and municipalities and still provide reasonable benefits to the employees.

	Hartman	Responds that his clients recognize the financial difficulties. Suggests that the state is going to have to, if substantial changes are made in the system, consider whether there is a different theory for protection of benefits that would be reasonable for the Supreme Court to adopt given the circumstances, which is more flexible perhaps than the standards the court has currently adopted.
	Hartman	Adds that he does not think the legislature can work in a vacuum without working backwards. Comments on PERS Board actions and their belief in protecting the benefits.
149	Rep. Butler	Comments on the doctrine “impossibility to perform.” Asks how we have managed to back ourselves into a corner and not have the ability to perform on a \$15.7 billion liability.
	Hartman	Comments he does not agree the challenges are as dire as Rep. Butler makes them out to be. The challenge is a state contract, and thinks the court’s analysis will be under those paragraphs. A further concerned is if state and local governments are at such a state of financial stress, the pension plan should not be the only contract on the table.
187	Bob Livingstone	Oregon State Firefighters. Comments on mortality tables that are blended. Profession is predominantly male; therefore, benefits will be reduced with blended mortality tables. Firefighters die at an earlier age than general service employees. Thinks that consideration should be given to exactly what the mortality tables are. The firefighters would be a proponent of a table that would be more reflective of males.
238	Brian Delashmutt	Comments about talking with PERS staff relating to new mortality tables. Asks that police and fire and general service be separated. Explains reason for their requests.
	Rep. Richardson Delashmutt	Asks for a copy of studies that have been done. States that the studies are national studies and that the actuary sets the mortality rates on Oregon statistics. Adds that a lot of people are in police and fire who are not policemen or firefighters, including legislators, which skews the mortality rate.
280	Rep. Macpherson	Asks what proportion of the active members in PERS is treated as public safety.
	Delashmutt	Responds he does not know.
	Chair Knopp	Recesses work session on HB 2004 and opens a public hearing on the Employer Proposal on PERS.

EMPLOYER PROPOSAL ON PERS – PUBLIC HEARING

	Chair Knopp	Announces that HB 2003 does not exist at this time.
307	Bill Gary	Harrang, Long, Gary, Rudnick, PC. Introduces: Chris Dudley, Oregon School Boards Association; Mike Salsgiver, Portland Business Alliance; and Steve Manton, City of Portland.
	Gary	Explains his packet of information: a letter describing the what will be HB 2003, a backgrounder, a comparison of proposed HB 2003 and the items set out by Governor Kulongoski, and a draft of what will be HB 2003 that was prepared by his office (EXHIBIT B).
	Gary	Explains that proposed HB 2003 is by design an omnibus bill; it accomplishes a number of reforms to PERS by addressing several areas of concern, both the need to remedy what the Circuit Court concluded were past unlawful actions that had the effect of

	Gary	driving up benefits, a structural change to the system that will help control costs in the future, and changes in governance. Explains reason for including the various changes in the proposed bill.
TAPE 17, A		
017	Gary	Reviews the financial evaluation of proposed HB 2003 (EXHIBIT B, page 18) .
058	Gary	Explains what HB 2003 would not do, and reviews components of the program contributing to costs that would be changed in the new legislation.
166	Gary	Comments on freezing COLA to those who retired prior to 1996 until benefits are equal to what the appropriate benefits would be.
223	Gary	Continues explaining provisions of the future HB 2003.
	Gary	The proposal saves substantial money because the cost is more than the matching dollar at the bargaining table. Proposal provides agreements would be re-opened to negotiate what will be done with the six percent.
272	Gary	Explains that the proposed bill also deals with governance.
	Chris Dudley	Executive Director, Oregon School Boards Association. States that proposed HB 2003 is a big bill for them from a public policy standpoint. Comments on the employer contribution rates. Urges the committee to look at the bill closely.
	Dudley	States that this proposal will do exactly what the original money match did. States that this proposal will not reduce the costs right now because as long as the earnings do not match the assumed rate, the employers pay the difference.
358	Steve Manton	Pension System Manager, City of Portland. States he is also representing other employers who have joined together in an effort to challenge the rate orders developed by PERS. Speaks in support of proposed HB 2003.
	Mike Salsgiver	State Government Affairs Manager, Portland Business Alliance. Explains their group's interest is to help Oregon return to a healthy growth. Comments on financial constraints for schools, and advocates for program reform of PERS.
TAPE 16, B		
010	Rep. Macpherson	Asks if the overpayment to accounts would affect the assumed earning rates and not reduce the employer rates.
	Gary	Comments that the actuarial analysis shows that the spike in rates that would occur by a reduction in the assumed earnings rate is overwhelmed by the savings in expected future benefits.
042	Rep. Macpherson	Asks if the figures reflect the effects of a reduction in the assumed interest rate.
	Gary	Responds that it is his understanding they do. Adds that he will provide a more detailed analysis that was done by the actuary.
055	Chair Knopp	Asks if the reference to a defined benefit plan is a new plan.
	Gary	States this proposed bill does not include a new plan. Suggests the legislature should adopt a successor plan after this becomes law.
	Chair Knopp	Asks if the proposed bill would do anything to protect employers who have made lump sum payments on their unfunded liability.
	Gary	Responds that the numbers presented are system-wide savings. The impact will vary by employer depending on their

circumstances, such as whether they have paid down their unfunded liability. Adds that the details are not addressed in the bill.

085 Rep. Nolan Asks Salsgiver if businesses have defined benefit plans that do not have unfunded actuarial liabilities.

Salsgiver Responds he does not have the figures. Comments on the necessity for good public policy to address the costs that are being paid by the taxpayers.

Rep. Nolan Asks if Dudley knows what the retirement rate of school employees is recently compared to prior years.

Dudley Responds he does not have the figure but will check. Explains that the situation is different now because an early retirement is cheaper to the district than a reduction in force.

123 Rep. Nolan Asks how schools will be able to attract specialty teachers if the benefits are reduced.

Dudley Responds that he does not believe changing the system to one that looks very much like a private sector defined benefit plan will be a deterrent.

Salsgiver Comments that the reason for recruiting problems is the financial state of the state. The larger public policy is how to get the state's financial footing under it.

163 Rep. Macpherson States that the table summarizing the numbers (**EXHIBIT A, page 18**) refers to the mortality table being the driving force that is full and immediate resulting in a reduction of 2.21 percent in the employer rate. Asks what date the transition is based on, and asks that Gary describe the impact of full and immediate on retirees.

Gary Explains that current actuarial factors would be applied January 1, 2003, the date proposed by Governor Kulongoski. It provides that actuarial factors will be applied fully and immediately, without any kind of look back provision; it does not go back to take money out of the retirees' accounts. The proposal merely directs that the tables be current, not which ones will be used.

Rep. Macpherson Notes the column "Sect 26 Adjustment" (**EXHIBIT B, page 18**), and asks for explanation.

Gary Explains that the Section 26 Adjustment is the terms the actuary used to describe the deficit account; it has been referred to by others as the Lipscomb adjustment. It is Section 26 in the proposed bill.

214 Greg Hartman Comments that to the extent this bill is built on the Lipscomb decision, it is dependent on whether Judge Lipscomb got it right. If Judge Lipscomb determines he was mistaken in his analysis, then the portion of the bill based on Judge Lipscomb's decision will fall with it. Explains his reasoning for his comments. Urges committee to get advice from their counsel.

Hartman Comments on the six percent pickup. Comments on historic labor relations in Oregon and reviews history of collective bargaining. Suggests there seems to be a lack of understanding of the impact of this proposed bill on the work place; it will cause a loss of the brightest and best. Cautions on moving down benefits, and subjecting the six percent to negotiation.

349 Hartman Comments on history of the pickup of the six percent. Adds that he believes the bill would have a rather modest savings. States he will provide an analysis of the proposal in

		writing.
	Chair Knopp	Asks if the court might look at this in a holistic way, the Lipscomb decision, the eight percent cap, the mortality tables, or this bill, and rule on all at the same time. Asks why the legislature should not put bills before the court that have to do with remedies as those relate to the Lipscomb decision, as opposed to waiting a year or two to get a decision on the appeal of the Lipscomb decision.
	Hartman	Responds that he thinks the courts will likely consider virtually all the issues in some way together. States he is not suggesting it is inappropriate for the legislature to work out an implementation scheme of Judge Lipscomb's opinion, if the legislature thinks that is appropriate. Suggest that if the Lipscomb decision was wrong, perhaps the scheme will fall with the Lipscomb decision, and states that Judge Lipscomb did not address remedies or what we do next. Suggests again that the legislature get advice from their attorneys.
TAPE 17, B		
019	Rep. Butler	Comments he wants to make sure that the proposed HB 2003 has a directive that sends challenges directly to the Supreme Court.
	Gary	Responds that there is an expedited appeal in proposed HB 2003. Explains that they want to get everything to the Supreme Court for a comprehensive review.
047	Mike Forrest	Public employee who retired January 1, 2003. Comments that his retirement date was set as January 1 by the PERS staff. Requests that consideration be given to those who last worked in 2002 and have a retirement date of January 1 when considering the effective date of the new mortality tables.
067	Chair Knopp	Closes the public hearing and adjourns meeting at 4:35 p.m.

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EXHIBIT SUMMARY

A – PERS, response letter, Greg Hartman, 17 pp

B – Employer Proposal on PERS (proposed HB 2003), proposal, Bill Gary, 56 pp