

HOUSE COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEM

February 20, 2003 Hearing Room E
3:00 PM Tapes 22 - 23

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

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

MEASURE/ISSUES HEARD: HB 2008 – Public Hearing
HB 2004- Work Session
HB 2020 – Public Hearing

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 22, A		
003	Chair Knopp	Calls meeting to order at 3:12 p.m. and opens a public hearing on HB 2008.
<u>HB 2008 – PUBLIC HEARING</u>		
010	Francis Charbonnier	School Board, McMinnville School District 40. Testifies on the need for a new retirement system that is predictable and affordable for public employees (EXHIBIT A).
126	Charbonnier	Continues presentation (EXHIBIT A, page 3).
200	Charbonnier	Continues presentation, explaining calculation of benefits under defined benefit and defined contribution plans.
251	Chair Knopp Chair Knopp	Welcomes future comments from Charbonnier on HB 2003. Closes the public hearing on HB 2008 and opens a work session on HB 2004.
<u>HB 2004 – WORK SESSION</u>		
260	Dave Heynderickx	Legislative Counsel. Explains the HB 2004-11 amendments (EXHIBIT B).
302	Heynderickx	Continues explaining the amendments (EXHIBIT B, page 3).
362	Heynderickx	Explains the dual calculations to determine the higher benefit.
TAPE 23, A		
032	Heynderickx	Comments on the applicability to judge members.
033	Heynderickx	Explains Section 5 (EXHIBIT B, page 4).
063	Chair Knopp	Asks if the appeal time could be shortened.
	Heynderickx	States that September 1 may work just as well.
	Chair Knopp	Asks if this instructs the PERS Board to do anything that would run through the 60 day period.

	Heynderickx	Responds that it is intended to not require Board action to adopt tables. Comments on the look-back provision.
090	Rep. Macpherson Heynderickx	States his understanding of calculation of benefits. Responds that Rep. Macpherson is correct. Comments on the conversion of accounts.
110	Rep. Macpherson	Comments that the conversion to alternative benefit forms would be more modest than impacts of converting to an annuity benefit using a more modern mortality table, and it would be driven by choice exercised by the member. Asks if those statements are true.
	Heynderickx	Responds that he believes Rep. Macpherson is correct.
130	Rep. Butler	Asks what the obligation of the PERS staff is to check the calculations.
	Heynderickx Rep. Butler	Comments on PERS administrative practices. Comments that if a participant is retiring and doesn't know what to ask for, the retiring employee may overlook another possibility, Adds that he wants to make sure additional responsibility is not placed on the agency.
162	Steve Delaney	Explains that employees receive all the options and they can choose what is best for them.
169	Rep. Nolan	Asks for an explanation of the legal affects of the preamble in the HB 2004-11 amendments, particularly lines 1-17.
	Heynderickx	Explains the preamble is legislative history. Comments on history of courts looking at the legislative history. The preamble will be there in case there are ambiguities in the text of the statute.
200	Heynderickx	States the language in lines 15-17 comes from SB 134 of last session. Comments on fiduciary duties of the PERS Board.
	Chair Knopp Heynderickx	Asks if the preamble becomes statute. States the preamble does not become law.
229	Rep. Nolan	Gives example of freezing an account of a 60 year old on June 30, 2003 with the current mortality table, and the employee doesn't retire until a year later. Asks if the mortality table applies to their current account at age 60 or 61.
	Heynderickx	Explains that the account continues to grow; Tier I accounts continue to earn the 8 percent and contributions into the account continue. Explains the comparative calculations of June 30, 2003 and a date in the future when an employee retires.
280	Rep. Nolan	Comments on benefits of a retiree at age 60 and age 61; the benefit would be larger at age 61 because the life expectancy is less.
	Jim Voytko	Executive Director, Public Employees' Retirement System. Explains calculations.
345	Rep. Nolan	Asks where the board is on revealing legal advice that was given to the PERS Board relating to the method and timing of implementing the change in mortality tables. Comments she is struggling on making a decision on whether to support the legislation knowing there is significant information that she does not have access to.
	Voytko	Comments on contract rights and states the Board consulted with their attorney in executive session and produced a look-back mechanism, not dissimilar in function than that in the HB 2004-11 amendments.

402	Rep. Nolan	States that Voytko has also said there are other issues in the legal opinions that have been presented that may also be germane to policy decisions before the committee.
	Voytko	Responds there are two other issues. One that was brought up in Judge Lipscomb's courtroom was the applicability of IRS requirements, or non-applicability to public plans, ERISA requirements. There are various opinions about that. States that the contract rights seem to be the dominant point of contention.
435	Rep. Nolan	Comments that knowing that some members have access to the legal advice and it is not a part of the record is a concern.
TAPE 22, B		
002	Voytko	Explains that they asked the Department of Justice (DOJ) how they can be open and honest and not break privilege and not endanger the litigation. Explains determination of DOJ.
041	Chair Knopp	States that he has never been in possession of the legal opinion.
	Chair Knopp	Asks if Voytko would anticipate any change in the fiscal statement actuarial analysis on the HB 2004-11 amendments than on the HB 2004-6 amendments (EXHIBIT C).
	Voytko	Comments on request to Mark Johnson, Actuary; does not anticipate a significant difference.
078	Chair Knopp	Reads the impact shown on the Legislative Fiscal Impact Statement on the HB 2004-10 amendments (EXHIBIT D).
091	Bill Linden	Circuit Court Judges Association and Appellate Court Judges Association. States that currently Judges would not be affected because most judges retire with a defined benefit; their plan is very different than regular PERS accounts. Explains there is one opportunity in the law for judges to elect a conversion that provides that they take a reduced benefit so their surviving spouse receives this same benefit amount that the judge would receive while he or she was alive. States that he is assuming under the HB 2004-11 amendments that their benefit would be reduced. Asks if he is making the wrong assumption. States that if the judges' benefits would be reduced, they object to these amendments being applied to judges under PERS.
110	Heynderickx	Explains that for those types of conversion, the look-back does not apply.
	Rep. Macpherson	States that the new mortality tables would apply to judges just like everyone else. That change would affect the amount payable under alternative benefit forms. The benefit could be higher or lower, depending on the age and gender of the judge and spouse.
	Heynderickx	Responds there are so many scenarios that can come up. It could make a lot of difference depending on the age of the judge and spouse.
146	Rep. Macpherson	Comments it is not the intention to have a negative impact on judges; the intention is to be neutral in the impact. Believes this would only come into play for judges if there is a conversion to alternative forms and the impacts could be either way.
191	Linden	Asks if he can describe to judges that this is intended to be neutral in terms of their benefit levels, and that it may have a slight positive or negative impact given the ages and situations.
	Rep. Macpherson	Agrees. States he believes the net impact is neutral.
181	Brian Delashmutt	PERS Coalition. Comments on change in Section 4; it impacts

		more than just the people going out on money match. Comments on impact on police and firefighters who go out on full formula. States that he cannot envision the new tables would produce a higher benefit.
260	Delashmutt	States that the coalition had concern with the HB 2004-10 amendments (EXHIBIT E) and subsequent changes to actuarial tables in 2005 or 2007. The concern is that there still be a base of the initial calculation and the benefit would not be lower.
277	Delashmutt	States that the PERS Coalition would like to place on the record that they are opposed to the base policy of a flat look back. Explains that the account balance is not put in limbo from earning the assumed rate but it does put the benefit and any accrual of an assumed rate in limbo during the transition. The account balance is not frozen but the benefit is frozen and if there is no additional accrual of interest of the assumed rate, the net impact is there is no assumed rate of eight percent being added to the account balances. The Coalition believes that is a flaw in the bill and believes the Board made the correct decision. It is a major modification and the coalition does not agree with that as the base philosophy.
	Delashmutt Rep. Nolan	Speaks to question by Rep. Nolan on a 60-year old participant. States she did not understand the same thing as stated by Delashmutt and would like clarification.
	Delashmutt	Comments that he never heard a direct answer on Rep. Nolan's question about the age that would be used when doing the calculation on the look back.
312	Delashmutt	States they have concerns on the expedited process in the HB 2004-11 amendments (EXHIBIT B).
	Linden	Comments on other bills that include an expedited appeals process. Suggests Section 5 be deleted from this bill and that one path for expedited appeals be set up.
	Delashmutt	Comments on expedited cases at the trial court level and the direct appeal to the Supreme Court. Comments on need to make a record in order for the Supreme Court to make a judgment on the record.
398	Heynderickx	Comments on use of the different tables and the look-back provision.
	Chair Knopp	Comments that Delashmutt also expressed concern about police and firefighters.
	Delashmutt	Asks that Steve Delaney respond to the concern.
TAPE 23, B 012	Delaney	Responds there is no difference between calculating a full formula for police and firefighters than general service other than an actual factor that is involved, the 2.0 percent for police and firefighters, and the 1.67 for general service. Explains the impact on conversions.
	Michelle Deister	PERS Employer Coalition consisting of the League of Oregon Cities, Association of Oregon Counties, the Oregon School Boards Association, and Special Districts Association of Oregon. Testifies that their coalition believes the HB 2004-11 amendments are a step in the right direction, but their coalition still prefers the full and immediate implementation of the up-to-date mortality tables (EXHIBIT F).

061	Rep. Butler Deister	Asks if the reference to the HB 2004-10 amendments in their prepared statement is correct. Responds she would like to amend her statement to say HB 2004-11 amendments. Adds that they are comfortable with the approach in the -11 amendments.
072	Chair Knopp	Comments that he believes the committee has heard the various arguments and does not believe anything will change. Comments on not having a copy of the legal advice to the PERS Board.
094	Rep. Butler	MOTION: Moves to ADOPT HB 2004-11 amendments dated 2/20/03 (EXHIBIT B).
	Rep. Nolan	Comments that she does not think today is right for a decision because she has concerns she would like to get answered. Adds that waiting two days would not compromise the effort to improve the PERS system. States she will object to the amendment and moving the bill today.
	Chair Knopp	Advises members that the bill can be brought back to committee if something material comes up, but does not believe that will happen.
121		VOTE: 7-2-0 AYE: 7 - Brown, Butler, Kafoury, Macpherson, Richardson, Scott, Knopp NAY: 2 - Barker, Nolan The motion CARRIES.
	Chair Knopp	
128	Rep. Butler	MOTION: Moves HB 2004 to the floor with a DO PASS AS AMENDED recommendation.
	Rep. Barker	Comments that he will support the bill but that he has great reservations after hearing there is legal advice he is not aware of, and agrees that he does not believe the bill would change a great deal more.
	Chair Knopp	Comments he believes this is as close to middle ground as possible on the issue. He believes it protects employees as it relates to the lookback provision and perspective date as opposed to a retroactive date, and gives the courts an opportunity to choose whether retroactivity is accurate or if this committee has found a remedy within the lookback that provides employees the opportunity to not be damaged by moving to what should have happened more than a decade ago, i.e. updating the mortality tables. In terms of savings, this comes much closer to the employer version than the PERS Coalition version.
171		VOTE: 8-1-0 AYE: 8 - Barker, Brown, Butler, Kafoury, Macpherson, Richardson, Scott, Knopp NAY: 1 - Nolan The motion CARRIES. REP. KNOPP will lead discussion on the floor.
	Chair Knopp	
176	Rep. Butler	Comments he will support the bill on the Floor and reserves the right to speak on the floor on behalf of the two coalitions. He believes both have justifications for their positions. Comments that the Judge Lipscomb decision did indicate that there be immediate and full implementation of the law and his decision.

Chair Knopp

HB 2008 – PUBLIC HEARING

Chair Knopp

Believes both the employers and employees have come to middle ground.

Close the work session on HB 2004 and opens a public hearing on HB 2008.

Noting there is nobody wishing to speak on HB 2008, closes the public hearing on HB 2008, and opens a public hearing on HB 2020.

HB 2020 – PUBLIC HEARING

Chair Knopp

Noting there is nobody wishing to speak on HB 2020, closes the work session on HB 2020, and adjourns meeting at 4:42 p.m.

EXHIBIT SUMMARY

A – HB 2008, prepared statement, Francis Charbonnier, 3 pp

B – HB 2004, HB 2004-11 amendments, staff, 5 pp

C – HB 2004, actuary estimates on HB 2004-6 amendments, Mark Johnson, 3 pp

D – HB 2004, Legislative Fiscal Statement, staff, 2 pp

E – HB 2004, HB 2004-10 amendments, staff, 5 pp

F – HB 2004, prepared statement, Marie Deister, 1 p