

HOUSE COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEM

March 06, 2003 Hearing Room HR E
3:00 PM Tapes 27- 28

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 2020 – Public Hearing
 HB 2006 – Public Hearing
 HB 2401 – 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>
<u>Tape 27 A</u>		
003	Chair Knopp	Calls meeting to order at 3:05 p.m. and opens public hearings on HB 2008 and HB 2020.
<u>HB 2008 AND HB 2020 – PUBLIC HEARINGS</u>		
010	Mary Botkin	American Federation of State County and Municipal Employees (AFSCME). Reports on work group of employers and employees attempting to reach an agreement on a successor plan to PERS.
	Michelle Deister	League of Oregon Cities. Comments she has nothing to add to the Botkin report.
	Pat West	Oregon State Firefighters. Submits an analysis by the public employee coalition (EXHIBIT A).
040	Chair Knopp	Closes the public hearings on HB 2008 and HB 2020 and opens a public hearing on HB 2006.
<u>HB 2006 – PUBLIC HEARING</u>		
045	Jim Voytko	Executive Director, Public Employees' Retirement System. Presents the agency's interpretation of HB 2006 (EXHIBIT B).
086	Rep. Macpherson	Asks how directly the requirement that the employer and employee must contribute to the deficit account takes the obligation for contribution back to members whose accounts were credited with the additional earnings that resulted in the deficit.
	Voytko	States that it does not. States that the creation of the deficit and the elimination of it are separated by a minimum and maximum of five years but it would be a minimum if it were amortized. Explains that the generation gap is that some of the members

whose guarantee was satisfied through the creation of this deficit would have passed from the active side into retirement and therefore no longer make contributions.

114 Voytko Explains that it is possible the Board could try to make the specific employer and employee match as close as possible given the generational gap or it may do something more generic. Adds that he cannot predict what the Board would do.

 Rep. Macpherson Summarizes that what we would be saying is that earnings have been credited to member accounts as a result of the eight percent guarantee, yet at a subsequent point in time members contributing to the system would be required to contribute more than six percent in order to cover the prior deficit. It would be obligating a new generation of member to pay for the over crediting, or crediting beyond what had been earned in the system by a prior generation.

 Voytko States Rep. Macpherson is correct, and the question is how big the overlap would be—typically it would be fairly substantial. States that Tier 1 is a closed system so with retirement rates being what they are, there won't be an overlap. Adds that the existing statute has precisely the same generational recapture attribute. Under the current statute, during the five years the earnings of Tier 1 members are, in essence, conditional, the excess earnings above the assumed rate are subject to recapture to pay for earlier created deficits. The situation exists today, except the mechanism is excess earnings as opposed to access to some additional contributions.

140 Rep. Butler Questions how the deficit would be paid from contributions. Asks how that can be done when some of the accounts may be closed.

 Voytko States that as they understand HB 2006, if there are no employee contributions, there is no access to them. It would only be from active contributing, presumably, Tier I employees. Adds that it may or may not involve an addition to the six percent; it could involve a redirection of the existing six percent. Gives example that one-quarter percent was necessary over 26 years to amortize the 50 percent this bill would assign to employees, it could be that five and three-quarters percent of their contribution goes into their accounts and one-fourth percent goes to retire the deficit on which the clock had run out.

 Voytko Adds that an additional contribution would be one way it could work, but it could be a redirection of a portion of the six percent. They read the bill as allowing the Board to decide.

164 Rep. Richardson States that since the bill says, "...any remaining deficit in the amount must be paid equally from employer and employee contributions..." he questions whether that means that the employer that is liable for the six percent pickup would also be liable for the entire amount of the deficit.

 Voytko Responds that six percent pickup is a product of collective bargaining and it is not in the purview of PERS to say what is to be picked up.

 Steve Delaney PERS staff. Explains that the pickup is the methodology to bring the member contributions into the plan for tax qualification purposes; PERS treats them as member dollars in the system. Adds that not all employers pay the pickup; the split is about

		60/40.
	Voytko	States that because the pickup is a collective bargaining issue, it has to happen at the local employer level. PERS is only interested in getting the one-quarter percent HB 2006 would require them to get.
	Rep. Richardson Voytko	Asks if this is creating an ambiguity as to who will be paying. Responds that they read HB 2006 as saying that 50 percent of the burden is for each category because there are only two categories of contributing participants—employees and employers.
207	Rep. Macpherson	Comments there are years in which the system does not earn eight percent and yet we credit eight percent to member accounts. That difference becomes an actuarial liability of the system amortized through the employer contribution mechanism over the 26-year period. HB 2006 would have half the amount shifted to the employee which would result in a reduction in the amount credited to the member accounts. Even though six percent was received from the member's pay either directly or as a pickup by the employer, or by an additional contribution over and above the six percent, the member would bear one-half the obligation. Asks if that is what the bill would do.
	Voytko	Responds he does not believe there would be an acceleration of five years. The five years in HB 2006 is the same. If anything, it would delay it because if it were interpreted as cumulative, there would be the deficit in year one, plus two, plus three, and plus four, all due in the fifth year. This is saying only the first year's deficit clock runs out in the fifth year.
	Voytko	Adds that he does believe HB 2006 clarifies who is to pay. In years one through four while the clock is running, the actuary has already taken into account the existence of the deficit because it is a subset of the entire actuarial unfunded liability and has only begun to raise employer rates only in response to it.
270	Rep. Macpherson	Comments there is in the statute a more limited timeframe for recovering deficits that arise as a result of the crediting beyond the actual earnings experience. Notes that the time in HB 2006 is blank.
	Voytko	Notes line 13 of the bill is existing language and this bill would not change that. That is why he would not say there is acceleration.
	Rep. Macpherson	Comments that it is not that we are coming to a point where the employers have to pay entirely because we did not get an eight percent return in 2000.
307	Voytko	Responds that they assume that without the blanks in lines 18 and 20 that the default is the current five years. States there are pluses and minuses for lengthening the time period the deficit does not have to be wiped out. It is a policy decision.
340	Chair Knopp	Asks when the call-in was instituted.
	Voytko	Responds that the answer is shrouded in legislative mystery. Comments on creation of the deficit account.
	Chair Knopp	Asks if they have a period other than five years they are comfortable with.
	Voytko	Responds that the Board has not indicated a time. Believes staff is ready to recommend to the Board annualization because the probability of triggering a call may still be high but the call that

could be triggered is some small portion. States he is concerned about creation of larger mismatches in the generational issue about who gets the benefits and who ends up paying the costs. States he is concern about this because they have been sued on this topic by members who felt the reserving during some years and the use of those reserves in other years when the retired employee did not get to benefit was a generational inequity. It is one of the inherent parts of the way the plan is structured. Anything that would exacerbate that might raise their litigation risks.

399 Rep. Butler Asks to whom the crediting would be charged. Notes there could be multiple employers of one employer, questions whether the current employer would be charged.

421 Voytko Gives examples of what the Board might do.

TAPE 28, A

030 Voytko States that over the course of a career an employee may work at five different employers. They address five different charges to each of the employer to pay for the cost of providing their benefits.

036 Chair Knopp Asks if defined benefit plans in other states have triggers.
Voytko Responds he is familiar with call-in like this in all kinds of private partnerships and financing vehicles but has never seen one in a pension plan.

043 Jim Green Oregon School Boards Association (OSBA), representing public employers from The League of Oregon Cities, Association of Oregon Counties, Special Districts, and the OSBA. States that they support the idea of the bill, the questions and concerns have been laid out. Questions where the cost burden is shifted when there is a call. Adds there are a lot of things in HB 2006 and the processes about collecting it that concern some. There has also been some talk about eliminating the call and just say it will be paid equally by employers and employees. States there are also issues within that because they don't know what happens when a person retires. States they are interested in extending the call to some period beyond the five years. They know in 2005 there will hundreds of millions of dollars due on the call to pay the eight percent guarantee when eight percent was not earned the first time.

Green States that while the statute doesn't say so, the PERS staff has indicated that the cost will be shifted totally to public employers. ORS 238.610 that deals with administrative expenses of the fund requires that when there are not enough earnings to pay administrative expenses, employers shall pay that. HB 2006 does not have that provision. However, they have heard that the employers will pay that portion.

Green Adds that if a call comes due in 2005, their rates will go up dramatically. States that the call needs to be defined, who pays the call, and what happens to people who were in the system and contributed to the call being made and then left the system.

085 Rep. Macpherson Asks if the key element of the employer proposal to discontinue further member contributions into the system were pursued, whether that would interact with this proposal, which would apply to members' share of the cost to make up the deficit.

100 Green Responds that the members he is representing did sign onto HB

2003, the employer proposal. If the employee contribution is stopped, the employee account continues to exist. If one were going to collect the cost of the deficit account, it would be from the earnings from that side of the account of the member. It would be problematic if the member retires while that call is still on-going.

112 Rep. Macpherson Notes that HB 2006 says, "...must be paid equally from employer and employee contributions...". As drafted, the bill would not appear to permit taking money out of an account. Asks if Green is suggesting an amendment that might allow that to happen.

Green States that while they are supportive of the concept that the call be lengthened and there be a sharing of the costs, there are concerns around the issues that Voytko and Rep. Macpherson have brought up and the issue of how to get a portion from the employee when she/he retires. The expenses are due only to Tier I members. Does not believe the policy should be to shift that to Tier II, III or a successor system members.

133 Rep. Butler Asks if it is Green's understanding that HB 2006 will address the 2002 deficit.

Green Responds that he would hope it would apply to the call that will become due in 2005. They know there will probably be one for 2006, and maybe one for 2007. They would hope that it would apply to the earliest call, which would come due in 2005.

Rep. Butler States that if HB 2006 becomes law, it will address the shortfall that occurred as a result of the crediting and the earning shortfall in 2000, 2001, and potentially 2002 so the employees and employers under Tier I would equally share.

156 Green Responds that is his understanding. Adds that the language in regards to contributions could have some problems; the concept is correct.

West Oregon State Firefighters and representing the PERS employee coalition. States that the employee position is to eliminate the timeframe for the call. If timeframes are eliminated, it becomes a system cost like all the rest of the cost of PERS without explicitly saying percentages from employees' accounts or six percent. The amount that would be available to put into the accounts would be less.

Chair Knopp Closes the hearing on HB 2006 and opens a public hearing on HB 2401.

HB 2401 – PUBLIC HEARING

192 Rep. Butler Explains history of HB 2401 and states that HB 2401 comes from the interim task force.

221 Jim Green Oregon School Boards Association (OSBA). States that OSBA is in support of HB 2401 and that the other employers have not discussed it. The idea is that the member should cover the cost of extraordinary actions. States that when an employer makes a lump sum payment beyond contributions, there is a cost associated with that because the actuary has to calculate the payment as of a date. PERS currently assesses employers an additional \$600. OSBA believes if the employee causes extraordinary cost, the employee should share the costs.

250 Rep. Barker Asks what would be "extraordinary" costs.
Green Explains that lines 18 through 27 on page 1 of the bill relate to

		individuals who left the PERS covered employer but left their money or account in the system. The account is continuing to get the eight percent guarantee. If a non-active members says they want their money, PERS must calculate what that amount would be. It is an administrative cost to the system in addition to what they would normally get at retirement age. That is an example of extraordinary cost that would be due to a member's activity not normally associated with the cost of the system.
274	Rep. Barker	Comments that the annual statement says what the employee would get at the age of 58. Asks if this would apply if the person asks for an estimate.
	Green	Responds that would be correct under the bill. Comments on requests for early withdrawals because the persons are not active members of the system.
292	Rep. Butler	Comments on recommendations from the Fee Task Force for additional charges. States that the interim task force recommendation was for extra inquiries performed within a very short time. The extraordinary costs should be born by those using the system.
338	Green	Comments that some calculations must be done manually, which takes away time from administration of the remainder of the system. Currently, all administrative services are the responsibility of the employer.
358	Rep. Macpherson	Comments that one category of extraordinary costs would be overuse of the system by members, and the other is special benefits for the members such as buy-ins based on service in other systems or military service. Adds that he suspects there may be a federal law issue on military service because there is a federal statutory obligation.
385	Green	Comments on support of legislation for by-ins by teachers with the costs being borne by the member.
413	Steve Delaney	PERS staff. Comments that this bill does not contemplate imposing a service fee for purchase of military service time. This full-cost purchase was provided by the legislature for other service prior to joining PERS.
430	Chair Knopp	Closes the public hearing on HB 2401 and adjourns meeting at 4:02 p.m.

EXHIBIT SUMMARY

A – HB 2008 & HB 2020, prepared statement, Pat West, 7 pp

B – HB 2006, prepared statement, Jim Voytko, 1 p