

HOUSE COMMITTEE ON PUBLIC EMPLOYEE RETIREMENT SYSTEM

May 13, 2003 Hearing Room E
3:00 PM Tapes 63 - 64

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

MEMBER EXCUSED: **Rep. Alan Brown, Vice Chair**

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

MEASURE/ISSUES HEARD: **HB 2406 – Public Hearing**
 HB 2408 – 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.

TAPE/#	Speaker	Comments
Tape 63, A		
003	Chair Knopp	Calls meeting to order at 3:32 p.m. and opens public hearings on HB 2406 and HB 2408.
<u>HB 2406 AND HB 2408 – PUBLIC HEARINGS</u>		
	Jim Voytko	Executive Director, Public Employees' Retirement System (PERS). Presents prepared statement HB 2408 (EXHIBIT A).
110	Chair Knopp	Comments that ECONorthwest presented information on what the costs would be to fund benefits for people currently in the system if the current plan were terminated. Asks if PERS has done that same exercise.
	Voytko	Responds they did the same exercise for the interim task force but they measured the effects differently. They measured it in terms of the savings employers would accrue over the life of the pension system post accrual termination. States that they cannot say how much would be saved until the legislature tells them what new system of accruing pension benefits will take its place, and if there are any differences in the cost of this system and the cost of the new ones.
132	Chair Knopp	Asks how difficult termination is administratively compared to other things the agency has been asked to do.
	Voytko	States if there is going to be a new system for new hires, enrolling all existing current members into would be incremental work. If the existing members of the system were to be rolled into the successor plan, it is simply scaling up the number of enrollments and record keeping. The uncertainty would be in the calculation of the accrued benefits because there would be many arguments about exactly what constitutes an accrued benefit.

		There are complicated ways to determine benefits and simple ways. Believes the issues for the legislature are the constitutionality, whether there is a difference between pre-1999 and post-1999 individuals, and what the expression is of the accrued benefit that is guaranteed as a non-forfeitable right under the current plan structure.
168	Rep. Macpherson	Comments that ECONorthwest had a model which calculated the remaining liability upon a plan termination. They used the assumption that the obligations of the existing system could be satisfied as to active members by simply providing two times their current member account. Asks if anyone has done any analysis if that is sufficient to meet the accrued benefit obligations.
181	Voytko	Responds that two times the account balance is probably not enough because it would not account for taxability. ECONorthwest did not assume the accounts, once terminated, benefited from a continuing stream of earnings into the accounts and continuing to grow their money match. States that all the benefits that are in the BIF are uncertain because they can fund up the BIF to 100 percent, the amount they think is sufficient to pay the streams of benefits to current retirees, but it is an unknown number because they do not know how long people will live, how many COLAs they will earn and they don't know what the investment returns will be.
	Voytko	States there will always be a residual liability representing the uncertainty of paying out the benefits that must be paid in the future and cannot be written off by injecting money.
229	Voytko	States the IRS has a checklist that they give to plan sponsors considering termination of a plan. One of the things at the purview of the plan sponsor is how this accrued non-forfeitable right to a benefit is paid to the member. Comments on members being able to roll the account into another account. If that is the legislature's desire and holds up to judicial scrutiny, it could be rolled out of this tax-qualified plan into another one. Another opportunity is to say it will be paid out when the member becomes eligible for the benefit.
237	Chair Knopp	Asks for copy of the IRS checklist.
262	Voytko	Presents statement on HB 2406 (EXHIBIT B).
321	Chair Knopp	Asks Voytko to talk about a defunct employer group.
	Voytko	Comments it was a consortium of community colleges, and explains pursuit of collection of the \$400,000 plus OF unfunded actuarial liability.
341	Chair Knopp	Asks if they know how they might collect the \$400,000 plus.
	Voytko	Responds that they hope to receive it voluntarily, but they think they have a number of other strong tools to allow them to get the funds those entities owe the system.
360	Chair Knopp	Comments he is trying to determine how PERS' power differs from the IRS. Asks if there are other public entities that PERS is seeking payment from.
376	Voytko	Responds there is one that owes in the neighborhood of \$70 to \$80 million UAL. Explains that it is a fire district that now has one employee and the liability has been dispersed to neighboring municipalities.
413	Rep. Macpherson	Asks if the funds cannot be collected, whether it would affect the

		benefits of the employees of that the jurisdiction, or whether it is a general obligation of the system.
426	Voytko	Responds they never considered that this should be exported to parties that were not party to the service provided. If there are political jurisdictions or a population in those jurisdictions that benefited from the service, PERS has to look to them and only as a last resort look to people elsewhere to fund the obligation. In the case where the entity has dissolved, they looked at following the employees to their new home, saying the employers are responsible but they concluded that was not appropriate because those jurisdictions did not benefit from the service that gave rise to the pension obligations. They are now considering a version that says they would go to court and ask the question of whether the taxpayers in the geography of the old jurisdiction should be responsible for the debts of the jurisdiction that served them.
466	Koytko	Adds that PERS does not have the power to levy charges or send invoices to non-existent jurisdictions or the populous that they served, but the court does, at least PERS believes the court does. States they would exhaust everything before spreading the costs elsewhere in the system.
477	Koytko	Comments that SB 134 (2001) changed the purposes of the contingency reserve fund. It allowed the fund to be used to defend the board and the system in class action suits for potential settlements and for bankruptcies of public employers. Thinks PERS' fiduciary obligation to other employers requires them to first exhaust every opportunity to get the benefit funded by the people who benefited from the service in the first place.
TAPE 64, A		
023	Rep. Butler	Asks if other employers in the system would be liable if there was no successor organization to be attached or tapped by the courts.
	Koytko	Responds it would only be as a last resort. Vestiges of the jurisdiction would be the first place, the next stop would be the people served by the jurisdiction if the courts empower them to do so, and if that doesn't happen, the system as a whole is responsible.
045	Rep. Butler	Gives scenario of a small town not paying the PERS contributions and the process of levying a tax on the local residents in the city limits to collect the amount to be sent to PERS. Asks if that is the way the collection process would work.
	Voytko	Agrees. Clarifies that the process of asking a court to require some group of people to fulfill their obligation to the trust fund has never been done, but it is something they have considered. States he does not know on what basis a court might do this, property, or per capita.
09	Voytko	States that if municipal bankruptcy is approved by the legislature, it gets into terrain they have not looked at. PERS would be put into the pool of creditors just like every other creditor. Notes that bankruptcy court has a pecking order and pensions are pretty high on the list, but does not know where PERS might fit in the pecking order.
111	Rep. Butler	Comments on the bankruptcy process and asks what method they would use to collect from the residents of the city.

	Voytko	States they would only do what the court would empower them to do. State that it is most likely the court would require the form and manner of payment.
141	Voytko	Comments that if the legislature permits federal bankruptcy, the jurisdiction would still be a live entity by definition and all bills would be directed at the entity. The bankruptcy plan would determine how the entity satisfies those obligations. States that the process is invisible to the employees of the defunct entity. They will use trust fund moneys to pay those retirees.
165	Rep. Richardson	Asks if a large number of very large districts defaults who would be paying for the unfunded liabilities when an entity is defunct.
	Voytko	Responds that they hope that the entities or the people who benefited from those entities' public services will fund the obligations. Comments that he would not anticipate that a large number of large employers would default.
180	Rep. Richardson	Asks if a school district would have to sell all its assets if it went bankrupt.
	Voytko	Comments on Fire District 10's lack of assets. If this bill passes a bankruptcy plan approved by a court typically, as in the case of Enron, might have a combination of things envisioned by the bankruptcy plan. The court might decide that some operating assets have the potential for generating more value to satisfy creditors by being left in tact. Adds that he doesn't recall that city hall was put up for sale in Philadelphia or New Haven.
223	Rep. Richardson	Asks if PERS is like a large company with a number of offices that will be carried by the other offices, or whether PERS is administering 800 separate accounts that will not have a consequence on the other entities.
	Voytko	Comments on the creation of pools and shared responsibilities and the contingency reserve that is funded by trust fund earnings. States there are lots of cross connections between offices, some are quite stand alone in many respects and all are tied together through the contingency reserve.
266	Rep. Richardson	Comments the contingency fund will only be there if it is funded. If we pass this bill and ultimately some organization goes into bankruptcy, other employers will be responsible. It is a concern.
283	Voytko	States there are two contingency reserves. One is funded solely by employer contributions that can be tapped to satisfy obligations of bankruptcies or dissolved employers, which cannot be satisfied by any other means.
295	Rep. Barker	Comments on bankruptcy case in another state that resulted in the people who used the services having to pay even though the public entity went away.
317	Chair Knopp	Closes the public hearings on HB 2406 and HB 2408 and adjourns meeting a 4:20 p.m.

EXHIBIT SUMMARY

A – HB 2408, prepared statement, Jim Voytko, 2 pp

B – HB 2406, prepared statement, Jim Voytko, 2 pp