

HOUSE SPECIAL SESSION BUDGET COMMITTEE ON PERS

June 26, 2002 Hearing Room D
1:00 PM Tapes 3 - 4

MEMBERS PRESENT: Rep. Tim Knopp, Chair
Rep. Ralph Brown
Rep. Betsy Close
Rep. Mark Hass
Rep. Elaine Hopson
Rep. Rob Patridge
Rep. Diane Rosenbaum

MEMBERS EXCUSED: Rep. Tootie Smith
Rep. Vicki Walker

STAFF PRESENT: Cara Filsinger, Administrator
Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD: LC 52 – Relating to retirement of members of the Legislative Assembly
LC 56 – Relating to public employee retirement
LC 62 – Relating to judicial review of certain rules of PERS Board

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 3, A		
NOTE: DUE TO OPERATOR ERROR IN DUPLICATING TAPES 3 AND 4, TAPE 4, SIDES A AND B WERE RECORDED OVER TAPE 3, SIDES A AND B. THIS TRANSCRIPT ON PAGES 1 THROUGH INDICATOR OF 388 ON PAGE 3 IS NOT RECORDED.		
003	Chair Knopp	Calls meeting to order at 1:26 p.m. for the purposes of discussion and introduction of LC 52-1, LC 56, and LC 62.
<u>LC 56 – INTRODUCTION – WORK SESSION</u>		
004	Rep. Patridge	MOTION: Moves LC 56 BE INTRODUCED as a committee bill.
005	Chair Knopp	VOTE: 7-0-2 EXCUSED: 2 - Reps. T. Smith, V. Walker Hearing no objection, declares the motion CARRIED.
NOTE: LC 56 introduced as HB 4060.		
<u>LC 62 – INTRODUCTION – WORK SESSION</u>		
010	Rep. Patridge	MOTION: Moves LC 62 BE INTRODUCED as a committee bill.
011	Chair Knopp	VOTE: 7-0-2 EXCUSED: 2 - Reps. T. Smith, V. Walker Hearing no objection, declares the motion CARRIED.
NOTE: LC 62 introduced as HB 4062.		

LC 62 – COMMITTEE DISCUSSION

- 020 Anthony Bieda Explains efforts Lane County has made to address the problem of PERS costs in Lane County. States that Lane County would have no problem with having cases go directly to the Supreme Court.
- 033 Rep. Rosenbaum Asks if the assumption is that everything will end up in the Supreme Court.
- 048 Bieda Responds that the idea of the expedited process of cases going directly to the Supreme Court was presented to local employers and asked if they had problems with it. Their role was to say if it were expediting a decision by the PERS Board on actuarial tables, they would have no problem with that.
- 058 Rep. Rosenbaum Comments that it seems from language of the draft it would not be possible to resolve disputes at a lower level where facts of the case would be gathered.
- 069 Rep. Patridge Responds that if there are objections over rules by the PERS Board on the mortality table, the case would go to the Supreme Court. Explains that the Supreme Court could appoint a “Master” to gather the facts and report to the Supreme Court. States that the draft was requested so that the appeals process would not go on for years; it provides certainty for everyone. Notes that the provision sunsets January 1, 2006.
- 092 Rep. Hass Asks if there is a downside to an expedited process.
Rep. Patridge Comments on the fact finding duties of the Master appointed by the court. Adds that he believes the provision for the expedited process was requested because of the uncertainty.
- 108 Chair Knopp Comments that someone would have to be damaged by the PERS Board actions or the court would throw the case out. States that the EWEB case should have a decision in 3-6 months or sooner. If the court refers the case back to the board for them to make a decision on the mortality table, the court probably won’t declare a remedy.
Chair Knopp Explains the reason for specifying the mortality table issue going directly to the Supreme Court is because it is the bigger issue and the issue is already in the courts.

LC 56 (6/25/02) COMMITTEE DISCUSSION

- 165 Chair Knopp Explains that Section 1(2) in the previous draft was too narrow **(SEE EXHIBIT B of Committee minutes dated 6/20/2002)**. Notes that on page 2 of LC 56 (6/25/02) beginning in line 12, one of the options to be considered by the task force would be a fixed contribution system.
Michelle Deister League of Oregon Cities (LOC). Comments on the desire to not limit the options of what kind of successor plan could be considered.
- 186 Anthonyl Bieda Lane County. Comments that the language provides that upon a date certain, they would have the ability to attract and retain qualified employees with a retirement program.
- 200 Marie Keltner Association of Oregon Counties (AOC). Emphasizes importance of Section 4 of LC 56. States that AOC supports having a deadline so it doesn’t go on indefinitely.

214	Chair Knopp	Asks Keltner what her thoughts are about the date and deadline stated in LC 56 (6/25/02) if there were no successor plan or if tax exempt status of a successor plan is not obtained.
	Keltner	Responds that she believes the majority of the counties would support continuing to allow new to enter the present system until a successor system is in place.
	Bieda	Comments that in Lane County they would separate the issues—ending the current system, and what system would replace it. If nothing new was in place, hiring a third party provider would be fine with Lane County.
	Deister	Agrees with Keltner that they would want to have the current system in place until another system is in place.
260	Rep. Rosenbaum	Comments that it has come to her attention that the PERS computer systems are antiquated and they are required to shut down to do calculations. Asks how a successor system would work with the current computer system.
	Jim Voytko	Executive Director, PERS. Responds that it all depends on the simplicity of the successor system. If the system is simple, it could ease the problems. If it adds complexities and interactions with current programs, then it could create problems in implementing a successor system in a timely fashion.
304	Rep. Rosenbaum	Comments that it seems PERS will be doing concurrent calculations. Asks if they are seeking funding or if they need to do something to upgrade their computer system.
	Voytko	Comments on impact of a successor plan on the computer system.
342	Rep. Rosenbaum	Asks what the new language on page 2, subsection (2) about preparing legislation for successor system, and then provide for stable funding by employers means.
	Voytko	Comments on structures of retirement systems in other states.
388	Rep. Patridge	Comments that PERS was to have appeared before the Information Management and Technology committee on the status of their computer system at the June meeting (meeting cancelled due to special session).

TAPE 4, A

001	Rep. Close	States that she has received information from Cascade Policy Institute about an opinion of a national expert on pension reform saying that Oregon has the most complicated public employees pension system in the country because there is a defined benefit plan and a defined contribution plan and that retirement benefits cannot be calculated until people retire. Asks that Voytko respond to that opinion and to tell the committee what other states are doing.
010	Voytko	Responds that he has read the report and Oregon's plan is in the top five or 10 percent according to other experts. States he as addressed the issue in a letter to Senator Nelson of the degree of predictability of Oregon's plan under Tier I and Tier II and will provide a copy of that letter.
014	Voytko	States that with respect to what other states are doing, it all depends on the kinds of changes they are making and what their elected officials believe is the problem. Explains that Nebraska

felt their benefits were inadequate and altered their plan in a way that enhanced both the predictability and potential size of benefits. In Michigan, they felt their plan was too expensive for the state to bear so they changed the structure to try to control the total costs of pension coverage. States he will be happy to provide a variety of the kinds of responses that other states have had.

033 Chair Knopp Asks Voytko if it is his understanding that the date in Section 4 only applies to new hires.

Voytko Responds affirmatively.

040 Chair Knopp Comments on a conversation with an existing PERS member who was concerned that her benefits might be drawn into this, and that there are a lot of others who are concerned what this proposal does. States that it creates a task force and demands that PERS bring to the task force alternatives for successor plans including one that includes a defined contribution plan by October 1, 2002. Asks if PERS can bring plans to the proposed task force by October 1, 2002.

048 Voytko Responds they can bring outlines of plan structures that would attach to various objectives and give an idea why that plan structure serves one objective more than another so the legislature can get an understanding about how plan structures relate to pension objectives the legislature might feel are important. States they would not be able to bring a complete programmatic definition of each alternative.

058 Chair Knopp Notes that any alternatives that PERS might bring forward would be for new hires and would not affect current employees' benefits in any way.

059 Voytko Responds that as he understands it, this legislation is about the process. It does not determine in any way what the successor plan is. It seems to indicate that the successor plan would be for new hires. States he would distinguish between the substantive outcomes which is what a successor plan is if the legislature goes there versus the process which is embedded in the statute which says by date certain the discussion will move forward. States that a date certain is a commonly used process.

071 Chair Knopp States that PERS would not bring a plan forward that would affect the benefits of somebody who is already in the system, "mainly because that is not what we are asking for".

074 Voytko Responds they would not bring forward a plan that is not specified in the legislation.

075 Chair Knopp States that public employees can be assured that their benefits under this bill are not affected in any way and this bill is for people who will be hired after July 1, 2003. Adds that he thinks he has seen the commitment that if there is no successor plan in place, that the current plan would be extended.

087 Voytko Responds he could not agree more with Chair Knopp.

088 Chair Knopp Asks when they will have financial data on Tier II separated from Tier I to see where the problems are and whether they are significant.

090 Voytko

		<p>Responds that PERS has partially addressed that question in a letter to Senator Nelson. Also, the plan evaluation is due in September/October this year and there will be some information on the questions and they will report to the legislature. Also, they are working on an expanded year-by-year simulation of the PERS statute, its programmatic expression and the financial consequences. Adds that they are hopeful it will be ready in September or October. They assume the various task forces looking at PERS would be interested in their work, presuming it passes their stress test.</p>
094	Chair Knopp	<p>Asks if it would be helpful, as it relates to LC 62, for the PERS Board to have a decision on what is possible in terms of mortality tables.</p>
096	Voytko	<p>Responds that he believes he reflects the view of the PERS Board that a clear and unambiguous statute is very helpful in carrying out their mandate from the legislature. The pros of getting a decision are quite clear. Sooner is better, particularly because a pension system has no pause button, they have to keep going. Also the money match is a compounding system. An error or a judicial decision that something was done incorrectly in 1998 means that 1999 and 2000 and 2001 are also wrong. Retrospective remedies are difficult to execute. The only negative is that one has to be sure that if there is an expedited process, that the decision and knowledge that is presented to the Supreme Court is sufficiently developed in depth—that it is a comprehensive record that has been created so that matter of law presented to the Supreme Court is fully developed.</p>
145	Chair Knopp	<p>Asks when the PERS Board is planning to make a decision as it relates to mortality tables.</p>
146	Voytko	<p>Responds there is not a date certain. The PERS Board has been working on the issue for years and particularly in the last 12 months. The decision is at the board level and two options are being discussed. One option has been recommended by the subcommittee. Two factors have slowed things down. The Board has asked the agency to seek an opinion from the IRS about the definition of accrued benefit and its application or non-application to our plan. It will take at least 60 days from today but could take longer because IRS does not have to respond to it. Also the board was cognizant of the fact that the legislature was interested in potentially taking up the issue during special session. The PERS Board has historically deferred to the legislature on matters of policy if it appeared the legislature was prepared to act. If the legislature does not act, they will return to their work post haste.</p>
174	Rep. Hass	<p>Asks if PERS hopes that the legislature will address mortality tables specifically in legislation.</p>
177	Voytko	<p>Responds that the board has the authority to make the decision subject to judicial review. The board takes instructions from the legislature.</p>
199	Rep. Hopson	<p>Asks if a successor plan could be implemented and up and running by July 1, 2003.</p>
248	Voytko	

Responds that he will do homework on how soon generic plans could be put in place. Whether the date is the right one is a decision of the legislature.

254 Rep. Knopp Comments that since the legislature will be in session, the date can be changed if necessary.

LC 52-1 – INTRODUCTION – WORK SESSION

258 Rep. Close **MOTION: Moves LC 52-1 BE INTRODUCED as a committee bill.**

260 **VOTE: 7-0**
EXCUSED: 2 - Reps. T. Smith, V. Walker
Chair Knopp **Hearing no objection, declares the motion CARRIED.**

NOTE: LC 52-1 introduced as HB 4061.

LC 52-1 – COMMITTEE DISCUSSION

263 Chair Knopp Explains that LC 52-1 directs the Legislative Administration Committee to prepare legislation implementing retirement plans for persons who commence term of office in the Legislative Assembly on or after July 1, 2003, or who are appointed on or after July 1, 2003. The measure takes legislators out of the PERS system.

250 Rep. Partridge Comments that the intent of LC 52-1 is to demonstrate to the public that the PERS system is a non-sustainable system in its current form and that legislators have taken the first step to be responsible by taking themselves out of the retirement system should that have to happen and should LC 56 (6/25/02) not go forward. States that no one is willing to come forward to testify as to their reason for opposition to any great extent about LC 56 (6/25/02). Adds that LC 56 would include legislators as well as everyone else who is on the PERS system.

295 Chair Knopp Agrees with Rep. Partridge that LC 52-1 only applies to legislators. Asks if current legislators would be allowed to continue in PERS until the end of their term.

299 Rep. Partridge Explains that legislators would continue to be in PERS until the end of their next term in which they were elected. That is to deal with some of the contractual rights issues, assuming a legislator's contractual rights extend from term to term.

310 Rep. Hass Asks how much would be saved under the proposal.

312 Chair Knopp Responds that Legislative Fiscal is currently working on the fiscal impact. Adds that he believes the impact is more public accountability and creditability. Says that most legislators don't end up with large accounts taking the money match, etc. like other public employees because most of them are not here, especially if term limits continue, for more than 12 years. States that one legislator, after 12 years of service, gets about \$457 gross retirement per month.

336 Rep. Rosenbaum Comments that she has a lot of questions about the proposal and it does not eliminate PERS for legislators. It simply says there will be a successor retirement plan. Comments that it seems a lot of different venues would be set up that would still be administered and funded by the taxpayers of Oregon.

363	Chair Knopp	Comments that LC 56 would eliminate the need for this LC 52-1 because it would include legislators as well.
366	Rep. Rosenbaum	Asks if these measures preclude the issues being discussed by the existing task force.
381	Chair Knopp	Comments that since the legislature is in special session, they can make their voices on PERS heard and the Speaker has allowed this committee to meet and introduce legislation and have discussions about them. It does give the legislature an opportunity to pass a bill relating to PERS. Adds that his constituency is more interested in the issue than they ever have been.
407	Rep. Rosenbaum	Comments that one of her concerns is that LC 56 (6/25/02) creates a task force with per diem for members and that doesn't seem to be a benefit to the constituents.
419	Rep. Patridge	Comments that it may cost per diem to deal with the PERS issue but with one of his counties being hit with bills for \$14 million, they don't care about an \$85 per day per diem for state legislators. Adds that he thinks it would be irresponsible of the legislature, in light of the concerns around PERS and the unfunded liabilities for local governments and the State of Oregon to go out and ask taxpayers in Oregon to vote for measures which increase revenue without at least addressing substantively with a data certain an issue that is on Oregonians' minds. LC 56 (6/25/02) would give Oregonians some certainty in light of the fact that we are passing tax increases and burdening Oregonians with even more taxes, which they have to pay. Cities and counties have told the committee they would like some relief and they want a date certain and they would like an opportunity to make sure this gets addressed. We only have an \$11 billion state budget and an \$8.5 billion unfunded liability in PERS. That is a significant issue in Oregon that we cannot continue to delay.
463	Rep. Hass	Comments that he does not have a problem with task forces or expedited lawsuits but does not see how a task force or speeding up the legal process gets at the problem. States that the only way he sees as getting at that in a small way is adjusting the mortality tables and that is one piece that is lacking here. States he does not see why that is being left out with hopes that the PERS Board gets to it down the road.
483	Chair Knopp	Responds that there has been a lot of discussion about whether the legislature should intervene at this point. It may interrupt the court process as it relates to the mortality tables. There is an on-going lawsuit. If the legislature did act on the mortality tables, any public employee can sue if they believe they have been, in some way, damaged by whatever decision is made. Adds that there are folks who cannot come to agreement on whether they should do a multi-segment, a blend, a five-year wear-away, or a full-meal deal for a savings of \$1.5 billion. Believes the issue ultimately has to be addressed by the Supreme Court and the sooner that happens the easier it is for a resolution.

NOTE: DUE TO OPERATOR ERROR IN DUPLICATING TAPES 3 AND 4, TAPE 4, SIDES A AND B WERE RECORDED OVER TAPE 3, SIDES A AND B. THE FOLLOWING TRANSCRIPT TO THE INDICATOR OF TAPE 4, B ON PAGE 8 IS NOT RECORDED.

077	Rep. Hopson	Asks how many public employees are excluded from belonging to PERS.
	Chair Knopp	Responds that no public employees are excluded.
	Rep. Hopson	Expresses concern about the expediting of cases because going through stages in the court process allows laying out the issues. Agrees we need to move quickly. States she is also concerned with tinkering or tweaking without a comprehensive review.
119	Rep. R. Brown	Comments on reactions from his constituents and the need to resolve the issues.
	Chair Knopp	Comments on the responsibility of the legislature to respond to the problems.
187	John Marshall	Oregon School Boards Association. Submits copies of newsletter on the cost in the PERS system (EXHIBIT A). Comments generally that: <ul style="list-style-type: none">• Need incentive for everyone to come to the table.• In 1991-92 mandatory rate for school districts was 9.96 percent and in 10 years they experienced a 28 percent increase.• Issue is political.• Massive public relations problem.• Supports LC 56 (6/25/02) and would not want to limit the task force's options.• If the present system was dumped and another was started, there would be no issue of interpretation.
339	Ozzie Rose	Confederation of School Administrators (COSA). Comments generally on retirement system: <ul style="list-style-type: none">• System is designed to attract and retain employees.• System encourages people to retire in their early 50s.• The critics say we need to have a defined contribution plan; does not think it is necessarily true.• Would be better to say that all options be looked at by the task force.
TAPE 4, B		
004	Rose	<ul style="list-style-type: none">• A big disservice was done in the mid 90s when the issue of whether the employee or employer should pay the six percent rose to the level of a statewide debate and vote. Says the employer paying the six percent is a good deal for both parties and has nothing to do with what needs to be done.• The focus of a retirement system ought to be what it is going to look like in 30 years. That is what the focus of the task force ought to be. Suggest the committee move ahead with the proposal.
020	Rep. Close	

- Comments that it sounds like Rose has opposition to a defined contribution plan but the private sector has largely gone to that. Asks why he is opposed to it.
- 022 Rose Responds that his opposition is not to the defined contribution, it is to suggest that defined contribution is the answer to the task force work. Thinks defined benefits has its place and we may still want to use it but it may not be exactly like the one we have. The purpose of the system is to attract and keep a good quality work force. States that he does not think this committee should decide at this point that we are going to change to defined contribution. This bill doesn't say that but it leaves one with the idea. That is what the task force is being appointed for.
- 043 Chair Knopp States that he doesn't necessarily agree with Rose that everybody is wanting to go with defined contribution because it saves money. Thinks one of the aspects of defined contribution is it is a system by which you can fix the costs for the employer. Also does not agree that it is there because it is cheaper.
- 065 Rep. Patridge States that he agrees with Chair Knopp and would not like to have information to go out that the committee is looking at defined contribution because it is cheaper. It depends on how big the benefit is.
- Chair Knopp Asks if it is Rose's suggestion that lines 13 through 17 on page 2 of LC 56 (6/25/02) be deleted.
- Rose States that in line 13, insert a period after "plan" and delete the language through "employers" in line 17 and insert a period.
- 093 Chair Knopp Recesses meeting at 2:54 p.m.
- NOTE: The committee did not reconvene.**

Submitted By,

Reviewed By,

Annetta Mullins,
Administrative Support

Cara Filsinger,
Administrator

EXHIBIT SUMMARY

A – LC 52-1 (HB 4061) - Brochure, "Understanding Rising Costs in the Public Employees Retirement System" by the Oregon School Boards Association, John Marshall, 4 pp