

HOUSE SPECIAL SESSION BUDGET COMMITTEE ON PERS

3rd Special Session

June 28, 2002 Hearing Room D

4:00 PM Tapes 5 - 6

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

STAFF PRESENT: Cara Filsinger, Administrator
 Dave Heynderickx, Legislative Counsel
 Annetta Mullins, Administrative Support

MEASURE/ISSUES HEARD: Public Hearing and Work Session
 HB 4062
 Public Hearing
 HB 4060
 HB 4061

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 5, A		
003	Chair Knopp	Calls meeting to order at 4:15 p.m. and opens a public hearing on HB 4062.
<u>HB 4062 – PUBLIC HEARING</u>		
007	Rep. Robert Ackerman	House District 14. Has reviewed HB 4062 and the expedited review process. States that the measure is asking the Supreme Court to clear the rights of the parties in a declaratory judgment proceeding. States that the courts are adverse to issuing “advisory opinions”. The court requires all parties to be before the court. HB 4062 only provides that the jurisdiction of the Supreme Court is invoked by a petition filed by any interested party. Submits HB 4062-1 amendments (EXHIBIT A). The amendment specifies that the Public Employees Retirement Board would be named as the adverse party and would provide a means for the agency to get its papers to the court so that all documents are before the court so an opinion can be rendered.
033	Jason Williams	Executive Director, Taxpayers Association of Oregon. Comments on his writing and research in 1999 and articles in <i>The Oregonian</i> and <i>Register-Guard</i> .
056		

- Members were pleading and we are seeing this across the board and strong public opinion is to do something now. System is on the verge of collapsing. A year ago they were saying save \$42 million a year and now we are saying \$56 million by changing the mortality tables.
- The pleadings are a great concern from everyone who is saying do something now.
- All bills seem to be good.
- Taxpayers Association strongly encourages changes.

076	Rep. Rosenbaum Williams	Asks Williams if he encourages action on the mortality tables. Responds he encourages anything that would help, either with mortality tables or a third tier system.
087	Chair Knopp	Closes the public hearing on HB 4062 and opens a work session on HB 4062.
101	Chair Knopp	Announces that the record will remain open until 5:00 p.m. on July 29, 2002, to allow anyone to submit testimony for the record on HB 4060, HB 4061 and HB 4062.

HB 4062 – WORK SESSION

103	Dave Heynderickx	Legislative Counsel’s Office. Comments that HB 4062 is straightforward. The only unique feature is for rule adoption by an agency. It means that only the Court of Appeals would be cut out. Anticipates it will only be used once. It sunsets in 2006. It is not an exclusive remedy; it is another route to challenge the rules. It only provides a straighter route to the Supreme Court.
148	Chair Knopp Heynderickx	Asks if the amendments help clarify the process. Responds he thinks the amendments help clear the picture by referring back to the court rules for a challenge under the Administrative Procedures Act (APA). Believes the rules would work find on an appeal straight to the Supreme Court and makes it clear the Supreme Court does not need to have a new rule for this petition.
157	Rep. Rosenbaum	Comments the PERS Board would be the respondent if there is still the usual route. Asks who would choose whether to use the expedited review—if the appellant chose to go the standard route, would the respondent have nothing to say about it.
164	Heynderickx	Responds that Rep. Rosenbaum is correct. The appellant might be the employees or employer. The person filing the petition would select the route. It gives an option to an aggrieved person. PERS Board would not appeal its own rule.
197	Rep. V. Walker Heynderickx	Asks if the legislature can direct a petitioner which route to take. Responds that the legislature probably could; the legislature has the authority to establish the procedure in the courts. The legislature also has the ability to establish the jurisdiction of the courts; this is creating an original jurisdiction.
211	Rep. V. Walker Chair Knopp	Asks why they do not want an exclusive remedy. Responds that he believes both the employees and employers said they wanted the opportunity to follow the administrative path as opposed being forced to go. It may be they think they can work it out in a timely manner without going to the Supreme Court.

227	Rep. Rosenbaum	Asks if an appellant and respondent, under the existing law, can agree to bypass the Court of Appeals.
	Heynderickx	Responds they can ask the Supreme Court but the Supreme Court does not have to accept "certification" directly from the Court of Appeals. This bill requires the Supreme Court to accept these petitions.
	Rep. Rosenbaum	Comments this bill is binding the hands of the Attorney General who represents the PERS Board and leaves it in the hands of who might choose to challenge the rules.
245	Heynderickx	Comments that this bill directs the Supreme Court to take the case and decide the matter.
225	Dallas Weyend	Legislative Fiscal Office. Explains that HB 4062 would have some impact on the Supreme Court. The court is not set up to take the cases. The cost could be \$162,000 if 10 appeals are filed. There would be cost to PERS for Attorney General services. There could be less costs if they go directly to the Supreme Court. Legislative Fiscal would not recommend any number for appropriation. PERS has yet to adopt rules to trigger this. The Supreme Court could come to the E-Board or next assembly to seek funding. PERS is entirely "other funded" and if they need additional funds, and could also come to the E-Board or the next assembly.
275	Rep. Patridge	Comments that HB 4062 is LC 62, which the committee held a hearing on earlier. Explains the legislature has been asked to do this by the employers and employees so the issue can be resolved relatively quickly should a rule be adopted buy the PERS Board specifically surrounding the mortality tables. The issue could be resolved relatively quickly to affect financial stability and impact on local jurisdictions and employers as well as employee rights in terms of determining what they will receive in their retirement. It is critically important to the state and is not unprecedented.
295	Rep. Patridge	MOTION: Moves to ADOPT HB 4062-1 amendments dated 6/28/02 (EXHIBIT A).
306	Chair Knopp	VOTE: 9-0-0 Hearing no objection, declares the motion CARRIED.
311	Rep. Close	MOTION: Moves HB 4062 to the floor with a DO PASS AS AMENDED recommendation.
313		VOTE: 9-0-0 AYE: In a roll call vote, all members vote Aye.
322	Chair Knopp	The motion CARRIES.
		REP. PATRIDGE will lead discussion on the floor.
325	Chair Knopp	Closes the work session on HB 4062 and opens a public hearing on HB 4061
<u>HB 4061 – PUBLIC HEARING</u>		
331	Chair Knopp	Announces that the record will remain open until 5:00 p.m. on July 29, 2002, to allow anyone to submit testimony for the record on HB 4061.
337	Rep. Tom Butler	

House District 67. Advises that in his former life he was a Certified Public Accountant. Comments that it is not the intent of the committee to confer any additional rights on PERS members or others who may come into the PERS.

States it is his understanding that existing accounts, if there is a move to a defined contribution plan away from the PERS system, would not affect the existing and standing balances and the rights under the open accounts.

Explains that relative to the defined contribution plan, many years ago when municipalities and public districts in Oregon, who did not participate in the PERS system, had other retirement systems in the private markets. Many of those are still in existence. Alexander Hamilton and other large insurance companies and large companies have plans that people can invest in. The plans are already set up and would require about one-half hour of a person's time to fill out the paperwork. The Treasurer office could be used to set up a profit center to bid the work out and receive back at least an audit fee if not other revenue back into the General Fund of the state.

422

Comments that this is not a difficult situation for those who have had other employment outside the legislature. Explains that he has different types of participation within his own small account. Would hope the committee would look to see if there is an opportunity to roll out of the PERS system into a 401A that is similar to an IRA or other private retirement annuity.

States that he knows the committee is not attempting to confer any additional rights or benefits, but just to establish in HB 4061 other opportunities for members of the legislature to select away from the existing PERS.

453

Recognizes that members of the legislature in effect, are the super board of PERS; the Senate considers the nominations as given by the governor and confirms those nominations. There is always this concern of inherent conflicts of interests. Having all legislators separated from the existing plan may act as a buffer.

469

States it is his understanding that existing employees could opt out of PERS and move to a 401A under some of the ideas and discussions (perhaps not under HB 4061).

TAPE 6, A

026

Chair Knopp

Opens a public hearing on HB 4060 and asks if Rep. Butler wishes to testify on HB 4060.

HB 4060 – PUBLIC HEARING

026

Rep. Tom Butler

States that the comments he has made on HB 4061 are relative.

029

Rep. Close

Asks if the difference between a 401A and 401K that one is for public and one is for private employees.

032

Rep. Butler

Explains that a 401A is for a municipal or non-profit organization. The 401K is for those for-profit corporations. They would be self-direct retirement accounts. Adds that a person can participate in a number of different accounts—have actual contributions which may be frozen. “Frozen” means that the person is not making active contributions in that year. It does not mean the earnings are frozen.

054	Chair Knopp	Comments that some think that legislators see PERS as a sinking ship and that somehow the legislators are attempting to get out of PERS. Asks if Rep. Butler sees that motivation.
063	Rep. Butler	<p>Responds that accountants should always maintain a degree of autonomy and independence. It would always be appropriate to remain free of the entanglements. The Attorney General, members of the Supreme Court, staff and others are in PERS. It will be difficult to maintain a level of independence. With regard to the legislature, it probably costs the state less overall for legislators to participate.</p> <p>The next level is you would still have some accounts and perhaps the accounts could be distributed if members felt inclined to do so, but they are under no obligation to do so. Members of the legislature who other significant PERS accounts may want to keep them. HB 4060 begins the process of severing the umbilical cord of the legislature from the Public Employees Retirement System. Thinks there could be the inference and appearance that legislators are giving themselves another plan, but the plan would not be nearly as rich as those benefits presently being sought by the members of the PERS.</p>
109	Rep. Knopp	Asks if HB 4060 would affect current PERS members' benefits.
120	Rep. Butler	Responds that under HB 4060, the benefits of everyone in the PERS system would only be positively affected. As legislators or any other group start to pull away from the PERS system, some of the overhead and costs would be reduced and it would also reduce some of the demands for the employers, which could only fortify and strengthen the ability of the public employers to continue to make the contributions for those who have already accrued their rights, have retired or are near retirement. Adds that if a new defined contribution plan were to be set up for public employers in Oregon, it would enhance new employment in the state because there is no uncertainty under a defined contribution plan.
157	Chair Knopp	Again announces that the record will be left open until 5:00 p.m. Saturday, June 29, 2002 to allow written testimony to be submitted for the record.
	Lynn Lundquist	Submits written testimony in support of HB 4060 (EXHIBIT B).
164	Rep. Rosenbaum	Asks if leaving the record open means there will not be another chance for people to testify.
168	Chair Knopp	Responds that if the measures appear on the agenda again, they will most likely be scheduled as public hearings and work sessions unless instructed differently.
172	Rep. Patridge	Comments that the committee did take testimony on HB 4060 and HB 4061 in the form of the Legislative Council (LC) drafts and the LC drafts are referenced on the bills. The testimony received on the LC drafts is considered to be incorporated as part of the record for HB 4060 and HB 4061. NOTE: See committee minutes dated June 26, 2002.
178	Chair Knopp	Adjourns meeting at 4:55 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Administrative Support

Cara Filsinger,
Administrator

EXHIBIT SUMMARY

A – HB 4062, HB 4062-1 amendments, Rep. Ackerman, 1 p

B – HB 4060, prepared statement, Lynn Lundquist, 1 p