

HOUSE SPECIAL SESSION COMMITTEE ON PERS

September 13, 2002 Hearing Room H-174
3:00 p.m. Tapes 1 – 3

MEMBERS PRESENT: Rep. Carl Wilson, Chair
 Rep. Tom Butler
 Rep. Mark Hass
 Rep. Jeff Kruse
 Rep. Jan Lee
 Rep. Laurie Monnes Anderson
 Rep. Tootie Smith

STAFF PRESENT: Cara Filsinger, Committee Administrator
 Patricia Nielsen, Committee Assistant

MEASURE/ISSUES HEARD: Organizational meeting to adopt rules
 SB 1028B – 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 1, A		
005	Chair Wilson	Calls the meeting to order at 4:10 p.m. Opens organizational meeting.
<u>ORGANIZATIONAL MEETING TO ADOPT RULES</u>		
010	Rep. Butler	MOTION: Moves to ADOPT the proposed Committee Rules dated 9/13/02 (EXHIBIT A).
012		VOTE: 6-0 EXCUSED: 1 – Hass
	Chair Wilson	Hearing no objection, declares the motion CARRIED.
015	Chair Wilson	Closes organizational meeting. Opens public hearing on SB 1028B.
<u>SB 1028B – PUBLIC HEARING</u>		
018	Brian DeLashmutt	Oregon Nurses Association, Oregon Council of Police Associations, Association of Oregon Corrections Employees, Federation of Oregon Parole and Probation Officers, PERS Coalition. Testifies in opposition to the bill, especially sections 2 and 3. Objects to ending enrollment in Tier 2 and directing next legislature to create new system. Recommends allowing the current task forces to continue working and exploring options.
040	Rep. Kruse	Asks for comments on Section 4.
042	DeLashmutt	Responds this concerns crediting the gain-loss reserve, which is what the Public Employees Retirement System (PERS) Board would already do until the debt is erased.
050	Rep. Butler	Asks about status of litigation his organization is involved in.

055	DeLashmutt	Answers collective suit by PERS Coalition is awaiting decision by Judge Lipscomb, and there is a potential for litigation over the implementation of updated mortality tables.
075	Rep. Butler	Asks about tort claims pending rule adoption.
080	DeLashmutt	Advises none at this time.
085	Rep. T. Smith	Asks what harm might be done.
095	DeLashmutt	<ul style="list-style-type: none"> • Suggests Sections 2 and 3 are not needed, because current task forces are exploring changes • Describes harm due to contract expectations and changed benefits if mortality tables are adopted
120	Rep. T. Smith	Asks what ideas his groups could support.
125	DeLashmutt	<p>Suggests changes:</p> <ul style="list-style-type: none"> • Create incentives for inactive Tier 1 members to withdraw money after they quit, to ease burden on employers. Refers to fiscal impact statement (EXHIBIT B). • Clarify language in the statute, to avoid litigation over meanings. • Statutory separation of Tier 1 and Tier 2.
180	Rep. Lee	Agrees PERS system should not be dismantled without a replacement system in place. Asks if the task forces can suggest real solutions.
200	DeLashmutt	Discusses task force actions, and advises the working groups will present suggestions before next session.
215	Chair Wilson	Refers to <i>Oregonian</i> newspaper coverage of the issue. Acknowledges the legislature must improve PERS, and expresses concern that PERS members and employers will not participate seriously in negotiations.
245	DeLashmutt	Expresses personal commitment to finding solution. Discusses prior attempts which were stopped by legislative members.
270	Rep. Butler	Asks for pledge to work toward a solution if SB 1028 fails.
285	DeLashmutt	Agrees and comments.
295	Rep. Kruse	Asks about creation of Tier 3.
310	DeLashmutt	Responds his organizations are open to suggestions.
320	Tricia Smith	Oregon School Employees Association (OSEA). Submits written testimony (EXHIBIT C). Testifies in support of genuine efforts of the task forces. Urges positive changes that bring health and solvency to the system. Suggests not abolishing PERS without a successor plan.
400	Tricia Smith	Expresses concern that the bill doesn't address the problems causing the unfunded liability. Suggests Tier 2 may already have fixed some problems. Warns against unintended consequences.
TAPE 2, A		
020	Tricia Smith	Takes no position on sections relating to judges and legislators. Asks the committee to table the bill, in favor of deliberative approach of the task forces.
055	Rep. Butler	Asks about lawsuits by OSEA.
060	Tricia Smith	

		Responds her group is an intervenor in the Lipscomb lawsuit brought by local governments.
070	Rep. Butler	Asks for oath.
075	Tricia Smith	Agrees.
080	Rep. Kruse	Inquires whether PERS Board has historically fulfilled its fiduciary responsibility.
085	Tricia Smith	Responds there have been times when the PERS Board has not acted appropriately.
090	Rep. Kruse	Agrees.
095	Tricia Smith	Suggests the consequences of the bill are not known.
100	Chair Wilson	Comments about eight percent guarantee, and asks for the single best suggestion to ease burden on employers.
110	Tricia Smith	Discusses previous attempts at changes.
115	Chair Wilson	Asks about previous suggestions.
120	Tricia Smith	Describes: <ul style="list-style-type: none"> • Pooling local government rates • Putting employer contributions into money match to allow growth which matched employees' earnings • Stop using PERS in political contests
135	Rep. T. Smith	Asks for specific suggestions to improve PERS.
140	Tricia Smith	Reiterates previous suggestions and agrees with incentives for opting out. Suggests the task forces should find the solutions.
160	Mary Botkin	American Federation of State, County, and Municipal Employees (AFSCME). Advocates well-funded and well-run system. Describes past efforts: <ul style="list-style-type: none"> • Allow employers to use the variable system • Worked against taxation of PERS, which created a greater burden on employers Advises AFSCME is an intervenor in the local government lawsuit being decided by Judge Lipscomb.
220	Rep. T. Smith	Asks for specific ideas for improvement.
230	Botkin	Discusses process of explaining to employees about what PERS is and how it works, as well as what problems there are, in order to discuss needed changes and let members be part of solution.
245	Rep. T. Smith	Asks for input on solving Tier 1 problems.
250	Botkin	Agrees nothing can be taken away from Tier 1 employees, but there may be incentives for them to drop out.
260	Rep. T. Smith	Advises looking at ideas not yet raised.
280	Botkin	Discusses presentations to members. Agrees the task force should be considering new ideas.
305	Rep. Monnes Anderson	Asks whether there will be lawsuits if the PERS Board changes mortality rates.
315	Botkin	Describes bill in the third special session to implement updated actuarial tables over a staggered period. Advises she can't stop lawsuits but can deny access to PERS Coalition lawyer.

380	Rep. Butler	Comments on problems with the previous bill. Asks for oath.
410	Botkin	Agrees.
TAPE 1, B		
005	Rep. Hass	Asks about section 4 language requiring eight percent cap on Tier 1 earnings.
010	Botkin	Discusses limiting Tier 1 earnings to eight percent guarantee and rebuilding the gain-loss reserve. Recommends extending five-year call if stock market doesn't recover in time.
030	Rep. Hass	Clarifies reason for limiting to eight percent.
035	Botkin	Suggests the Board will do that because it is the responsible thing to do.
045	Chair Wilson	Asks if she is confident in the task forces.
050	Botkin	Expresses confidence in labor members and PERS coalition members on the task forces. Continues they don't know what Tier 2 has done and whether it will solve.
060	Chair Wilson	Asks about other participants.
065	Botkin	Expresses confidence in members working on the problems.
075	Mark Nelson	Association of Oregon Faculties and Oregon Judges Association. Testifies and describes recruitment as a huge issue in higher education, with PERS as one of the biggest draws. Testifies in opposition to including judges in this bill, because judges have a separate system within PERS. Advises there is no conflict deciding cases, because judges are not in that system.
135	Rep. Butler	Asks about defined contribution and defined benefit without money match.
140	Nelson	Discusses.
160	Rep. Butler	Asks if higher education faculty are involved in lawsuits.
170	Nelson	Advises they are supportive but not involved. Agrees to work positively toward solutions.
175	Rep. T. Smith	Asks for specific ideas.
178	Nelson	Suggests crafting packages to encourage employees to drop out of PERS.
185	Rep. T. Smith	Asks about incentives.
190	Nelson	Suggests a cash buy-out. Recommends allowing the task forces to work.
210	Chair Wilson	Asks if there is movement coming.
215	Sen. Roger Beyer	District 9. Testifies in support of SB 1028B. Explains background of bill, which is intended to bring the parties to the table to negotiate. Advises this forces employees to discuss changes. Continues the bill doesn't stop the Speaker's or Governor's task forces, but puts pressure on those efforts. Explains that the next legislative assembly will need to act. Clarifies and explains bill sections.
280	Chair Wilson	Asks about PERS Coalition comments stating they are ready to talk seriously.
285	Sen. Beyer	Agrees if the bill passes, the PERS Coalition will be ready to engage seriously.

290	Chair Wilson	Asks whether the bill is inflammatory to employer-employee relationships.
295	Sen. Beyer	Explains this doesn't change anything in place now, but will set up a new system for new employees hired after December 31, 2003.
325	Chair Wilson	Asks about relationship between bill and task forces.
330	Sen. Beyer	Suggests the task forces will not act unless this bill passes.
335	Rep. Butler	Asks whether the Governor will sign the bill.
337	Sen. Beyer	Responds he doesn't know.
340	Rep. Butler	Asks about judges being involved in the negotiation.
360	Sen. Beyer	Explains that judges are members of PERS, and decisions by judges about PERS affect them.
380	Rep. Butler	Asks who the highest-paid PERS employee in the state is.
385	Sen. Beyer	Suggests it is an appointed official or department head.
TAPE 2, B		
005	Rep. Butler	Asks about head of SAIF Corporation and her retirement benefit.
008	Sen. Beyer	Responds benefits are determined individually.
010	Rep. Butler	Inquires whether the parties work well together and have a mission.
015	Sen. Beyer	Explains the speaker's task force is moving but this provides a deadline.
030	Rep. Butler	Asks how long an appeal to the Oregon Supreme Court would take, and how much it would cost.
035	Sen. Beyer	Explains Legislative Counsel sees no challenge with standing for a long time, though a legislator or the Governor could challenge after 2003.
050	Rep. Butler	Suggests asking Legislative Counsel about cost forecast.
065	Michelle Deister	League of Oregon Cities (LOC). Testifies in favor of bill. Explains goal of good benefits and stable sustainable costs. Comments this provides incentive and a deadline for fruitful discussions.
075	Chair Wilson	Asks about necessity for deadline.
080	Deister	Explains about amendments put into place to accommodate employees' concerns. Describes financial pressure on employers and priority for cost containment.
100	Chair Wilson	Clarifies that employers wish to preserve relationship with current employees.
105	Deister	Agrees.
107	Rep. Butler	Asks about involvement in lawsuit.
108	Deister	Advises some member cities are involved, but LOC is not.
110	Rep. Butler	Asks for oath to work for solutions.
115	Deister	Agrees.
120	Rep. T. Smith	Asks whether employer groups have suggested solutions.
125	Deister	Explains there is no agreement among cities and employers.
130	Rep. T. Smith	Suggests coming to the table with real solutions.

140	Deister	Responds.
145	Chair Wilson	Clarifies.
150	Maria Keltner	Association of Oregon Counties (AOC). Testifies in favor of bill. Recalls that counties working on this issue are also PERS members. Describes ideas: <ul style="list-style-type: none"> • Successor system, either for all members or for new hires • Option to opt out of PERS and develop local plans • Cap earnings at eight percent to Tier 1 members
205	Rep. Monnes Anderson	Asks about cap on earnings.
210	Keltner	Explains and continues describing ideas: <ul style="list-style-type: none"> • Expedited review to Supreme Court • Funding source for unfunded liability
220	Rep. Lee	Asks if there are independent financial advisors working with the task forces.
225	Keltner	Explains several members have financial backgrounds.
240	Rep. Butler	Asks about lawsuits.
245	Keltner	Advises AOC is not a party but individual counties who are members are parties to the Lipscomb lawsuit.
260	Rep. Butler	Asks for oath.
265	Keltner	Agrees.
275	Joe Schweinhart	Associated Oregon Industries (AOI). Explains his members are business people and taxpayers. Testifies in favor of bill, because costs are spiraling out of control. Asks legislature to take control of the process.
310	Rep. Butler	Asks about lawsuits.
315	Schweinhart	Responds AOI is not a party to the Lipscomb lawsuit.
320	Rep. Butler	Asks for oath.
325	Schweinhart	Agrees.
340	Jim Green	Oregon School Boards Association. Explains his association is not part of Lipscomb lawsuit. Agrees to participate in negotiations. Testifies in favor because the bill imposes a deadline. Discusses language on page 2, lines 36-39, requiring the PERS Board to “attempt to insure” the reserve account is funded. Contrasts language on page 2, lines 40-45, and page 3, lines 1-6, which says the PERS Board “shall” credit only the assumed earnings rate. Points out this clarifies the discrepancy and requires the Board to repay the deficit and re-fund the reserve. Urges the committee to put the plan into statute. Takes no position on judges or legislators. Describes suggestions.
TAPE 3, A		
005	Jim Green	Continues and describes attempts to fix PERS during special sessions. Encourages efforts to create a new system with cost containment. Approves having a deadline for changes.
030	Rep. Kruse	Asks about change suggested in Section 4, and what effect it would have had over the past 15 years.

035	Green	Declines to question the Board’s prior decisions, but encourages the limitation on earnings in future.
065	Rep. Butler	Asks about the value of an agreement to agree.
070	Green	Answers it depends on ability to enforce the agreement.
075	Rep. Butler	Inquires about enforceability of an agreement to agree, without a time certain.
080	Green	Responds it is probably not enforceable. Continues a time certain is needed to get people to the table, to effect future savings.
085	Rep. Butler	Asks about value of an agreement to agree, with enforceability and time certain.
090	Green	Discusses.
100	Rep. Butler	Asks for oath.
105	Green	Agrees.
110	Rep. Kruse	Discusses burden on small school districts due to rising costs of PERS, health care and energy.
120	Rep. Butler	Describes assessments on cities and special districts in his district.
155	Rep. T. Smith	Asks for testimony from Oregon Education Association (OEA).
160	BethAnne Darby	OEA. Testifies and echoes concerns of colleagues. Advises OEA is an intervenor in the Lipscomb lawsuit. Continues OEA is willing to come to the table, and is participating in both task forces.
170	Chair Wilson	Closes public hearing on SB 1028B. Adjourns the meeting at 6:14 p.m.

Submitted By,

Reviewed By,

Patricia Nielsen,
Committee Assistant

Cara Filsinger,
Committee Administrator

EXHIBIT SUMMARY

A – Proposed rules, staff, 1 p

B – SB 1028B, fiscal analysis, staff, 2 pp

C – SB 1028B, written testimony, Tricia Smith, 3 pp