

SENATE COMMITTEE ON GENERAL GOVERNMENT

February 16, 1999 Hearing Room C

3:00 p.m. Tapes 21 - 22

MEMBERS PRESENT: Sen. Verne Duncan, Chair

Sen. Cliff Trow, Vice-Chair

Sen. John Lim

Sen. Frank Shields

MEMBERS EXCUSED: Sen. Marylin Shannon

STAFF PRESENT: Marjorie Taylor, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: SB 328 Public Hearing

SB 191 Work Session

SB 192 Work Session

Introduction of Committee Measures

SB 325 Public Hearing

SB 327 Public Hearing SB 361 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 21, A		
003	Chair Duncan	Calls meeting to order at 3:08 p.m. Opens a public hearing on SB 328.
<u>SB 328 PUBLIC HEARING</u>		

016	Fred McDonnal	Director, Public Employees Retirement System (PERS). States that PERS will be giving an overview of the bills for the committee.
020	Steve Delaney	<p>Legislative Liaison, PERS. Testifies in support of SB 328 (EXHIBIT A). States that there are two components to the bill:</p> <ul style="list-style-type: none"> • Creation of a rollover account within PERS • Adjustment of the variable account transfer occurring at retirement <p>Discusses the rollover account section of the bill. States that the bill would allow money from qualified retirement accounts in other states to be placed into a separate, interest earning fund within PERS that would be paid as a lump sum upon retirement.</p>
037	Sen. Trow	Asks if the lump sum payment would be made in a way that would avoid a substantial tax liability.
040	Delaney	Replies that the member would have the option of rolling the money back into another plan, avoiding tax liability. States that many members have multiple retirement plans that would be easier to track under the umbrella of a PERS account.
047	Chair Duncan	Asks for an explanation of the fiscal impact.
049	Delaney	Replies that the rollover portion of SB 328 would not be implemented until a new computer system is put in place in 2002.
058	Sen. Shields	Asks if the rollover option would allow only public retirement funds, or if it would allow private sector retirement plans as well.
063	Delaney	Replies that only tax-qualified public retirement plans would be eligible for rollover into PERS.
068	Chair Duncan	Closes the public hearing on SB 328 and opens a work session on SB 191.
<u>SB 191 WORK SESSION</u>		
071	Sen. Trow	MOTION: Moves to TABLE SB 191.
077		<p>VOTE: 4-0-1</p> <p>AYE: In a roll call vote, all members present vote Aye.</p> <p>EXCUSED: 1 - Shannon</p>

	Chair Duncan	The motion CARRIES.
086	Chair Duncan	Closes the work session on SB 191 and opens a work session on SB 192.
<u>SB 192 WORK SESSION</u>		
088	Sen. Trow	MOTION: Moves to TABLE SB 192.
093		VOTE: 4-0-1 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Shannon
	Chair Duncan	The motion CARRIES.
098	Chair Duncan	Closes the work session on SB 192. Opens a work session to introduce a committee bill.
<u>INTRODUCTION OF COMMITTEE MEASURES</u>		
103	Sen. Trow	States that Senate President Adams has asked the committee to introduce LC 1512 as a committee bill. Gives a brief description of the bill to the committee.
115	Sen. Trow	MOTION: Moves LC 1512 dated 12/21/98 BE INTRODUCED as a committee bill.
118	Chair Duncan	Hearing no objection, declares the motion CARRIED.
		LC 1512 becomes SB 741.
124	Chair Duncan	Closes the work session and reopens the public hearing on SB 328.
<u>SB 328 PUBLIC HEARING</u>		
134	Delaney	States that SB 328 would allow both private and public finds to roll over into PERS as long as they are tax qualified.
141	Sen. Shields	Asks if a member can move private funds into PERS prior to retirement.

146	Delaney	Defers the question to the tax expert.
149	Victoria MacPherson	Department of Justice. States that a private plan would require a lump sum payment that could be rolled into a PERS account, similar to the way that a transfer could be made into an Individual Retirement Account (IRA).
164	Delaney	Continues discussion of SB 328, referring to the variable account transfer. States that the bill would allow members to move a percentage of their retirement funds between regular and variable accounts at the time of retirement.
173	Chair Duncan	Asks if there would be a fiscal impact of this part of the bill.
175	Delaney	Replies that there would be an administrative charge involved.
190	Sen. Trow	States that providing such an option would be beneficial to PERS members.
193	Sen. Lim	Asks if a member could continue to move funds between fixed and variable accounts after retirement.
196	Delaney	Replies that the bill offers only a one-time choice at the time of retirement and that the accounts are fixed at that time.
198	Chair Duncan	Says that PERS members would be unable to "play the market" since the ratio would become fixed after the choice is made.
199	Sen. Trow	Asks if there would ever be an allowance for reassessment of choice.
205	Delaney	Replies that there would be no opportunity for reconsideration.
207	Sen. Trow	Asks why the two different and unrelated sections were put into the same bill.
211	Delaney	Replies that the PERS board had a limited number of "place-holders" for bills and that the two sections of SB 328 both impact retirement.
220	Sen. Trow	States that the sections do not appear to conflict with one another.
223	Sen. Lim	Asks for further explanation of how the rollover works.
228	Delaney	Offers a brief explanation of the rollover. States that PERS currently allows rolling money out of, but not into, the plan.

231	Sen. Lim	Asks if the rollover would be allowed for both Tier 1 and Tier 2 of PERS.
233	Delaney	Replies that it would be allowed for both Tier 1 and Tier 2. States that the rollover account would not be commingled with other PERS funds, so there would be no guaranteed interest rate. Says that the rollover would simply earn whatever interest it accrued and be paid as a lump sum distribution at retirement.
265	Sen. Lim	Asks if the rollover would cost the PERS system, other than the administrative cost mentioned earlier, which would be charged to the member requesting the rollover.
267	Delaney	Replies that there would be no additional cost to PERS.
271	Sen. Trow	Asks if PERS would benefit at all by investing the rollover money for its members.
274	Delaney	Replies that there would be no gain for PERS and that the rollover would be merely a service to its members.
283	Tamara Dykeman	Representative, Oregon Community College Association (OCCA). Testifies in support of SB 328 (EXHIBIT B).
301	Jerry Donnelly	Director of Human Resources, Portland Community College (PCC). Testifies in support of SB 328 (EXHIBIT C). States that the bill is a first step in bringing college employees into PERS without cost to employers or taxpayers. Says that portability of retirement plans into PERS from other state retirement funds would benefit out-of-state recruitment of college faculty in the current tight labor market.
348	Dykeman	Mentions that there would be over 1000 employees throughout the Oregon College system that could benefit from portability of retirement funds from other states. States that OCCA has no position on the second section of SB 328.
363	Sen. Trow	Asks whether there are fees that will affect employer contribution rates.
371	Dykeman	Says that fees associated with the creation of a rollover account would be charged to the employee coming into the system.
382	Delaney	Concurs with Ms. Dykeman's statement.
390	Sen. Lim	Asks if funds could be transferred into a rollover account on more than one occasion.
TAPE 22, A		

004	Dykeman	Replies that the intention was for each plan to roll over into PERS only once. Says that PERS would have the opportunity to formulate rules regarding the rollover during the time between passage and implementation.
009	Sen. Lim	Asks where the bill mentions the "intention" to which Ms. Dykeman refers, in regards to the rollover.
016	Delaney	Replies that a partial rollover from an account could be made.
024	MacPherson	States that a rollover would be permitted as per federal law, which allows a distribution to be rolled over tax free, within 60 days. States that the distributions are usually in a lump sum, but that if they were in the form of periodic payments over a period of less than 10 years they would be eligible for rollover into PERS.
039	Sen. Lim	Asks where the language MacPherson refers to is, in the bill.
045	MacPherson	Replies that it is described in Section 2, subsection 1.
057	Sen. Lim	States that it appears that the bill allows a rollover of any size, at any time.
060	MacPherson	Replies that the account would need to qualify under federal tax law, which in turn stipulates what is an eligible rollover distribution.
072	Sen. Lim	Asks why SB 328 is necessary if its provisions are already in federal law.
074	MacPherson	Replies that federal law does not require a plan to accept rollover distributions, but rather governs tax treatment of funds that are rolled over.
079	Sen. Lim	Asks if all states follow the same rules regarding rollover distributions.
080	MacPherson	Replies that the same rules would be followed if PERS were to make a rollover payment to a retirement plan in any other state.
087	Maria Keltner	Representative for the League of Oregon Cities (LOC) and the Association of Oregon Counties (AOC). States that LOC and AOC support the rollover, but that there are concerns regarding potential increases in costs to local governments. Refers to Section 7 and the potential purchase of retirement credit. States that the employer would use rollover payments to pay the increased cost of the benefit provided by the member-purchased credit.
116	Sen. Trow	Says that lines 17-19 within SB 328 say that the employee shall fully reimburse the system.
117	Keltner	Replies that the reimbursement is only for the costs incurred by the system and

		adds that costs paid by employers are not considered "costs to the system."
120	Sen. Trow	States that the bill intends to have the member pay for any costs incurred.
122	Keltner	Says that different credits are purchased in different ways, some of which do not cover the full cost.
133	Delaney	States that the intent of the PERS board is to allow rollover funds to make purchases that would normally be available upon retirement. Says that purchases which may involve cost to the employer are currently allowed by statute and it was the intention of the PERS board to allow such purchases with rollover funds.
144	Keltner	States that there would be an increased cost to the employer if a member made such a purchase.
147	Delaney	States that if the rollover was used to make a purchase that increased benefits that there would be an increased cost to the employer.
156	Chair Duncan	Says that he was under the impression that the bill would allow only for an account separate from their PERS fund.
163	Delaney	States that members returning to PERS and wanting to buy back time could do so with the rollover account, rather than paying for it out of pocket.
173	Sen. Trow	Says that the employee could make such a purchase even if the account did not exist. Says that the employer is already liable for benefits gained through a buyback.
178	Delaney	Concurs and says that the only difference is the source of funds that the member uses to make the purchase.
184	Keltner	States that there is a difference in that the rollover account is tax exempt, making a buyback cheaper and more attractive to members than one paid for out of private, taxable funds. States that the potential increase in employer costs leads AOC and LOC to oppose SB 328 in its current form.
199	Sen. Trow	Says that the employer costs could increase, but that the increase would be so insignificant that it should not sway the committee from supporting the bill.
208	Chair Duncan	Concurs with Sen. Trow.
215	Sen. Shields	Asks Ms. Keltner if she has any estimate of the potential cost to employers.
220	Keltner	Replies that the cost would be variable depending on which credits were

		purchased and how much those purchases increased benefits.
222	Sen. Shields	Asks for an estimate of the costs.
225	Keltner	Replies that PERS is the only source of such information. Says that the local governments are finding it difficult to understand the reasons that their PERS-related costs are increasing. States that some cities pay as much as 30% of their payroll for retirement, which has prompted AOC and LOC to oppose any potential increase.
240	Chair Duncan	States that he understands the problem faced by local governments related to PERS, but that he believes that SB 328 will not have any substantial effect on the cost incurred to cities and counties.
255	Keltner	Mentions that AOC and LOC have similar cost concerns regarding the second tenet of SB 328. Says that increased access to the variable account option could increase employer costs. States that employers pay for the 2% cost of living adjustment (COLA) on additional money earned through a variable account.
270	Delaney	States that there would be increased cost to employers if the stock market continued to rise. Says that, if the variable account option was used with more frequency, the cost to employers would be more closely tied to the rise and fall of the stock market. Mentions that a drop in the stock market would lower employer costs.
282	Chair Duncan	Asks if Ms. Keltner's concern that the cost to local governments could increase as a result of passage of SB 328 is valid.
285	Delaney	Replies that there is the potential for increased cost to employers.
288	Sen. Trow	Asks if there is any way to estimate the impact upon local governments.
290	Delaney	Replies that it is difficult to estimate.
300	Sen. Trow	States that the bill could make PERS a "little more expensive" for cities and counties.
311	Sen. Shields	States that he is concerned about the cost to local governments and is disappointed that there are no answers to some of the questions raised by Ms. Keltner.
326	Chair Duncan	Replies that the bill needs more consideration by the committee and mentions that the two sections of SB 328 may need to be split apart and considered separately.

340	Sen. Lim	Asks about the "active member" concept mentioned in Section 2.
345	Delaney	Replies that the section refers only to members currently employed and contributing to PERS.
350	Chair Duncan	States that current PERS policy states that members need to lock themselves into a particular fixed/variable ratio upon retirement.
357	Delaney	States that the bill would simply allow a member to take a percentage of their PERS fund as variable, rather than all variable or all fixed.
362	Sen. Lim	Asks if PERS would be able to reject rollover funds from other states.
365	Delaney	States that PERS would not be forced to accept any funds from other states.
370	Chair Duncan	Says that the committee still has some questions regarding the potential fiscal impact on cities, counties, and other public entities.
380	Delaney	Says that 22% of PERS members utilized the variable option during the past year, and that the cost of those employees to employers could be determined. States that it would be difficult to presume how many members would choose partial use of the variable account and its subsequent impact.
391	Sen. Trow	Says that the cost could be up or down.
403	Keltner	Says that the bill allows transfer of funds from a variable account to a regular account, or vice versa.
412	Delaney	Concurs with Sen. Trow that the cost to employers could potentially increase or decrease as a result of passage of SB 328.
415	Chair Duncan	Requests that calculations be run in order to calculate the "worst case scenario" regarding fiscal impact on local governments.
TAPE 21, B		
010	Sen. Shields	Says that the local governments should also do such projections and that PERS should work with them to discern potential impact from increased use of variable accounts.
016	McDonnal	Says that PERS could provide cost ranges and frame potential costs based upon passage of the bill.

022	Sen. Trow	States that there would probably be more groups interested in gaining the added flexibility of variable accounts testifying in support of the bill if they were aware of the controversy.
026	McDonnal	States that he agrees with Sen. Trow's statement. Says that the groups responsible for the introduction of SB 328 are the community college organizations that have testified at this hearing. States that the bill would create only a minute cost increase to employer contribution rates.
040	Keltner	States that the proponents of the bill support the rollover and that the problem lies in the fact that the bill would allow purchase without the employee paying the full cost of the benefit. States that, if the variable issue were deleted, the AOC and LOC would be willing to support the bill.
050	Sen. Trow	States that he would like to see the two sections of the bill separated so that they could be considered individually.
058	Chair Duncan	Suggests that PERS should work with the committee staff to facilitate the changes advocated by the committee. Closes the public hearing on SB 328 and opens a public hearing on SB 325.
<u>SB 325 PUBLIC HEARING</u>		
067	Marjorie Taylor	Committee Administrator. Gives a brief description of SB 325.
072	Steve Delaney	<p>Legislative Liaison, PERS. Discusses SB 325 (EXHIBIT D). States that the bill would allow members to purchase time through a pre-tax deduction while they are still employed, rather than after retirement. States that there are three eligibility issues addressed in the bill:</p> <ul style="list-style-type: none"> • The bill only becomes effective if it is allowed by the Internal Revenue Service (IRS) • Employers would not be required to offer the option to employees • A member would need to be eligible under the current rules in order to make the purchase <p>Says that the bill is not offering a new service but merely changing the way that PERS members can acquire an existing one. Says that the implementation would be implemented in July 2002.</p>
103	Chair Duncan	Asks if there would be a financial impact to cities or counties upon implementation.
106	Delaney	Replies that only those employers who chose to allow the purchases would see any increased cost, since the program is not a mandate.
112	Chair Duncan	States that unions would pressure employers to secure additional benefits for union members. Says that local governments would need to assume that there would be a fiscal impact.

120	Delaney	Says that the issue is whether PERS members would make purchases with the new plan that they otherwise would not have made. States that there would likely be an increase in buybacks of time, since the purpose of the bill is to offer members the flexibility to make such purchases in a variety of ways.
128	Maria Keltner	Representative, AOC and LOC. States that SB 325 is designed to make it easier for PERS members to increase their retirement benefits. Says that the pressure for employers to implement the program will probably lead to widespread use of the program. States that it may be possible to combine the service credit provisions of SB 325 with the variable interest transfer provisions of SB 328, for consideration together.
160	Chair Duncan	Closes the public hearing on SB 325 and opens a public hearing on SB 327.
<u>SB 327 PUBLIC HEARING</u>		
178	Steve Delaney	<p>Legislative Liaison, PERS. Testifies in support of SB 327 (EXHIBIT E). States that the bill would change the definition of "fire fighters" to include wildland fire fighters from the Department of Forestry. States that adding wildland fire fighters to the definition would allow them to benefit from police and fire membership status. States that there are four added benefits to such a classification:</p> <ul style="list-style-type: none"> • Earlier retirement age (age 55 rather than age 58) • Higher benefit calculation for retiring under the "full formula" option • Better disability benefit • Allowance for contribution of additional money to the PERS plan which is matched by the employer <p>States that wildland fire fighters would be tracked on a month-by-month basis to determine if they were to retain their special status.</p>
227	Chair Duncan	Asks how the number of injuries incurred by wildland fire fighters would impact the cost to the system regarding provision of disability payments.
238	Delaney	Replies that he does not have that information, but that he will provide it to the committee at a later date.
245	Steve Thomas	Personnel Director, Oregon Department of Forestry (ODF). Testifies in support of SB 327 (EXHIBIT F). States that the bill would benefit both seasonal and permanent forestry fire fighters. States that wildland fire fighters perform duties comparable to those of structural fire fighters. Discusses some changes that the ODF suggests regarding definition of eligibility and making current employees eligible for benefit.
320	Chair Duncan	Asks why efforts to add wild life forest fighters to the definition of fire fighter failed in the past.
322	Thomas	Replies that the failures resulted from a lack of information within the previous legislation.

337	Sen. Lim	Asks for an explanation of how the term fire fighter is defined.
340	Thomas	Replies that the person's primary duties must be fire fighting, in that they spend over 50% of their time on the job attending fire fighting duties.
356	Chair Duncan	Asks Mr. Delaney if he is aware of the amendments proposed by the ODF.
358	Delaney	Says that the PERS board is neutral on the amendments and that PERS will probably support them.
365	Sen. Trow	Asks how the second amendment listed in the testimony would affect the number of employees receiving the special classification.
375	Thomas	Replies that there will be some impact, but that it will not be substantial. States that there are no estimates for the additional cost associated with the increased numbers of fire fighters added to the special category.
390	Sen. Trow	Asks how the second amendments change the bill.
TAPE 22, B		
002	Thomas	Replies that the bill would be made retroactive.
007	Sen. Trow	States that making the bill retroactive would increase the cost of implementation substantially. States that a new tier that would rule out the money match program might expand the impact of the bill.
015	Rich Peppers	Representative, Oregon Public Employees Union (OPEU). Describes the 11 amendments (EXHIBIT G) to SB 327. Testifies in support of SB 327.
023	Jesse Beckman	Forest Inmate Crew Coordinator, South Fork Camp. Testifies in support of SB 327. Describes his activities supervising inmate labor in fire fighting and performing forestry work. States that most fire fighting takes place during the summer months.
060	Chair Duncan	Closes the public hearing on SB 327 and opens a public hearing on SB 361.
<u>SB 361 PUBLIC HEARING</u>		
067	Fred McDonnal	Director, PERS. Testifies in support of SB 361 (EXHIBIT H). States that the bill will bring the PERS plan into compliance with the tax qualification requirements of the IRS regarding tax exemption. States that PERS has until January of 2001 to become compliant.

105	Chair Duncan	Asks if the committee could be given a brief overview of the bill. States that the bill will be scheduled for further hearings.
118	Sen. Trow	Says that the bill is very important and should be expedited. States that it is important for the bill to be compliant with IRS rules.
125	McDonnal	Concurs with Sen. Trow.
129	Steve Delaney	Legislative Liaison, PERS. Provides a brief overview of SB 361. Discusses the bill, section by section. Indicates that there is a friendly amendment being developed by the Oregon State Bar regarding the decision of who can or cannot be a member of PERS.
170	Delaney	Continues discussing SB 361, section by section. Mentions that there will be a forfeiture account created for members who cannot be located, listing where their benefits will be held.
210	Chair Duncan	Asks if there are many members that cannot be located for payment of benefits.
212	McDonnal	Replies that there are a few such members, especially those who have refunded out of the system rather than retiring.
214	Delaney	Discusses Sections 18-20 of SB 361.
220	Chair Duncan	States that PERS has done an admirable job in creating the bill.
222	Sen. Trow	Asks when the amendment mentioned by Mr. Delaney would be available to the committee.
223	McDonnal	Replies that the amendment has been shown to PERS in rough draft form and that it should arrive in final form, soon.
237	Sen. Trow	Asks if there are changes to statute within SB 361 that may be controversial with PERS members.
240	McDonnal	Replies that there are some issues that are difficult to deal with, but that the bill is not controversial on the whole. Reiterates that the changes that may be controversial are those for which PERS has no choice but to implement due to mandates by the IRS.
270	Chair Duncan	Closes the public hearing on SB 361 and adjourns the meeting at 4:50 p.m.

Patrick Brennan, Marjorie Taylor,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 328, testimony, Steve Delaney, 2 pp.

B ñ SB 328, testimony, Tamara Dykeman, 1 p.

C ñ SB 328, testimony, Jerry Donnelly, 1 p.

D ñ SB 325, testimony, Steve Delaney, 2 pp.

E ñ SB 327, testimony, Steve Delaney, 2 pp.

F ñ SB 327, testimony, Steve Thomas, 3 pp.

G ñ SB 327, -1 Amendments, Rich Peppers, 1 p.

H ñ SB 361, testimony, Steve Delaney, 4 pp.