

SENATE COMMITTEE ON GENERAL GOVERNMENT

March 11, 1999 Hearing Room C

3:00 p.m. Tapes 39 - 40

MEMBERS PRESENT: Sen. Verne Duncan, Chair

Sen. Cliff Trow, Vice-Chair

Sen. John Lim

Sen. Marylin Shannon

Sen. Frank Shields

STAFF PRESENT: Marjorie Taylor, Administrator

Patrick Brennan, Administrative Support

MEASURE/ISSUES HEARD: PERS Overview

SB 324 Public Hearing

SB 327 Public Hearing and Work Session

SB 328 Public Hearing and Work Session

SB 323 Public Hearing and Work Session

SB 325 Public Hearing and Work Session

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 39, A		
003	Chair Duncan	Calls the meeting to order at 3:13 p.m. Announces that the hearing on SB 361 will not be held today.
<u>PERS OVERVIEW</u>		

018	Fred McDonnal	Director, Public Employees Retirement System (PERS) (EXHIBIT A). States that the PERS board realizes that there is a need for change to the system to alleviate the burden being felt by employers. Adds that the changes must be made carefully, given the experiences of past efforts to change the system.
045	Chair Duncan	States that many PERS members made decisions regarding their accounts, at that time, that they would not have had to make, had there not been undue pressure to do so.
048	McDonnal	Concurs with Chair Duncan's statement. Recalls that during the 3-9-99 hearing of the General Government Committee there were many people who testified that PERS should have seen trouble on the horizon. Asserts that the 1995 actuarial valuation showed the cost of the Money Match only 5 percent higher than that of the Full Formula. Adds that the increase from 1993 to 1995 was 27 basis points of payroll. States that PERS could not have foreseen the 40 percent return on investment earnings which has taken place. Indicates that PERS notified employers of the impact of HB 3349 and offered to hold hearings on the issue but that employers declined the offer. Suggests that the 92.5 percent funding level ratio is very good for a plan like PERS, compared to others in the nation. Says that the rates are rising to try to approach 100 percent.
099	McDonnal	Explains that the employer rate would have decreased, had HB 3349 not occurred. Says that the PERS board has hired an actuary, as directed by statute, which is a primary reason that the system has been so successful. Explains that the Gain/Loss Reserve is a contingency fund that helps to stabilize earnings distribution to employers and members from year to year. Asserts that the suggestion that the reserve be used to alleviate the HB 3349 impact is not legal, as it can only be used to supplement the sources from which it came.
138	Sen. Trow	Wonders if it is possible to use some of the Gain/Loss Reserve to help local government employers.
141	McDonnal	Replies that it is not legal to do so. Suggests that other reserves could be established for such purposes, but that it is one area that should be done with care, as they would take dollars that would otherwise go to members. Says that to do so is to "tread on very fragile territory."
152	Chair Duncan	Asks if the legislature considered the fact that the Gain/Loss Reserve could not be used to aid employers when it also placed the burden of paying for HB 3349 on them.
157	McDonnal	Says that it must have been considered, since PERS had no obligation to pay for the bill. Says that using the earnings of the trust fund cannot be used for such a purpose, which the PERS board must have been aware of, at the time.
170	Sen. Trow	Asks if it would be possible to use some future earnings to fill a contingency fund designed to alleviate employer costs.
180	McDonnal	Replies that is a distinct possibility, since it is impossible to use funds currently in the system.

185	Sen. Trow	Says that the money currently in the system could not be used, but since the variable rate makes no guarantees as to profit of the fund, some of the money could be used to pay for the employer liability.
191	McDonnal	Says that a future commitment to pay down employer costs would be more palatable than paying down the liability from funds already in hand.
195	Chair Duncan	Discusses bills within the Judiciary Committee which may have some impact on PERS.
205	McDonnal	Replies that he is aware of the bills in the Judiciary Committee. Says that the idea that new employers bring liabilities to the system which damage other employers is false, since liabilities brought into the system are paid for by increased rates to the particular employer. Adds that the description of funds "sloshing around" within PERS was inaccurate.
263	Chair Duncan	Says that the committee will ignore references to "sloshing."
272	McDonnal	States that the Multnomah County representative had testified at the 3-9-99 hearing that PERS had poorly advised and misled Multnomah County in 1997, regarding an early retirement program. Says that PERS had furnished a counseling session for potential early retirees, but that there is no record of correspondence with Multnomah County regarding a financial analysis of the early retirement program. Says that PERS may have accidentally misled Multnomah County through incidental information but that PERS has never advised them on the matter.
312	Chair Duncan	Inquires as to whether concerns raised at the 3-9-99 PERS Board meeting have been addressed.
315	McDonnal	Replies that PERS has not had time to address any such concerns, at this time.
319	Sen. Trow	Acknowledges that PERS is not responsible for creating the problems but it is clear that the problem exists. Asks how PERS plans to solve the problems of high employer rates and unfunded liabilities.
328	McDonnal	States that the focus must be on finding the solutions. Reiterates that the PERS Board has a primary duty to run the program for the benefit of the members, which means that any changes to the system must be for their benefit.
345	Sen. Shields	Acknowledges that county commissioners face difficult positions. Asks what McDonnal would do if he were in the position that county commissioners are in and heard the comment that PERS is responsible primarily to its members.
354	McDonnal	Indicates that the PERS board provided some immediate relief in order to buy time for permanent changes to be given due diligence. Acknowledges that PERS must provide some level of relief. Indicates PERS will come up with good solutions which are legal and equitable to all sides. Implores that PERS must be

		trusted to do the right thing.
383	Sen. Shields	Asks if the changes will occur in time to impact the local government budget cycles.
389	McDonnal	Suggests that the adopted changes, regarding the deferral of rate increases and the lengthening of the amortization period, will provide immediate relief to the previously published rates. Explains that the measures do not lower the costs but, rather, defer it to a later date. Discusses the rate increase deferral implemented by the PERS Board. Indicates that the deferral plan assumes that the market will not take a downturn. Adds that the PERS Board is analyzing proposals that would establish a contingency reserve and allow employer participation in variable earnings. States that both are important issues but that it will be difficult to craft the programs in a way that is legal and beneficial to the program. States that the changes may require legislation.
TAPE 40, A		
040	Sen. Trow	Wonders if there is currently a bill which would allow employer participation in the variable program.
046	McDonnal	Replies that the bills which he has heard of are currently in limbo.
050	Sen. Shields	Asks what would happen if employers participated in the variable program and a market downturn made it impossible for them to cover the 8 percent guarantee.
053	McDonnal	Replies that participation in the variable program would be the option of employer. Says that in the future there may be employers complaining that a market downturn has made the program unaffordable, due to their participation in variable investment. Discusses the deferment plan for employer relief. States that the extended amortization would decrease the employer rate.
097	Sen. Trow	Asks if it is possible to use the earnings of the Gain/Loss Fund to provide relief to employers.
101	McDonnal	Replies that it is not possible to do so, as those are to be used to credit member, retiree, and employer reserves equally.
108	Sen. Trow	Wonders if employer reserves could be used.
110	McDonnal	Replies that the plan is to supplement the employer reserves from other sources.
114	Sen. Trow	Asks if the employer reserves keep the employer rates down.
117	McDonnal	Replies that employer reserves do benefit employer rates. Says that excess

		earnings in one reserve were transferred solely to employer reserves.
125	Sen. Lim	Wonders if PERS could have warned Multnomah County regarding the financial hit that they faced due to early retirement, despite the fact that Multnomah County did not approach them for advice.
131	McDonnal	Replies that is the case. Explains that the relationship between PERS and Multnomah County is that of member-to-counselor, which does not normally involve actuarial principles and analyses.
142	Sen. Lim	Indicates that PERS statute calls for only 50 percent going into portfolios. Inquires if the higher returns are counted or if only the investment is considered in this stipulation. Explains that statute requires 50 percent of total funds be put into member portfolios. Asks if PERS counts only the money that is invested or if it counts the actual returns on investment, when calculating the 50 percent.
162	McDonnal	Suggests that the Treasury Department would be better informed to provide an answer to that question.
164	Sen. Lim	Indicates that the current equity allocation could be as high as 60 to 80 percent.
166	McDonnal	Replies that the current market value is probably in the range of 65 percent of market value.
168	Sen. Lim	Asks if the intent of the statute is to count the market value or the actual money invested in the program.
174	Bob Muir	Assistant Attorney General, Department of Justice (DOJ). States that the 50 percent requirement refers to the value of the stocks at the time of purchase. Adds that the Treasury Department is currently below 50 percent.
180	Chair Duncan	Closes the informational meeting and opens a public hearing on SB 324.
<u>SB 324 PUBLIC HEARING</u>		
182	Steve Delaney	Manager of Government Relations, PERS. States that that PERS would like to withdraw SB 324.
188	Chair Duncan	Closes the public hearing on SB 324 and opens a public hearing on SB 327.
<u>SB 327 PUBLIC HEARING</u>		
196	Steve Delaney	Manager of Government Relations, PERS. Testifies in support of SB 327 (EXHIBIT B) . States that the bill was referred back to PERS by the committee

		on 2-16-99. Explains that the interested parties reached a compromise on proposed changes, resulting in the ñ3 amendment (EXHIBIT C). Indicates that the amendment asks the Department of Forestry to certify fire fighters and makes the bill retroactive.
216	Sen. Trow	Asks how far the amended bill would be retroactive.
218	Delaney	Replies that the fire fighter must be employed on the date the bill takes effect, but that they may have wildland fire fighting experience in the past.
225	Sen. Lim	Asks how many fire fighters are affected.
234	Mike Bierley	Deputy Director, Department of Forestry. Replies that there are 73 full-time-equivalents (FTE) worth of firefighters which would qualify for the plan. Adds that there is a certification based on records of line exposure fighting fires.
256	Sen. Trow	Wonders if the bill would affect rates.
257	Delaney	Replies that the bill would increase the salary rate for the time of service by approximately 4.88 percent. Indicates that the state would pay for the pay increase.
276	Chair Duncan	Closes the public hearing on SB 327 and opens a work session on SB 327.
<u>SB 327 WORK SESSION</u>		
280	Sen. Trow	MOTION: Moves to ADOPT SB 327-3 amendments dated 3/9/99.
282		VOTE: 5-0
	Chair Duncan	Hearing no objection, declares the motion CARRIED.
285	Sen. Shields	MOTION: Moves SB 327 to the floor with a DO PASS AS AMENDED recommendation.
287		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.

	Chair Duncan	The motion CARRIES. SEN. LIM will lead discussion on the floor.
305	Chair Duncan	Closes the work session on SB 327 and opens a public hearing on SB 328.
<u>SB 328 PUBLIC HEARING</u>		
310	Steve Delaney	Manager of Government Relations, PERS. Testifies in support of SB 328 (EXHIBIT D). Indicates that the bill was previously considered by the committee on 2-16-99. States that the bill was designed to create a rollover account and to allow partial variable account transfers. Says that the ñ1 amendments (EXHIBIT E) withdraw the variable account provision, due to opposition by the Association of Oregon Counties (AOC) and the League of Oregon Cities (LOC). Adds that the amended bill would not be opposed by the AOC or the LOC.
338	Chair Duncan	Requests clarification as to whether a member could roll over funds from an out-of-state retirement plan into their main PERS account.
347	Delaney	Replies that a separate account would be created which would have no effect upon employer accounts. Says that the rollover dollars would be maintained in an account for lump sum distribution upon retirement.
362	Tamara Dykeman	Oregon Community College Association (OCCA). Testifies in support of SB 328. Says that the OCCA supports the ñ1 amendments and encourages their adoption.
371	Maria Keltner	Representative, AOC and LOC. States that the AOC and LOC have no objections to the ñ1 amendments.
375	Chair Duncan	Closes the public hearing on SB 328 and opens a work session on SB 328.
<u>SB 328 WORK SESSION</u>		
380	Sen. Trow	MOTION: Moves to ADOPT SB 328-1 amendments dated 3/4/99.
381		VOTE: 5-0
	Chair Duncan	Hearing no objection, declares the motion CARRIED.

383	Sen. Trow	MOTION: Moves SB 328 to the floor with a DO PASS AS AMENDED recommendation.
386		VOTE: 5-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Duncan	The motion CARRIES. SEN. DUNCAN will lead discussion on the floor.
395	Chair Duncan	Closes the work session on SB 328 and opens a public hearing on SB 323.
<u>SB 323 PUBLIC HEARING</u>		
400	Steve Delaney	<p>Manager of Government Relations, PERS. Testifies in support of SB 323 (EXHIBIT F). Explains that SB 323 is the PERS housekeeping bill, first heard by the committee on 2-2-99. Describes the six sections of the bill:</p> <ul style="list-style-type: none"> • Sunset of the accrual of interest on HB 3349 payments for members that PERS is unable to locate • Clarify the definition of "year," for calculation of partial average salary • Removal of the requirement for spousal consent, in the event that the spouse is deceased • Allowance of electronic fund transfers, in place of payment by check • Allowance for PERS to contract with out-of-state health care providers <p>Explains that the sixth section, which would allow adjustment of dates required for purchases with disability requirements, has been withdrawn, due to opposition by AOC and the LOC.</p>
TAPE 39, B		
010	Delaney	<p>States that there were two items left that were opposed by AOC and LOC. Reiterates that the committee requested that PERS provide the impact that the bill would have had on local governments, had it been passed during the 1997 legislative cycle. Says that the first issue was the opposition by AOC and LOC to the provision that partial years would be counted as a full year, if the benefit was higher, with regards to the definition of final salary. Says that DOJ suggested that the partial year should be credited. States that in 1998 only three out of 6,652 retiring members benefited from the partial year calculation. States that the cost to their respective employers was negligible. Indicates that AOC and LOC concur that the financial impact would be minimal and have agreed to withdraw opposition to that section of the bill.</p>
038	Chair Duncan	Inquires as to how the difference was calculated.

040	Delaney	Responds that the calculations are currently based upon the final three full years of employment and that SB 323 would give members a partial year as one of the three years, if it would increase their monthly benefit. Discusses the out-of-state health care provision to SB 323. Says that PERS health plans chosen by retirees are supplied at a cost of \$60 to the employer. Says that several states do not offer the variety of health plans that Oregon does. Indicates that a member living in California would be forced to switch health plans or lose coverage under certain circumstances. Says that AOC and LOC believe that the opportunity to have the insurance may entice members to participate at a cost to local employers.
080	Delaney	Explains that there were 75,907 PERS retirees as of 1998, of which 6,187 live outside of Oregon. Says that the total number of retirees outside of Oregon without PERS health coverage is 3,755. Argues that if all of them were to take the health care, the total monthly cost increase would be \$225,300 per month, an increase of .05 percent.
111	Sen. Trow	Asks for an estimation of the percentage of those eligible who would opt to take PERS health insurance should SB 323 become law.
116	Delaney	Replies that a number over half would be surprising. Indicates that the reason PERS has made the effort to include the provision is because there are a number of retired members who are about to lose their chosen coverage in California and Washington.
126	Sen. Trow	Asks if PERS would be responsible for notifying eligible members regardless of where they live.
128	Delaney	Replies that, as members, they would be notified.
135	Chair Duncan	Wonders what prevents PERS from providing insurance for its out-of-state members.
138	Delaney	Replies that statute currently requires the plans to be inside of Oregon. Says that federal law has changed the rules so that the provider must merely be licensed within Oregon and can actually reside elsewhere.
147	Gloria English	Health Insurance Program Manager, PERS. Indicates that there are many members not currently participating who would need to wait for the PERS board to hold an open enrollment period. States that the PERS health insurance committee has not held an open enrollment for several years.
162	Chair Duncan	Asks if a retired member is eligible to receive the insurance at any time if they have chosen not to do so in the past.
165	English	Replies that such members cannot request the insurance at any time but must wait for the enrollment period. Suggests that such provisions were necessary to prevent members from shopping around for low cost.

175	Sen. Trow	Wonders if the legislation would be followed by a timely open enrollment.
178	English	Replies that there has been no anticipation as to how the system would be used. Says that federal limits have limited the ability of members to maintain their current coverage if they reside out-of-state. States that such members would have provisions for insurance without the system being opened for all qualified, uninsured members.
200	Sen. Trow	Observes that it appears that SB 323 would not open the system to everyone and that PERS would have control as to if and when the system was opened. Suggests that the cost calculations are unrealistically high.
208	English	Says that is the case and that the intention was not to open the plan to those that may be eligible by chance but to take care of those who have insurance that was in jeopardy.
228	Maria Keltner	Representative, AOC and LOC. Indicates that the ñ1 amendments proposed by PERS (EXHIBIT G) are not objectionable. States that AOC and LOC want to protect those who have elected to participate with PERS health care from changes resulting from federal law. Indicates that she has prepared amendments (EXHIBIT H) which would better protect such individuals by redefining who they are.
277	Sen. Trow	Says that the amendment proposed by Ms. Keltner would not allow PERS to open the program to other qualified members for any reason. Says that PERS would not need to open it up under the ñ1 amendments, but that it would offer PERS the option to do so.
289	Keltner	Concurs with Sen. Trow. Asserts that her proposed amendment would only affect those who were to lose their insurance.
294	Sen. Trow	Wonders how many individuals are in such a situation.
295	Keltner	Replies that she does not know and defers the question to the representatives of PERS.
299	English	Replies that she does not have an exact number, but that past analyses showed that there were fewer than 300 in Washington, California, and Arizona. Says that not all would lose their coverage due to dual residency and other issues.
324	Sen. Trow	Asks if PERS has objections to Ms. Keltnerís amendment.
327	English	Replies that PERS has objections to the proposed amendment, based on the fact that it would be difficult to keep stable doctor-patient relationships for its members. Argues that the exclusion of future retirees from having the option is inequitable. Asserts that if the committee feels that it is inappropriate for PERS to work with out-of-state contractors then PERS would rather withdraw the provision.

367	Keltner	Argues that those who lost coverage under her amendment would be able to keep their doctor. States that the opportunity to participate in the PERS plan would be opened up to retirees in the future, as a result of passage of the ñ1 amendments. Indicates that the future impact of the program is potentially huge, with so many baby boomers preparing to retire. States that AOC and LOC favor amendments that would protect only those who have previously made the commitment to the plan. Says that it would not be fair for Oregonians to need to subsidize out-of-state residents' health care.
TAPE 40, B		
004	Chair Duncan	Says that such persons were taxpayers within Oregon at some point in the past.
005	Keltner	Says that is the case, but they are no longer contributing.
012	Chair Duncan	Closes the public hearing on SB 323 and opens a work session on SB 323.
<u>SB 323 WORK SESSION</u>		
020	Delaney	Gives a brief description of the ñ1 amendments. States that there was no opposition to the amendment.
024	Sen. Trow	MOTION: Moves to ADOPT SB 323-1 amendments dated 2/2/99.
026		VOTE: 5-0
	Chair Duncan	Hearing no objection, declares the motion CARRIED.
027	Delaney	Gives a brief description of the ñ2 amendments (EXHIBIT I).
031	Sen. Trow	MOTION: Moves to ADOPT SB 323-2 amendments dated 3/9/99.
032		VOTE: 5-0
	Chair Duncan	Hearing no objection, declares the motion CARRIED.
036	Sen. Trow	Asks where the provisions for the health insurance coverage are in the bill.

039	Delaney	Replies that Section 7 is where the provisions are located.
040	Sen. Trow	States that Section 7 is supported by PERS, while the amendments proposed by Ms. Keltner would alter Section 7 in a way that would be preferable to AOC and LOC.
042	Chair Duncan	Closes the work session on SB 323 and states that it will be brought back at a later date, as it is an important bill. Opens a public hearing on SB 325.
<u>SB 325 PUBLIC HEARING</u>		
060	Steve Delaney	Manager of Government Relations, PERS. Testifies in support of SB 325 (EXHIBIT J) . States that SB 325 received a public hearing on 2-16-99. Says that the bill would allow a pre-tax salary deduction to pay for service credit purchases before retirement. Reminds the committee that it asked for statistics regarding the potential effects of the bill. Says that the bill does not offer new services or benefits but, rather, offers flexibility in the provision of existing benefits. Says that there were 10,193 members eligible to make a purchase in 1998. Says that of that group the total benefits would have been \$24,161,000 with no purchases. Indicates that if every member made every purchase available the total benefits would have been \$24,597,000, a difference of \$436,000 from the total possible. Adds that after the actual purchases that were made in 1998 are taken out, the total possible purchases which were not made come to about \$40,000, some of which could be made by members who are not employees of local governments. Concludes that the total estimated benefit increase would be about \$13,000 a month, or \$162,900 annually.
123	Sen. Trow	Asks if the amount would increase over time.
125	Delaney	Replies that the amount would be subject to a cost of living adjustment (COLA) of 2 percent annually, paid by the employer. Says that the actuary considered the pooled cost too miniscule to consider, although it may have some substantial impact on particular local governments.
139	Maria Keltner	Representative, AOC and LOC. States that there are some purchases that are not at full cost to the employee and that the employer picks up the difference. Asserts that anything that makes service credit purchases easier will result in higher cost to the employer. Suggests that small employers can be adversely affected by small cost increases.
170	Chair Duncan	Asks what the cost to particular counties would be.
184	Sen. Trow	States that costs would be incurred by governments other than county and local governments, such as schools.
185	Delaney	Says that there is an additional cost, but only a small one.
188	Chair Duncan	Asks what the total cost to all governments would be.

194	Delaney	Replies that the cost would be \$1,629,024 to all governments, but that many of those payments are already made.
202	Sen. Trow	Asks if there is a need for an amendment.
208	Keltner	States that schools are not currently covered by the program.
218	Chair Duncan	Closes the public hearing on SB 325 and opens a work session on SB 325.
<u>SB 325 WORK SESSION</u>		
227	Sen. Trow	MOTION: Moves SB 325 to the floor with a DO PASS recommendation.
328		VOTE: 3-1-1 AYE: 3 - Lim, Trow, Duncan NAY: 1 - Shannon EXCUSED: 1 - Shields
	Chair Duncan	The motion CARRIES. SEN. TROW will lead discussion on the floor.
236	Chair Duncan	Closes the work session on SB 325. Adjourns the meeting at 4:52 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Marjorie Taylor,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ PERS Overview, printed materials, Fred McDonnal, 73 pp.

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

C ñ SB 327, -3 amendments, staff, 1 p.

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

E ñ SB 328, -1 amendments, staff, 1 p.

F ñ SB 323, testimony, Steve Delaney, 4 pp.

G ñ SB 323, -1 amendments, staff, 1 p.

H ñ SB 323, proposed amendments, Maria Keltner, 1 p.

I ñ SB 323, -2 amendments, staff, 1 p.

J ñ SB 325, testimony, Steve Delaney, 3 pp.