

## SENATE COMMITTEE ON GENERAL GOVERNMENT

March 18, 1999 Hearing Room C

3:00 p.m. Tapes 43 - 44

**MEMBERS PRESENT:** Sen. Verne Duncan, Chair

Sen. Cliff Trow, Vice-Chair

Sen. John Lim

Sen. Marilyn Shannon

Sen. Frank Shields

**STAFF PRESENT:** Marjorie Taylor, Administrator

Patrick Brennan, Administrative Support

**MEASURE/ISSUES HEARD:** SB 323 Public Hearing and Work Session

SB 361 Public Hearing and Work Session

SB 579 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
<b>TAPE 43, A</b>		
003	Chair Duncan	Calls the meeting to order at 3:12 p.m. Opens a public hearing on SB 323.
<b><u>SB 323 PUBLIC HEARING</u></b>		
020	Steve Delaney	Manager of Government Relations, Public Employees Retirement System (PERS). Testifies in support of SB 323 ( <b>EXHIBIT A</b> ). Explains that the bill would allow PERS to contract with out-of-state health care providers. Says that a quirk in federal law will prevent some members from continuing their coverage with their chosen provider unless the changes are made. Indicates that the federal law will only affect current retirees at this time but adds that PERS also wants to

		protect the option to maintain coverage for future retirees. Suggests that maintaining the option for future retirees is equitable and necessary to prevent a dichotomy similar to that between Tier 1 and Tier 2.
055	Chair Duncan	Clarifies that the problem would only exist for PERS retirees who leave the state after retirement.
062	Delaney	Concurs with the chair. Says that such individuals can retain coverage through the Oregon Dental Service (ODS) health plan offered by PERS but that if they are covered under one of the other available plans they would be forced to switch to ODS or lose their coverage. Indicates that there are fewer qualified individuals than originally estimated. Adds that the benefit already exists and that the real question is whether members will be priced out of their existing coverage.
081	Chair Duncan	Wonders if local government employers should have any reason to be concerned about the potential financial impact of SB 323.
083	Delaney	Replies that they should have no reason to worry about increased cost.
085	Vice-Chair Trow	Asks if all of the proposed amendments were sponsored by PERS.
088	Delaney	Replies that the ñ1 and ñ2 amendments, adopted by the committee on 3-11-99, were sponsored by PERS. Says that the ñ3 amendments ( <b>EXHIBIT B</b> ) were sponsored by local government representatives and are not supported by PERS.
095	Vice-Chair Trow	Asks if the bill is ready as currently amended.
099	Delaney	Replies that the bill is ready in its current form.
105	Maria Keltner	Representative, League of Oregon Cities (LOC), Association of Oregon Counties (AOC). Testifies in support of the ñ3 amendments. States that AOC and LOC oppose SB 323 in its current form. Explains that the cost of implementation to employers of SB 323, without the ñ3 amendments, would be approximately \$.01-.025 per hundred dollars of payroll, a cost to counties of up to \$2 million annually. States that those numbers assume that half of those eligible would choose to take a health plan given the opportunity to obtain the low cost plan. Submits that the ñ3 amendments would protect those who are already in a PERS-sponsored health plan as of December 31, 1999.
144	Sen. Lim	Inquires as to why PERS opposes the ñ3 amendments.
149	Delaney	Replies that PERS does not want to create an inequity in benefits between its members. Suggests that the ñ3 amendments would create "multiple tiers" of member coverage.
157	Sen. Lim	Asks how the local governments would be compensated for the potential unfunded mandate.

161	Delaney	Objects to SB 323 being referred to as an "unfunded mandate," as it only allows for the continuance of an existing program. Says that the question is whether members will choose to take advantage of the program after PERS begins to provide a cheaper alternative.
169	Vice-Chair Trow	Asks about the assumption that half of those eligible members would choose to participate. Asks Mr. Delaney for his estimation of the cost of such an occurrence.
172	Delaney	Replies that PERS estimates that only a small number of members will choose to participate. Indicates that the assumption is that half of those eligible already have insurance from other sources. Adds that other factors would reduce the number who would participate even further.
196	Vice-Chair Trow	Asks if there is a likelihood of litigation in the event that some members are not allowed to participate in the system as described.
200	Delaney	Replies that there is always a potential for such issues to arise when a multiple-tier structure is put in place.
202	Vice-Chair Trow	Says that the ñ3 amendment is retroactive, rather than creating a new tier. Explains that those who come into the system would not be offered the opportunity because the circumstances of their joining the system would be different.
207	Delaney	Says that the individuals in question are members who have already retired but have not yet taken advantage of the health care plans offered by PERS. Says that they may have a contract right that could be an issue.
220	Hasina Squires	Representative, Special Districts Association (SDA). Testifies in support of SB 323. Says that the SDA feels that SB 323 is a housekeeping bill. Submits that the speculation regarding how many members might choose to participate as a result of implementation should not prevent the committee's support of the bill. Explains that there is difficulty attracting employees due to competition with the private sector which is partially offset by the excellent retirement benefits offered by PERS.
<b><u>SB 323 WORK SESSION</u></b>		
<b>240</b>	<b>Vice-Chair Trow</b>	<b>MOTION: Moves SB 323 to the floor with a DO PASS AS AMENDED recommendation.</b>
244	Sen. Shields	Clarifies that the bill has been amended by the ñ1 and ñ2 amendments.
247	Sen. Lim	States that the bill as currently amended would put all PERS members on equal footing rather than creating multiple tiers.

253	Chair Duncan	States that he understands the situation that the AOC and LOC are in but says that SB 323 will have a negligible impact.
255	Vice-Chair Trow	Concurs with the chair's statement.
265		<b>VOTE: 4-0-1</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Shannon</b>
	<b>Chair Duncan</b>	<b>The motion CARRIES.</b>  <b>SEN. SHIELDS will lead discussion on the floor.</b>
281	Chair Duncan	Closes the work session on SB 323 and opens a public hearing on SB 361.
<b><u>SB 361 PUBLIC HEARING</u></b>		
288	Marjorie Taylor	Committee Administrator. Gives a brief description of the bill.
300	Steve Delaney	Manager of Government Relations, PERS. Testifies in support of SB 361 ( <b>EXHIBIT C</b> ). States that the committee previously held a public hearing on the bill on 2-16-99. Indicates that the changes made by SB 361 are necessary to conform PERS to Federal Law by the 12-31-2000 deadline.
333	Delaney	Offers a section-by-section description of SB 361: <ul style="list-style-type: none"> <li>• Clarifies that all PERS administrative rules are to be considered part of the PERS written plan document</li> <li>• Clarifies that only employers that meet federal definitions may participate in the PERS plan</li> <li>• Amends when members may get their money out of PERS if they have not yet reached normal retirement age or separated from their employment</li> <li>• Incorporates Internal Revenue Code language regarding the requirement of the PERS Trust Fund to be used for the exclusive benefit of employees and their beneficiaries</li> <li>• Provides that should PERS terminate, members have a vested right to a benefit already in their account</li> <li>• Incorporates "minimum distribution" requirements of the IRS into PERS statute</li> <li>• Imposing restrictions on permitted service credit purchases</li> <li>• Amendments regarding qualification requirements for retiree health benefits</li> <li>• Providing a method of holding unclaimed benefits</li> <li>• Conforming amendments</li> </ul>

393	Chair Duncan	Observes that the substantive changes to statute are made in Sections 5, 6, 7, 10, 11, 19, and 20.
403	Delaney	Concurs and states that the other sections make no substantial changes.
407	Vice-Chair Trow	Asks if there is any known opposition to the bill.
412	Delaney	Explains that there are some issues that have been discussed regarding Section 1. Says that the Department of Administrative Services (DAS) submitted the ñ1 amendments ( <b>EXHIBIT D</b> ) and that PERS supports them.
<b>TAPE 44, A</b>		
008	Sen. Lim	Wonders why the changes could not have been made previously, since many people are living past the benchmark of 70 1/2 years of age.
014	Victoria McPherson	Representative, Department of Justice. Replies that age 70 1/2 is the age specified by Internal Revenue Service (IRS) code. Explains that the IRS is giving retirement plans tax favored treatment and that there is a need to guarantee that money is not left in the system as a tax shelter for heirs of members.
032	Dan Kennedy	Administrator, Human Resource Services Division, DAS. Testifies in support of SB 361. States that he has offered the ñ1 amendments to the bill. States that labor management is important and that the bill as amended would protect the system. Asserts that the amendments would allow union members to continue to receive credit after taking leave, which is merely codifying current practice. Says that the labor organization would pay and that there must be agreement with the organization regarding the choice to participate.
052	Vice-Chair Trow	Asks when the program outlined within the bill would become operational.
056	Kennedy	Replies that the program would be made operational upon receipt of the IRS letter of qualification.
057	Vice-Chair Trow	Wonders what would happen in the event that the IRS does not qualify the plan.
058	Kennedy	Replies that the practice of giving employees PERS credit would be terminated.
058	Vice-Chair Trow	Suggests that the ñ1 amendments do not appear to jeopardize the ability of PERS to retain its tax favored status.
060	Kennedy	Concurs with the vice-chairís statement.
062	Vice-Chair Trow	Asks Mr. Kennedy if he is aware of any opposition to the ñ1 amendments.

063	Kennedy	Replies that he has been made aware of opposition by local government groups.
069	Vice-Chair Trow	Asks if the amendment has been attended to by the DAS legal advisor and determined to be legally sufficient
071	Kennedy	Replies that it has been analyzed by "many attorneys" and found to be legally sufficient.
074	Maria Keltner	Representative, AOC and LOC. Indicates that Section 1 of SB 361 is a matter of concern for AOC and LOC. Explains that it lines 14-18 would allow the PERS board to amend the PERS written document through rulemaking. Says that since the PERS board is the trustee and has fiduciary obligations to members it should not be eligible to write the rules but rather should continue to be solely responsible for their administration. Argues that granting the PERS board the authority to make rules would limit the legislature's capacity to do so. Submits that the amendment would allow the PERS board to create contract rights beyond its statutory parameters.
105	Vice-Chair Trow	Asks if the bill would set up a program significantly different from current practice.
109	Keltner	Replies that the PERS board currently has no ability to make changes to the written plan document.
120	Vice-Chair Trow	Asks for confirmation that the written plan document is currently outlined completely by statute and not subject to rules made by the PERS board.
125	Keltner	Replies that the rules implement the document but are not part of the document.
131	Vice-Chair Trow	Asks what status the rules made by the PERS board have, since they are not part of the written plan.
132	Keltner	Replies that they are merely interpretive and are not valid if they exceed the authority delegated in statute.
137	McPherson	Suggests that the term "plan document" is being used in different ways by the parties in the debate. Says that the benefit stipulation is clearly a legislative function. Says that keeping the system qualified under federal law is the only intended rulemaking authority being given to PERS by SB 361. Says that the rules PERS makes must be part of the plan document in order for PERS to be a tax-qualified plan.
161	Vice-Chair Trow	Wonders if the rule changes proposed by Ms. Keltner would affect the goal of the legislation.
166	McPherson	Replies that Ms. Keltner has not submitted any proposed changes.

167	Keltner	Indicates that she would defer to Ms. McPherson any changes that would address the concerns of AOC and LOC. Says that the addition of the ñl amendments to SB 361 is opposed by AOC and LOC. Says that offering a retirement credit for time served with labor organizations goes beyond the scope of conformance with the IRS code and that the amendment should be considered on its own merit.
186	Kennedy	Asserts that SB 361 is a good vehicle for the ñl amendments since it affects the tax qualifications of the PERS plan.
191	Vice-Chair Trow	Agrees that the bill appears to be a good vehicle for the amendment.
194	Kennedy	States that the amendment could stand alone as a bill in and of itself but that for the sake of expedience it has been submitted as an amendment.
199	Chair Duncan	States that there would appear to be interest in passing the amendment whether it is a part of SB 361 or not. Closes the public hearing on SB 361 and opens a work session on SB 361.
<b><u>SB 361 WORK SESSION</u></b>		
<b>209</b>	<b>Sen. Trow</b>	<b>MOTION: Moves to ADOPT SB 361-1 amendments dated 3/11/99.</b>
	<b>Chair Duncan</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>221</b>	<b>Sen. Trow</b>	<b>MOTION: Moves SB 361 to the floor with a DO PASS AS AMENDED recommendation.</b>
223	Sen. Lim	Asks if Ms. Keltner is comfortable with the issues that she raised regarding Section 1.
225	Chair Duncan	Replies that Ms. Keltner indicated that she would follow the advice of the Justice Department representative.
<b>229</b>		<b>VOTE: 4-0-1</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Shannon</b>
	<b>Chair Duncan</b>	<b>The motion CARRIES.</b>

		<b>SEN. TROW will lead discussion on the floor.</b>
236	Sen. Lim	Indicates that he is not entirely comfortable with Section 1 and the potential for the PERS board to write rules .
242	Chair Duncan	Closes the work session on SB 361 and opens a public hearing on SB 579.
<b><u>SB 579 PUBLIC HEARING</u></b>		
250	Marjorie Taylor	Committee Administrator. Gives a brief description of the bill.
266	Rep. Kitty Piercy	House District 39. Testifies in support of SB 579. States that it is important to have city representatives on the Commission on Children and Families (CCF). Indicates that the CCF deals with the wellness of children and at-risk youth and that cities have jurisdiction over such matters.
293	Sen. Lim	Wonders who appoints commissioners to CCF.
295	Rep. Piercy	Replies that local commission members interview candidates and make recommendations to the county commissions regarding individuals to whom to offer membership. Says that there are many different categories which must be represented.
315	Vice-Chair Trow	Says that the bill is ambiguous as to how to determine whether a person is knowledgeable about local government issues.
321	Rep. Piercy	Replies that there should be demonstrated knowledge, preferably through previous experience within local government.
350	Linda Ludwig	Representative, LOC. Testifies in support of SB 579 ( <b>EXHIBIT E</b> ). Discusses the Interim At-Risk Youth Committee. Argues that children and at-risk youth are best served through the collaborative efforts of local commissions on children and families. Says that the local commissions provide an increasing number of services, with the cooperation of a growing list of community partners. Indicates that Sen. Lenn Hannon is the chief sponsor of SB 579 and asked that she convey his support of the bill to the committee. Indicates that the members have been provided with letters of testimony in support of SB 579 within the handouts given to them.
395	Vice-Chair Trow	Asks if there is any known opposition to the bill.
396	Ludwig	Replies that she knows of no opposition.
400	Mayor Mike Swaim	Mayor, City of Salem. Testifies in support of SB 579. Says that the traditional division of labor with regards to children and at-risk youth is not working as well

		as it once did. Indicates that the complexity of the problem has required strategic planning. Describes some of the programs developed by Salem and other local governments to deal with youth issues.
<b>TAPE 43, B</b>		
043	Stacey Graham	City Councilperson, City of Stayton. Testifies in support of SB 579. Says that communities conduct long-term planning for infrastructure and financing of programs. Says that the CCF performs similar planning to that of local governments. Says that all activities of local governments impact children. Asserts that the inclusion of individuals knowledgeable on children's issues has made a positive impact on the ability of Stayton to address child and family issues. Submits that SB 579 would allow other local governments to gain representation on the CCF and would give those who feel strongly the opportunity to participate.
082	Vice-Chair Trow	Asks if there are any local commissions with no members knowledgeable on children and family issues.
084	Graham	Replies that most people are fairly knowledgeable but that having a placeholder for them would be beneficial.
091	Jan Fritz	City Councilperson, City of Sublimity. Testifies in support of SB 579. Says that all local governments could benefit from the opportunity to place members onto the CCF. Asserts that it gives cities a voice at the county level but that the influence actually passes both directions.
103	Mickey Lansing	Representative, CCF. States that the CCF has no official position on SB 579. States that the CCF is made up of specific types of people who are essential for the committee. Indicates that the law makes no such specific provisions for local commissions. Says that 19 of the 36 local commissions on children and families have county commissioners as representatives, with 6 serving as chair or director.
122	Vice-Chair Trow	Questions whether it makes sense to have county commissioners as chairs of local children and family commissions.
124	Lansing	Replies that such decisions are made locally. Says that the system has worked well for some but less well for cities. Says that since the goal is to bring all relevant parties together.
145	Fritz	Discusses community investment ( <b>EXHIBIT F</b> ).
163	Gillian Nicolaides	Introduces. Testifies in support of SB 579. Asserts that it is important to have city representation in commission activities. Adds that it would be advantageous to have individuals with a "global perspective" of the county.
171	Vice-Chair Trow	Closes the public hearing on SB 579 and opens a work session on SB 579.

**SB 579 WORK SESSION**

180	Sen. Lim	<b>MOTION: Moves SB 579 to the floor with a DO PASS recommendation.</b>
185		<b>VOTE: 3-0-2</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Shannon, Duncan</b>
	Vice-Chair Trow	<b>The motion CARRIES.</b>  <b>SEN. LIM will lead discussion on the floor.</b>
190	Vice-Chair Trow	Closes the work session on SB 579. Adjourns the meeting at 4:20 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Marjorie Taylor,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 323, testimony, Steve Delaney, 3 pp.**

**B ñ SB 323, -3 amendments, staff, 1 p.**

**C ñ SB 361, testimony, Steve Delaney, 4 pp.**

**D ñ SB 361, -1 amendments, staff, 4 pp.**

**E ñ SB 579, testimony, Linda Ludwig, 9 pp.**

**F ñ SB 579, printed materials, Stacey Graham, 6 pp.**