

SENATE COMMITTEE ON JUDICIARY

March 24, 1999 Hearing Room D

3:00 p.m. Tapes 92- 94

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

GUEST MEMBER: Sen. Duncan

STAFF PRESENT: Anne Tweedt, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: SB 721 Public Hearing

SB 722 Public Hearing

SB 723 Public Hearing

SB 884 Public Hearing

SB 910 Public Hearing

SB 1133 Public Hearing

SB 1134 Public Hearing

SB 1135 Public Hearing

TAPE/#	Speaker	Comments
Tape 92, A		
003	Chair Bryant	Calls the meeting to order at 3:12 p.m. Discusses the agenda for the meeting.
<u>SB 721, SB722, SB 723, SB 884, SB 910, SB 1133, SB 1134, SB 1135 PUBLIC HEARING</u>		
036	Maria Keltner	League of Oregon Cities (LOC) and Association of Oregon Counties (AOC) Introduces the panel of invited guests.
040	Lauren Schenard	Human Resource and Risk Management Director, City of Eugene Testifying as Chairperson, Association of Oregon Counties (AOC) and League of Oregon Cities (LOC), Joint PERS Workforce Subcommittee. Indicates that those who are here to testify from local government will indicate how the PERS problems outlined

		<p>yesterday are effecting their jurisdiction and discuss how these problems could be solved.</p>
049	Helen M. Berg	<p>Mayor, City of Corvallis</p> <p>Testifies and submits written testimony regarding the PERS retirement system as it effects the City of Corvallis (EXHIBIT A). Notes that the PERS rate for the City of Corvallis will increase from 9.42% to 13.75% of payroll on July 1, 1999. Discusses the possible rate of investment earning of the employers versus the possible rate of earning of the employees. Notes that the gap between the two, an administrative flaw, is the basis of the problem. Discusses the long term effect of taking no action on the flaws in the PERS system.</p>
138	Chair Bryant	<p>How many employees does the city of Corvallis have?</p>

139	Berg	Approximately 400 employees.
141	Sen. Tarno	What are the administrative flaws you are speaking of?
144	Berg	Indicates that the major flaw is the difference in the way the employee contribution and the employer contribution may be invested. Explains the gap between what the employee can earn and the employer can earn. Discusses the impact of HB 3349 on the city of Corvallis.
169	Sen. Nelson	Asks if she has a favorite of the bills introduced.
173	Berg	We feel it is important that local governments should be held harmless for the huge increase in unfunded liabilities which PERS has created.
193	Ken Rust	Director of Financial Management, City of Portland Testifies and

		<p>submits written testimony on the PERS issue and its effect on the City of Portland</p> <p>(EXHIBIT B). Indicates that the PERS rate for the City of Portland is increasing from 9.29% to 17.4% of payroll. Discusses the impact these cost increases will have on the City of Portland's budget. Indicates that the cost increases should have been noted sooner by the PERS Board and steps taken to better manage the problem caused by the stock market earnings. Discusses the different employee and employer earnings rates. Discusses the administrative practice of interest crediting and its bias against the employer.</p>
364	Sen. Brown	How much of your unfunded liability is due to annexation or consolidation and/or your choice to pay at a reduced rate?
371	Rust	The annexation

		<p>issue is currently in dispute with PERS. They assigned to the city of Portland all of Fire District 10, \$49 million dollars. We do expect that to be reduced substantially. We relied on PERS to tell us what we owe them. If we didn't pay enough, it was unintentional.</p>
388	Sen. Brown	How much do you currently have in other reserves for retirement?
392	Rust	There are no other reserves for retirement. We have a different retirement program for Fire and Police funded on a pay-as-you-go basis, pursuant to the city charter.
400	Chair Bryant	What is the Moody bond rate for Portland?
402	Rust	The city has had an AAA rating since 1974.
411	Sen. Nelson	What would your plan look like if you

		<p>opted out of PERS?</p>
415	Rust	<p>Indicates that they do not have a plan at this time, but believes they can do as well or better than PERS at a lower cost to the city.</p>
444	Randy Franke	<p>Marion County Board of Commissioners</p> <p>Indicates support of the previous two speaker's testimony. Local government is suffering due to the interest allocation imbalance. Marion County has a real financial problem increasing our contribution from 8.87% to 10.93% of payroll. We need the retirement tax issue and the interest crediting imbalance addressed.</p>
Tape 93, A		
048	Jim Origliosso	<p>Eugene Water and Electric Board (EWEB)</p>

		<p>Testifies and submits written testimony on the PERS issue and its effect on the Eugene Water and Electric Board (EXHIBITS C & D). Expects that the cost for PERS will increase more and more. Notes that EWEB pays the highest rate in the state. Believes that the problems suffered by EWEB are the future of the PERS system. EWEB would like a pooled rate to add stability the rate of contribution required. All the bills introduced deal with PERS on a prospective basis. EWEB needs help with the current situation. Notes that PERS participants have no specific contract rights in the reserve funds according to a legal opinion they have obtained. Suggests re-calculating employer crediting over the past fifteen years.</p>
171	Chair Bryant	How much would be available to assist EWEB if funds were

		credited as you have suggested?
181	Origliosso	For our particular account, \$40 million.
202	Sen. Courtney	How many employees are retired; how many active?
204	Origliosso	We have 460 active employees.
206	Sen. Courtney	You have 458 retired as of 1997, so you probably have more retired than working? How many retire each year?
210	Origliosso	We're losing about 5% a year to retirement.
219	Chair Bryant	Your employees stay with you throughout their working life?
221	Origliosso	Yes. It is not uncommon to have thirty years of service at retirement.
237	Jerry Lidz	Attorney Discusses the PERS contingency reserve and its possible use to take care of the

		<p>local governments unfunded mandates. Believes the gain/loss reserves should be available for this also. Believes that the PERS Board is letting its role as trustee inappropriately override its statutory role. Points out that the PERS board should consider the employer situation as integral to the employee situation. Their ability to continue to fiscally support the benefits is a direct benefit to the employee.</p>
336	Chair Bryant	<p>Compliance with the IRS code is important too. Do you have an amendment?</p>
337	Lidz	<p>We are working on them but they are not quite ready.</p>
347	Sen. Courtney	<p>You are talking about two funds? One that should have been created, but wasn't, and one that currently does exist?</p>
350	Lidz	<p>The gain/loss reserve now has</p>

		\$3.5 million in it. This should be used to help with the unforeseen gains in the employee accounts.
361	Sen. Courtney	The present retired employees have no rights over that fund?
371	Lidz	The gain/loss reserve is a security measure, it is not the source from which benefits are paid.
376	Chair Bryant	I think Sen. Courtney is asking if PERS could be sued if they use this reserve.
379	Lidz	We do not believe the employees contractual rights extend to administrative funds within the system. If the gain/loss reserved turned out to be insufficient, at that point the PERS Board could increase employer rates to cover the difference.
403	Sen. Burdick	Are you saying we can solve these problems without the Tier

		III creation?
409	Lidz	I was not intending to address that issue. However, we believe our plan would remedy both the current shortfall and the long-term problems.
442	Maria Keltner	League of Oregon Cities and Association of Oregon Counties Submits written testimony and testifies on the PERS system, its effect on the city and county governments in Oregon and possible solutions (EXHIBITS E, F, G, H, I, J & K) . Indicates that a defined contribution benefit is the most attractive of the possible options to local jurisdictions.
Tape 92, B		
041	Keltner	Continues testimony on possible changes to PERS.
056	Chris Dudley	Executive Director, Oregon School Boards Association

		<p>Testifies and submits written testimony regarding PERS as it relates to the Oregon schools (EXHIBIT L). Discusses the benefits of pooling all the school districts in Oregon. Discusses the strengths of PERS. States that the schools have no ability to participate in policy decisions. Employees retire at the earliest possible time since benefits are so high. The schools are short of money in other areas and spending on PERS is way too high. Discusses the history of PERS and school lobbying efforts over the years. Believes that a discussion of what is a reasonable income at retirement should be addressed.</p>
258	Greg Hartman	<p>Attorney, PERS Coalition</p> <p>Indicates he represents 120,000 employees active in the PERS system. These employees are</p>

		<p>from AFSCME, Oregon Firefighters, Oregon Council of Police Associations, AFSCME Corrections, United Association of Oregon Faculties, American Federation of Teachers, Oregon Nurses Association, Oregon Education Association, Oregon School Employees Association, Association of Corrections Employees, Federation of Parole and Probation Employees, the Association of Engineering Employees and the Oregon Public Employees Union.</p>
276	Alice Dale	<p>Executive Director, Oregon Public Employees Union (OPEU)</p> <p>Submits written testimony and testifies regarding the PERS system (EXHIBIT M). Emphasizes that the PERS system is actuarially sound. Discusses reasons for the difficulty that the local</p>

		governments find themselves in regarding the employer match. Urges that long-term goals not be lost in the need to remedy short term, unusual problems. Discusses the PERS system as a benefit to make up for the low level of governmental employee compensation. A survey OPEU did in 1998 shows state employees are paid 8.6% lower than private employees, but this increases to more than 15% lower if PERS is not considered.
431	Chair Bryant	Do you have any idea how many employees would pull out both the employee and employer amounts if this were an option as in SB 884? Fifteen to twenty percent pull out the employee share now, have you any indication how many might pull out both?
439	Dale	No.
442	Hartman	Believes that

		<p>the first thing which needs to be emphasized is that HB 3349 is the major drain on the funds. Believes that the PERS system is not broken but suffering from unusual circumstances. Indicates that allowing employers to invest in the variable account would be acceptable.</p>
Tape 93, B		
030	Chair Bryant	<p>What about allowing the employers to choose the variable account, but if they don't, capping the percentage they must contribute?</p>
035	Hartman	<p>Indicates he's against micromanaging the system. Believes piecemeal changes almost always have unintended consequences. Our members disagree with many of the suggested internal "fixes" especially the suggestion to raid the gain/loss reserves.</p>

093	Gratton Kerans	<p>Oregon University System</p> <p>Indicates that changes in PERS would initiate circumstances that are unique to the University system.</p>
101	Denise Yunker	<p>Oregon University System</p> <p>In 1996, the Oregon University System initiated an alternative defined contribution retirement system which was established by HB 3395 in the 1995 legislative session. It is a system that is portable and is linked to the PERS employer rate. We are concerned that if this contribution is controlled and held below the Tier I and Tier II levels, this will adversely impact the University's optional plan. We would like to see amendments to SB 722, SB 723 and SB 910 which would establish a floor on the employer contribution either at 6% or linked to Tier</p>

		II.
129	Chair Bryant	Could you please provide us with the amendment you would like to see? How many have employees have opted for the portable plan?
133	Yunker	As of December, 1998 there are 1,731 who have chosen the portable plan. Last year there was a 20% increase over the previous year.
138	Kerans	We will follow up with suggested language for the amendment and will provide you with the written testimony on this issue.
158	David Smith	City of Portland, Bureau of Financial Management Submits written testimony and testifies in support of SB 884 as amended (EXHIBIT N) . Discusses the ñ1 amendments to SB 884 (EXHIBIT O) .
212	Chair Bryant	Continuing the

		<p>\$60 medical benefit would remove the incentive to leave the employer contribution in the system. Why do people want to take their contribution out of the system?</p>
225	Smith	<p>Discusses reasons why someone might take out all the money in their account at retirement.</p>
236	Sen. Duncan	<p>You also have an opportunity to pass on the benefits to heirs other than your spouse. Your heirs can inherit the capital, but not the monthly benefits from the system.</p>
260	Marlene Perkins	<p>Union County</p> <p>Submits written testimony and testifies in support of SB 723 with amendments and SB 1133 and SB 1134 (EXHIBIT P). Notes that Union County has their own defined contribution retirement plan which employees are quite happy with. Notes that defined contribution</p>

		plans allow costs to the employer to be controlled.
354	Chair Bryant	The PERS retirement goal is 75-85% of your employed salary. Does your plan accomplish that goal?
343	Perkins	We are required to do an actuarial plan every two years to make sure that our plan for law enforcement personnel is equal to or better than PERS. The fixed account has a few more options in Union County than in PERS, so it would depend on how the employee decided to invest his money.
382	Sen. Duncan	One could live on the interest from the principle, but the principle can be passed on to your estate.
388	Perkins	Yes, I plan to live on the interest, supplementing that with deferred compensation savings until I am at the Social

		Security age and pass the principle on to my heirs.
398	Kathy Tri	<p>City of Newberg, Finance Director</p> <p>Submits written testimony and testifies regarding the PERS plan (EXHIBIT Q). In 1993, Newberg moved the police and fire personnel to PERS rather than proving Newberg's plan was equal to or better than PERS. Supports allowing local jurisdictions to opt out of the PERS plan. Asks for assistance with the cost increases.</p>
Tape 94, A		
024	Nancy Boyer	<p>City of Newport, Assistant City Manager</p> <p>Submits written testimony and testifies regarding the PERS system (EXHIBIT R). Discusses the City of Newport plan for retirement. Believes their plan works better than PERS.</p>

067	Sen. Courtney	Are these plans supported by the full faith and credit of the City?
073	Tri	Our plan is a trust and it is funded.
077	Sen. Courtney	It is not protected by the full faith and credit of the city.
091	David Boyer	<p>Multnomah County, Finance Director</p> <p>Submits written testimony and testifies regarding the PERS system (EXHIBIT S). Supports the management of the State Treasurer's Office and supports an increase in the amount they can invest in equities. Discusses the timing of interest crediting to the employees account versus to the employer's account and its effect on account balances over time.</p>
193	Chair Bryant	Have you looked into the legality of interest

		allocation in this manner?
202	Boyer	It is my understanding that PERS can allocate the income as I've described if they choose to.
210	Lynn McNamara	League of Oregon Cities Submits written testimony and testifies regarding the PERS system (EXHIBIT T) . Discusses her experience with various plans. Indicates that the plan which offers fiscal certainty to employers with no actuarial liability is a true defined contribution plan and is the best choice.
353	Chair Bryant	Adjourned hearing and 5:30 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

The following exhibits are related to SB 721, SB 722, SB 723, SB 884, SB 910, SB 1133, SB 1134, SB 1135 (PERS bills)

A ñ Written testimony dated March 17, 1999, Helen Berg, 2 pp

B ñ Written testimony dated March 24, 1999, Ken Rust, 12 pp

C ñ Written testimony dated March 24, 1999, Jim Origliosso, 7 pp

D ñ Written testimony dated March 19, 1999, Susie Smith, 2 pp

E ñ Written testimony dated March 24, 1999, Maria Keltner, 1 pp

F ñ Written testimony dated March 16, 1999, Maria Keltner, 3 pp

G ñ Written testimony dated March 24, 1999, Lane County, 2 pp

H ñ Written testimony dated March 23, 1999, Beverly Stein, 3 pp

I ñ Written testimony dated March 18, 1999, City of Pendleton, 2 pp

J ñ Written testimony dated March 15, 1999, Benton County, 2 pp

K ñ Written testimony dated March 24, 1999, Chris Dudley, OSBA, 3 pp

L ñ Written testimony dated March 18, 1999, Linda Malone, 1 pp

M ñ Written testimony dated March 24, 1999, Alice Dale, 3 pp

N ñ Written testimony dated March 24, 1999, David Smith, 2 pp

O ñ Proposed SB 884-1 (LC 3793), 3/23/99, staff, 11 pp

P ñ Written testimony of Marlene Perkins, 2 pp

Q ñ Written testimony dated March 24, 1999, Kathy Tri, 1 pp

R ñ Written testimony of Nancy Boyer, 2 pp

S ñ Written testimony dated March 24, 1999, David Boyer, 4 pp

T ñ Written testimony on SB 722, 723, 910, Lynn McNamara, 17 pp