

HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

February 23, 1995 Hearing Room 357
1:00 PM Tapes 48 - 51

MEMBERS PRESENT:

Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair
Rep. Jerry Grisham
Rep. Cedric Hayden
Rep. Bryan Johnston
Rep. Bill Markham
Re. Lonnie Roberts
Rep. Barbara Ross
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

MEMBER EXCUSED:

Rep. Ron Adams

STAFF PRESENT:

Greg Moore, Committee Counsel

Annetta Mullins, Committee Assistant

MEASURES HEARD:

HB 2477 - Public Hearing and Work Session
HB 2398 - Public Hearing and Work Session
HB 2655 - Public Hearing and Work Session
HB 2558 - Public Hearing
HB 2476 - Public Hearing

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,
please refer to the tapes.

TAPE 48, A

007 CHAIR TIERNAN: Calls meeting to order at 1:13 p.m., outlines the agenda

for the day, and opens the public hearings on proposals to remove
legislators and other elected officials from the Oregon Public Employee
Retirement System (OPERS).

014 HB 2477, HB 2398 and HB 2655 - PUBLIC HEARINGS

Witnesses: Rep. John Meek
 Rep. Tony Corcoran
 Rep. Mike Lehman
 Fred McDonnal, Oregon Public Employees Retirement System

The Preliminary Staff Measure Summaries are hereby made a part of these
minutes: HB 2398 (EXHIBIT A), HB 2477 (EXHIBIT B), and HB 2655 (EXHIBIT
C).

034 CHAIR TIERNAN: Declares the meeting in recess from 1:14 to 1:23 p.m.

REP. JOHN MEEK: Testifies in support of HB 2398 prohibiting legislators from participating in OPERS.

> public opinions during campaign was that legislators should not be on OPERS

> there are legal ramifications to being under the system;

> accepts criteria that as new people come into the Assembly, they would not be on OPERS, but those currently on the system would drop off when their terms expire

> policy issue for the committee is whether everyone is stopped at the same time

> would need to deal with discrepancy of benefits for new legislators coming in

> need to eliminate legislators from PERS; with term limits, it doesn't make sense for legislators to be under PERS

> GovernorS serve only for eight years and it isn't practical they be under the OPERS benefit; perhaps there should be some offset in what the Governor is paid

> HB 2398 deals only with legislative assembly but opens up policy discussion for other elected officials

132 REPRESENTATIVE TONY CORCORAN: Submits and reads a prepared statement in support of HB 2655 (EXHIBIT A).

190 REP. LEHMAN: Testifies in support of HB 2655,

> should not be interpreted as an attack on legislators for the small amount of compensation legislators receive

> should not be chocked up as a great exercise in fiscal responsibility; it is not a lot of money to the state

> common sense says with term limits none of us will be around long enough to collect from the system; there is no need for the state to waste the money

> HB 2819 allows legislative staff to opt out of the system; legislators have the ability to opt out but staff do not

251 CHAIR TIERNAN: Explains policy issues in HB 2477:

> it is a conflict of interest to have legislators benefiting by the system

> legislators have special benefits as a part of the police and fire portion of PERS

> legislators are supposed to be part-time and are now on term limits

268 FRED MCDONNAL, Director, Public Employees Retirement System: Can offer only the fiscal impacts on the three bills and answer questions.

277 CHAIR TIERNAN: Requests Mr. McDonnal respond to Section 5 on page 6 of HB 2477 relating to insurance after he has had time to study it.

298 REP. MARKHAM: Does this equal about \$20 in retirement benefits a session for legislators?

301 MR. MCDONNAL: I remember hearing that number; it does not amount to a great deal because of the salary level.

312 MR. MCDONNAL, in response to REP. HAYDEN: Explains why there could be a difference between Rep. Hayden's father's benefit and benefits being paid today.

334 CHAIR TIERNAN: Closes the public hearings on HB 2477, 2398 and 2655 and opens work sessions on the three bills.

336 HB 2477, HB 2398 AND HB 2655 - WORK SESSIONS

Witnesses: Fred McDonnal, Oregon Public Employees Retirement System
Mark Johnson, Milliman & Robertson, Inc.
Rep. Lisa Naito

338 REP. HAYDEN: Do we have fiscal impact statements?

341 CHAIR TIERNAN: We don't have fiscal statements but the committee can work on the bills.

350 REP. MARKHAM: Perhaps all elected officials should be taken off--from the Governor to paid city council people. I would be interested in amendments to remove all elected officials.

360 CHAIR TIERNAN: Lists issues to be discussed:
> whichever bill is passed out, it will be a combination of the bills submitted
> who to cover in a bill: all legislators? state-wide offices? all county, city, metro, all subdivisions of the state?
> when would it take effect if it passes?
> would it apply only to legislators elected after passage of the bill?
> would it apply to legislators elected this term?
> would it apply to all those currently elected?
> anyone currently in office could be red-circled until the term expires or

until the person is no longer in office
> if all legislators are taken off PERS, due to Measure 8, there would be an increase of six percent to the salary
> should the eight percent currently provided by the State go back to the General Fund, county or city or should the eight percent be given to the elected official for other reasons--in pay, 401-K

453 REP. LEHMAN: I understand what you are doing, but I don't think anybody is proposing that the money the state is putting in PERS go to legislators in some form of pay.

465 CHAIR TIERNAN: Does anyone want to make an argument that the eight percent should revert to the legislator or elected official?

478 CHAIR TIERNAN: (hearing no response) It is gone.

TAPE 49, A

027 REP. ROSS: If we did grandfather certain individuals in, and others weren't getting it, there would be an equity problem.

CHAIR TIERNAN: That is what we call a two tier system. Classically the way a grandfather system works is the existing corps of employees are not affected. Anybody after a certain date comes in under different terms. People don't have to run for office; they are voluntarily agreeing to that different wage scale.

058 REP. HAYDEN: Why should legislators have a salary if we don't have retirement? If drawing retirement makes us somehow not capable of making appropriate decisions, why wouldn't drawing a salary make us incapable of making appropriate decisions. I agree with Rep. Lehman we shouldn't benefit ourselves. Should we carry health insurance, salary and retirement--how do we differentiate?

080 REP. WYLIE: Why don't we draft a piece of legislation that makes it clear that only people independently wealthy can run for the legislature.

087 REP. LEHMAN: We are slowly evolving into a self-bashing about the job we do and maybe a bashing about jobs other elected officials do. That was not my intent in drafting this bill. The pay is never enough for this job.

None of us are doing it for the money. I get reluctant when we get into the argument about taking something away because they are making too much and are not being fair. The point is term limits limit how long legislators can serve. It is not sensible to be kicking money into a system that will be of very little benefit to any of us. It is costing the state of Oregon money and it is common sense.

109 REP. HAYDEN: Terms limits are for six, eight or 12 years, and legislators are vested after five years. So anyone serving through the term limit would be vested. So terms limits is not an argument one way or the other.

127 CHAIR TIERNAN: Identifies issues:
> two tier--different rates for those elected and those to be elected
> legislative staff opting out

158 CHAIR TIERNAN: Is it possible for people, other than legislators, to opt out of PERS?

164 MR. MCDONNAL: It is illegal now because it is in statute. I can see the rational for legislative employees, but where do we draw the line? Would it be allowed for all individuals in all agencies, schools and local governments. If it went beyond (legislative employees) it could become a significant impact to the system with regard to administrative matters as well as funding matters.

174 CHAIR TIERNAN: Once a person becomes vested, and if they work 1,000 hours a year every year, would the PERS contribution be automatically taken?

MR. MCDONNAL: It is 600 hours or more. They are a full time member. There are exceptions to that.

179 CHAIR TIERNAN: Once you are a full time member and you work every year for 1,000 hours, you will be deducted from.

182 MR. MCDONNAL: That is correct.

183 CHAIR TIERNAN: We don't permit someone to opt out. You are saying if we make this go beyond legislators, there may be some impact to the system regarding the contributions, the fund.

186 MR. MCDONNAL: That is true.

191 CHAIR TIERNAN: Is there a part-time employee exclusion in other plans if the employee chooses not to become a part of the system.?

195 MARK JOHNSON, Milliman & Robertson, Inc.: Generally speaking, retirement programs do not allow individuals to pick and choose. Retirement plans can be designed to exclude certain classes of people. You

can choose who do not participate in PERS. That is very common--seasonal and part-time people. You have set your definition at 600 hours per year.

You can define that in some other way. The general rule in the private sector is 1,000 hours a year. Employees who work less than one-half time do not have to participate in the retirement plan. But it is not an individual choice by the employee; the choice is made by the employer.

215 REP. HAYDEN: From six months to five years an employee is accruing benefits and after five years is vested. For the first five years, does the employee have to work 1,000 or 600 hours a year?

226 MR. JOHNSON: Six hundred hours.

225 REP. WYLIE: We would need to talk about the impact on local decision making. In terms of elected officials in some counties, there are special personnel boards set up that make recommendations that have been approved by the voters. Some of the issues here on the table would pre-empt local voting decision making in certain counties if we made it broad enough to apply elsewhere than the legislature.

244 REP. ROSS: County commissioners is a group we may want to look at differently because they do serve for many years and many counties provide a full-time salary and provide management responsibilities. They are like regular employees. That is different than elected officials who serve eight or six years.

253 CHAIR TIERNAN: Nothing requires a county to be a member of the PERS system, is that correct? And if they decide to start their own system, they can do so.

265 FRED MCDONNAL: Yes, counties can elect to participate or not participate, but once a county has elected to participate, as other local governments, they cannot opt out.

272 CHAIR TIERNAN: How does a county get out of it?

MR. MCDONNAL: A county cannot get out of it.

274 CHAIR TIERNAN: So every local jurisdiction who is in PERS now is forever stuck with PERS.

275 MR. MCDONNAL: That is correct.

279 REP. MARKHAM: We could allow the elected officials to be out and not the rest of the employees.

280 MR. MCDONNAL: As Mark Johnson indicated, by class of employee.

283 REP. ROSS: The reason this came up was because you didn't want legislators benefiting from what they were deciding on. County commissioners are not making a decision about PERS programs. I don't understand the rationale behind saying county commissioners who are full time paid employees and may serve for many years, why they shouldn't be eligible for PERS.

298 CHAIR TIERNAN: A bill has been submitted by Rep. Naito which is not on the agenda, but which brought up this issue first. There is another one that says elected officials positions are not full-time jobs.

314 REP. HAYDEN: It is not clear why we are selecting the PERS benefit to the exclusion of the per diem or the \$400 per month expense account, or the

health care or the salary. Our salaries are pegged at the clerical level.

Maybe we should make retirement benefits the minimum possible.

341 REP. WYLIE: There are other relevant issues:

> how should our elected officials be compensated and on what basis?

> attraction of good people

> if we are going to encourage people to take time off from their careers, it would make sense to offer some kind of a co-paid portable retirement benefit which people could take with them and choose to participate in at whatever level they choose to do so

> retirement belongs in the conversation of total compensation

387 REP. ROSS: DECLARES A CONFLICT OF INTEREST. The retirement is very important to me. I am 59 years old and have been a PERS employee a long time. The way I supplement my income when I am not here, is in some other PERS system. I think that for those who don't need it, it is fine to say we shouldn't have it. But I wouldn't have run if I thought I wasn't going

to get a retirement.

407 REP. HAYDEN: Up until a few years ago, the retirement was based on the last three years a person worked in the system. We had school teachers who after a full career of teaching came here. They would have had their retirement remarkably reduced. They would have retired at \$100 a month rather than what teachers retire at. The legislature did correct that. I believe that would protect Rep. Ross because you would retire based on 20 years rather than your three years here.

425 REP. ROSS: Assuming I might stay here six years, what I would contribute to PERS during this time would have an impact on my overall formula. I do feel a conflict of interest and I don't feel like promoting my self-interest in this arena.

TAPE 48, B

020 CHAIR TIERNAN: Rep. Naito has proposed HB 2438 (LC 2503) and will tell us how it is different from the other bills.

023 REP. LISA NAITO: The bill was introduced last session at the request of a constituent and is an idea that merits legislation and consideration.
> proposed amendments represent the bill introduced last session.
> Washington's constitution has a section prohibiting county, city, town or municipal officers from accepting salary increases during their term of office; they have to stand election before they can receive the increase
> should have a debate about pay level
> bill would allow legislators' pay to be raised for the next session
> bill applies only to legislators
> amendments would apply the bill to all elected officials

064 CHAIR TIERNAN: Would you like to see this bill added as an amendment to the current PERS legislation taking legislators off PERS?

066 REP. NAITO: HB 2438 is really a stand-alone bill and I would like to see it amended to include all elected officials. It is an issue completely separate from the PERS issue.

075 REP. HAYDEN: The legislature has automatic pay increases. What do you think about that?

REP. NAITO: I don't think automatic increases would be affected because there would be no affirmative vote to increase the salary.

091 REP. STROBECK: Does your bill have anything to do with making adjustments to benefits?

REP. NAITO: It says salary or compensation.

113 REP. NAITO AND COMMITTEE MEMBERS: Continue discussion of HB 2438 relating to salary for legislators.

136 CHAIR TIERNAN: Who to cover?

144 REP. STARR: Thinks all state-wide elected officials should be subject to exclusion from PERS.

149 REP. WYLIE: Feels it should only apply to legislators; statewide jobs are full time.

164 REP. ROSS: I have a strong feeling about county commissioners being

involved because in many counties they are full time and it is important to respect the work they do. In many situations they have worked for many years as local leaders and that is a traditional way many counties operate.

To exclude these people would be inappropriate. It is a totally different concept than the legislator one.

174 REP. HAYDEN: I come back to term limits. I think it makes sense. The Governor has an eight year term, we have a 12 year term. The Labor Commissioner isn't limited. I don't see how you can deprive people who might be there for 30 years of retirement. We could give them some kind of portable retirement they could take with them, but I don't see how you can exclude state elected officials. I like making it apply to state elected officials, but only those who are there for a limited time.

183 REP. GRISHAM: I agree with Rep. Hayden and Rep. Markham because I believe we will see in the next year or two term limits extended into the county and city officials. It might make some sense in anticipation of that if it were to happen by the voters' wishes.

194 CHAIR TIERNAN: When would it take effect? There are three options:
> all new legislators only
> everybody after the next election
> grandfather in those who are in now until they are out of office

202 REP. HAYDEN: I will go for all elected officials after the next election who are subject to term limits.

207 REP. STROBECK: Wouldn't that include people like yourself who might choose to run again?

207 REP. HAYDEN: It would.

209 REP. STROBECK: I don't think it is appropriate to drop people who have been serving for a number of years at the next election. I would go with option three.

214 CHAIR TIERNAN: The committee will vote on the options on Monday.

217 REP. LEHMAN: We might want to consider coming out with more than one bill. I am concerned if we lump it all together we will gain a few votes on one issue and lose a few on others. I think there are separate issues.

One is legislators and the other is others.

235 REP. STARR: I think we can resolve this around the issue by eliminating those who are not vested in the program.

244 CHAIR TIERNAN: Do you want to deal with legislative staff in this?

246 REP. STROBECK: I think if we are making this apply to legislators only, and I am not entirely supportive of that, but if it is legislators only I think it also ought to include the opt out for legislative staff. We are talking about people who don't serve even the full two years. I would give them an option.

252 REP. STARR: I think, after hearing Fred McDonnal's explanation, that we should make the decision that the part-time employees be excluded. It should be a part of the package rather than giving them an opt out. I don't know if it is permissible or not.

264 REP. ROSS: I think it is important we be consistent with other state employees so our employees don't have some kind of special privilege or special penalty. Perhaps we can have staff look at what the policy is regarding other part-time or temporary state employees so that our employees are treated in a similar way.

271 REP. WYLIE: My question is for staff to look at when he is looking into Rep. Ross' question. If somebody has had a job that gave them government experience and they come on as legislative staff, do they keep contributing to PERS under the scenario or not under the scenario.

279 CHAIR TIERNAN: It depends on what we want to do. I believe if they would have previous experience qualifying them as being vested, they would have to continue the system.

282 REP. WYLIE: I wouldn't want to preclude getting somebody experienced.

283 CHAIR TIERNAN: As the law is now, they would have to be included.

285 REP. LEHMAN: This proposed law doesn't exclude them; it gives them the opportunity to opt out. They would be in unless they would say they don't want to be in.

293 REP. HAYDEN: Can any other government employee have that option?

289 CHAIR TIERNAN: Right now no other employee has that option, but we can consider that. Two questions have been raised: whether to extend this beyond legislative staff for part-time people, and full-time people who have no intention of working for more than a couple of years and they want all their money now.

301 REP. MARKHAM: I thought the actuary said we had to change the law where they could be in or out, not allowing them the choice.

307 REP. HAYDEN: We are dealing with a population of 90 legislators, 93 if we include some state-wide elected officials, maybe 400 if we include our staff of two for each office. I don't mind dealing with the legislators, but I am not sure that we are not opening the tar baby if we start writing special things for our legislative aides. Maybe they should just conform to what the other 50,000 state employees do.

318 CHAIR TIERNAN: If it is there and all part-time people have an option, we can give it to them. Right now in the private sector it is 1000 hours and under when they don't participate. Right now it is 600 hours for state. We will address the issue again on Monday.

331 CHAIR TIERNAN: Closes the work sessions on HB 2477, 2398 and 2655 and declares the meeting in recess from 2:40 to 2:45 p.m.

346 HB 2558 and HB 2476 - INFORMATIONAL HEARING

Witnesses: Brent Wilcox, member of the Governor's Task Force on Employee Benefits
Fred McDonnal, Oregon Public Employees Retirement System
Alan Stonewall, Advisory Panel to the House Task Force on PERS
Jim Smith, Advisory Panel to the House Task Force on PERS
Ken Sutherland, Advisory Panel to the House Task Force on PERS
Stephen Telfer, Advisory Panel to the House Task Force on PERS
Mark Johnson, Milleman & Robertson
Bill Ruff, Legislative Intern

The Preliminary staff measure on HB 2476 (EXHIBIT H) and HB 2558 (EXHIBIT I) are hereby made a part of these minutes.

337 BRENT WILCOX, President, Northwest Aluminum Company, The Dalles, and

member of the Governor's Task Force on Employee Benefits: Explains that since the Governor's Task Force has sunset, he cannot testify on behalf of

the committee, but comments on recommendations from the task force.

> task force recommended the state adopt a two tier retirement program and recommended that the program be a defined contribution program rather than a defined benefit program.

> reads the summary from the report on the recommendation

406 > committee must make a decision on whether they believe a two tier program is warranted

> one key issue the committee must decide is of the choices, do you adopt a

defined benefits plan or a defined contributions plan; the defined contribution plan says the employer will contribute a given percentage of salary or given amount each, and a defined benefits plan says the employer will guarantee a certain level of post-retirement benefits

> task force recommended the defined contribution plan as a second tier for

three basic reasons:

> Governor requested the task force to make recommendations to bring benefits and total compensation in line with comparable private and other public employers

> was concerned about fiscal integrity of the state

488 > task force had a very clear policy of wanting to make more of total compensation relate to current work

TAPE 49, A

042 MR.WILCOX: Continues his presentation.

> there are some good arguments in favor of a defined benefit plan: 1) it better protects the post-retirement income of employees, 2) it is quite possible in the short term some defined contribution plans will cost more than a defined benefit plan, and 3) in a system of two tiers there will be some workers working side by side who are doing the same work but getting different benefits

097 HB 2476 sets a benefit level for all public employees at six percent. There are two issues. One is the need for flexibility. PERS doesn't just apply to state workers; it applies to county and municipal workers and I am

not sure the same package is appropriate for the different jobs in all the different sectors. The related point is our task force came out with a strong opinion that institutionally the way Oregon's compensation package is set up doesn't make a lot of sense. Some of the cash compensation is directly negotiated in the collective bargaining process and then you have retirement benefits that are basically legislatively defined. The task force thought very strongly the state should consider putting all the issues on the table together and moving toward just collective bargaining of the total compensation package, retirement benefits as well as cash compensation.

125 If you are creating a second tier retirement program, you can set up the system, the framework that applies universally, but you could have a system

where what percentage of retirement benefit paid by the employer is negotiated between the employee and the employer. That may be a complication you may not want to get into, but it is an issue you should at

least consciously reject if you don't want to do that. We favored defined contribution over defined benefit.

134 CHAIR TIERNAN: Last legislative session a number of bills didn't pass and there was a House Task Force on PERS established by Speaker Campbell to

investigate and find out if there was a problem. Governor Roberts appointed a task force representing the Governor which came up with some conclusions.

159 MR. WILCOX: Gives history of Governor's task force make up, charges and activities

180 CHAIR TIERNAN: Why did you recommend a second tier?

MR. WILCOX: We thought the first system was overly generous. You can't just look at retirement benefits; you have to look at total compensation. One of the reasons is we have shifted too much of the compensation package to post-retirement years and not enough in which the people are actually performing work. We came out in favor of the Tier II system because you have responsibilities to existing employees and those existing employees have contract rights.

193 CHAIR TIERNAN: What testimony did you receive in order to recommend a defined contribution plan?

197 MR. WILCOX: We solicited comments from everyone. I worked with extreme cooperation from PERS and Mark Johnson, and The Wyatt consultants who performed a study for the task force to look at the comparability of benefits.

205 CHAIR TIERNAN: Did you look at the two-tier system in Washington, or Idaho or Nevada?

206 MR. WILCOX: It was a part of The Wyatt study. The looked at private firms and other states in the same kind of market as Oregon.

210 CHAIR TIERNAN: Did PERS recommend a defined contribution plan?

MR. WILCOX: PERS did not.

232 CHAIR TIERNAN: Thanks Mr. Wilcox for his testimony.

244 CHAIR TIERNAN: Requests that member of the Advisory Panel to the House Task Force on PERS introduce themselves and give a history of their activities.

250 JIM SMITH, Director, Pension Concepts, Ken Sutherland, a consultant working with retirement planning in the private and public sectors, Alan Stonewall, Chair of the Advisory Panel and actuary, Steve Telfer, principal in the Telfer Company and former chair of the PERS Board and a vested member of PERS, introduce themselves.

266 MR. STONEWALL: Explains their activities in advising the House Task Force on PERS.

323 MR. TELFER: Displays overheads and explains findings and statistics generated by the Advisory Panel (EXHIBIT E).

TAPE 50, A

MR. TELFER: Continues his presentation

063 REP. HAYDEN: Will you explain how sick leave and vacations are calculated into the employees' retirement?

MR. TELFER: Explains the calculation methods, and reviews the Advisory Panel's recommendations.

080 MR. STONEWALL: Gives example of an employee earning \$2,500 at retirement who had a final average salary of \$3,000 because of the add-ons.

091 MR. TELFER: Continues his review of the Advisory Panel's

recommendations.

125 MR. TELFER: Continues his review of the Advisory Panel's recommendations.

150 MR. TELFER: Continues his review of the Advisory Panel's recommendations (EXHIBIT F).

196 MR. STONEWALL: Comments on the need for an outside uninterested party to review proposed legislation.

215 REP. HAYDEN: Comments he believes the outside review should pertain to all budgets reviewed by the legislature.

217 REP. MARKHAM: If this legislature saw fit to increase benefits, would the funding level of PERS drop?

225 MR. TELFER: It would depend entirely on what the actuary for the system and the retirement board do with respect to those amendments. The flux is two-fold: investment earnings and employer contribution. Since the late 70's the board has opted for a dual concept--paying off the unfunded liability over a 30 year period, and to attempt to maintain level employer contribution rates to avoid sudden ups and downs. If you were to be generous with benefits this time and they were to do nothing about the employer contribution rates, the 94 percent factor could drop down to 82 or

whatever.

251 MR. TELFER: Committee Counsel requested that I factor in Ballot Measure

8. He shows overheads on Ballot Measure 8:

1. the advisory panel was neutral on Ballot Measure 8
2. it is a constitutional amendment
3. requires public employees to pay six percent of their salary toward pension; there is no longer a pickup other than in the few cases where collective bargaining agreements exists
4. prohibits benefit increases as a result of unused sick leave
5. prohibits employers from entering into contracts that would guarantee any rate of interest or return on investments; it does not in my opinion, however, prohibit the retirement board from continuing under the statutory authority they have today to make a determination about what interest rates

are because that is arguably not a contract, only a fulfillment of their statutory obligation

6. Ballot Measure 8, in terms of its impact on the Panel's recommendation, we think is probably pretty minimal. In the Panel's final recommendations to the Interim Task Force, the Panel did present a concept that we thought the plan ought to be not only a defined benefit plan, but a non-contributory plan--the employer would pay the whole amount and if it was actuarially sound, you would have a non-contributory plan. It think the passage of Ballot Measure 8 probably gets in the way of that concept and we would want to have discussion about that but it may not be possible.

290 People representing organized labor will tell you there is litigation about Ballot Measure 8. That creates some uncertainty about its application. We need to acknowledge that as we move through the process.

300 CHAIR TIERNAN: What was your conclusion for why we needed a two-tier system?

301 MR. STONEWALL: Primarily we wanted a two tier system to have a system that would work to provide a level of benefits to PERS members that was in line with what PERS thought it should be. We believe it is in line with what the legislature thought it was approving throughout the years. By every analysis, ours, The Wyatt Company's, the Governor Task Force, everybody, it was clear that PERS was generally providing benefits in many cases beyond its state goal and in some cases beyond 100 percent of the salary or add-on salary that an employee had before retirement. It was

beyond what was reasonable.

Whether it is a one-tier system or a two-tier system, that is for the legislature to decide. Whether the employees under the plan today stay grandfathered because of contractual rights issues or whether it is fair. If we could choose, we would like to ignore the contractual rights issue and just deal with what makes the most sense, but we think that is a very real issue. The way to deal with contractual rights is to go to a new tier

as opposed to dealing with the already existing benefits.

323 CHAIR TIERNAN: Does everyone agree that the existing PERS system is excessive?

MR. STONEWALL: Yes.

339 MR. STONEWALL: I hope nobody talks about average benefits. When people talk about average benefits only being \$800 or \$900 dollars, that factors in the \$129 benefit for someone who retired 40 years ago. We are talking about the benefits that are coming out of PERS today.

347 CHAIR TIERNAN: Can you comment on testimony and rumors for the last six months to a year that somehow these recommendations for a two tier system are intended to be an attack on public employees. Are you espousing a professional opinion?

354 MR. STONEWALL: It was never intended to be a personal attack on any employee group. We went to extra effort to try to stay a-political in this. This is a result of what we found after we investigated PERS for about 10 months.

372 CHAIR TIERNAN: Did I know any of you four before you started on the assignment to look at the system?

376 MR. STONEWALL: Explains his independence.

389 KEN SUTHERLAND: Explains his agreement to serve was dependent on the answer to the question that if the panel's conclusions differed with your opinion, what would be the result of that. You assured us that whatever our conclusions were, they would be printed in whole but if you didn't agree you might get a second opinion.

405 CHAIR TIERNAN: Aren't your conclusions substantially identical to what the Governor's Task Force found independently.

408 MR. STONEWALL: They are. I would like to have Ken Sutherland and Jim Smith comment on the findings presented by Steve Telfer.

418 CHAIR TIERNAN: Comments on the Panel member's standings in their profession and findings of the Panel.

TAPE 51, A

011 JIM SMITH, member, Advisory Panel to the House Task Force on PERS: My job was to try to pull information together about other state systems for the Advisory Panel. States have been trying to develop tier systems for different hire dates, etc. It has been going on in Washington since 1977 when their second tier system was developed. Idaho has been going through a year-by-year change and was just completed in 1994. California has gone through many systems of how to treat people who retire early or late, etc.

I had no interest until a couple of years ago when I heard people were having to apply for special considerations because they were retiring at 100 percent of pay. When people are retiring at 100 percent of pay, I think there are excesses that need to be looked at. Our job was to try to make sure that the retirement benefits paid to Oregon public employees were

within the guidelines of PERS at 75 to 85 percent of living wage with social security included. Many years around the state have a max of 30 years of service with two percent which would be 60 percent of compensation. Some states eliminate any type of benefit that is over 60 or 80 percent of compensation. We are not alone in trying to put some sort of message with the PERS benefits to be within the guidelines set up by the board.

035 Committee members and Advisory Panel members discuss income replacement ratios for retirees.

050 MR. STONEWALL: You don't need 100% because social security is part of it, less expenses to go to work, other factors.

054 REP. MARKHAM: Why don't you say 80 percent instead of 75-85?

MR. STONEWALL: There is a significant difference. If someone is making \$20,000 a year, they probably need an 85 percent replacement ratio. Someone making \$60,000 doesn't need so much.

093 KEN SUTHERLAND: Explains the need for PERS reform, and defined contribution and defined benefit plans:

- > if you set a goal of what benefits ought to be, whether it is a defined benefit or defined contribution, in the long term they cost the same; in the short term there may be some difference

- > I am for a defined benefit plan because it comes down to who bears the risk

- > in defined contribution plan, the member bears the risks of investments
- > in defined benefit plan, the state bears the risk; if investments do not do well, it must be supplemented with more contributions

- > the security of a sure, known benefit is important

081 REP. JOHNSTON: In a good investment market, wouldn't a defined benefit plan not cost as much?

082 MR. SUTHERLAND: No, because in both plans you are putting money out as investments. In a defined benefit, if you get good investment returns, you lower your contribution rates.

086 MR. STONEWALL: If there are good investment results, the defined benefit plan costs less to the taxpayers because they have to contribute less. More of the cost is being paid for by good investment results. It is the same amount of money, different source--and to the taxpayer less.

096 MR. SUTHERLAND: Explains the need for pension reform.

- > HB 2170 of last session was to establish a public employee excess benefit fund at the request of PERS in order to stay in compliance with the

415 section code of IRS and keep the pension fund as a tax exempt entity. We are at risk of limiting that.

- > PERS solution at that time was to ask the legislature not to make a second tier, but a second pension

- > now SB 230, at the request of PERS, is asking for also some remedy against the 415; they are asking for permission to limit benefits and or contributions

115 > PERS has a good goal of 75 to 85 percent, nobody has debated that and nobody has debated that we are far exceeding that for the average career member

- > the ballot measure was not an appropriate way to solve the problem, but maybe it took the ballot measure to make today happen

- > there are still solutions the legislature needs to craft well

- > Idaho went through this a couple of years ago and found they had to separate what is on the negotiating table from what is legislatively determined; they chose to have the legislature set a minimum retirement

plan and everything else is bargained for

> the bill on the defined benefit plan talks about no death benefit or disability but I wouldn't say we shouldn't have those things, but they shouldn't be legislatively set; they are for the bargaining table

> the retirement plan should be legislatively set and not tampered with

176 MR. STONEWALL: Our look at PERS indicated benefits were in excess of what PERS intends them to be. When we compared them to other states and private pension systems we also found them to be in excess of those. We found the basic plan of 1.67 percent per year of service is a good formula.

Someone who works 30 years is guaranteed a benefit of one-half their salary coming from PERS. They will also get their social security benefit which gets them to the 75-85 percent replacement ratio. That part of PERS works fine. The other parts can only provide something greater. Why are employees retiring in their early 50's with full benefits when the target is full benefits at age 62? The fix to that is to set the retirement age at 62 and if a person retires before 62, the benefits would be reduced; it would be an actuarial equivalence. The basic compensation figure used to calculate benefits has nothing to do with standard of living. We understand why unused sick leave should be rewarded so a worker doesn't use

sick pay because they are going to lose it, but there are many better ways to handle that and less expensive ways than just adding to salary at retirement.

213 We also feel the legislature has made some bad decisions based on bad information and not understanding how these things work.

234 HB 2476 is a defined contribution plan. The contribution rate is fixed, predictable and controllable. You know what it is going to cost and it is proposed to be six percent of pay.

263 HB 2558 is a defined benefit plan. The contribution rate is whatever it takes to pay for the benefits. That is why you hire Millimen & Robertson.

They predict what the investments are going to earn over a long period of time, how many people will live to retirement and collect their benefits. The member gets a guaranteed predictable controllable benefits; 1.67 percent times the years of service times their average salary.

285 REP. JOHNSTON: In the defined benefit plan we could find ourselves in the position of the late 70's where we are paying more than the 12 percent in order to get that kind of return--the six percent the state used to kick in and the six percent of the employee.

MR. STONEWALL: That is right. It could cost much more than that depending on how well the investments do. Oregon should be applauded for management of investments for PERS.

310 REP. JOHNSTON: You mentioned Washington, Idaho and California. Would it be relevant for you to discuss their motivations.

JIM SMITH: I am not sure I know their motives and motivations. Washington's Tier II in 1977 provided a couple major changes such as the retirement dates; they went from 30 years-any age to age 65. If a person retires before age 65, there is an actuarial equivalency; the pension will be dropped.

329 REP. WYLIE: What should the PERS Board and the legislature be thinking about adjusting in order to meet the goal?

340 MR. STONEWALL: If social security is changed, and it has been changed in our life time, to where it provides a lesser level of benefits than it does now, I would expect PERS to come to the legislature and say the

formula no longer meets the 75-85 percent replacement ratio goal. Then it is up to the legislature.

359 REP. WYLIE: The threshold policy question is whether the legislature should establish what the goal should be.

363 MR. STONEWALL: To this date, the legislature has set no goal.

366 MR. TELFER: I think Rep. Wylie is right on the mark. I have crafted a conceptual amendment that could go with either HB 2477 or HB 2558 with respect to the benefits they would be based exclusively on a formula calculated to give a career employee working 30 years and retiring at age 62 an income replacement when combined with social security of 75-85 percent of pre-retirement salary. Career public safety employees shall receive comparable income replacement based on reaching age 55. If you were to enact something along those lines, and social security were to change, you would still not have locked in the formula. You would have said the goal, when combined with whatever social security may be, you want

to achieve 75-85 percent of pre-retirement income. I think it is long overdue for the legislature to embrace that kind of goal and others in the statute.

401 MR. SUTHERLAND: I think we have set a base; it is the best of the two.

We have never said how good it could be. Had we set a ceiling of 85 percent, then long ago some of the pensions that were exceeding that would have required lower contributions in order to keep them in line.

415 REP. WYLIE: In the discussions there have been some assumptions that ceiling works with a defined benefit, but there is no ceiling with a defined contribution plan. Is that common practice or are there industry and technical reasons for that? Could there be a defined contribution plan

with the ceiling.

429 MR. SUTHERLAND: One of the reasons this discussion is going on is two years ago when some were hitting the ceiling as defined by IRS, which says highly compensated people cannot receive too much benefit in relationship to others or some percentage. There is a ceiling under IRS that you cannot exceed.

437 MR. STONEWALL: By its nature you cannot set limits on a defined contribution plan. Public plans are not subject to all the same federal laws as private plans. There is no private plan like Oregon's plan. So whether you could craft something that is absolutely unique that is a defined contribution plan with limits, I wouldn't say you couldn't, but by its definition today a defined contribution plan has no limits. The employees bear the investment risks; the employees get the investment rewards. If investments do well, they retire with a bundle.

450 REP. WYLIE: If your return is real good, you give a break to the employers by lowering their contribution. Could you not have a system where the employee would contribute less in order to maintain the ceiling?

457 MR. STONEWALL: Which part of the contribution is reduced could be either or both.

TAPE 50, B

022 REP. MARKHAM: You mentioned we could have a federal change on social security. Doesn't the board have the ability to adjust the employer rate?

022 MR. STONEWALL: Yes, but social security has no direct impact on contribution rates. The contribution rates are only tied to the benefit part provided by PERS, not by social security.

045 REP. HAYDEN: Does the state have a defined contribution plan today?

048 MR. STONEWALL: The state has both. There are various forms of payment options provided by PERS.

065 REP. STROBECK: You mentioned part of the reason this has come about is because of legislative action over the past. Can you give a brief highlight of that? What has been the role of the board and the management of the PERS system in terms of recommendations to the legislature over time?

071 MR. STONEWALL: We have in our Report of Findings a listing of all the legislation that has passed since 1960-something. PERS was once all defined contribution, it was once defined benefit with two, then three formulas. It has changed a lot. Primarily increases in benefits.

076 MR. TELFER: Explains the Advisory Panel's report has a table on page 11 that summarizes roles and responsibilities. Traditionally and historically the PERS has not taken a position on benefit legislation. It has only reviewed legislation and sought accuracy from the actuary in terms of informing legislative panels about the cost of benefit legislation. It has been pretty much the advocacy of interest groups and the collective will of the legislature that has allowed this over time to creep to where it is now.

090 REP. STROBECK: You also said that the retirement plan should be legislatively set and not tampered with.

090 MR. STONEWALL: One of our concerns is there are aspects of PERS, the day-to-day operations as they are laid out today, that have the effect of increasing how much a PERS member gets at retirement. Those things are happening outside the legislative control. They are happening within the PERS board. The board is doing nothing wrong; they are charged with it. We are saying we think that is a dumb charge. We think all control over benefits should be within the legislature. There should be no changes that

occur that result in a higher monthly payment to any PERS member, or a lower monthly payment.

102 REP. STROBECK: Is it your testimony that either one of these bills, HB 2476 or HB 2558 would have the effect of accomplishing that setting of the retirement plan?

105 MR. STONEWALL: No. The defined contribution approach to it will not provide the same assurance to workers that they will be able to retire at 75-85 percent of pre-retirement income. There is the risk it could be more

or it could be less. Some of the other problems we feel exist could be handled either way. Under normal circumstances, either bill should come close, but the only one we can guarantee is in the defined benefit one.

113 MR. TELFER: Absent a clear statement of your intent with goals, you have absolutely no way of assuring what future legislatures might do.

116 REP. JOHNSTON: To the extent we are going to hear about the problems associated with the morale of having two people working side by side at different pension levels, do you have a reaction to it?

124 KEN SUTHERLAND: I think PERS benefits as they are now are one of the best kept secrets around. I think the perception among PERS members is that PERS is at best average and there is a group trying to beat those benefits even lower. PERS benefits as designed by their goal are very, very good compared to public plans or private plans according to the goals

of 75-85 percent.

143 MR. STONEWALL: If I was one of those who was not getting what the person next to me was getting, I think I would have to feel some concern. But I could personally look the second individual in the eye and say you have still have a great pension plan and you will retire on more than I am.

168 CHAIR TIERNAN: The Wyatt Company study, commissioned by the Governor's Task Force and our task force in concert, says assuming the Tier II system is a 75-85 percent defined benefit plan, they will still have the best retirement system in the state, bar any large employer. Secondly, these are new employees who are coming in and could get no better retirement system working for anyone else. So where is the inequity?

178 MR. SUTHERLAND: I think part of that inequity was mentioned by Brent Wilcox. That is the inequity of not paying appropriate salaries currently because we are promising some tremendous pension in the future. I think a lot of young families would say help me today.

191 CHAIR TIERNAN: Thanks the panel for their continued contribution to the committee.

208 CHAIR TIERNAN: Announces that the hearings will be continued on Friday and Monday.

240 BILL RUFF, Legislative Intern, submits and reads a prepared statement on HB 2476 and HB 2558 (EXHIBIT G).

290 MR. RUFF: Continues his statement.

321 CHAIR TIERNAN: Have you read the Governor's task force report and Advisory Panel's report?

MR. RUFF: Yes.

325 CHAIR TIERNAN: Have you read other documents regarding pension systems and the Oregon pension system.

326 MR. RUFF: I have read many documents.

329 CHAIR TIERNAN: Have you read anything that said the two task force reports were inaccurate?

330 MR. RUFF: No.

334 CHAIR TIERNAN: Do you have any reason to believe that those reports were not accurate to the best of the experts' making their assessments?

MR. RUFF: No.

336 CHAIR TIERNAN: Based on those reports, would you agree the current system is excessive.

MR. RUFF: I would agree the current system is very excessive, but it must be looked at in the context of total compensation. This just deals with the retirement issue. You should also look at other issues of compensation.

337 CHAIR TIERNAN: Declares the meeting adjourned at 4:42 p.m.

Submitted by, Reviewed by,

Annetta Mullins Gregory C. Moore
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

- A - HB 2398, Preliminary Staff Measure Summary, staff, 1 p
- B - HB 2477, Preliminary Staff Measure Summary, staff, 1 p
- C - HB 2655, Preliminary Staff Measure Summary, staff, 1 p
- D - HB 2655, prepared statement, Rep. Corcoran, 2 pp
- E - HB 2476 and HB 2558, copies of overheads, Summary of Findings, Steve Telfer, 12 pp
- F - HB 2476 and HB 2558, copies of overheads, Recommendations, Steve Telfer, 7 pp
- G - HB 2476 and HB 2558, prepared statement, Bill Ruff,
- H - HB 2558, Preliminary Staff Measure Summary, staff, 3 pp