

HOUSE COMMITTEE ON COMMERCE SUBCOMMITTEE ON LABOR

May 24, 1993           Hearing Room D 8:30 a.m.   Tapes 118 - 120

MEMBERS PRESENT:                 Rep. John Watt, Chair

Rep. Lee Beyer Rep. Michael Payne

Rep. Charles Starr

Rep. Bob Tiernan

STAFF PRESENT: Marilyn Johnston, Committee Administrator Kristina  
McNitt, Committee Assistant

MEASURES CONSIDERED: HB 2717 HB 2938 HB 2012 [--- Unable To Translate  
Graphic ---]

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. [--- Unable To Translate  
Graphic ---]

TAPE 118, SIDE A

CHAIR WATT: Calls the meeting to order. (8:37 a.m.)

PUBLIC HEARING ON HB 2717 Witnesses: Mark Johnson, Millman & Robertson,  
Inc. Fred McDonnal, PERS Ed Edwards, OSEA Gary Carlson, AOI

009 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Presents overview of  
bill to committee and explains provisions (EXHIBIT A) which would  
modify the retirement allowance and other benefits payable to  
persons first employed by public employers or after effective date.

010 FRED MCDONNAL, PERS: Introduces Mark Johnson to review bill from an  
actuarial standpoint.

025 MARK JOHNSON, MILLIMAN & ROBERTSON, INC: Refers to letter of May  
21, 1993 (EXHIBIT B) and explains that it was written in response to  
previous testimony given to committee on May 5, 1993.

029 REP. WATT: Who was that request from?

030 MCDONNAL: We had talked to the committee about having an  
opportunity to respond with both the administrator, the vice-chair,  
and I thought yourself.

035 REP. TIERNAN: I am interested to hear this information but it is  
not appropriate to discuss this when we have another matter at hand.

040 REP. WATT: I'm not concerned with fairness. We are,  
however, under time constraints this morning.

043 REP. BEYER: Does the information contained here bear

directly on HB 2717?

048 MCDONNAL: No.

047 REP. WATT: Expresses interest in information but not at this time.

049 JOHNSON: Then on to the next letter dated May 24, 1993 (EXHIBIT C). Some points in our review which need to come to your attention. The top of page 2 shows this is not a defined contribution plan (as you've heard testimony that it is) and it will not necessarily save money for all employers.

Defined contribution plans shift the investment risk and the mortality risk from the program to the member. In a defined benefit plan, the structure we currently have, the employer bears the investment and the mortality risk. This is a fundamental difference. As drafted, this bill provides that the investment risk is still borne by the employer as is the mortality risk.

As drafted, this bill is really a restructuring of the current formula, with enhancements carved out. For example, the full-formula defined benefit contribution established in 1991 is gone as is the disability allowance, cost of living provisions, sick leave, and early retirement incentives. The minimum interest guarantee is still there. This benefit structure looks like PERS did in 1967, it goes full circle back to the money match formula.

078 REP. WATT: When you refer to the bill as drafted, do you mean the original bill?

079 JOHNSON: Yes, I do.

080 REP. WATT: Are you familiar with the -1 and -2 amendments? I need to know if this is what you are referring to with regards to police and fire. I assume that is what you were referring to by your statements. Are you aware the employee would be responsible for 6% total?

084 JOHNSON: No, I was referring to the employer.

087 REP. WATT: I understand that. But in regards to police and fire, you're saying that the local cities would be responsible for 2 1/4 or 2 1/2 percent more?

088 JOHNSON: Right.

088 REP. WATT: This needed to be clear because we've addressed that through an amendment.

089 JOHNSON: It is also possible for an employer with general service employees only to be paying more under this system as well. If the employer is matching 6% and we've added several things in the various amendments. There are approximately 150 of the 400 local employers that now pay 6%.

096 REP. WATT: If we structured an amendment that would only allow a 6% contribution by the employer, that would take care of it.

098 JOHNSON: Yes, except if the add-ons for some of these other

amendments bring the total above 6%.

101 REP. BEYER: Are you suggesting that it'd only be less if you assumed the 6% employee pick-up would not take place? Would the employer share still go down?

102 JOHNSON: Yes, I am speaking of the employer's share. It is conceivable that just the employer's share without the pick-up, due to the several amendments, could be greater for 150 of the 400 local employers.

103 REP. WATT: Let's address those amendments and be more specific.

108 JOHNSON: Starting at the bottom of page 2 (exhibit c), I believe you should consider a comprehensive review by the Attorney General. That also goes for the IRS to ensure that the tax qualified status is upheld. This status is very important to make sure the members are not taxed each year.

A second point which applies throughout the first 8 amendments, is the fact that it never is specifically addressed as to what happens when a vested member leaves employment and takes their money out. In a defined benefit plan, forfeited monies automatically go to benefit the remaining members still participating in the system.

137 REP. BEYER: In the defined contribution plans that I'm familiar with where there is a matching arrangement, the vested member if they choose to leave the system, gets to take the total amount that was contributed for them. That is substantially different than how PERS exists today. How do we continue both the first and second tier if we have members that leave without completing service and retiring? What does this do to the rate and the contributions?

148 JOHNSON: That is a major difference. That is the law in the private sector. Once vested, you cannot forfeit the employer match. Public employees are contingently vested because they DO lose the employer contribution, ERISA provisions do not apply.

167 REP. BEYER: In essence, we are talking about establishing two retirement systems. The first tier continues to be actuarially sound and keeps the rates down by assuming a constant pool of new contributing members. By splitting the pool, are we going to have to increase the employer contributions in the first tier over the next 10 - 20 years in order to remain as solvent?

179 JOHNSON: No, if you don't change the benefit structure, it should stand alone. We would not predict that the employer contributions in the first tier would increase simply because a second tier has been established.

189 REP. WATT: So your concern is that the bill as drafted would allow that employee in the second tier, if they leave the system and they are vested, to take their employer contribution.

192 JOHNSON: Right. The language needs to be clarified. A third point is that a defined contribution plan itself may restrict your ability to design features which would provide incentives or address special needs of the membership. Some examples; disability income, early retirement, etc.

A fourth point is to understand there will be a shift in resources by going to a defined contribution plan. For a given contribution rate into two different plans, a defined benefit plan will funnel more money toward retirement. A defined contribution plan will have a large proportion of funds going to members who terminate.

213 REP. WATT: Earlier in your testimony you said it's not really a defined contribution plan. Now you're referring to it as if it is so.

220 JOHNSON: I'm assuming that the sponsors of the measure want it to be a defined contribution plan.

231 REP. WATT: I think what we have is a Ford that goes 55 mph and they want it to be a Chevrolet going 80 mph. When finding out the car is still a Ford, they don't really care, but they still want to go 80 mph.

237 JOHNSON: My point is that I don't think it does what the sponsors wanted and you need to be careful in how it is drafted.

The top of page 4 (exhibit c) goes into an analysis of what the contribution will be in the second tier. An additional assumption here is the contribution for police and fire. I figured it to be at 7 1/2 percent. It is not terribly scientific but it gives you an idea. The employer match is slightly less than that.

Page 5 shows how the savings of a second tier accrue slowly. The estimated savings of four fiscal years is also found here. It is reasonably close to the AOI estimate.

Page 6 illustrates in a numerical fashion the shifting of resources from longer term to shorter term people. It is critical to address the question I posed earlier about those vested members who leave the system before retirement.

334 REP. TIERNAN: The unused sick leave is almost 2 percent?

342 JOHNSON: Yes. It is very expensive.

346 REP. TIERNAN: I just got a memo from Mr. Satchel stating that this number was insignificant.

355 JOHNSON: The rule of thumb is about 10 percent. It is significant.

357 REP. BEYER: Is the sick leave an option for each employer? Is it mandated by statute for state employees? Or is it all contract negotiation?

274 MCDONNAL: I don't believe it is mandated.

375 JOHNSON: A concern with the -1 amendments is that it does not have the same language for members employed after the date of the act. Make sure this language only applies to second tier employees. The -3 amendment decouples the minimum interest credit from long term actuarial assumption in the valuation of the first tier. And the -8 amendment adds a disability allowance for second tier members. The cost of disability per say is 8/10th of payroll but to add on costs less due to money match.

TAPE 119 SIDE A

015 REP. TIERNAN: On page six, could you get back to me and let me know if the figures are considered contractual?

022 JOHNSON: The cost of living and disability are specifically listed in statute. I'll get back to you about sick leave

027 REP. BEYER: The projected savings are based on taking out the employer pick-up and taking out sick leave, etc?

030 JOHNSON: I did two things, first took current PERS structure without whistles and bells. I went back and cost out the system and found that it is more expensive than the current system WITH the perks. The reason for this is, as I read the intent, is that after a member is vested, they can not forfeit the match.

047 REP. WATT: If the language were to be changed, are you talking about federal or state laws?

051 JOHNSON: I'm talking about how HB 2717 is written now.

052 REP. WATT: This language could be changed within statute to prohibit that. You continually come back to this as if it is an insurmountable obstacle. Give me some clarification. If we make changes encompassing your concerns, then what do you bring to us today?

059 JOHNSON: I can not calculate that off the top of my head. It would make HB 2717's second tier much less expensive than the current structure.

063 REP. WATT: As it's brought forward and from what you've seen in the -8 amendments.

064 JOHNSON: Right.

065 REP. TIERNAN: Can't we state our intent here in committee that the employer contributions will be forfeited?

069 JOHNSON: Yes you can do that. But put it in writing and don't leave it as a gray area.

077 REP. TIERNAN: That section does not nail this question down. But if there is clear legislative intent, that should do it. On page three it states that this law is subject to IRS laws and rules and can be modified accordingly.

087 REP. BEYER: If the unions negotiate money back will that substantially affect savings?

095 JOHNSON: The rate will be the same but the payroll base will be larger so the dollar cost will go up.

114 REP. WATT: When we look at the -2 amendments it is important for the committee to note that there are some employers who are already paying 6% to 8% to some cities. A little mandate.

115 REP. BEYER: What does this do for the overall goal of the retirement system to reach a 75% funding level of last income

earned?

120 JOHNSON: Fundamentally it shifts that responsibility from the employer to the member. At retirement it will be fairly close. After retirement, because there is no cost of living, their purchasing power will decrease.

136 REP. WATT: Is it a fair assumption to believe that after June 1993 that more people are going to retire under the money match given the system stays the way it is today?

141 JOHNSON: No. For a new employee hired now we would not predict that thirty years from now 38 percent will make that decision. It depends on the market.

154 REP. BEYER: Is it likely that more or less retirees will achieve the 75% goal upon retirement?

155 JOHNSON: At retirement it will be close. Without the cost of living the purchasing power will decline every year. Much more dramatically than it is declining now.

160 MCDONNAL: The 75% figure is only one goal. Purchasing power is another goal. And there is a disability program. It is a goal to provide disability to those who qualify. This would obviously not be met.

162 REP. TIERNAN: Notes for record that the sick leave roll up memo he previously noted from Mr. Satchel did not come from Mr. Satchel after all.

163 REP. WATT: Gary, you've come to us with what you call a defined contribution program. Did you mean that in the truest sense of the word or was that merely a description?

164 GARY CARLSON, AOI: Yes, our intention was to create a different kind of retirement system for new hires in Oregon. 086 REP. WATT: So it is not important that it be a strictly defined contribution program?

087 CARLSON: I don't understand the question. 088 REP. WATT: Based on the information presented by Mark Johnson, this is really not a defined contribution plan but a defined benefit plan because the risks are still born by the employer. Do you want HB 2717 as drafted or do you want a true defined contribution program?

198 CARLSON: Our goal was to create a defined contribution program which does not leave the risk of generation of future benefits with the employer. It would go with the employee. How the employee wants to invest this pool of money is his or her choice. That is a pure defined contribution plan and how it works in the private sector.

215 REP. WATT: You feel the plan you brought to us in HB 2717 exhibits all those things?

224 CARLSON: I am not certain. We worked with Legislative Counsel and this is what was produced. If it does not do what was intended perhaps it needs additional work.

230 REP. WATT: I think it does what you want it to do but in the

fact that it does so, it would not be termed by an actuary as a defined contribution plan. You and Mark need to talk. In regards to the employee being vested and able to secure the employer contribution upon leaving, I'm assuming you'd be agreeable to language specifying that that would not be able to happen.

233 CARLSON: I'd like to look at the implications of doing that.

233 REP. BEYER: Your goal of granting employees a greater control over how to invest their retirement money, does the proposed legislation substantially change the role of the investment council so that they are not in control?

239 CARLSON: That would have been our intent.

243 REP. BEYER: That is substantially different from the way it works now?

254 CARLSON: Yes. It is standard in the private sector.

259 REP. WATT: How many investment plans are offered to employees now?

266 MCDONNAL: Two, the variable and the fixed.

269 REP. PAYNE: I find the estimated savings shaky. How do you consider the added cost to senior services by robbing employees of benefits? Employers will have to pay added costs. 285 REP. WATT: Asks Rep. Payne for clarification and then further clarification of comment. States that one can not rob something from somebody who doesn't even have it yet.

335 CARLSON: We are suggesting that public employees are not different than private employees in that they should take some measure of responsibility for the planning of their retirement.

347 REP. PAYNE: I believe the public employees are paying a substantial amount in lower wages now and have negotiated that in lieu of retirement.

361 REP. WATT: Representative Payne brought up a good point. With regard to social security we can't see in the fiscal notation where that has been addressed, if in fact it has.

376 ED EDWARDS, OREGON SCHOOL EMPLOYEES ASSOCIATION: Testifies in opposition to bill. Feels it is unfair to look at retirement pensions alone and to continually compare public sector pay with that of the private sector.

TAPE 118, SIDE B

028 REP. WATT: While I appreciate what you say, your organizations have undoubtedly negotiated a great system. But there are real people out there that don't see their pay checks go up nearly as fast as the cost of living and have no retirement provisions at all.

035 REP. PAYNE: We should spend more time finding out how to fund all those other Oregonians you mention rather than robbing the public employees we have now.

045 REP. TIERNAN: This measure is going to have nothing to do with established employees. Because we propose to reduce the average retirement benefit from three times the average Oregonian to two times the average, this will not discourage the thousands of people on waiting lists to receive a state job.

056 EDWARDS: To respond, it would be a mistake to discount retirement as a recruitment tool. Historically wages have been lower so they were shored up with better retirement and job security.

PUBLIC HEARING ON HB 2938

Witnesses: Representative Greg Walden, Hood River Dick Bailey, Building Codes Agency Tim Dahle, Farm Bureau Thom Nelson, Hood River Growers and Shippers Bob Tallman, Fruit Tree Grower Don Schellenberg, Farm Bureau John Gervais, NECA John McCulley

096 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Introduces bill and explains provisions which would allow an employer to do electrical installations on seasonal farm-worker housing without obtaining license to make electrical installations (EXHIBIT D).

099 REPRESENTATIVE GREG WALDEN, HOOD RIVER: Testifies in favor of bill, testimony summarized in EXHIBIT E.

120 DICK BAILEY, BUILDING CODES AGENCY: Testifies in favor of HB 2938 with amendments that would allow the Building Codes Agency to delegate the electrical industrial plant inspection program to local jurisdictions. Gives illustrations of local jurisdictions currently conducting inspections and track record. Is not aware of any opposition to amendments proposed.

150 REP. TIERNAN: Is it the intent of the bill to encourage the owners to provide better living conditions?

156 BAILEY: That's my understanding.

162 REP. WATT: The amendments would allow any industrial plan or electrical inspection to be handled by local and county government?

164 BAILEY: It would allow the agency to delegate that program to a local jurisdiction that has proved to be competent to administer the program.

171 REP. WATT: What's the competency test?

171 BAILEY: The ability to have licensed, certified people on staff to meet the requirements of 479 regarding the assumption or delegation of the electrical program.

172 TIM DAHLE, WASCO CO FARM BUREAU: Testifies in favor of HB 2938. This bill encourages safe and adequate housing for farm labor. Maintains that without the added costs imposed by the government on improvements, could afford to improve more buildings for more workers. Gorge Commission, Building Codes Agency, Forest Service, OSHA are all agencies involved in farm improvements. 221 REP. BEYER: Did you do the wiring yourself on your new building?



227 DAHLE: No, it cost me several thousand dollars.

232 REP. BEYER: Did you build it yourself or did you use employees?

237 DAHLE: I hired some contractors to make the shells.

245 REP. BEYER: Is it typical for orchardists to be able to do electrical work?

252 DAHLE: I don't know if it is typical. There is usually some portion of the orchardist or employees who will be familiar with electrical.

255 REP. TIERNAN: This bill also allows you to tear out old wiring to replace it?

262 DAHLE: Yes exactly, and that is another point. It doesn't pay to have some buildings redone whereas if a farmer could do it himself, there could be great improvements made.

291 THOM NELSON, HOOD RIVER GROWERS & SHIPPERS ASSOC: Testifies in favor of HB 2938. Gives some statistics and more background. Stresses that the bill is not a safety issue but an affordable housing one, as electrical standards and codes must still be met.

TAPE 119 SIDE B

007 REP. BEYER: Is the plumbing exemption also owner-required?

013 NELSON: Yes.

019 BOB TALLMAN, TREE FRUIT GROWER: Testifies in favor of HB 2938. Reads testimony of Camille Hukari (EXHIBIT F).

082 JOHN GERVAIS, NAT'L ELECTRICAL CONTRACTORS ASSOC: Testifies in opposition to HB 2938. Concerned about other-than-owner electrical work and safety. Prefer on line 38 where it says "no employer" to be "the owner". Employers providing crews that go from site to site would not be as responsible regarding safety conditions as an owner of the building would be. Also bill relates to ORS chapter 455. Suggests adding it to chapter 479, the electrical safety code.

116 REP. WATT: You'd recommend insertion of, "and 479"?

119 GERVAIS: Yes. 120 REP. WATT: Are there rules adopted under ORS 479 that would keep people from being able to do this kind of work?

124 GERVAIS: Not if you exempt them from licensing.

148 DON SCHELLENBERG, OREGON FARM BUREAU: Testifies in favor of HB 2938. Testimony summarized in written form (EXHIBIT G).

162 JOHN MCCULLEY, TREE FRUIT GROWERS ASSOC: Testifies in favor of HB 2938. Suggests in line 36 that the term employer might be substituted with "farm labor camp operator" as defined in statute. Has no problems with the Gervais suggestions.

WORK SESSION ON HB 2938

184 REP. WATT: Is there any problem with the term "owner"?

191 REP. TIERNAN: If the farmer had a general manager he would be excluded from doing this work?

196 REP. WATT: Believe that is correct. John, (McCulley) if we specified "owner" and a particular farm is incorporated, would that mean only one of the partners of this corporation would be able to do the work?

215 MC CULLEY: The corporation, as I understand your example, would be the owner and therefore only the shareholders would be able to do this work.

220 REP. TIERNAN: I suggest "owner or manager". This would prohibit the owner from going out and hiring a rank and file employee to skate the job but at the same time allow for the intent of this bill.

22 REP. WATT: I don't read in this that the owner is required to obtain a license to make an electrical installation anyway. I don't read this to mean the owner must do the work in the first place.

In section 19 we need to add ", 479 and" also make the word chapter plural.

MOTION: REP. BEYER: MOVES THE -1 AMENDMENTS INCORPORATING THE VERBAL CHANGES.

VOTE: IN A ROLL CALL VOTE THE MOTION CARRIES UNANIMOUSLY.

MOTION: REP. BEYER: MOVES HB 2938 AS AMENDED TO THE FULL COMMERCE COMMITTEE WITH A DO PASS RECOMMENDATION.

VOTE: IN A ROLL CALL VOTE THE MOTION PASSES UNANIMOUSLY.

PUBLIC HEARING ON HB 2012 Witnesses: Vickie Totten, OSB A Keith Robinson, Woodburn School District Ed Edwards, OSEA

339 MARILYN JOHNSTON, COMMITTEE ADMINISTRATOR: Introduces bill to committee and explains provisions which would require labor negotiations of public agencies to be conducted in public meetings (EXHIBIT H).

342 VICKIE TOTTON, OREGON SCHOOL BOARDS ASSOC. & KEITH ROBINSON, WOODBURN SCHOOL DISTRICT: Testifies in favor of HB 2012 with amendments, testimony is summarized in EXHIBIT I. Presents a letter to committee entered as EXHIBIT J. Gives case history of Woodburn School District.

TAPE 120, SIDE A

004 KEITH ROBINSON: Continues testimony in favor of HB 2012 with amendments.

048 REP. WATT: Woodburn wanted to transition to year-long academic programs and this brought staff to object? Because of pay?

058 ROBINSON: Yes, however concerns centered around time demands

more than pay issues.

065 TOTTEN: To clarify, the unions want to approve changes.

078 ED EDWARDS, OREGON SCHOOL EMPLOYEES ASSOCIATION: Testifies in opposition to HB 2012 and the -1 and -2 amendments The new law, 3565, does present some challenges to public bargaining, but the process works. It is not clean, pretty or cheap, but it works.

145 REP. WATT: Why do you think that the Unfair Labor Practice suit was dropped in Woodburn?

151 EDWARDS: I can't speak for another organization. Usually this type of suit is filed to protect rights. It is a lengthy process. It seems that an agreement was reached through the bargaining process later which satisfied the concerns of both parties.

submitted by:

reviewed by:

Kristina McNitt,

Marilyn Johnston,

Committee Clerk

Committee Admin.

#### EXHIBIT LOG

A - HB 2717 preliminary staff measure summary, fiscal and revenue impact statements for -1 through -8 amendments, letter and petition, -8 LC amendments, machine engrossed -8 amendments, -9 LC amendments, submitted by staff pp. 24.

B - HB 2717 letter submitted by Johnson, pp. 4.

C - HB 2717 letter presented by Johnson pp. 4

D - HB 2938 preliminary staff measure summary, misc. letters, -1 LC and electronically engrossed amendments, revenue and fiscal impact statements submitted by staff, pp. 18.

E - HB 2938 testimony presented by Walden, pp. 1

F - HB 2938 testimony submitted by Tallman for Hukari, pp. 1.

G - HB 2938 testimony presented by Schollenberg, pp. 1.

H - HB 2012 preliminary staff measure summary, -1 LC and electronically engrossed amendments, -2 LC and electronically engrossed amendments, fiscal and revenue impact statements presented by staff, pp. 16.

I - HB 2012 written testimony presented by Robinson, pp. 3.

J - HB 2012 letter submitted by Robinson, pp. 2