

SENATE COMMITTEE ON LABOR AND GOVERNMENT OPERATIONS

January 29, 1993 Hearing Room B 9:00 a.m. Tapes 8 - 9
MEMBERS PRESENT: Sen. Tricia Smith, Chair Sen. Grattan Kerans,
Vice-Chair Sen. Brady Adams Sen. Wes Cooley MEMBER EXCUSED: Sen. Peg
Jolin STAFF PRESENT: Joan Van Almen, Committee Counsel Joan Green,
Committee Assistant Stephanie Holmes, Committee Research MEASURES
HEARD Informational Meeting WITNESSES: Sheryl Wilson, Director,
Public Employees Retirement System

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 8, SIDE A

003 Chair Smith: Meeting called to order at 9:10 a.m.

007 Sheryl Wilson, Director, Public Employees Retirement System (PERS): Introduces Bob Andrews, Legislative Liaison, and Fred McDonnal, Deputy, soon to be Director. Review of PERS (Exhibit A).

115 Chair Smith: Can you go into more detail regarding the growing population of the aging workers and how that will affect the fund as they begin to retire?

119 Wilson: Yes. A well funded retirement system takes into account not only what has to be paid out today but what will need to be paid out overtime on the basis of the benefits that are being earned over time. Continues with overview, Exhibit A.

VERBATIM TRANSCRIPTION

391 Chair Smith: "Would you also provide the committee with the court cases? The Oregon case that came out a few months ago on the contract issue?"

395 Wilson: "Do you want all six, it is now seven of them?" - 396
Chair Smith: ~I think that would be helpful for the members who have not been here through this process to read how the court deliberated and the conclusions they have Senate Labor and Government Operations January 29, 1993 - Page 2

come to up to this point. It is not over yet and we need the background."

402 Wilson: "It definitely is not and this is excellent background and I think by far the longest case, in terms of the time you need to spend is the most recent one and the others are fairly straight forward. We would be happy to supply those for you." 406 Chair Smith: "Also, Sheryl, I can't even remember when it was a year or so ago, when you came, it must have been last session, I don't know, you came with a great handout that described the problem and presented to us some alternatives."

414 Wilson: "It was just last summer, Senator."

415 Chair Smith: "Whenever it was you provided us with this terrific, concise, little document and I think that would also be helpful to the committee."

418 Wilson: "I would be happy to do that as well. There may be some newer information. The Oregon Legislature, as we discussed, has a large role. You created PERS and you created the Oregon Investment Council (OIC). You designed the PERS benefits, you described the eligibility for those benefits, you described the parameters for the investment of the trust funds, and you approved the agency operating budget. That makes you extremely valuable players in our life, people we like to keep happy. I won't dwell any longer on the court cases, we mentioned those."

435 Sen. Kerans: "If I can interrupt there, because you are leaving soon and you probably won't be here as we grapple with this, your successor will. A couple of questions, if I may at this point. Sort of your exit interview. Those of us who have had previous service are fairly familiar with the problems that exist. The taxation of PERS benefit issue, Sheryl reminded us of the options chart that we looked at last summer about what to do about that. It is seemed to me that the best system ought to be one that had a unified class. That is to say that there is only one tier. Would you agree with that as a goal for Oregon? Not where your going, nothing is held against you for where your going, but for Oregon, its history, and as a matter of management and as a matter of equity. Would you say that is a high goal or high value?"

464 Wilson: "I could agree that it is a high goal especially as it relates to what the employees expect. The down side of a two tier has always been that you have people working side by side making the same salary compensation but not making the same general compensation."

471 Sen. Kerans: "Under the present circumstances we got what is really --- will take a, it's an idiosyncratic retirement system. It is not two tier at all under the court cases. Really idiosyncratic and what we have is a benefit system that is however many retirees or employees you have tells you how many benefit plans you have. Is that not where we are right now?" 481 Wilson: "Yes. That is an interesting way to describe it, Sen. Kerans, and it is not inaccurate in anyway. What we are having to do administratively, which really describes the problem is keep buckets of service and as you pointed out each individual has ~ . 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. Senate Labor and Government Operations January 29, 1993 - Page 3 -

different amounts of time in that bucket. A tier two traditionally will break at a certain point and you will have people that are and that aren't. This is not the case."

492 Sen. Kerans: "No. We all have time prior to the effective date of the active time passed and they interrelate and they must be treated differently and you end up with a individualized benefit, which has got to be, if you are talking about one as unitary and the other would be chaos. If your talking in terms of physics, one would be a unitary model and one would be a chaos model. Is that about the size of it?"

TAPE 9, SIDE A

039 Wilson: "That sounds like a good analysis Senator."

040 Sen. Kerans: "While the court found a way to divide the classes in a way in which the legislature and myself, have got to admit that I was

dumbfounded that I didn't see that water seeking it's own level will find that crack and go through it, but they did, the courts being allowed to do that, and they do that when they can. There is nothing to prevent us from going back and creating a unitary system."

046 Wilson: "That is correct. "

047 Sen. Kerans: "The way to do that, it seems to me, would be to say, irrespective of the version the court has found a way we can on our own motion restore everybody to a level playing field. Is that not correct?" 049 Wilson: "Yes, Madam Chair, and Sen. Kerans, it is correct. As I indicated in my comments about your charge I am not an attorney I will qualify it that way, but the courts decision was based on current law, as it exists. Should you change law that would have an impact on that decision. You are in the driver's seat in this regard."

053 Sen. Kerans: "So we could say that we accept our mandate under Davis vs. Michigan, we accept our mandate under the Supreme Court decision, we will tax benefits, we will notify everyone that their benefits will be taxed, we will tax those that are now out there and that we will restore all to their previous standing by providing an offset in benefit that would simply...what we did was, it seems to me was instead of flooding them out we only got the cash and water up to their waist line. What we need to do is get up over their head. Isn't that what we need to do?"

06.0 Wilson: "That's halfway up in terms of dollars in and dollars out."

061 Sen. Kerans: "What we ought to do is get all the way up and say no harm no foul. No injury no standing. Isn't that correct?"

063 Wilson: "That Senator is clearly an option and it is one of the options on the list that Senator Smith asked for." 064 Sen. Kerans: "Now comes the question. As you leave, if not your recommendation at least, is that not something that would provide equity to all and restore us to the unitary

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model?"

067 Wilson: "I could clearly agree with you Senator that it would provide equity and it would restore the unitary model."

070 Chair Smith: "I am going to ask you couple on this topic since this is the biggie I think. Two questions; 1) Is it possible to develop actuarial data to show the outcome of the difference in outcome of a two tier system vs. a one tier system? 2) If the State does not flood out using Sen. Kerans words, PERS employees, is it your assumption that as long - as there is an employee with standing in the contractual issues in all of this that we will likely continue to go back to court every two years to fight this fight."

083 Wilson: "Your first question: Yes. The actuary can do almost anything with regard to predicting outcomes as long as the question coming in is concise enough. We did a lot of work on a generalized two tier system when it was being discussed in front of the Governor's task force on the State government. That data is available it is fairly

rudimentary, fairly simplistic and through myself for a week, through Mr. McDonald you can request any kinds of cuts on that data that you wish and we are more than happy and are geared to provide it for you and the actuary can usually turn that around relatively quickly. And that would have to do with either the taxation issue or a general two tier issue. However you want to approach it. Your second question: Unless or until the remedy that the court has ordered is fully protected, and even the definition of fully right now is being debated by different constituent groups, you have a chance of having someone else take you to court. I mean I think we all know I am sure you have been told there are people poised to do so right now if the timing isn't as they see fit. So you are absolutely right."

103 Chair Smith: "So if we are not careful we can spend a lot of money this session arguing about what the solution is and then spend a lot of money arguing in court about whether or not it really is the solution and then come back next session and do the same thing."

106 Wilson: "Kind of history isn't Sen. Smith?" 107 Sen. Adams: "Actually your first question answered the question I had." 108 Sen. Kerans: "An additional question actually. There is an impact which we have to recognize and that is that each time we've failed to get it right, we fail to get it right two or three times now, each time we fail to get it right it has a general fund and not a PERS fund impact."

114 Wilson: "Yes. I think that is correct. The taxation is clearly general fund money. The PERS fund with the exception of SB 656 from the last session, has not been part of this discussion. It clearly is part of the discussion as we look at options and at that point the cost is distributed among several fund sources as opposed to being directly from the general fund, at least as it relates to those kinds of options, those benefit related solutions. " 121 Sen. Kerans: "Your recommendation of where the penalty for failure to cure this

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taxation question ought to be paid from general fund or PERS fund?"

123 Wilson: "Pause..."

126 Sen. Kerans: "Who ought to pay the bill if we fail to, do you think the PERS fund has any obligation to do that or do you think that the general fund does?"

127 Wilson: "It is not a PERS problem Sen. Kerans." 128 Sen. Kerans: "Thank you. I just want to make that clear. Because I think there are some people wondering around here who think that just because the cost of our past mistakes are not in the printed Governor's budget that somehow they are magically going to appear someplace and somebody else is going to step up to the plate and pay the bill. I want to make sure that it is understood what the problem is." 132 Wilson: "I want to confer with Fred for a moment. Our pension payroll for retirees is in the budget, is included in the account. It is an unlimited amount of money and I believe that it was increased to reflect that. And that is meaningless because we pay what we pay. We pay what is due to members and something else after that process."

END OF VERBATIM TRANSCRIPTION

145 Wilson: Continues with overview, Exhibit A. 168 Chair Smith: Describe the types of issues you are talking about.

172 Wilson: The current program has four insurance companies and three credit unions among which individuals can choose to allocate their funds. Within each of the insurance companies there are fixed income investments and there are also vehicles, variable annuity options, which allow people to participate in the equity market. Description of agency services: 1) Counseling centers located in Tigard, Salem, Eugene, and Portland, as well as, a circuit rider. 2) Last year 32,000 estimates for retire. Under Governor's proposed Budget we will be required to close our Tigard and Eugene offices.

228 Chair Smith: Is there any general fund money in your budget?

230 Wilson: No.

241 Chair Smith: The purpose of the counseling centers is to allow employees and retirees to sit down with PERS employees who can cover their various options? 244 Wilson: Yes. 273 Chair Smith: What will happen to this under the Governor's Budget?

274 Wilson: This latter program will be sustained, it is a self-funded program. We tend to get the people that are a little above the middle in the salary range and who are probably for various reasons doing a better job of planning anyway.

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284 Chair Smith: They have the resources to go elsewhere for that kind of advice?

285 Wilson: Yes.

292 Chair Smith: You are closing two of your offices?

293 Wilson: Yes. Assuming the Governor's Recommended Budget is approved.

294 Sen. Adams: Were you planning to close the two offices due to the change in the way you will be delivering services?

296 Wilson: No.

298 Sen. Adams: If you had your choice would you be looking at closing the Tigard and Eugene offices? 302 Wilson: We would not have chosen to close these offices without Ballot Measure 5. We were not requested to do anything specific except to come in with a budget that reflected only 90% of our current operating level after inflation had been added. 314 Sen. Adams: In reality this provides no benefit to Measure 5 because it does not come out of the general fund?

315 Wilson: That is correct. 343 Wilson: Our operating budget for 1991-1993 was 21.5 million dollars. Our Governor's recommended budget is higher, at 23.5 million dollars, that includes inflation. Reviews the different types of calculations for retirees, Exhibit A. 436 Sen.

Adams: Of the 19.5 million that the employees contribute how much do the employers contribute? 451 Wilson: Refers to Exhibit A. 473 Sen. Adams: In approximate numbers, 95% of the 19.5 million dollars a month, which are employee contributions, are made on behalf of the employee by the employer. Is that correct? 481 Wilson: Yes. 483 Sen. Adams: Do you have additional comments regarding the impact to the fund of the baby boomers? 489 Wilson: No. 490 Sen. Adams: Does the baby boomer phenomena create any type of risks to the taxpayers?

. 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. . Senate Labor and Government Operations January 29, 1993 - Page 7 TAPE 8, SIDE B - 036 Wilson: With commitment to funding, which has been demonstrated in Oregon up to this time, the taxpayers are not at risk. 047 Sen. Adams: Are there any parallels or correlations to our system and Illinois, which would be a warning sign to us? 051 Wilson: The difference between the two systems is the commitment to funding, which is exhibited here, and has not been exhibited there. 085 Joan Van Almen, Counsel: Is there a constitutional prohibition of State ownership? 087 Wilson: The State ownership of funds relates to the deferred compensation plan which is the 457 portion of the Internal Revenue code. Those funds have this constitutional problem with investing in equities, unless there is an intermediary between the State and the investment. The PERS funds are held in trust by Statute. There is a PERS trust. 098 Chair Smith: Has a study been completed on the economic impact of the States where retirement funds are in jeopardy or close to bankruptcy? 104 Wilson: I am not sure, I will find out. 115 Chair Smith: It seems to me to be a significant piece of the decision making process to know all of the ramifications of those decisions. 119 Wilson: It is ultimately a taxpayer issue. 123 Sen. Adams: You mention in 1991 the fund had a loss. Do you know what the results are from 1992? 124 Wilson: The loss occurred in 1990. Cites the 1991 earnings. We have all of the figures for 1992 yet. 145 Wilson: Discusses Legislative packet.

180 Sen. Kerans: Would the effect of that legislation be to create a three tier system?

181 Wilson: Yes. It might even be a multiple tier.

182 Sen. Kerans: This would create a whole new universe, separate and distinct, from the bifurcation of the old class?

184 Wilson: Yes.

221 Sen. Kerans: Will there be an issue regarding adverse selection of retirees, balanced against the desires of the current contributors not wanting to share in spreading of the cost?

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229 Wilson: That is an issue that is not unique to Oregon.

230 Sen. Kerans: What is the average premium for the retirees under 65 that are paying the difference now?

239 Wilson: A single person in our indemnity plan, which is sometimes the only choice available, would pay \$290/month.

242 Sen. Kerans: It could be as high as \$7200/year?

247 Wilson: Yes.

404 Sen. Adams: Is it possible to get a list of the PERS Board Members?

406 Wilson: Yes.

409 Sen. Kerans: Expressed appreciation for Sheryl's service. Meeting adjourned at 10:40 a.m.

Submitted by: Reviewed by:

Staci Roberts Joan Van Almen -Assistant Counsel

EXHIBIT LOG:

A - Informational packet - Sheryl Wilson, total 233 pages Inclusive of:
a. PERS Overview - 24 pages b. Backgrounder - 10 pages c. Member's Handbook - 41 pages d. PERS Statutes - 97 pages e. 1992 Financial Report - 71 pages