

Public Hearing: HB 2269, HB 2270, HB 2271, HB 227 2, TIB 2273, HB 2274
Work Session: HB 2269

HOUSE COMMITTEE ON LABOR

January 30, 1991 Hearing Room D 8:30 a.m. Tapes 14 - 15

MEMBERS PRESENT: Rep. Gene Derfler, Chair Rep. Kevin Mannix, Vice-Chair
Rep. Sam Dominy Rep. Jim Edmunson Rep. Rod Johnson Rep. Bob Repine Rep.
John Watt MEMBER EXCUSED: Rep. Johnson

STAFF PRESENT: Victoria Dozler, Committee Administrator Edward C.
Klein, Committee Assistant WITNESSES: Sheryl Wilson, Director, Public
Employees Retirement System Sandra Stoutenberg, Member, Oregon Public
Employes Union Mari Anne Gest, Oregon School Employees Association Don
Satchell, Oregon Education Association Pat West, Oregon State Fire
Fighters Council Karen Hafner, Oregon School Boards Association

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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 14, SIDE A

002 CETATR DERFLER: Calls the meeting to order at 8:31 A.M.

ROLL: PRESENT: REP. DOMINY, REP. MANNIX, REP. REPINE, REP. WATT, REP.
DERFLER

ABSENT: REP. JOHNSON, REP. EDMUNSON OVERVIEW OF PUBLIC EMPLOYEES
RETIREMENT SYSTEM -- EXHIBTTS A & B

010 SHERYL WILSON, Director, Public Employees Retirement System:
Presents "PERS Overview" (EXHIBIT A). (PERS Member's Handbook is filed
as EXHIBTT B). -She describes the establishment of PERS. -She describes
"defined contribution plan" and "defined benefit plan". House Committee
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-She refers to "PERS is", page 2 EXHIBIT A.

-She describes the Public Employees Retirement Board.

-She describes the Oregon Investment Council.

-She refers to pie charts, page 3.

REP. EDMUNSON enters at 8:43.

153 CHAIR DERFLER: Neither the employers or employees contributions
are taxed are they?

WILSON: Correct; we are qualified under the Internal Revenue Code as a
qualified retirement plan.

-If we did something that would eliminate us from qualification, those
contributions would be taxable. The earnings of the fund would be
taxable to the fund and thereby diminish the value of the fund. CHAIR
DERFLER: They're not taxed going in or taxed going out.

WILSON: They are taxed coming out. -Prior to 1979, when the employer pickup was enacted, people had a piece of their member account on which taxes were already paid; it was deducted from their tax.

-People with service since 1979 have a benefit that is entirely taxable.
-For those that have a piece that was taxed, there is a formula that determines how much of that benefit is tax free; it is a very small percentage--1.5 to 2.5 percent of the total benefit.

-She refers to "Investments", pie chart, page 3.

-Investments were significantly less in 1990.

-She refers to "Distributions", page 3.

-Our budget for administration for the 1989-1991 biennium is approximately \$16 million.

-She describes reserves. 264 REP. MANNIX: Is part of the reason for wanting to have this set interest to create some sort of positive reinforcement, a willingness for people to put their money into the fund? WILSON: Doesn't think so. -The actuary establishes assumptions:
-Economic assumptions such as interest earning credit and estimates of pay increases. -Demographic assumptions. -From those assumptions the actuary works the mathematics and comes up with the contribution rate. .

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-Historically there has been some pressure because of the outstanding investment earning that have been experienced, especially during the last 10 years. 280 CHAIR DERFLER: How do you figure the Gain Loss Reserve?

WILSON: By board policy it is estimated to be equal to two times the 7.5 percent payout. -There will be no surplus this year to put into the gain loss reserves. That number will be reduced this year, most probably because of board action.

-She gives an example of how it works. 298 REP. REPINE: How many people are on staff?

WILSON: We have an authorized staff of 140. REP REPINE: What happens to a member's fund if they die?

WILSON: If they die in service and meet the qualifications in statute they are eligible for a benefit refund of the employee and employer money in cash or annuitized.

-If they are not vested, the beneficiaries would always have a right to what accumulated in the account. REP. REPINE: Is that a measurable amount of money?

WILSON: Does not have that figure, but can get it for you. 318 CHAIR DERFLER: Will you use less employees as you computerize?

WILSON: There has not been a staff reduction for some time and we are

not projecting a decrease in staff.

-There is a decrease in data processing staff, but there is an increase in work load as our retired membership and total membership increase.

-She describes interest credit.

-Seventy-four percent of our membership is retiring. This makes a difference in what's in their account balance. 363 REP. MANNIX: Is there any provision that would allow the State of Oregon to opt out of Social Security for its employees? WILSON: Those options were closed off by Federal law. REP. MANNIX: Has no confidence in the Social Security System, but has confidence in PERS. WILSON: Refers to page 3, "Actuary's Role" 413 CHAIR DERFLER: The board can fluctuate the employer's contribution?

WILSON: Yes; that is calculated every two years and usually differs every two years.

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-The board can exercise a wide range of options when declaring a rate increase or decrease. It has to be actuarially equivalent. They can delay an increase, as they did in 1987. The board found they didn't have to implement those increases and could hold the rate at its current rate and project a reduced rate in 1992.

-There is quite a bit of flexibility.

437 REP. MANNIX: What drives that 7.5 to 8 percent change? Is it a desire to see a set level of benefit at the end or a desire to affect the level of contribution now? WILSON: The main factor should be the underlying belief on the part of the actuary as a professional and the board as trustees, that it is reasonable to expect the fund will earn at least eight percent over the next 30 year period. REP. MANNIX: If you're talking a 30 year span you can take a look at history. WILSON: Precisely. -The goal of employer contribution funding is to keep that contribution as level as possible, to avoid fluctuation for the paying employers. -She refers to page 6, Eligibility

TAPE 15, SIDE A 026 REP. MANNIX: Do you have to retire to be eligible?

WILSON: Correct, you need to terminate your service as a covered employee in order to have a retirement benefit.

-There are some reemployment rights you have as a retiree.

032 REP. MANNIX: Are there provisions to prevent double dipping?

WILSON: If you go to work within six months your retirement is canceled. You may work under 600 hours and still collect. You will hear a bill to increase the 600 hours to 1,040.

-She continues with Police/Fire designation ("P/F"), page 6.

-She describes actuarial reduction.

050 REP. MANNIX: The earlier retirement provisions for police and fire are based on the concepts that they are dangerous occupations and there are a lot of physical requirements for maintaining service in those positions. -You said they may get out early, but they're not getting any extra long-term benefits. WILSON: That's generally the case. Their working life is shorter, so their benefit is shorter. REP. MANNIX: Where it says no reduction, we don't use the actuarial concept? WILSON: Correct. REP. MANNIX: There may be some extra benefit at that point. - [louse Committee on Labor January 20, 1991 Page S

WILSON: Yes.

-You can talk about it on a class basis, but on an individual basis you see wide ranges of variation.

-She refers to "Calculation Methods", page 6.

-Individuals are entitled to the highest of the three benefits these calculations produce.

096 REP. MANNIX: Has heard about allowing people from other states being able to withdraw their retirement contributions and buy in equivalent years of service here. -If we have a healthier program, we would in effect be subsidizing those people? WILSON: To the extent that they do not make an actuarially equivalent to the benefit you are buying, they are correct. If they were to make an actuarially equivalent contribution, it would be a total dollar wash. If they are moving contributions plus interest they are not buying the value of the benefit they would be moving in. REP. MANNIX: If we wanted to allow that we, ought to require they do it on an actuarial equivalent basis. WILSON: No one would do it. 111 REP. REPINE: Is the full formula related to the last three years of highest earning or any where in that period of that time? WILSON: There are two provisions in statute; either the last 36 months or the highest three years. -If the last 36 months are not the highest, there's a search for the highest rate. -She refers to "Service Levels", page 6. 132 REP. MANNIX: The 1989 legislation required that, to the extent there was no controversy about a certain benefit amount, you pay that while you deal with any controversies regarding additional amounts. WILSON: Correct REP. MANNIX: The ones pending usually involve calculations of death benefits or eligibility? WILSON: These are service retirements. In many cases it involves lack of documentation. Three percent is an annual average, we've had many months which it's zero. REP. MANNIX: Does that include disability retirement. WILSON: No; we deal with those separately. REP MANNIX: Just service retirement. WILSON: Yes. -She refers to "Payment Options", page 7. -She refers to "Disability Retirement Benefit", page 8.

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186 CHAIR DERFLER: Could they collect workers' comp and disability?

WILSON: That is true, it is somewhat unusual, but not altogether. Long-term disability benefits offset for the PERS benefit. I don't know about the workers' comp benefit.

REP. MANNIX: Isn't that usually dealt with by looking at the workers' comp eligibility rather than your disability eligibility?

WILSON: In the system she came from, people retired on duty disability rarely received any benefit from the retirement system if they were receiving workers' comp. That was a matter of statute.

CHAIR DERFLER: Can they also collect Social Security?

WILSON: If they can meet the ridged social security eligibility requirements.

CHAIR DERFLER: They could be getting three?

WILSON: Possibly four.

204 REP. EDMUNSON: The witness is not as acquainted with the workers' comp system; there's a statute which provides for offsetting Social Security.

WILSON: Continues with "PERS recommendation... ", page 8.

-She refers to "Disability Computation", page 9.

260 CHAIR DERFLER: If they've been employed for 10 years, you project out to age 58 for the disability benefit?

WILSON: Correct.

-She refers to "Health Insurance", page 10.

322 REP. MANNIX: One thing that's impressed me with PERS is that we've establish our own plan and it's performed admirably. -Isn't it time to fool: at a establishing our own medical program for state employees and retirees? WILSON: The issue will be before you this year. There is a trend for self-insurance and for taking creative looks at how to deliver health insurance in order to get the best value for the employees. -There are a lot of health plans that are more affordable. We generally get people who can't find a better deal. We're offering worse benefits for increasing costs; there has to be a better way to handle that process. -She refers to Membership., page 10. 387 CHAIR DERFLER: Do the schools contribute? WILSON: Believes the schools were also directed to do the pick-up. She believes the local government entities are the only ones that are optional.

CHAIR DERFLER: The school system picks up the employees contribution?

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100 WILSON: Yes. An employer pickup is always that format as opposed to some of the alternatives. It's necessary that the application of the

pickup be the same across all employers.

-She refers to "Enrolls 15,000", page 11.

-Our automated data processing system is on time and within budget.

-She refers to "RIMS", page 13.

TAPE 14, SIDE B

. ' 017 WVILSON: Refers to "Provide Retirement Planning", page 14.

She refers to "Publishes", page 15.

-She refers to "Maintains", page 16.

067 CHAIR DERFLER: Compliments her on her presentation.

REP. MANNIX: Also compliments her.

CHAIR DERFLER: Recesses at 9:35 A.M.

-He calls the meeting back to order at 9:44 A.M.

-We will operate as a subcommittee, until we have a quorum.

PUBLIC HEARING ON HOUSE BILL 2269

080 CHAIR DERFLER: Opens the Public Hearing on House Bill 2269.

SHERYL WILSON: The PERS Board has not taken a position on these bills. My role is informational.

-She describes HB 2269.

-The industry standard is 6 months.

-The current application under our system is 90 days; that's tied to the 90 days that's required before payment can occur. The consistent administrative practice of PERS has been 90 days.

100 REP. REP1NE: This bill proposes 180 days. Are there any dynamics that causes this shift to 180 days? Is there anything that would preempt PERS in adopting 180 days versus the 90 they are using? WILSON: There was comprehensive study on the entire PERS disability program by committee counsel over the interim. PERS has been developing some comprehensive recommendations for rule in this area. -At the staff level there was a suggestion that 180 days represents the industry standard, but by adopting that it would mean there was a possibility that certain individuals otherwise eligible for disability under the current practice would not be. REP. MANNIX: You are comfortable with it and can live with 90 days? - House Committee on Labor January 20, 1991 Page 8

WILSON: Yes.

135 SANDRA STOUTENBERG, Member, Oregon Public Employes Union: Presents Testimony and petition (EXHIBIT C) in opposition to HB 2269.

175 CHAIR DERFLER: How long were you off work?

STOUTENBERG: One year. CHAIR DERELER: The 180 days wouldn't have

affected you?

STOUTENBERG: No.

CHAIR DERFLER: Do you know how many it would affect? STOUTENBERG: No, but others will be testifying that have those figures.

188 MARI ANNE GEST, Oregon School Employees Association: Presents testimony in opposition to HB 2269 (EXR1BIT D).

234 DON SATCHELL, Oregon Education Association: Requests you move the 180 days back to 90. He explains how it passes a considerable expense to local cities, counties and school districts. -Has not heard this is a problem and is not sure what the justification is to change it.

259 REP. MANNIX: I don't think anyone minds going back to 90 days; let's go into Work Session and do it. CHAIR DERFLER: Would you prefer doing it by rule?

REP. MANNIX: Likes putting it into the bill.

WORK SESSION ON HOUSE BILL 2269 272 CHAIR DERFLER: Opens the Work Session on HB 2269.

MOTION: REP. MANNIX: Moves to amend HB 2269 to provide 90 days instead of 180 days on line 30, page 2.

VOTE: The motion carries unanimously.

ABSENT: REP. JOHNSON. MOTION: REP. MANNIX: Moves to send HB 220 to the Floor of the House as amended with a Do Pass recommendation.

VOTE: The motion carries unanimously.

ABSENT: REP. JOHNSON. CARRIER: REP. REPINE.

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CHAIR DERFLER: We'll hear the rest of the bills, but probably will allow for the rules to make the decisions. We need the overview on the bills.

PUBLIC HEARING ON HOUSE BILL 2270

CHAIR DERFLER: Opens the Public Hearing on HB 2270.

311 SHERYL WILSON: Describes HB 2270.

-We have no problem with this; it's one thing we do anyway. We plan to deal with this specifically in the rules we are developing.

REP. MANNIX: Who asked for this?

WILSON: This came about as a result of staff counsel's look at disability. The current rule doesn't speak to several issues and the law has some ambiguity. There was a thought there should be some clarification, with which we agree.

332 CHAIR DERFLER: A person on the interim committee through investigations of the PERS system came up with some suggestions, which

ended up as committee bills. In my opinion this should have been handled through the rules. REP. MANNIX: You don't have a need for this? WILSON: No.

PUBLIC HEARING ON HOUSE BILL 2271

CHAIR DERFLER: Opens the Public Hearing on HB 2271.

348 SHERYL WILSON: Describes HB 2271.

REP. MANNIX: Are you asking for this?

WILSON: No.

366 DON SATCHELL, Oregon Education Association: We recommend tabling this bill and leaving it at 10 years. -There appears to be no problem at this time; adding cost to the system would not be appropriate.

388 PAT WEST Oregon State Fire Fighters Council: We see no problem with the 10 years and there's no need to reduce it. 398 KAREN HAFNER, Oregon School Boards Association: Is in complete agreement with previous testimony.

PUBLIC HEARING ON HOUSE BILL 2272

CHAIR DERFLER: Opens the Public Hearing on HB 2272.

409 SHERYL WILSON: Describes HB 2272.

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-We have dealt with this at issue more extensively in proposed rules in order to try to define a nebulous standard. It is a strict standard and nothing in this bill would change that.

REP. MANNIX: Are you asking for this?

WILSON: No.

REP. MANN=: This bill ties your hands in terms of flexibility?

WILSON: To some extent. 432 REP. DOMINY: You can't make it more flexible without legislation?

WILSON: Correct.

REP. DOMINY: We might want to look at this some time, because of past fire fighters concerns.

TAPE 15, SIDE B

015 PAT WEST: If this bill passes, I would support changes to have it refer to "suitable work"...."Suitable work" is a legal definition in the workers' comp system and defines what work a person would be able to

perform in order to go back to work or to receive disability. As written it would cause more litigation than it would help for people trying to receive disability.

028 CHAIR DERFLER: Do you have a problem of working through the board with rules?

WEST: Doesn't believe they could change the definition of, "work for which qualified" by rule. In order to change the rule they would need a statutory change.

REP. MANNIX: They could define what it means to say, "work for which qualified".

WEST: Correct.

PUBLIC HEARING ON HOUSE BILL 2273

CHAIR DERFLER: Opens the Public Hearing on HB 2273.

038 SHERYL WILSON: Describes HB 2273.

-We have no concern with the provision for vocational counselors' vocational reviews, we do this occasionally when the issue is cloudy. We will be addressing this in our rules.

-It is somewhat costly from an operational standpoint.

-She refers to section 8, "as the board shall " This is important to a disabled worker, but we are not the best source for that information. "Shall" puts us under obligation to some kind of exhaustive search and erodes on the Employment and Vocational Rehabilitation Divisions' responsibilities.

REP. MANNIX: Changing it to "may" wouldn't do any good. We might as well take out the whole provision.

WILSON: Yes.

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REP. MANNIX: Have there been any rulings that the board is bound by findings of physicians; does the board feel like it has to defer to these physicians?

WILSON: Not to my knowledge. The statute provides the medical advisor be involved. It doesn't preclude the use of these counselors. We have used them and put that information in front of the medical advisor and board when we've made recommendations.

070 REP. MANNIX: If we say you may do this it gives you more flexibility?

WILSON: It does, but vocational counselors are expensive.

REP. MANNIX: You don't have to do it. If you're in a tight situation,

this makes it clear you can go that way. If the counselor said the person shouldn't get disability, their lawyer couldn't say you did something wrong.

WILSON: Thinks she agrees.

REP. REPINE: Refers to section 8. What's the common practice in regard to seeking information on vocational, rehabilitation and employment counselling; what role do you play?

WVILSON: We don't do anything aggressively to provide people with that information. We could send people notice advising them about the Employment Division or Rehab Division.

REP. REPINE: We could put "shall provide" or "make available" into the statute. Administratively they can deal with it on a more personal basis.

095 REP. MANNIX: Did you ask for this?

WVILSON: No.

REP. MANNIX: Do you want it?

WVILSON: Not particularly.

REP. MANNIX: Can you do what this bill calls for through administrative rules?

WILSON: Yes.

PUBLIC HEARING ON HOUSE BILL 2274

CHAIR DERFLER: Opens the Public Hearing on HB 2274.

099 WILSON: Describes HB 2274.

-This legislation has the best possible intentions, but it could create a lot of problems. It sounds good, but could be difficult in operation.

REP. MANNIX: It's clear they don't want it.

124 CHAIR DERFLER: Adjourns at 10:15 A.M.

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Submitted by: Reviewed by: Edward C. Klein, Victoria Dozler,
Committee Assistant Committee Administrator

EXHIBIT LOG:

A - PERS Overview - Sheryl Wilson - 16 pages B - PERS Member's Handbook - Sheryl Wilson - 34 pages C - Testimony and appeal in opposition to HB 2269 - Sandra Stoutenberg - 5 pages D - Testimony on HB 2269 - Mari Anne Gest - 4 page

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