

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.

HOUSE COMMITTEE ON LABOR

February 15, 1991Hearing Room D 8:30 a.m.Tapes 31 - 33

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

VISITING MEMBER:Rep. Jeff Gilmour

STAFF PRESENT: Victoria Dozler, Committee Administrator Johanna Klarin, Committee Assistant

MEASURES CONSIDERED: HB 2379 - PUBLIC HEARING HB 2237 - PUBLIC HEARING AND WORK SESSION HB 2238 - PUBLIC HEARING AND WORK SESSION HB 2240 - PUBLIC HEARING

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TAPE 31, SIDE A

003 CHAIR DERFLER: Calls meeting to order at 8:30 a.m.

PUBLIC HEARING, HB 2379 (EXHIBITS A AND B)

006 CHAIR DERFLER: Opens public hearing on HB 2379.

Witnesses:Edwin Peterson, Chief Justice, Oregon Supreme Court Paul Lipscomp, District Court Judge, Marion County Harl Haas, Circuit Court Judge, Multnomah County Jeff Gilmour, Representative, District 30 Greg West, Circuit Court Judge, Marion County

012 EDWIN J. PETERSON, Chief Justice: Presents testimony in favor of HB 237 9 (Exhibits A and B). He discusses the following topics:

-How Oregon compares to other states in the Nineth Circuit: Highlights of the case for improved judicial retirement benefits.

-Summary of proposed pension changes.

124 -Surviving spouse benefits.

-Cost impact of the proposed changes.

172 -Public Officials Compensation Commission recommendations.

220 REP. MANNIX: Haven't most attorneys who enter judicial service already developed a retirement program plan?

226 PETERSON: I don't know if this is true regarding attorneys from small law firms or private practice.

REP. MANNIX: Why should we encourage judges to leave at the age of 60-65, often judges are in their prime at that point?

PETERSON: The average retirement age has decreased across the board in all areas of society. If this would encourage our better judges to leave early, we would lose of course.

REP. MANNIX: Are you saying that the people who tend leave early are the "burnout" victims?

PETERSON: I hope so.

275 REP. DOMINY: What is the average age one becomes a judge? What is the average time one serves as a judge?

PETERSON: I don't have that information right now, I'll provide it to you today.

288 REP. WATT: Is this the first time these changes have been introduced in a legislative session?

PETERSON: The retirement age has always been 65. The three year annual average has always been three years. The percentage of contribution; I'll get you that information. The death benefit has been at 22.5% ever since I can remember.

REP. WATT: Have you proposed these changes before?

PETERSON: Yes, in the 1989 session we did make similar but not identical proposals.

REP. WATT: Refers to the fiscal impact statement. During this time of budget crisis, would you justify why we should decide in your favor?

PETERSON: The charge of this committee is to determine what is in the public interest. Ultimately the Ways and Means Committee is the one to determine whether there are funds available. Your first consideration should be if there a need.

-He discusses the impact that Ballot Measure 5 has created. You should not let Ballot Measure 5 shade all your decisions. We will put the challenge of Measure 5 behind us.

-He emphasizes the importance of a quality judiciary for the future.

404 JEFF GILMOUR, State Representative, District 30: Testifies in favor of HB 2379.

TAPE 32, SIDE A

009 GILMOUR: He discusses the case of a widow of a former Marion County judge. She is suffering a great deal because of having been on an old system that has not been improved.

-He discusses the motives for prospective judges who enter the judiciary system.

049 REP. REPINE: I am concerned about the possible shifting from a last year base salary versus the three year historical blending of income.

GILMOUR: Chief Justice Peterson misspoke on this issue. The retirement system was based upon your last three years and now it is based upon your best three years.

057 REP. MANNIX: Does that apply to judges?

GILMOUR: I believe it applies to all members of PERS who are vested.

060 CHAIR DERFLER: It is going to be difficult for us and for the Ways and Means Committee to decide whether we are going to pay more to the judges or get people off the streets.

GILMOUR: Those human policy decisions are difficult.

080 REP. MANNIX: What is the reaction from the Ways and Means Committee when a substance area committee sends over a bill without any special recommendation? Would you prefer to have specific recommendations from us as to what parts are good?

GILMOUR: Individual contact by the members of the committee is more important than a recommendation.

098 REP. MANNIX: How about if we worked over this bill and added certain things that we left in and certain things that we pulled out, that would be a pretty strong message to Ways and Means.

GILMOUR: Yes, definitely.

100 REP. DOMINY: I understand we are talking about PERS money regarding this particular piece of legislation. We are not talking about general funds money?

GILMOUR: I have not seen the fiscal impact statement regarding this bill. I was unaware that the general fund is involved.

122 REP. DOMINY: Refers to the \$3.9 million. Didn't realize it was an increase in contributions. Thought it was related to the cost of the program.

GILMOUR: The way I read it, it is a contribution.

134 PAUL LIPSCOMP, District Court Judge, Marion County: Testifies in favor of HB 237 9. Discusses the retirement benefits that judges bring with them when they enter the Judiciary Department.

-These changes are important for judges who enter the service at a later stage in life.

-Judges take a substantial pay cut when they enter the service.

-Discusses the change in the nature of the work of a judge. Increase in the workload and complexity of the cases.

195 REP. MANNIX: Wouldn't it be more realistic to boost the salaries to an appropriate level?

LIPSCOMP: It wouldn't behoove us to talk to you about an increase in our salaries.

-We need an energetic, committed bench. We cannot afford having people who are no longer interested in performing this job.

223 CHAIR DERFLER: What percentage are you looking at?

LIPSCOMP: I don't have a strong handle on that. I have received several letters from judges who are anxious to leave.

239 REP. MANNIX: Suggests a two-year program to boost retirement.

LIPSCOMP: That would be politically sensitive but would accomplice some things for the Judicial Department.

263 HARL HAAS, Circuit Court Judge, Multnomah County: This is a priority issue for the circuit court judges of the state.

-Discusses the change in the nature of the work of the judges. The cases are more complex and the pressures are more severe.

-This bill would give people an opportunity to retire.

-Expresses concern regarding Rep. Mannix's proposal; it might encourage some of the more energetic judges to leave.

-This bill could be trimmed a little to make it more palatable.

Rep. Edmunson enters at 9:20 a.m.

334 REP. MANNIX: What if we put a sunset provision regarding the level of benefits that people might develop?

345 HAAS: We can look over these figures and come back with some creative solution.

REP. MANNIX: We need an innovative approach to this considering the financial constraints throughout the state.

377 GREG WEST, Circuit Court Judge, Marion County: Discusses the change in the nature of the work that has occurred in the last ten years--demands, pressures, etc.

-We need to attract a younger, more energetic group of people. If we cannot attract them with a salary, we can certainly attract them with a good looking retirement package.

419 REP. MANNIX: We need to differentiate what provisions are the most important in terms of concepts. Could you list the components in terms of priority?

WEST: I polled the circuit court judges. The results were as follows:

1. Retirement benefits; 2. Survivors benefits; 3. Retirement age; 4. Final average salary; 5. 75% limitation.

446 LIPSCOMP: The results from the District Court Judges Association were similar but slightly different. We should compile all the different surveys and let you know how they correlate.

TAPE 31, SIDE B

PUBLIC HEARING, HB 2237

Witnesses: Sheryl Wilson, Director, Public Employees Retirement System.

015 CHAIR DERFLER: Opens public hearing on HB 2237.

018 VICTORIA DOZLER: Summarizes the amendment for HB 2237.

024 SHERYL WILSON, Director, PERS: We were apprised by our legal counsel, unfortunately after the bill was heard, that there are federal constraints against absolutely removing the employee's right to the dollars that they themselves contributed.

-The amendment will give that employee a right forever to reclaim that and allow us to simplify the labor that we are using to account for those monies over time.

034 REP. WATT: Why did this bill get to us in the first place without this element being caught in your office?

WILSON: I don't understand it either, this is a piece of legislation that was prepared well in advance. It simply failed to pop up in the review.

WATT: Can we anticipate more of that, or will this be the only one?

WILSON: I can assure you that this is the only one.

WATT: Expresses concern for the time and expenses lost due to this incidence.

048 WILSON: Continues her testimony. The amendment significantly reduces the fiscal note we have filed through the legislative fiscal office.

054 WATT: The fiscal statement of January 17, 1991 had a balance of less than \$50 and the one submitted on January 28, 1991 was an account balance of less than \$10, could you explain the reasoning for that?

WILSON: The benchmark amount is \$50 and the reduced amount is simply for the forms and professional services software.

064 DOZLER: Points out to Rep. Watt that it is most likely a typographical error.

WORK SESSION, HB 2237

078 CHAIR DERFLER: Opens work session on HB 2237.

079 MOTION: REP. DOMINY: Moves to accept amendments on HB 2237.

084 DOZLER: Reiterates the amendments.

090 WATT: The numbers from the Legislative Counsel and those from PERS are substantially different, why is that?

097 WILSON: The original fiscal note anticipated a staff person and some fairly aggressive work in attempting to locate the affected individuals. The second fiscal note indicate no staff expenditures.

109 REP. REPINE : Is there a newer fiscal out than the one I am looking at?

DOZLER: Yes, it is attached to your package.

121 VOTE: The motion carries 6-0.

ABSENT: REP. MANNIX

126 MOTION: REP. DOMINY: Moves that HB 2237, as amended, be referred to the House floor with a "do pass" recommendation.

VOTE: The motion carries 6-0.

ABSENT: REP. MANNIX

CARRIER: REP. WATT

[Rep. Mannix votes later during today's meeting on both of these bills.]

PUBLIC HEARING, HB 2238

Witnesses: Sheryl Wilson, Director, Public Employees Retirement System (PERS). Bob Andrews, PERS

140 CHAIR DERFLER: Opens public hearing on HB 2238.

142 VICTORIA DOZLER: Summarizes HB 2238.

-She outlines the thirteen sections of the bill.

189 SHERYL WILSON, Director, PERS: This is our annual house cleaning bill. There is no fiscal impact to this legislation.

197 REP. DOMINY: Would this impact eligibility or create time delays?

205 BOB ANDREWS, PERS: No it will not deny or reduce anybody's benefits. We hope to more efficiently administer the program.

211 CHAIR DERFLER: Could some of this be done administratively without going through legislation?

213 WILSON: It is our advice that it cannot. She refers to Rep. Dominy's question; the only visible change for the members would be the section 13.

220 REP. WATT: Refers to the Section 1, requirement for 600 or more

hours service per year. Could you explain that?

226 ANDREWS: The intention is simply to add the requirement for being in a qualifying position. We needed to address the different segments of military service.

244 REP. MANNIX: Do we still have veterans of World War I receiving veterans benefits?

ANDREWS: I cannot answer that.

REP. MANNIX: What about Vietnam and Persian Gulf War veterans?

ANDREWS: They are covered in the area which starts on line 23, subsection 3.

269 CHAIR DERFLER: What has caused these changes?

ANDREWS: Fundamentally, Section 1, for example, should have been there from the beginning. Some are because of more recent events.

282 REP. DOMINY: Refers to page 4, line 36. Is this adding 60 days? Is this done by rule?

ANDREWS: That is what we are trying to do but we cannot do it by rule because of the language that needs to be deleted.

REP. DOMINY: Didn't we deal with this subject in connection to another bill?

ANDREWS: We dealt with some of these issues during the 1989 session.

303 REP. MANNIX: Do you want some authority to recover attorney fees when you have to use a writ of mandamus to force some government entity to ante up? You are not given the authority now?

ANDREWS: That would be outstanding.

WORK SESSION, HB 2238

324 CHAIR DERFLER: Opens work session on HB 2238.

328 MOTION: REP. MANNIX: Moves to amend the bill on page 8, section 11 by adding the following language: If the court allows the writ, the court shall allow reasonable attorney fees and costs to the Board.

362 DOZLER: My concern is whether this would create a fiscal impact.

REP. MANNIX: No, it would not.

363 REP. DOMINY: It could cause a reaction in the other direction if we had been taking people to the court to collect in the past. We could have a savings. Could you comment on that?

ANDREWS: We have no base of experience to answer whether there would be savings.

380 REP. JOHNSON: Opposes the amendment. I don't like to get a situation started where one quasi public agency like PERS can sue another government entity and recover attorney fees.

398 REP. MANNIX: I don't care if it is a government or private entity. The government has to go to court to force someone to do what they are legally obligated to do.

411 REP. EDMUNSON: Agrees with Mannix's position. Under the administrative procedures, a government agency may be required to pay attorney fees and costs if they act with no reasonable basis in law.

430 DOZLER: This writ of mandamus is to collect debts that are currently existing for pre-1987 debts, is that correct?

435 ANDREWS: Yes it would be for those liabilities that exist prior to January 1, 1987.

DOZLER: So you know exactly how many there are to be collected.

ANDREWS: We know the liabilities.

TAPE 32, SIDE B

008 VICTORIA DOZLER: How many agencies would be affected?

ANDREWS: We may have three or four public agencies in the state.

014 REP. MANNIX: We need to remember that PERS is independently funded and has our retirement money in there. Any time we require that our retirement funds and the administrative funds of PERS be used to force some other government entity to ante up, I want them to have to pay for the expense my retirement system had to accrue to make someone to fulfill their obligation.

019 REP. JOHNSON: What is magic about 1987?

ANDREWS: The federal law was changed in 1986. He explains the provision in the federal law.

041 MOTION: REP. MANNIX: Modifies his earlier motion as follows: The court shall award reasonable attorney fees, costs and disbursements to the Board.

044 REP. JOHNSON: Withdraws his objection to the amendment.

053 KAREN HAFNER, OSB A: My concern is that we are adding language that is not of a housekeeping nature.

REP. MANNIX: Allowing the writ of mandamus in the first part as an enforcement procedure is substantial enough, adding the suggested amendment doesn't make that big of a difference.

067 REP. WATT: Could we receive the information exactly to whom this section pertains to?

074 ANDREWS: Today we have no public agency that is in arrears. We may have a need for this in the future. This would simply strengthen some collection vehicles that have been provided already.

REP. WATT: On the PERS side, do you have the capability of recovering fees and court costs.

ANDREWS: I need to reread that particular statute. I need to research this issue.

099 CHAIR DERFLER: If you were to get an additional collection from the federal government next week, could it be collected without cost if it was legitimate?

ANDREWS: If that was legitimate and there was no opposition on the part of the local government then we would have no need to exercise the provisions described here.

104 REP. DOMINY: We need to keep in mind that this does not affect very many people.

112 REP. MANNIX: Reiterates the amendment. We would add to section 11, subsection 4: If the court allows the writ, the court shall award reasonable attorney fees, costs and disbursements to the Board.

VOTE: The motion carries 7-0 with all those representatives present voting AYE.

MOTION: REP. MANNIX: Moves that HB 2238, as amended, be referred to the House floor with a "do pass" recommendation.

134 VOTE: The motion carries 7-0 with all those representatives present voting AYE.

CARRIER: REP. DOMINY.

141 MOTION: REP. REPINE: Moves that the committee allow Representative Mannix to vote on HB 2237.

The committee has no objections to this motion.

VOTE: REP. MANNIX VOTES AYE ON HB 2237.

148 CHAIR DERFLER: Recesses the meeting at 10:05 a.m.

152 MOTION: REP. MANNIX: Moves that LC's 2890, 2050-1, 2891, 2892, 2311, 146 5, 270 6, 2708, 2869 and 2898 be introduced as committee bills.

The committee has no objections to this motion.

PUBLIC HEARING, HB 2240

Witnesses: Sheryl Wilson, Public Employees Retirement System Karen Hafner, Oregon School Boards Association Peggy Anet, League of Oregon Cities

160 CHAIR DERFLER: Opens public hearing on HB 2240.

164 VICTORIA DOZLER: Summarizes HB 2240.

178 SHERYL WILSON, PERS: She testifies in favor of HB 2240 and discusses the following topics:

-The group of retirees who did not choose the "joint survivor option."

196 CHAIR DERFLER: At the time of the retirement, are they given good

instructions as to what the choices and consequences are?

WILSON: I certainly hope so, but there could be a gap in communications.

211 REP. MANNIX: What is the fairness argument in favor of doing this, if people were given the options?

WILSON: When the program was originally established these people were included and we have 135 people who are currently receiving the benefit. The legislation is before you in order to codify the process that has already been in place. When I found that out, I decided to leave that to your discretion. I didn't want to eliminate those 135 people from that coverage. They are spouses of retirement members and most of them are amazed to find that they are not going to be able to enjoy that coverage.

REP. MANNIX: Can we put in the cut off day as of today?

WILSON: That is an option.

REP. MANNIX: Wouldn't that dramatically eliminate the fiscal impact?

WILSON: Yes it probably would eliminate the fiscal impact.

REP. MANNIX: These are people who are already in the retirement system so we are not asking general fund moneys. You are assuming the obligation, is that right?

WILSON: The funding of the medicare supplement is part of the general employer contribution rate, the retirement health insurance account is an account within the PERS trust and a piece of the employer contribution is contributable to funding that \$60 commitment.

REP. MANNIX: Could we put in a limiting clause?

269 WILSON: I need clarification as to which group you are referring to--those people who are currently the surviving spouses of already deceased retirees or surviving spouses of people who have retired, have selected a single life option who may predecease their spouse.

REP. MANNIX: First step is the 135 whose spouses have already deceased. We should honor the obligation and it should not have any heavy fiscal impact. As to the second group, could you administratively give them a notice, or maybe we should put in the law that they have 30 days time to change their retirement plan.

WILSON: In that regard we would create a bigger problem than we are trying to solve. Approximately 29% of our retirees go out with a "single life option."

294 CHAIR DERFLER: Don't they receive a larger benefit because of that?

WILSON: Yes they do.

CHAIR DERFLER: Now we are asking other people to absorb the losses?

WILSON: I am concerned about the group that has already retired. Those who have not retired yet can be dealt with clearly and fairly.

CHAIR DERFLER: You are asking someone else to pick up that \$6 million. That is not fair.

310 REP. MANNIX: He divides the affected people into group A,B and C. A good deal of this fiscal impact is group C.

WILSON: Yes.

REP. MANNIX: If we determine that this is not going to apply in the future, we have eliminated group C and cut out a big part of the fiscal impact.

WILSON: That is correct.

REP. MANNIX: With regard to group B. If we notify people, is there something that they can do?

WILSON: They would be participating in medicare anyway to qualify for the benefit that we are offering. If the surviving spouse chooses to purchase a medicare supplement plan, they wouldn't purchase it from us. They would purchase it from some other entity not necessarily very reputable and they would bear the full cost for that supplement.

REP. MANNIX: Suggests a provision that people who are already retired would have to pay a full freight on PERS plan.

WILSON: That is yet another option.

REP. MANNIX: Is there a fiscal impact involved?

WILSON: No there would not be.

366 REP. DOMINY: You are saying that you are already doing this? How do we get to the point that now it is an additional cost to the governor's budget?

WILSON: This body of people was not included in the calculations.

REP. DOMINY: Are we asking a widower to pay \$60 a month in order to keep the plan?

WILSON: That is essentially it. She discusses the alternative benefit plan for those who do not meet the eligibility criteria.

438 REP. DOMINY: Three years ago somebody just started allowing this to happen. Was that started by a rule, how did it happen?

TAPE 33, SIDE A

008 WILSON: I believe the decision was made by a previous deputy in PERS. The proposed legislation has been reviewed by the Board and is part of the legislation package that we have been going over during the past two weeks.

015 CHAIR DERFLER: How would you justify the person who took a lesser amount in retirement and now has this advantage, and the person who took a larger retirement program and now is going to be a burden to the system?

WILSON: It is important to separate the two issues. The decision that

is made with regard to the option that an individual takes for their service retirement benefits has to do with general income. If other eligibility criteria are met they make a separate decision to receive the subsidy. The two decisions are not necessary connected at the time of retirement.

CHAIR DERFLER: Is this a problem due to lack of proper explanation at the time of retirement?

WILSON: There is certainly an element of that. The linking of those issues is of constant concern to us.

034 REP. MANNIX: We should de-link those issues. They should be separate issues.

WILSON: Yes.

REP. MANNIX: If we lock in the 135 people who are now receiving these benefits, most of the financial obligation will be out of PERS?

WILSON: It is funded through the employer contribution.

048 Rep. Mannix and Ms. Wilson discuss the funding of the \$60 subsidy.

053 CHAIR DERFLER: I was under the impression that these people had not received proper information?

054 WILSON: I cannot say that for sure, but there is a high probability.

056 REP. MANNIX: Has the Board considered drawing a line as to taking care of the 135 people?

WILSON: That discussion was not held with the Board.

REP. MANNIX: Would you get us feedback on that?

WILSON: Our chairman is here today. He could comment on this issue. There will still remain a linkage for those people who chose the "joint survivor." Their survivors are clearly, under the current law, eligible to receive that sixty dollar subsidy.

071 CHAIR DERFLER: Can you explain this to the people affected.

WILSON: I can certainly do that.

074 REP. DOMINY: Could we say that it was a bad interpretation of the law that we allowed something to happen that should not have happened by law?

083 REP. MANNIX: Please provide us an outline of the language that would accomplish the purpose of saying the following points:

-Those who are already receiving the benefits could be locked in as of February 15.

-Those who are currently retired and may have chosen the other option thinking that this benefit would be there, be advised that it is not there.

-Authorize the latter to buy the coverage, but not have us fund the coverage.

He continues saying that the Committee on Ways and Means will not pass legislation that has \$6 million fiscal impact attached to it.

100 WILSON: The fiscal impact you have is based on 1987 actuarial evaluation data and projections. You will receive a revised fiscal impact which is considerably lower.

110 KAREN HAFNER, Oregon School Boards Association: Discusses the impact of this bill, even with a reduced fiscal impact, on the school districts.

-The cost to the school districts alone would be \$1.2 million.

142 REP. WATT: How do you respond to Rep. Mannix's suggestion?

HAFNER: I would like to see the fiscal impact on that.

REP. WATT: I don't think the 135 entered into the matrix for the \$1.2 million.

HAFNER: Certainly we would not oppose something that has no fiscal impact.

160 PEGGY ANET, Administrator, League of Oregon Cities: Echoes Representative Mannix's sentiments as to how to deal with this bill.

-We would like to work together with PERS since local governments have slightly different enabling legislation as it pertains to retiree health insurance in terms of who is defined as eligible for continuing health insurance.

185 CHAIR DERFLER: What happens if we didn't do anything about this bill? Would this program continue and the \$6 million be spent?

ANET: Yes I think it would.

-Part of the solution for this is to work on the educational aspect.

-She discusses possible problems under local governments.

235 CHAIR DERFLER: Adjourns the meeting at 10:55 a.m.

Submitted by: Reviewed by:

Johanna Klarin Victoria Dozler Assistant Administrator

EXHIBIT LOG:

A - Testimony on HB 2379 - Edwin J. Peterson - 15 pages
B - Testimony on HB 2379 - Edwin J. Peterson - 7 pages

