

SENATE COMMITTEE ON LABOR

March 18, 1991 Hearing Room 50 03:00 p.m. Tapes 38 - 39
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB KINTIGH SEN. BOB SHOEMAKER STAFF
PRESENT: ROBERTA WHITE, COMMITTEE ASSISTANT

MEASURES CONSIDERED: HB 2237 - ALLOWS PERS TO TRANSFER TO ANOTHER
ACCOUNT OR RESERVE IN PUBLIC EMPLOYEES' RETIREMENT FUND ANY BENEFIT
PAYABLE AS RESULT OF DEATH OF MEMBER OF PERS - PUBLIC HEARING HB 2269 -
MODIFIES REQUIREMENTS FOR DISABILITY RETIREMENT ALLOWANCE UNDER PERS
-PUBLIC HEARING HB 2239 - ALLOWS MEMBER OF PERS WHO IS PARTICIPATING IN
VARIABLE ANNUITY ACCOUNT TO MAKE ELECTION AT ANY TIME PRIOR TO RETIRING
TO TRANSFER BALANCE OF MEMBER'S ACCOUNT - PUBLIC HEARING SB 138 - DEFINES
CERTAIN EMPLOYEES OF CHILDREN'S SERVICES DIVISION AS "POLICE OFFICERS"
FOR PURPOSES OF RETIREMENT UNDER PERS - PUBLIC HEARING These minutes
contain materials which paraphrase and/or summarize statements made
during this session. Only text enclosed in quotation marks report a
speaker's exact words. For complete contents of the proceedings, please
refer to the tapes.

TAPE 38, SIDE A

WITNESSES: SHERYL WILSON, DIRECTOR, PERS BOB ANDREWS, PERS MARY
BOTKIN, AFSCME/PERS COALITION LEN MUNKS, CSD MARIA KELTNER, ASSOCIATION
OF OREGON COUNTIES/ LEAGUE OF OREGON CITIES BRENT CARLSON, JUVENILE
PAROLE OFFICER, CLACKAMAS COUNTY HERB LAY, PRESIDENT, JUVENILE PAROLE
OFFICER LOCAL

001 CHAIR KERANS called the meeting to order at 3:14 p.m. Senate
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HB 2237 - ALLOWS PERS TO TRANSFER TO ANOTHER ACCOUNT OR RESERVE IN
PUBLIC EMPLOYEES' RETIREMENT FUND ANY BENEFIT PAYABLE AS RESULT OF DEATH
OF MEMBER OF PERS - PUBLIC HEARING WITNESSES: SHERYL WILSON, DIRECTOR,
PERS BOB ANDREWS, PERS 011 SHERYL WILSON, DIRECTOR, PERS: > This is a
housekeeping measure which allows PERS to transfer out of the member
account into the reserve any benefit that is payable as the result of a
death of a member of PERS when that account balance has been in
existence for 10 years, it is not going to yield a benefit, and it is in
an amount that is less than \$50. > It charges the board to promulgate
rules for the filing of a late claim. 039 CHAIR KERANS: This will
allow you to track documentation for the member, but what about the
member who is deceased? Would you be able to track it then? WILSON: Yes,
we would be able to find that. CHAIR KERANS: The value to you is simply
to aggregate all of these non-interest bearing accounts, put them into a
central account, and have the interest accrued to the trust fund WILSON?
That's right, the interest doesn't go away it stays within the trust
fund. And, if the individual comes back, would accrue to them as well.
058 CHAIR KERANS: How many of these accounts do you have? 063 BOB
ANDREWS, PERS: In total, not just the \$50, but in total there are an
aggregate number of accounts in the neighborhood of about 6,000
accounts. There are maybe 300-500 that are about \$50 or less. CHAIR
KERANS: Why would you choose just \$50? Were you being very conservative
in your approach? WILSON: I think that's as good an answer as any.
092 CHAIR KERANS: Maybe we can make your bill better. > Asks that
they bring a list of accounts in rank order so that the committee can
see how many accounts are in each category. TAPE 38, SIDE A HB 2239 -
ALLOWS MEMBER OF PERS WHO IS PARTICIPATING IN VARIABLE ANNUITY ACCOUNT

TO MAKE ELECTION AT ANY TIME PRIOR TO RETIRING TO TRANSFER BALANCE OF MEMBER'S ACCOUNT - PUBLIC HEARING WITNESSES: SHERYL WILSON, DIRECTOR, PERS

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SHERYL WILSON, DIRECTOR, PERS > Testifies in favor of HB 2239.

TAPE 38, SIDE A

HB 2269 - MODIFIES REQUIREMENTS FOR DISABILITY RETIREMENT ALLOWANCE UNDER PERS - PUBLIC HEARING WITNESSES: SHERYL WILSON, DIRECTOR, PERS BOB ANDREWS, PERS MARY BOTKIN, PERS COALITION

170 SHERYL WILSON, DIRECTOR, PERS > Testifies in favor of HB 2269, even though it is not a PERS bill. 191 CHAIR KERANS: You don't have a statutory authority that tells you to do it, and you don't have a Rule that says you're going to do it, but you do it by virtue of what? WILSON: The Statute says that it has to be for a prolonged period of time, and in another part of the disability statutes it says that we cannot pay an individual until they have been disabled for 90 days. So the combination of those two issues has caused the staff to take them and put them together and say that the individual had to be expected to be disabled for 90 days or longer. 211 SENATOR HILL: Is this linked to Workers' Compensation?

WILSON: Our program is totally independent of Workers' Comp, and I have to say that I don't know what their criteria are? > Our language states that a person is considered disabled if he/she is unable to do anything for which he/she is qualified by education and/or experience. It goes beyond being able to do the job which a person was holding when he/she became disabled.

TAPE 38, SIDE A

HB 2269 - MODIFIES REQUIREMENTS FOR DISABILITY RETIREMENT ALLOWANCE UNDER PERS - WORK SESSION

271 MOTION: SENATOR HILL moves HB 2269 to the floor with a "do pass" recommendation.

VOTE: Hearing no objection, the motion carries.

TAPE 38, SIDE A HB 2239 - ALLOWS MEMBER OF PERS WHO IS PARTICIPATING IN VARIABLE ANNUITY ACCOUNT TO MAKE ELECTION AT ANY TIME PRIOR TO RETIRING TO TRANSFER BALANCE OF MEMBER'S ACCOUNT - WORK SESSION

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298 MOTION: SENATOR KINTIGH moves HB 2239 to the floor with a "do pass" recommendation.

VOTE: Hearing no objection, the motion carries.

TAPE 38, SIDE A SB 138 - DEFINES CERTAIN EMPLOYEES OF CHILDREN'S SERVICES DIVISION AS "POLICE OFFICERS" FOR PURPOSES OF RETIREMENT UNDER PERS - PUBLIC HEARING

WITNESSES: MARY BOTKIN, AFSCME HERB LAY, PRESIDENT, JUVENILE PAROLE OFFICER LOCAL BRENT CARLSON, PAROLE OFFICER, CLACKAMAS COUNTY (EXHIBIT A) SHERYL WILSON, DIRECTOR, PERS LEN MUNKS, CHILDREN'S SERVICES DIVISION MARIA KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON CITIES PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES

325 MARY BOTKIN, AFSCME > Testifies in favor of SB 138. > This bill codifies an oversight from last session and what is currently in practice. > Probation Of ficers in CSD are currently counted as fire fighters for retirement purposes. This bill will simply make the current practice legal. > There is no additional cost connected with the bill, it is currently in the Governor's budget. > Requests that the subsequent referral to Ways and Means be removed. SENATOR SHOEMAKER: How can there be no fiscal cost? BOTKIN: These people are already in the more generous retirement statute. SENATOR SHOEMAKER: Yes, but they are not there by statute. How are they there? BOTKIN: They are there by administrative act. There were several bills last session that passed, then they were vetoed by the Governor. The legislature in special session overrode the vetoes, and somehow these folks got dropped in the middle. They are in Police and Fire now. SENATOR SHOEMAKER: But not legally so. BOTKIN: Not legally so. 432 CHAIR KERANS: I'm interested in how they got on this list. My experience with this list is that you don't get on the list until you get a statute. BOTKIN: We went through a lengthy appeals process in the interim under the guidance and direction of PERS, identifying who should and should not be under Police and Fire - what the criteria were. Last session we did introduce legislation, and there was some confusion as to

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whether the legislation was necessary or whether or not they could be moved administratively. They were moved administratively, and so we backed off on the bill when that occurred. This interim, again we returned and felt that legislation is necessary, and it was determined by the Attorney General that indeed legislation did need to pass to make what already occurred legal.

469 CHAIR KERANS: So, if we don't pass this bill, is the opposite true - that you're going to get your money back? BOTKIN: There will be serious question about whether the administrative action was correct, and what happens to these employees. CHAIR KERANS: How many of these folks are there? BOTKIN: 36 statewide.

TAPE 39, SIDE A

038 BRENT CARLSON, PAROLE OFFICER, CLACKAMAS COUNTY (EXHIBIT A) > Details Exhibit A. > Displays some of the confiscated weapons and paraphernalia which he has accumulated while working with the youth under his guidance. 106 SENATOR SHOEMAKER: How long did it take you to gather this bag of tricks? CARLSON: Most of the items we confiscate

end up going back. This is about 3 years worth of accumulation. SENATOR SHOEMAKER: What is the frequency of physical confrontation? CARLSON: I try to avoid actually pulling a weapon when I come in contact with a juvenile. I choose not to confront those kids when I am not armed. Usually I withdraw and call the police and ask for back-up. 136 CHAIR KERANS: Are you issued weapons? CARLSON: No sir. CHAIR KERANS: Are you allowed to carry weapons? CARLSON: No sir. 139 CHAIR KERANS: What arrest powers do you have? CARLSON: We have no powers of arrest other than those available to any other citizen. We can take those youth on parole, on the run or in foster care into custody ourselves, but we don't have the authority to arrest others. BOTKIN: 39% of all juvenile offenders are convicted of violent crimes, and 52% are involved

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in violent crimes. 30% are considered to have sensitive cases - arson, murder, rape, manslaughter, etc. Those people involved in the Youth Gang Task Force in North Portland run a greater risk than those in another part of the state.

173 CARLSON: Most of the firearms are stolen. I do believe that Portland Juvenile Parole Officers have confiscated fire arms. BOTKIN: Our clients are trained to avoid confrontations rather than to aggravate confrontations. They do not carry weapons and it is only recently that adult probation and parole officers were given weapons. 214 SHERYL WILSON, DIRECTOR, PERS (EXHIBITS B AND C): > Testifies in favor of SB 138. > These officers are currently residing by administrative action in the firefighters category. > This administrative action needs to be validated in statute. > This action would not affect the PERS contribution rate, and is included in the Governor's budget already. CHAIR KERANS: How did this happen? 250 WILSON: Being on the list is not the only way you can get in. That was one of the concerns that was embodied in the gubernatorial veto and the charge to the PERS board to come up with some kind of criteria through which both the legislature and the governor could apply in order to let folks in. There are employers within the act currently who have the right to designate their certain employees as covered under Police and Fire. What the report does is attempt to take a complex situation and develop criteria. It sorts itself down into two categories: (1) police officers who carry guns and wear badges, and whom we readily identify as police officers; and (2) those who meet a certain series of criteria as outlined in Exhibit B. > Details Exhibit B. 316 CHAIR KERANS: Where is the statutory authority? WILSON: There is none. 334 CHAIR KERANS: Up until now you could get in unless you were on the list. WILSON: Except for those local governmental employers who had the ability to designate. This is not a local government employer, this is a state employer. SENATOR HILL: Who made the decision to administratively classify these people? WILSON: I have to take responsibility for that. 373 CHAIR KERANS: Did anyone else come in administratively besides the parole officer?

WILSON: No.

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CHAIR KERANS: Absent this bill, you have to turn around and go in the other direction.

WILSON: We have two choices here: If this bill does not go forth, or the larger report which deals with more folks, and includes the JPO's, then we will get a clear signal from the legislature that this is not what you want and we will reverse the process.

CHAIR KERANS: I would take a position that from reading this, there is no standing for anybody else. So if the report wants to make a recommendation, if there are other classes of people, there is no standing for those whatsoever if we agree that you've got to enumerate them. Is that correct?

404 WILSON: There are some loopholes with the local governments. We're trying to get around this by eliminating all of those loopholes, where everything is put through a screen legislatively. SENATOR HILL: There are several more classes that are proposed for membership in the report, is that correct? WILSON: That's correct. 423 SENATOR SHOEMAKER: Regarding the fiscal effect, you said that it doesn't reach the appropriate percentage so far as the pension benefits are concerned. Isn't another aspect of that the additional salary load? Is it purely a pension issue? WILSON: What we would look at would be the impact on the trust fund of adding these 36 folks to a different level of benefit, which is the higher P and F benefit, and there are not enough of them to reach that threshold. This individual class of folks. CHAIR KERANS: Is retroactivity included here? WILSON: Yes, in the report that you have before you has retroactive to the date that the PERS amendment would suggest, August 1, 1990. That date is magical because it is the date of the overrides, where those other folks came in. > The veto overrides put in approximately 500 additional folks, and the effective date of that override and their entry into the system for current service forward only was August 1. CHAIR KERANS: And that is what your amendment would do dated March 18.

TAPE 38, SIDE B

048 CHAIR KERANS: What we have here then is a statutory fix for Juvenile Parole Officers that have moved in as a result of administrative action and now are going to go and say what you did was okay, and we're not going to tell you to back up. If we pass the bill. SENATOR HILL: I still don't understand how you can administratively include a list which has been excluded? If you had no authorization to do so, I'm not sure what it means in terms of those people's rights and privileges under PERS. I'm not sure what it means in terms of future decisions to admit people administratively. None of the other people currently in the system had the advantage to be included administratively. I'm sure they had a chance to be included, they

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would have jumped at the chance. Obviously, there was some lobbying going on with the board, and that bothers me. 082 CHAIR KERANS: Do you have some official documents which indicate what you did?

WILSON: It is not included in your packet, but there is a document. It was done administratively, the Board was aware of it, but did not take action on it.

CHAIR KERANS: Asks Ms. Wilson to provide those documents, and the minutes of the board meeting where it was introduced, so that the committee might get some idea of how this all occurred.

121 LEN MUNKS, ASSISTANT ADMINISTRATOR, CHILDREN'S SERVICES DIVISION (EXHIBIT D): > Details Exhibit D. > Testifies in favor of SB 138. CHAIR KERANS: There are two things that are operating here: these are the same folks that are supervised under close custody by people who have police status as far as their retirement is concerned who are in two other unions. MUNKS: That's correct. CHAIR KERANS: And then, we turn them out in the street and put them at liberty and turn them over to these folks, and they're not in the same status, even though their ability to cause grievous bodily harm is probably a little higher. MUNKS: I agree with that. CHAIR KERANS: The hard part is this bill says it "will make" the parole officers eligible for. "Will make" is the operative, and that's the problem we're dealing with. The really tough question - and the one we're going to stand on as far as the legislature is concerned, is KV in fact a measure which would have done this failed to pass. An administrative decision going 180 degrees in the opposite direction was taken. That's the sticking point. 178 MARIA KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON CITIES > Testifies in opposition of SB 138. > Counties are generally opposed to expansion of police and fire eligibility for benefits. The result is reduction of services when the costs for the employees is increased. > Counties are concerned about fiscal impact because they feel the change in status would soon impact county parole officers, which would result in a two-step cost to counties. > There is currently a bill before the Judiciary Committee which would have counties supervising CSD juvenile parole of ficers. In this case you would have state and county juvenile parole officers working side by side without equitable retirement benefits. PAUL SNYDER, ASSOCIATION OF OREGON COUNTIES > Testifies in opposition to SB 138.

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SENATOR HILL: Is there an Attorney General's letter about this? To give you the benefit of the doubt, were you interpreting the statute in a way that was just very broad and you had a basis for this?

WILSON: The issue was not put to the Attorney General. In answer to the second part of your question, I would say yes.

262 The meeting was adjourned at 4:26 p.m. Submitted by: Reviewed by:

Roberta White Annette Talbott Assistant Committee Counsel

EXHIBIT LOG:

A - Testimony on SB 138 - Brent Carlson - 7 pages B - Police/Fire Subcommittee Report - PERS - 14 pages C - Amendment to SB 138 - PERS - 1 pages D - Testimony on SB 138 - William A. Carey - 1 page E -

Preliminary Staff Measure Summaries on HB 2237, HB 2239, HB 2269 and SB 138 - Staff - 4 pages
F - Fiscal Analyses of HB 2237, HB 2239 and 2269 - Legislative Fiscal Office - 3 pages

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