

SENATE COMMITTEE ON LABOR

March 20, 1991 Hearing Room 50 03:00 p.m. Tapes 40 - 41
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB KINTIGH SEN. BOB SHOEMAKER
VISITING MEMBER: SEN. JEANNETTE HAMBY

STAFF PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE,
COMMITTEE ASSISTANT MEASURES CONSIDERED: SB 503 - ALLOWS CERTAIN
EMPLOYEES IN PERS TO OBTAIN CREDIT FOR SERVICE IN TEACHERS' RETIREMENT
SYSTEM - PUBLIC HEARING SB 583 - CHANGES MANNER OF COMPENSATING FOR
UNUSED SICK LEAVE FOR RETIREMENT PURPOSES - PUBLIC ~~~ HEARING SB
660 - PROVIDES FOR CREDIT IN PERS FOR THE TIME A WORKER RECEIVES
TEMPORARY TOTAL DISABILITY - PUBLIC HEARING SB 540 - RESTORES PRACTICE
OF AWARDING ATTORNEY FEES IF ATTORNEY WAS INSTRUMENTAL IN OBTAINING
COMPENSATION FOR CLAIMANT IN WORKERS' COMPENSATION CASE - 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 40, SIDE A WITNESSES: SENATOR JEANNETTE HAMBY PETE TAYLOR,
TIGARD SCHOOL DISTRICT TED KITTLESON, OSEA RCA MOORE, OREGON TRIAL
LAWYERS ASSOCIATION CHRIS MOORE, OREGON WORKERS' COMPENSATION ATTORNEYS,
MALAGON, ET.AL. KARL FREDERICK, ASSOCIATION OF OREGON INDUSTRIES DIANE
ROSENBAUM, OSIUC/AFL-CIO MARK WILLS, ASSOCIATION OF ENGINEERING
EMPLOYEES DON WENCE, ASSOCIATION OF ENGINEERING EMPLOYEES MARV OSTBERG,
ADULT AND FAMILY SERVICES Senate Committee on Labor March 20, 1991- Page
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KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION SHERYL WILSON, DIRECTOR,
PERS BOB ANDREWS, PERS FRED VAN NATTA, OREGON ENGINEERING EMPLOYEES
ASSOCIATION RAY BARNWELL, OREGON FIREEIGHTERS COUNCIL

001 CHAIR KERANS called the meeting to order at 3:16 p.m. SB 503 -
ALLOWS CERTAIN EMPLOYEES IN PERS TO OBTAIN CREDIT FOR SERVICE IN
TEACHERS' RETIREMENT SYSTEM - PUBLIC HEARING WITNESSES: PETE TAYLOR,
TIGARD SCHOOL DISTRICT SENATOR JEANNETTE HAMBY TED KITTLESON, OSEA SHERYL
WILSON, DIRECTOR, PERS BOB ANDREWS, PERS

010 PETE TAYLOR, TIGARD SCHOOL DISTRICT (EXHIBIT A) > Details Exhibit
A > Testifies in favor of SB 503. > Represents the State Department of
Education, teachers who left to teach in nearby systems, principals,
college professor at WOSC, and ESD employees. There are fewer than 20
people affected by this bill. SENATOR JEANNETTE HAMBY > Testifies in
favor of SB 503. TED KITTLESON, OSEA (EXHIBITS B) > Testifies in favor
of SB 503. BOB ANDREWS, PERS > Testifies that the facts as presented by
KITTLESON are correct. SHERYL WILSON, DIRECTOR, PERS > We have no
problem with this bill whatsoever. 101 ANNETTE TALBOTT, COMMITTEE
COUNSEL > Asks the PERS staff about the "-2" amendments, which would
delete the operative date and just leave the emergency clause. There are
people who might retire in July which would cause their benefits to be
calculated twice. Could you handle that administratively? WILSON: We
could be reasonably sure that we have all the names, thanks to Mr.
Kittleson. We would not have these names in our records because we would
not have the connection. CHAIR KERANS: How about if we put July 1
instead? WILSON: That would be very helpful. ___. 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 Committee on Labor March 20, 1991 - Page 3 TAPE 40, SIDE A

SB 503 - ALLOWS CERTAIN EMPLOYEES IN PERS TO OBTAIN CREDIT FOR SERVICE IN TEACHERS' RETIREMENT SYSTEM - WORK SESSION

116 MOTION: CHAIR KERANS moves that on Line 36, page 2, the date be changed from October 1 to July 1, 1991. VOTE: Hearing no objection, the motion carries. 127 MOTION: SENATOR SHOEMAKER moves SB 503 to the Ways and Means Committee with a "do pass" recommendation. SENATOR SHOEMAKER: Because the file indicates that there is no fiscal impact, could we dispense with the subsequent referral to the Ways and Means Committee and send it directly to the floor? CHAIR KERANS: I see a representative of the President's Office here, and we will ask her for her opinion. PATTY GREENFIELD, SENATOR KITZEIABER'S OFFICE: > There are no set rules on this procedure, but the concern is that if there are bills with \$5,000 Ways and Means referrals on them, and if we keep accumulating them, at some point we may have a large fiscal impact. > We don't have any problem with it - you can remove the subsequent referral. CHAIR KERANS: We will send it to the floor and let the Senate President decide what he wants done with it. GREENFIELD: That's fine. CHAIR KERANS: The shortest route would be the Ways and Means Salary Subcommittee, which would then allow the Committee Chairs to sign the Committee Report on the House side when it comes out, and not have to go through another subject committee on the House side.

165 VOTE: Hearing no objection, the motion carries. (SENATOR HILL was absent.)

TAPE 40, SIDE A

SB 540 - RESTORES PRACTICE OF AWARDING ATTORNEY FEES IF ATTORNEY WAS INSTRUMENTAL IN OBTAINING COMPENSATION FOR CLAIMANT IN WORKERS' COMPENSATION CASE - PUBLIC HEARING

WITNESSES: CHRIS MOORE, OREGON WORKERS' COMPENSATION ATTORNEYS,
MALAGON, ET.AL. KARL FREDERICK, ASSOCIATION OF OREGON INDUSTRIES
- DIANE ROSENBAUM, OREGON STATE INDUSTRIAL UNION COUNCIL/AFL-CIO

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ROBERT C.A. MOORE, OREGON TRIAL LAWYERS ASSOCIATION

183 ROBERT C.A. MOORE, OREGON TRIAL LAWYERS > Testifies in concurrence with Christopher Moore, Lobbyist for Workers' Compensation Attorneys. 186 CHRIS MOORE, OREGON WORKERS' COMPENSATION ATTORNEYS, AND MALAGON, MOORE & JOHNSON, ATTORNEYS, EUGENE (EXHIBIT E) > Details Exhibit E > This bill only reverses the Duane L. Jones Case. > There are still a great number of insurers and self-insurers who are ignoring the Duane Jones Case because they think it is such bad law. 262 KARL FREDERICK, ASSOCIATION OF OREGON INDUSTRIES > Testifies in support of SB 540 as it is written. 281 DIANE ROSENBAUM, OREGON STATE INDUSTRIAL UNION COUNCIL/AFL CIO (EXHIBIT F) > Details Exhibit F.

TAPE 40, SIDE A SB 540 - RESTORES PRACTICE OF AWARDING ATTORNEY FEES IF ATTORNEY WAS INSTRUMENTAL IN OBTAINING COMPENSATION FOR CLAIMANT IN WORKERS' COMPENSATION CASE - WORK SESSION 380 MOTION: SENATOR SHOEMAKER moves SB 540 to the floor with a "do pass" recommendation.

VOTE: Hearing no objection, the motion carries.

TAPE 40, SIDE A

SB 583 - CHANGES MANNER OF COMPENSATING FOR UNUSED SICK LEAVE FOR RETIREMENT PURPOSES - PUBLIC HEARING

WITNESSES: MARK WILLS, ASSOCIATION OF ENGINEERING EMPLOYEES DON WENCE, ASSOCIATION OF ENGINEERING EMPLOYEES MARV OSTBERG, ADULT AND FAMILY SERVICES, STATE EMPLOYEE KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION SHERYL WILSON, DIRECTOR, PERS BOB ANDREWS, PERS

411 MARK WILLS, ASSOCIATION OF ENGINEERING EMPLOYEES (EXHIBIT G) > The Association of Engineering Employees represents approximately 1,200 employees working in the Department of Transportation, Parks and Recreation, and Forestry.

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> Details Exhibit G.

TAPE 41, SIDE A

001 WILLS, CONTINUED > Continues to detail Exhibit G. 033 SENATOR SHOEMAKER: Does the money match method, which uses the account balance of the employee's contribution - is that dollar contribution by the employee? That is matched by the money which the employer has contributed. If that comes out to be more than the annuity method or the formula method, then you can go with the money matching. Is that correct? WILLS: Yes. SENATOR SHOEMAKER: What is the relevance of unused sick leave to money contributions? What is the logical reason to include unused sick leave, which is not money you have put in, it's some entitlement you've gotten - what is the logic of coupling that with money you have put in. WILLS: Under the first two options, sick leave is figured in. CHAIR KERANS: You are looking for equity for all options, is that correct? WILLS: That is correct. SENATOR SHOEMAKER: Well, the final monthly average salary has a factor of unused sick leave in terms of calculating the compensation you have received. The compensation you have received includes sick leave - that is part of your compensation. Whereas money you have put in is just money you have put in, so I don't see why you logically couple an unused employee benefit to money you have contributed. So I'm just having trouble with your logical reason why we should include money match. So before you go on to explain how you do it, I need to understand why you think we should. WILLS: The only reason I can give is the fair utilization of sick leave across all retirement benefits. > Continues to detail Exhibit G. 102 CHAIR KERANS: How many folks are we talking about? Are there vast numbers out there who would be impacted by this measure? WILLS: No, the most people qualify under the full formula plan. The number of employees who qualify under the money match is relatively small. It is usually the career, 25-30 year employees who qualify under the money match. CHAIR KERANS: In

the overview presented by PERS, 29% of the employees would

qualify under money match. 194 SENATOR SHOEMAKER: As I look at the choices of three different calculations for retirement benefits, two of them calculate your benefit based upon your value to the organization

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in terms salary and benefits over a 36 month period. Then PERS says "but in no event less than" the amount of money you've put into the system, matched by PERS. That's a sort of a floor, if you will, and you can't get less than that. You're always going to get what you put in terms of dollars you put in plus the dollars they match it. You know you're going to get that. Another method gets more than that by calculating your salary and the unused benefits and everything, and you're entitled to that greater amount, but the money match is kind of a floor. That seems to me to be the logical reason why they have the money match in there. If that is true, there isn't a logical reason for supplementing the money match by one of the factors that's in the formula. It's an apples and oranges mix. It doesn't make sense to me.

SENATOR HILL: What determines which method a person's retirement benefits are figured? Does the person get to choose which he/she wants?

228 SHERYL WILSON, DIRECTOR, PERS: > No, the law provides that you will receive the highest of the three methods of determining pension benefits. 245 CHAIR KERANS: Where does the money match come from, and what material difference does it make. Why do we have the money match formula, and is it ever higher than the other two? WILSON: Yes, in 29% of the cases it is. And that's why 29% of the folks are retiring under that formula. These are usually people who are long serviced.

283 CHAIR KERANS: What do we mean by the term contribution?

WILSON: > That is the employer contribution, which is decided by the board on the basis of the actual evaluation every two years. > The bill would affect more than just the 29% of the employees who qualify for the money match formula, because this would equalize all three formulas to the full formula level, so 45% of our people are retiring under the 1 % - they are going to get a little more, and the money match people are going to get a good deal more. > The legislation would affect 45% plus 29% for a total of 74% of all retirees.

CHAIR KERANS: And the employer contribution rates would increase, according to your actuary, for the state would be a .75 increase, school districts .73 and local governments .34?

WILSON: That's correct.

SENATOR HILL: That translates into \$20.6 million this biennium for state agencies?

WILSON: Yes sir.

328 MARV OSTBERG, ADULT AND FAMILY SERVICES (EXHIBIT EI): > Details Exhibit H. > Testifies in favor of SB 583.

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377 SENATOR SHOEMAKER: What form did the promises of sick leave credit take over those twenty-two years of service.

OSTBERG: Mainly through my supervisors - I didn't spend any time with personnel.

SHOEMAKER: My main concern is whether these promises were made in an official way in writing, or if it was something you had a right to rely upon.

OSTBERG: There were some PERS bulletins which told us that this would be a factor. I don't believe anywhere that it was stated that some of us would not benefit from it.

TAPE 40, SIDE B

003 KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION: > Concerned with fiscal impact for the school districts, especially in view of the passage of Ballot Measure 5. > Testifies in opposition to SB 583. > School employees are unique in that schools are required to allow the use of sick leave for PERS benefits. 016 MARIA KELTNER, ASSOCIATE OF OREGON COUNTIES/LEAGUE OF OREGON CITIES: > Concerned with fiscal impact for the counties and cities. > Testifies in opposition to SB 583. , TAPE 40, SIDE B SB 660 - PROVIDES FOR CREDIT IN PERS FOR THE TIME A WORKER RECEIVES TEMPORARY TOTAL DISABILITY - PUBLIC HEARING WITNESSES: FRED VAN NATTA, ASSOCIATION OF ENGINEERING EMPLOYEES OF OREGON RAY BARNWELL, OREGON STATE FIREFIGHTERS COUNCIL MARIA KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON CITIES KAREN HAFNER, OREGON SCHOOL BOARD ASSOCIATION SHERYL WILSON, DIRECTOR, PERS BOB ANDREWS, PERS

033 FRED VAN NATTA, ASSOCIATION OF ENGINEERING EMPLOYEES OF OREGON (EXHIBIT 1): > Testifies in favor of SB 660. > Details Exhibit I. > This bill treats an employee who is off work on temporary total disability under workers' compensation as if he/she were kept on the payroll for the purposes of calculating their retirement. Payments from the employer and the employee to PERS would continue as if the employee remained on the public payroll with full salary. > For purposes for calculating the length of service, the time the employee was off duty on - 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 Committee on Labor March 20, 1991- Page 8

temporary total disability is considered working time. 062 RAY BARNWELL, OREGON STATE FIREFIGHTERS COUNCIL > Testifies in favor of SB 660. 109 MARIA KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON CITIES > Testifies in opposition to SB 660. 117 KAREN HAFNER, OREGON SCHOOL BOARDS ASSOCIATION > Testifies in opposition to SB 660. > Does not have hard data on what the actual cost would be to schools, and this concerns her. 152 CHAIR KERANS: Do you have any way to calculate the fiscal impact? BOB ANDREWS, PERS: As far as PERS is concerned, there is no impact on the trust and employer contributions to the trust. We would have some administrative costs in implementing this, but as far as change of employer contribution rate, it would be neutral. SENATOR HILL:

Do contributions currently cease when employees are off on a temporary total disability? ANDRhVVS: They may or may not. The individual may be off on a temporary total disability, and they may be at the same time drawing a supplemental payment through workers' compensation, so there could be contributions flowing. > This bill requires both contributions to continue and years to service to accrue. > The issue is at the local level, not with the trust - for the trust it is transparent.

236 TALBOTT: For the committee's information, there is a handout in your file from the Workers' Compensation Division, Research Division, which gives you a breakdown of how long claims are open. (Exhibit K.)

279 ANDREWS: As we see the bill administratively and actuarially, there is a possibility where an individual may qualify, or be able to exercise a disability retirement and qualify for disability retirement allowance, and we see the bill as written, could also accrue service credit, and there would be payments required of the employer. We're suggesting that they would not be able to have both. > If people retired and continued to accrue service credits, there could be a great fiscal impact. That's the concern we have. > This would just prevent the double dipping. 303

VAN NATTA: It is my recollection that when one is on temporary total disability, the duration - whether you retire or not - is not relevant to your receipt of temporary total disability. It is driven medically by a determination of when you are medically stationary. It is not an incentive to continue to draw temporary total disability because your temporary total disability is driven by your medical condition.

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325 SENATOR SHOEMAKER: Surely once one has retired you cannot continue to draw temporary total disability benefits. TALBOTT: I believe that Mr. VanNatta is correct in that the definition still is under the issue of your medical condition. You could still intend to go back to work in another job and retire from your previous employer. 357 The meeting adjourned at 4:35 p.m.

Submitted by: Reviewed by:

Roberta White Annette Talbott Assistant Committee Counsel

EXHIBIT LOG:

A - Testimony on SB 503 - Pete Taylor - 1 page B - Testimony on SB 503 - Ted Kittleson - 1 page C - Testimony on SB 503 - Bob Taylor - 1 page D - Testimony on SB 503 - Cy Butterfield - 1 page E - Testimony on SB 540 - Chris Moore - 60 pages F - Testimony on SB 540 - Diane Rosenbaum - 1 page G - Testimony on SB 583 - Mark Wills - 8 pages H - Testimony on SB 583 - Marv Ostberg - 1 page I - Testimony on SB 660 - Fred VanNatta - 1 page J - Proposed amendment to SB 660 - PERS - 1 page K - Time Lag from Date of Injury to End of Time Loss - Research and Analysis Section, Department of Insurance and Finance - 1 page L - Staff Measure Summaries on SB 503, SB 540, SB 583, and SB 660 - Staff - 4 pages M - Fiscal Analysis of SB 503, SB 583 and SB 660 - Legislative Fiscal Office - 3 pages

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