FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: SB 560 - 15**
79th Oregon Legislative Assembly – 2017 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by: Theresa McHugh
Reviewed by: John Borden
Date: April 17, 2017

Measure Description:
Redirects employee contributions made by member of system from individual account program to account to be used to pay for member's pension or other retirement benefits accrued on or after January 1, 2018.

Government Unit(s) Affected:
Public Employees Retirement System (PERS)

Summary of Expenditure Impact:
PERS anticipates agency costs of $4.7 to $4.9 million in 2017-19. Other costs and/or savings are indeterminate.

Analysis:
Senate Bill 560 makes changes to PERS, impacting both the pension plan and the Individual Account Program (IAP). The measure redirects required employee contributions from a member's IAP to a new account and uses the funds in the new account to offset the employer's costs for member pensions accrued on or after the date of the redirection. The measure prohibits employers from making contributions on behalf of employees after January 1, 2018 establishes a $100,000 cap on the amount of specified members' salaries for any calendar year beginning in 2018 for purposes of calculating a member's final average salary. In addition, the measure directs the PERS Board to recalculate employer contribution rates as soon as practicable to reflect the savings attributable to the proposed measure. The corrected employer rates are to be effective July 1, 2017, which precedes benefit changes by six months. The measure's emergency clause allows the PERS Board to begin administrative preparations to implement benefit and employer rate changes prior to the January 1, 2018 operative date and allows for expedited judicial review.

The PERS Board adopted 2017-19 employer contribution rates are under an administrative collar (cap) that limits the biennium to biennium increases. Unless otherwise directed by statute, the current rate collar policy of the PERS Board could delay employer contribution savings until the 2021-23 biennium. In other words, as currently written, the language in this measure directing the PERS Board to recalculate employer rates for the 2017-19 biennium is insufficient to ensure the measure's savings are captured in the 2017-19 biennium.

Salary Cap
Currently, the final average salaries for Tier Two and Oregon Public Service Retirement Plan (OPSRP) members are capped under federal law. The current cap is indexed and will be $270,000 for 2017. There is no cap on salary for purposes of determining the final average salary for Tier One members.

According to independent actuarial analysis, the change to the final average salary normal cost rate for employers statewide could be reduced by 1.30% and the Unfunded Accrued Liability rate by 1.55% for a total uncollared rate reduction of 2.85%. The average system-wide employer rate would decline from 29.08% to approximately 26.23%.

The measure would have a disproportionate impact on PERS members, both active and new members, with PERS-eligible compensation of $100,000 or more. The measure only impacts the Full-Formula calculation and not Money Match. The $100,000 limit is not indexed to inflation and therefore, over time, will impact an increasing number of OPSRP members.

A preliminary estimate of system wide savings for the 2017-19 biennium is $437.2 to $582.9 million total funds; however, savings may be reduced or eliminated if the measure is successfully challenged in court, modified through collective bargaining or grievance arbitration, or subsumed by the PERS Board rate collar policy. Potential savings could also be impacted by the passage of other PERS reform measures.

Re-Direct
The redirection of employee contributions, whether employee or employer-paid, would be a new revenue source, plus associated market returns, for the funding of pension benefits earned by active members going forward. Employers could no longer make employee contributions on behalf of employees. The redirect would impact all active members; however, the IAP is much more important for funding the retirement of OPSRP members. All active member's IAP would be lessened as no new contributions would be made to the account. IAP balances would continue to earn the market rate of return (positive or negative).

LFO notes that state government collective bargaining agreements, with the exception of the Service Employees International Union agreement discussed below, contain the following clause:

> In the event that the State's payment of a six percent (6%) employee contribution under Section 1 or under Section 2, as applicable, must be discontinued due to a change in law, valid ballot measure, constitutional amendment, or a final, non-appealable judgment from a court of competent jurisdiction (other than in the PERS Litigation), the State shall increase by six percent (6%) the base salary rates for each classification in the salary schedules in lieu of the six percent (6%) pick-up. This transition shall be done in a manner to assure continuous payment of either the six percent (6%) contribution or a six percent (6%) salary increase.

It is unknown whether local government PERS employers have similar provisions in labor agreements. If this clause were to be implemented for state agencies, there would be no savings from the re-direct and the cost would need to include additional payroll taxes.

Costs and/or savings that would result from the redirect provisions of the measure are indeterminate. Redirect savings, if any, could be reduced or eliminated if the measure is successfully challenged in court, modified through collective bargaining or grievance arbitration, or subsumed by the PERS Board rate collar policy. Potential savings could also be impacted by the passage of other PERS reform measures.

Administrative and Other Costs
In addition, some state and local governments raised the issue of both potential costs and savings if a significant number of employees who are eligible to retire do so because of the measure. They note that the new salary cap for purposes of calculating benefits could make it difficult to refill some positions.

PERS administrative costs, funded from transfers from earnings on the invested funds, are estimated at $4.7 million for information technology system changes and $190,000 in potential litigation costs. The Oregon Judicial Department could have costs beyond what is currently budgeted for the appointment of a Special Master, if an expedited judicial review is sought.

Given the budgetary issues associated with the measure, it is recommended that it be referred to the Joint Committee on Ways and Means for further consideration.