Chair:
Sen. Kathleen Taylor

Vice-Chair:
Sen. Tim Knopp

Staff:
Debra Maryanov, LPRO Analyst
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Members:
Sen. Sara Gelser
Sen. Bill Hansell
Sen. Laurie Monnes Anderson

79th LEGISLATIVE ASSEMBLY
SENATE COMMITTEE ON WORKFORCE
State Capitol
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Salem, OR 97301
503-986-1503

Dear Colleagues:

The Senate Committee on Workforce (SWF) will initiate a conversation about the Public Employee Retirement System (PERS) this session and invites your proposals for viable options to address its rising costs and long-term sustainability.

The issues concerning PERS are complex, the Chair and the Committee recognize the challenge of reviewing proposals adequately in the limited time available. To maximize the state's resources and ensure transparency of the process, proposals will be evaluated using the following criteria. Please review the endnotes for explanations of each criterion.

- Constitutionality[1]
- Order of Magnitude in Savings[2]
- Actuarial Soundness[3]
- Impact on Employer Contribution Rates[4]
- Impact on State and Local Budgets[5]
- Impact on Public Employee Benefits[6]
- Impact on Public Employee Workforce[7]
- Equitability of Costs and Benefits to Public Employees[8]
- Administrative Feasibility[9]

The Committee will accept proposals submissions until February 28, 2017. If available, any legal opinion or actuarial analysis concerning the proposal should be included with the submission. In addition, all submissions should include any information available that is relevant to the Committee's criteria, and authors should be prepared to answer questions about the proposal related to those criteria at a public hearing. Professional staff, including but not limited to individuals from Legislative Counsel, Legislative Fiscal, and PERS, will analyze each proposal under those criteria and provide the Committee with a summary for its consideration.

For more information and to submit proposals, contact Debra Maryanov, Legislative Analyst for the Committee on Senate Workforce, debra.maryanov@oregonlegislature.org, (503) 986-1503.

Sincerely,

Senator Kathleen Taylor
Chair

Senator Tim Knopp
Vice-Chair

[1] In the most recent Supreme Court case addressing PERS, *Moro v. State*, 357 Or. 167 (2015), the Court changed its prior contractual rights analysis to allow prospective changes to benefits in all PERS tiers, as long as accrued benefits are protected, in context of the 2013 COLA bill. It also upheld the elimination of tax benefit for certain out-of-state retirees.

Prior to *Moro*, the Supreme Court reviewed other changes to PERS in the following cases:

Taylor v. Mult. Co. Dep. Sher. Ret. Bd., 265 Or. 445 (1973), *see also McHorse v. Portland General Electric*, 268 Or. 323 (1974), *Rose City Transit v. City of Portland*, 271 Or. 588 (1975), *Gantenbein v. PERB*, 33 Or. App. 309 (1978), *Bryson v. PERB*, 45 Or. App. 27 (1979). Found contractual right to pension benefits that can arise prior to completion of service.

Hughes v. State of Oregon, 314 Or. 1 (1992). Found contractual right to accrued and accruing benefits in the context of state income taxation of PERS benefits.

Oregon State Police Officers Association (OSPOA) v. State of Oregon, 323 Or. 356 (1996). Held that provisions of Ballot Measure 8 (1994) (elimination of pickup, elimination of 8% guarantee, elimination of use of sick leave) were void as a violation of the Contracts Clause of the U.S. Constitution.

Strunk v. Public Employees Retirement Board, 338 Or. 145 (2005). Allowed redirection of employee contributions to IAP. Upheld 8% guarantee. Held that freezing the COLA to collect overpayments was a violation of contract rights.

Arken v. City of Portland, 351 Or. 113 (2011). Allowed recovery of overpayments based on over-crediting from certain retirees.

[2] From 1970-2015, investment income provided 73.4% of total PERS' revenues, with member contributions providing 5.5% and employer contributions providing 21.1%. On 12/31/15, the total actuarial liability for PERS was $76.2 billion. The unfunded actuarial liability (UAL) was $21.8 billion (excluding side accounts) and $16.2 billion (including side accounts). On that scale, viable proposals must generate billions of dollars in savings to move the needle.

[3] Actuarial soundness means that, over the time period considered, the projected employer contributions and investment income are adequate to fully fund the system.

[4] Employer contribution rates are calculated under a rate collar (cap) to limit the biennium-to-biennium increase in the UAL rate for a given rate pool and spread large rate increases over time. A November 2016 financial modeling shows that, if actual investment returns are near assumption, prior shortfalls require base contribution rate increases of approximately 4% of payroll in each of the next three biennia.

The Committee will consider potential impacts on normal costs and the unfunded actuarial liability for Tier 1, Tier 2, and OPSRP rates. The Committee will also consider the relative impacts to the state agency rate, school district rate, and rate of all other PERS employers.

[5] The Committee will consider potential cost savings and cost shifts that may result from proposals. For example, a decrease in employee benefits may reduce PERS employer contribution rates but increase those employers' costs in subsequent collective bargaining.

[6] The Committee will consider the potential prospective and retroactive impacts on benefits for Tier 1, Tier 2, and OPSRP employees.

[7] The Committee will consider the potential impact on surges in retirement and employers' ability to recruit and retain employees. Thirty to forty percent of PERS members are currently eligible to retire.

[8] The Committee will consider disparities among employees with respect to shouldering costs and receiving benefits of PERS.

[9] The Committee will consider whether the agency can administratively implement the proposal (*e.g.*, whether existing PERS systems can adapt to changes).