Analysis

Public Employees Retirement System

SB 1566 (2018) Statutory Report

Analyst: John Borden

Request: Acknowledge receipt of a report on SB 1566 (2018).

Analysis: The Public Employee Retirement System (PERS) is directed by statute to report during each regular session to the Joint Committee on Ways and Means on the status of the Employer Incentive Fund, School Districts Unfunded Liability Fund, and the Unfunded Actuarial Liability Resolution Program that were established by SB 1566 (2018). SB 1049 (2019) made technical statutory changes to SB 1566, as well as provided funding for the Employer Incentive Fund and the Unfunded Accrued Liability Resolution program (discussed below).

Background

Employers have the option to make voluntary lump-sum payments to PERS that are in addition to the employer's required contribution. With few exceptions (i.e., payment of transition liability), lump-sum payments are deposited into "side accounts," and are used to offset a portion of the contributing employer's PERS contribution rate as of a date selected by the employer or July 1 of the year following publication of the actuarial valuation for the year in which the additional deposit is made, according to an amortization schedule. Side account balances are never entirely utilized in a single biennium. Employers without a side account pay the employer contribution rate without any offset.

Side accounts, are tracked separately from other employer reserves in the Oregon Public Employees Retirement Fund, are assets of the PERS system and reduce a participating individual employer's net unfunded pension actuarial accrued liability. Once deposits are made into side accounts, employers are unable to withdraw or repurpose the funds. Employees have no vested interest in side accounts as they are an asset of a participating employer not employee. The state also has no ability to access (or re-appropriate) side account balances, as they are held in statutory trust accounts.

School Districts Unfunded Liability Fund

SB 1566 established a School Districts Unfunded Liability Fund (SDULF). The PERS Board is required to create a school districts pooled side account and proportionately distribute the side account among all school districts as an offset to employer contribution rates. The fund was to be capitalized with an estimated $115 million in one-time funding identified in SB 1529 (2018). Additional revenue transfers that may become available include excess revenues from debt collection, capital gains, estate taxes, and interest on unclaimed property.

The SB 1529 or tax repatriation revenue estimate was redirected to the General Fund based on actions of the Legislature during the Second Special Session to rebalance the state budget (HB 4163 (2020). Additionally, the Department of Administrative Services reports that transfers related to excess debt collection, capital gains, and estate taxes are not expected this biennium. The School Districts Unfunded Liability Fund did receive $32.9 million in transfers from the Department of State Lands from interest on unclaimed property (January 2019 for $11.5 million and January 2020 for $21.4 million with no transfer in January of 2021); however, of this amount all but $369,751 in interest earnings were redirected to the General Fund based on actions of the Legislature during the Second Special Session to rebalance the state budget [HB 4163 (2020)]. For the fund, the PERS Board does would not deploy any deposits until a $500 million threshold is obtained as this is the minimum currently required to provide a one percent offset to members of the school district pool. The following table summarizes the SDULF revenue for the current 2019-21 biennium.

SDULF Revenue [No sunset]	**Measure**	**Sunset/Limit**	**2019-21 Revenue Estimate**
82% of federal decoupling revenue	HB 1529 (2018)	One-time	--
Unclaimed Property Transfer	HB 1566 (2018)	01.02.2027	--
Excess Capital Gains	HB 1566 (2018)	CY 2019/2020/2021	--
Excess Estate Tax	HB 1566 (2018)	CY 2019/2020/2021	--
Excess Debt Collections	HB 1566 (2018)	12.31.2024	--
Interest Earnings	HB 1566 (2018)	--	$369,751
Total Estimate Revenue			$369,751

Employer Incentive Fund

SB 1566 established an Employer Incentive Fund (EIF) to be used for a 25% match program for employer side accounts, which are for pre-paid employer contributions held in trust by PERS. Once deposited, side accounts funds may not be withdrawn except for the payment of employer contributions. All PERS entities, including school districts, community colleges, and public universities, are eligible to participate in the matching funds program. Employers participating in either round had to meet the following criteria: (a) deposits could only be cash and not from borrowed funds; (b) the minimum contribution of $25,000; (c) no transition liability; and (d) must participate in the Unfunded Actuarial Liability Resolution Program (discussed below).

The fund was to be capitalized with an estimated $25 million in one-time funding from SB 1529 (2018). As noted previously, the SB 1529 or tax repatriation revenue estimate was redirected to the General Fund based on actions of the Legislature during the Second Special Session to rebalance the state budget [HB 4163 (2020)]. The EIF also received a $100 million General Fund appropriation [SB 1049 (2019)], a portion of which was later disappropriated ($35.3 million)[SB 5723 (2020)], and dedicated sports betting Lottery Funds transfer (from the Department of Administrative Services - Administrative Service Economic Development Fund). Only the General Fund appropriation and a forecasted $3.3 million of sports betting revenues are expected to be received during the 2019-21 biennium, as summarized in the following table.

EIF Revenue [Sunset: July 1, 2042]	**Measure**	**Sunset**	**2019-21 Revenue Estimate**
18% of federal decoupling revenue	HB 1529 (2018)	One-time	--
Sports Betting (Lottery Funds)	SB 1049 (2019)	12.31.2041	$3,301,000
State General Fund Appropriation	SB 1049 (2019)	One-time	$64,751,802
Interest Earnings	HB 1566 (2018)	07.01.2042	--
Total Estimate Revenue			$68,052,822

For the 2019-21 biennium, the EIF is expected to increase employer side accounts by $342.4 million, which includes $272.8 million in employer contributions, $64.8 million in state General Fund match, and $4.9 million for payment of transition liability payments. This is based on 89 employers participating in the program, which include: cities (23); counties (8); special districts (22); charter schools (5); Educational Service Districts (3); school districts (26); community colleges (1); and state agencies (1). The program may continue into the future pending additional state matching funds becoming available. At the end of the inaugural EIF cycle, there were 44 employers with $148 million in employer contributions on a waitlist pending state matching funds- of these employers, 12 opted to make payments without the guarantee of matching funds resulting in additional $64.1 million in lump sum payments.

Employer contributions and matching funds were not included in 2021-23 preliminary or advisory employer contribution rates (winter 2019), but lump sum payments made by December 2019 were included in 2021-23 Board adopted employer contribution rates (fall 2020). The remaining lump sum payments made in 2020 will be included in the upcoming advisory employer contribution rates (fall 2021).

Of note is PERS has done an exceptionally good job with the implementation of the EIF program.

Unfunded Accrued Liability Resolution Program
The measure creates an Unfunded Actuarial Liability Resolution Program (UALRP) to assist an employer in the development of a plan to improve the employer's funded status. PERS has, after an initial slow start, completed implementation of this program. PERS employers had to meet the following criteria to participate in the UALRP: (a) identify their combined valuation payroll; (b) UAL amount and funded status using existing resources available online; and (c) use the web-based PERS' Employer Rate Projection tool to review the affect their intended lump sum payment and potential EIF match would have on their rates and contributions projected out over the next ten biennia. PERS completed the acquisition and deployment a more comprehensive and advanced Employer Rate Projection Tool that was funded as part of SB 1049 (2019). PERS is also now able to provide UAL information to state government agencies and entities as well as first of several guides entitled: "Guide to understanding your contribution rates."

Side Account Lump-Sum Payments
Apart from the reporting requirement, SB 1566 allows an entity making a $10 million or more lump-sum cash payment into a side account to choose an amortization period of six years, 10-years, 16-years, or 20-years. There is also the option to defer when the side account takes effect; however, these become non-EIF matched side account contributions. After non-EIF contributions totaled $107 million last year, there have been no further lumpsum payments under this provision of the law.

Cumulative Impact
Side account contributions increase assets, in comparison to liabilities as a result reducing the UAL, which improves the funded status of PERS. The cumulative impact to side accounts and the UAL due to the passage of SB 1566 (2018) and SB 1049 (2019) has been material. Since the passage of these measures, and to-date, there has been over $549.2 million in side account assets added to the PERS system, for the $337.6 million for employer side accounts and their EIF matches, $40.6 million in transition liabilities, and $107 million from alternative amortization methods not included in EIF, and $64.1 from waitlisted employers that paid but didn't receive state match.

Legislative Fiscal Office Recommendation: Acknowledge receipt of the report.

Request: Report on the implementation of Senate Bill 1566 (2018) by the Public Employees Retirement System.

Recommendation: Acknowledge receipt of the report.

Discussion: The Public Employees Retirement System (PERS) is required to report to the Joint Committee on Ways and Means every regular legislative session on the status of the Employer Incentive Fund, School Districts Unfunded Liability Fund and the Unfunded Actuarial Liability Resolution Program established by Senate Bill 1566 (2018).

Employer Incentive Fund (EIF)
The Employer Incentive Fund provides a match of up to 25.0 percent of contributions a PERS employer makes to fund a side account. As originally established by Senate Bill 1566 (2018), the EIF was funded with a portion of the proceeds from corporate repatriations established by Senate Bill 1529 (2018). The 2019 Legislature appropriated $100 million for the fund and also dedicated proceeds from the Oregon Lottery's sports betting program to the fund.

As a result of the August 2020 Special Session, the corporate repatriation proceeds originally allocated to the EIF to the General Fund were diverted, and the $100 million appropriated for the EIF was reduced to $64.8 million, all in an effort to rebalance the state's 2019-21 budget. The sports betting portion of these reductions was maintained as an ongoing revenue source for the EIF. The 2021-23 Governor's Recommended Budget for PERS contains $19.3 million from sports betting for the Employer Incentive Fund.

In 2019-21, 89 PERS employers have contributed a total of $376.9 million to establish side accounts and pay off transition liabilities and received matching contributions of $64.8 million from the EIF:

Contribution Type	**Amount**
EIF Match	$64.8
Matched Contributions	
Side Accounts	$272.8
Unmatched Contributions	
Side Accounts	$63.5
Transition Liabilities	$40.6
Total Impact	**$441.7**

To note in the above table, transition liabilities are costs from when employers joined PERS or joined a PERS rate pool and are typically amortized over a number of years; employers needed to pay these costs prior to establishing a side account and receiving matching funds from the EIF.

PERS considers its first round of funding from the EIF to be successful in increasing system assets and raising employer awareness of their funded status and how to manage their contributions. The agency is planning for future rounds of funding and on further developing the program.

School District Unfunded Liability Fund (SDULF)
The SDULF creates a fund to establish a shared side account for school districts, which is funded with excess estate taxes, capital gains taxes, and interest on unclaimed property and debt collections, all with certain limitations. Side accounts are employer contributions that prepay the employer's unfunded actuarial liabilities. Side accounts are attributable only to the employer (or employers) who have made the contribution.

Funding for the SDULF originally included revenues from corporate repatriation proceeds. Similar to the EIF, the repatriation proceeds and $33.1 million in the fund were redirected by the Legislature in the August 2020 Special Session to rebalance the state's 2019-21 budget. The 2021-23 Governor's Budget includes $33.2 million for the SDULF from excess estate taxes estimated to come in during the 2021-23 biennium.

School district rate relief through the SDULF will not provide significant rate relief to employers without additional resources in the fund. As of December 31, 2019, PERS estimates it would take $560 million to see a 1.0 percent reduction in the rates school districts have to pay. PERS is planning to wait to establish the side account for the school districts until it reaches that approximately 1.0 percent level of rate relief.

Unfunded Actuarial Liability Resolution Program (UALRP)
The UALRP requires all PERS employers to develop funding plans to manage their unfunded actuarial liabilities (if any) and their PERS employer contribution rates. In order to meet the timelines established in Senate Bill 1566 (2018) to create the program, PERS relied on its existing employer rate projection tool and a web application to provide educational resources to employers who were seeking to understand their employer rates. PERS has since enhanced the program by procuring a more robust and flexible actuarial projection tool that will be deployed on its website in June 2021 and has provided detailed additional educational resources for employers seeking to better understand how their employer rates are calculated. PERS is working with its Employer Advisory Group to refine the program and further develop the form and content of the employer funding plans.

Oregon

Kate Brown, Governor

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The Honorable Senator Betsy Johnson, Senate Co-Chair
The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Joint Committee on Ways and Means
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Nature of the Request

As required by Senate Bill 1566 (2018), PERS is providing the status of the Employer Incentive Fund, the School Districts Unfunded Liability Fund and the Unfunded Actuarial Liability Resolution Program as of December 2020.

Agency Action

School Districts Unfunded Liability Fund

The School Districts Unfunded Liability Fund (SDULF) is a pooled side account intended to provide rate relief to all public school districts, public charter schools, and education service districts. The SDULF has five defined revenue sources: interest on unclaimed property from the Department of State Lands; proceeds from debt collection; proceeds from estate taxes; proceeds from capital gains taxes; and a one-time payment from repatriated corporate taxes. These revenue sources are prescribed in Senate Bill 1529 (2018).

During the Second Special Legislative Session of 2020, the Legislature passed House Bill 4304 as well as Senate Bill 5723. These bills redirected revenue streams previously reserved for SDULF and withdrew $33.1 million held in the SDULF from unclaimed property proceeds and interest. Governor Brown vetoed sections 18, 18a and 18c of HB 430419, partially restoring the revenue streams of the SDULF. However, the provisions redirecting the one-time infusion of funds from repatriation of corporate taxes and the $33.1 million previously held were not vetoed, and became law.

Per SB 1566 (2018), revenues from Capital Gains and Estate taxes are only expected during odd years through 2023. PERS did not receive transfers in either 2019 or 2021. The Office of Economic Analysis estimates that a transfer of $33.251 million from Estate taxes will occur in 2023. There is no transfer expected from Capital Gains during this year.

After consultation with Department of State Lands and the Statewide Accounts Receivable Management team, there are no expected transfers from interest on unclaimed property nor proceeds from debt collection in 2021. Interest on unclaimed property is eligible for potential annual transfers through 2027, while proceeds from Debt Collection are eligible for transfer to the SDULF annually through 2024.

PERS does not anticipate a distribution from the SDULF during this biennium. Per the 2019 rate setting valuation, a 1% rate offset for the School Districts Pool would require a minimum lump sum payment of $560 million[1].

Employer Incentive Fund

The Employer Incentive Fund (EIF) provides a 25% match to employers making a lump sum payment from non-borrowed funds of at least $25,000 on or after June 2, 2018. This lump sum deposit may be used to establish a new side account or as a payment into an existing side account and is subject to the limitations stated in the statute. Senate Bill 1049 removed provisions of the EIF in Senate Bill 1566, which had imposed timeline restrictions on the application period. It also provided a $100 million appropriation from the General Fund for matching funds.

During the Second Special Legislative Session in August 2020, the Legislature passed HB 4304 and SB 5723 redirecting sports betting revenue and the 18% transfer of proceeds from repatriated corporate income. These bills also reduced the $100,000,000 appropriation for EIF by $35,248,198 thereby reducing the EIF appropriation to $64,751,802. Governor Brown vetoed the HB 4304 sections 15, 15a and 16 restoring the allocation of sports betting proceeds for EIF funding.

The first application cycle for EIF closed on December 1, 2020. 89 employers participated in the program with 95 side accounts receiving EIF matches.[2] The EIF program added $377,595,062.20 to the PERS system, this total represents employer side account and transition liability payments as well as the EIF match.[3] EIF was a very successful and popular program, which increased awareness of employer contribution rates and side accounts. Additionally, the EIF incentivized employers to proactively contribute an additional $64,051,839.20 in side account and transition liability payments to the EIF program despite not receiving matching funds. [4]

The largest count of EIF matches were made to School Districts (26 EIF matches). In addition, 23 EIF matches were given to cities, 22 to Special Districts, 8 to counties, 5 to Charter Schools, 3 to Education Service Districts, 1 to a Community College and 1 to a State Agency (Oregon State University).

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[1] Assumes a 20 year amortization. The lump sum payment required to provide an offset will increase as the School District Pool's combined valuation payroll increases. The side account rate offset is calculated by dividing the total lump sum payment by the total combined valuation payroll by an amortization factor.

[2] Six employers received 2 EIF matches, 2 of which had UAL that exceeded 200% of their valuation payroll.

[3] $35,170,251 in transition liability payments were received after SB 1566 was established to insure eligibility for EIF; $272,807,856.40 was received to establish side accounts and $64,751,661.80 in EIF funds were matched to these payments; and $4,865,293 were received by EIF employers to pay off transition liability payments in addition to their side account payments.

[4] $63,486,334.20 in lump sum payments were made by EIF waitlisted employers or non-waitlisted employers through December 2020. An additional $565,505 was made in transition liability payments.

EIF funds were distributed to employers across 26 counties in Oregon:

County	EIF match	County	EIF match
Baker	$100,000.00	Lake	$112,500.00
Benton	$4,861,723.00	Lane	$9,752,231.40
Clackamas	$2,178,690.00	Lincoln	$522,565.00
Columbia	$1,144,869.88	Linn	$701,183.95
Crook	$200,000.00	Malheur	$548,137.24
Deschutes	$7,201,084.74	Marion	$2,074,510.80
Douglas	$1,906,184.40	Multnomah	$16,367,719.00
Gilliam	$12,500.00	Polk	$92,158.50
Grant	$133,250.00	Sherman	$600,000.00
Hood River	$409,684.40	Union	$62,500.00
Jackson	$4,712,647.05	Wasco	$26,583.75
Jefferson	$806,250.00	Washington	$9,917,188.69
Klamath	$32,500.00	Yamhill	$275,000.00

The EIF has received a transfer of $19,337,052 in sports betting proceeds for the 2021-23 biennium. The EIF also contains just over $15,000 in interest from the prior appropriation.[5]

PERS anticipates aligning future EIF application cycles with the system valuation cycle to maximize the effect of side account contributions on rate-setting valuations and the system-wide funded status. Specific implementation dates will depend upon revenue availability and employer feedback.

Unfunded Actuarial Liability Resolution Program

Senate Bill 1049 modified the UAL Resolution Program (UALRP) to include the development of funding plans to improve the employers' funded status and to manage contribution rates. The bill also requires all PERS participating employers to participate in the UALRP whereas SB 1566 (2018) only required employers participating in EIF to participate in the program.

In 2020, PERS formalized measures to implement this program in response to insightful feedback from UALRP employer focus groups. There are two key features of this program: an enhanced rate projection tool and additional educational resources.

PERS consistently receives positive feedback on the Employer Rate Projection tool with several employers stating they use the tool as part of their budgeting and forecasting process. Based on employer feedback from surveys and focus groups held in early 2020, PERS plans to offer an enhanced tool with the ability to model additional scenarios of earnings and payroll growth as an enhancement in future versions, along with all of the tool's current capabilities of modeling future contributions and the effect of side accounts on contributions. These enhanced capabilities

[5] Due to budget appropriation limitations, PERS could not use this interest to provide additional matches.

will allow greater insight into the way emerging experience can impact future contribution rates and funding status and enhance the employer budgeting process for PERS.

As for educational resources, PERS has already published one guide, "Guide to Understanding Your Rates". This will be followed by future editions of "Guide to Understanding…" and topics will include both the UAL, as well as rate collaring. The goal is to translate these difficult concepts into understandable terms explaining how employers can use the information PERS and the consulting actuary provide for budgeting purposes.

Shortened Amortization Options

Senate Bill 1566 (2018) introduced the option to select a shortened amortization period of six, 10, or 16 years. Since then, nine of the 15 eligible employers have selected a shortened amortization option.[6] SB 1049 (2019) further enhanced employer amortization options by introducing deferred rate offset, which allows employers to choose the year their rate offset begins in addition to a shortened amortization period.

Employers choosing the shortened amortization option are eligible for EIF but employers opting for a deferred rate offset are not. Eight of the shortened amortization side account funds are tracked either in the EIF amounts or waitlisted EIF funds earlier in this memo. However, PERS received $107 million in employer payments from employers either choosing the deferred rate offset option or that opted not to apply for EIF but had a shortened amortization period.[7]

Summary

Employer Programs have been well received by PERS participating employers despite budgetary uncertainty. Employers appreciate gaining added flexibility and incentives to manage their contribution rates. They have also expressed appreciation for PERS' partnership to develop needed resources to optimize their budget and forecasting needs.

Action Requested

PERS requests the Committee Acknowledge receipt of the report.

Legislation Affected

No legislation is affected by this request.

Sincerely,

Kevin Olineck, Director
Oregon Public Employees Retirement System

[6] One six year amortization, five 10 year amortizations and three 16 year amortizations
[7] Deferred Rate Offset Side account: $10 Million, 16 year side account: $97 million