ANALYSIS

Public Employees Retirement System
SB 1566 (2018) 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 School Districts Unfunded Liability Fund, Employer Incentive 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, which 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 these 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 this pooled side account for school districts and proportionately distribute the side account among all school districts as an offset to employer contribution rates.

Regarding fund sufficiency, the PERS Board would not deploy deposits to offset school district pool rates until a $535 million funding threshold is obtained, which represents one percent of the school district's payroll valuation for the 2021-23 biennium ($3.8 billion). The fund is currently short of that target by $414.2 million. The following table summarizes the estimated SDULF revenue(s) for the current 2021-23 biennium.

SDULF Revenue [No sunset]	Measure	Sunset/Limit	2021-23 Revenue Estimate
82% of federal decoupling revenue	HB 1529 (2018)	One-time	N/A
Unclaimed Property Transfer	HB 1566 (2018)	01.02.2027	$45,492,147
Excess Capital Gains	HB 1566 (2018)	CY 2019/2020/2021	--
Excess Estate Tax*	HB 1566 (2018)	CY 2019/2020/2021	$74,916,000
Excess Debt Collections	HB 1566 (2018)	12.31.2024	--
Interest Earnings	HB 1566 (2018)	--	$378,410
Total Estimate Revenue			$120,786,557

*Department of Administrative Services - Office of Economic Analysis revenue forecast (March 2022)

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 must meet the following criteria: (a) deposits could only be cash and not from borrowed funds; (b) the minimum contribution of $25,000; (c) an employer must have no transition liability; and (d) an employer must participate in the Unfunded Actuarial Liability Resolution Program (discussed below). The following table summarizes the EIF revenue estimates for the current 2021-23 biennium.

EIF Revenue [Sunset: July 1, 2042]	Measure	Sunset	2021-23 Revenue Estimate
18% of federal decoupling revenue	HB 1529 (2018)	One-time	N/A
Sports Betting (Lottery Funds)*	SB 1049 (2019)	12.31.2041	$19,461,706
State General Fund Appropriation	SB 1049 (2019)	One-time	--
Interest Earnings	HB 1566 (2018)	07.01.2042	$35,000
Total Estimate Revenue			$19,496,706

* Department of Administrative Services - Office of Economic Analysis revenue forecast (March 2022)

After the conclusion of the inaugural EIF application cycle in the 2019-21 biennium, there were 44 employers with $148 million in employer contributions that remained on a waitlist pending $36.6 million in state matching funds becoming available. Of these employers, 12 opted to make side account payments without the guarantee of matching funds resulting in additional $64.1 million in lump sum payments. After accounting for $19.5 million in forecasted sports betting revenue (March 2022), the fund would require $17.1 million in supplemental funding to fully fund the matching funds requirement for waitlisted entities.

Employer contributions and matching funds will be included in 2025-27 Board adopted employer contribution rates, due to the Board's rate setting and actuarial valuation schedules.

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) estimate the 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 UAL educational guides.

Side Account Lump-Sum Payments

Apart from the reporting requirement, SB 1566 allows an entity making a lump sum cash payment of $10 million or higher 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 during the 2019-21 biennium, there have been no further lumpsum payments under this provision of the law. Of additional note is that only the Port of Portland chose the rate deferral option with a rate offset date of July 1, 2029 and that is coupled with a ten-year amortization period.

Recommendation: The Legislative Fiscal Office recommends acknowledging receipt of the report.

Oregon

Kate Brown, Governor

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The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Joint Committee on Ways and Means
900 Court St NE
H-178 State Capitol
Salem, OR 97301-4048

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, the Unfunded Actuarial Liability Resolution Program, and extended amortization options for side accounts of $10 million or more as of December 2021.

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 four defined revenue sources: interest on unclaimed property from the Department of State Lands; proceeds from estate taxes, proceeds from capital gains taxes and proceeds from debt collection.

- Department of State Lands anticipates transferring $45,492,147 from interest on unclaimed property to the SDULF in January 2022.
- The Office of Economic Analysis (OEA) forecasts a transfer of $74,916,000 from Estate taxes will occur in 2023.
- OEA advised no transfer is expected from proceeds of Capital Gains taxes as the growth did not exceed 10-year trend as required by statute.
- The Department of Administrative Services advised no transfer is expected from debt collection due to a significant drop in accounts receivable activity attributed to COVID-19.

As of November 30, 2021, the SDULF has a balance of $378,550. Despite the anticipated deposits in 2022 and 2023, the funding is not sufficient to provide an offset for the School District Pool. As of the December 31, 2020 valuation, the School Districts Pool has a combined valuation payroll of $3,821,900,000; $535,000,000 is the minimum amount the fund requires to provide a 1% rate offset to the pool.[1]

Proceeds from estate taxes and capital gains taxes as an income source for the SDULF sunset in 2023. The transfer of proceeds from debt collection as an income source for the SDULF sunsets in 2024. The transfer of interest on unclaimed property as an income source for the SDULF sunsets in 2027.

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. This lump sum payment 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. The first 90 days of the application period are dedicated to employers whose UAL as a percentage of payroll that exceeds 200%; the application is subsequently open to all employers. Currently the EIF has a balance of $7,341,407.

During the 2021 Regular Session, the Legislature passed SB 846 requiring PERS to certify the amount of matching funds approved for disbursement to employers but not yet disbursed before allocating sports betting funds to the EIF, rather than the direct allocation of sports betting proceeds. This new requirement presents administrative challenges that may hinder the effectiveness of the program especially for small employers or employers making the minimum payment. As funding may not be available at the time of employer payment (which may be immediate upon approval of application), PERS will deposit all matching funds as additional payments. In some cases, this may delay the additional rate reduction provided by the matching funds to an employer. In particular, the effect of these funds may not be captured in the same valuation as the initial payments from the employers.

PERS does not anticipate opening the EIF application until the fund reaches a minimum of $25,000,000. Based on current budget projections, we plan to open the next application period in 2023.

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 previously this was a requirement for only employers participating in EIF.

In 2021, PERS launched the new Employer Rate Projection Tool. This tool provides greater security as well as the capability to incrementally add employer requested features. Currently employers can modify payroll, contribution rates, or the addition of a side account and determine how these changes will affect their contributions over time. Future enhancements, based on the

[1] The side account minimum reflects both the updated assumed earnings rate of 6.90% and the payroll growth rate of 3.4% per year.

top requested modifications from employers, are the ability to model additional scenarios of earnings and payroll growth rates.

PERS has created a series of guides to help employers understand the fundamentals of the system and provide context to the resources they receive when forecasting and budgeting. Those guides are:

Guide To Understanding Your Rate

Guide to Understanding Your Valuation

Guide to Understanding Unfunded Actuarial Liability

Guide to Understanding Pooling

Guide to Financial Modeling

Extended Amortization Options

Senate Bill 1566 (2018) introduced the option to select a shortened amortization period of six, 10, or 16 years. Since then, nine side accounts have been established with a shorter amortization period by five employers.

Currently one employer, Port of Portland, has opted for the deferred rate offset option, selecting a rate offset date of July 1, 2029 with a 10-year amortization period.

Summary

Employer Programs have been well received by PERS participating employers despite budgetary uncertainty. Employers appreciate incentives to proactively manage their contribution rates and appreciate the engaged role PERS has had in addressing knowledge gaps.

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