

Fair and Constitutional PERS Solutions List (July 27, 2016)

Several senators have worked with the legislature's attorneys to develop a list of fair and constitutional solutions for the Public Employee Retirement System (PERS) that reduce costs and ensure the long-term stability of the system to protect retirees. Legislative Counsel believes that there are several possible solutions that have not yet been tried, but would still likely survive constitutional scrutiny.¹ Absent quick and decisive action, state and local governments are facing an almost \$1 billion increase in PERS costs² starting July 1, 2017 that could result in fewer teachers and school days, larger class sizes, and inability to fully fund other critical government services.

The PERS crisis will cost schools \$365 million in the 2017-19 biennium,³ which could have paid for over 2,000 new teachers.⁴ PERS rates are expected to increase by an average of 5% for school districts in 2017. Since the PERS system is now only 71% funded, with a 15% drop in just two years,⁵ costs are expected to continue increasing. These cost increases are due to excessive PERS benefits, like an OHSU professor's \$663,354 per year,⁶ the Oregon Supreme Court's 2015 decision to overturn \$5.1 billion in PERS reforms,⁷ and overly optimistic investment assumptions made in past years.⁸

PERS' deficit is now \$21.8 billion,⁹ and Oregon schools owe \$13,879 in PERS debt per student.¹⁰ Despite this, PERS continues paying unfairly large pensions. A former OHSU professor receives \$55,280 *per month*, and a former football coach receives \$42,921 *per month*.¹¹ There are 1,195 PERS pensions over \$100,000 per year, and 23,352 pensions pay more than the PERS member's final salary.¹² Close to half of PERS benefits go to the top 21% of PERS pensions.¹³

¹ Legislative Counsel, *Letter to Senator Ted Ferrioli, LC 4281, Re: Moro v. State of Oregon and changes to the Public Employees Retirement System* (May 14, 2015).

² PERS, *December 31, 2015 Actuarial Valuation*, page 24 (July 29, 2016), http://www.oregon.gov/pers/docs/board_information/board_meeting_2016/bp_7-29-16.pdf

³ *Id.*

⁴ Calculated based on average starting salaries for teachers ranging from \$35,252 to \$42,142. OSBA/COSA, *2015-16 Salary Survey*, page 11 http://www.osba.org/~media/Files/Resources/Employee%20Management/2015-16_Salary_Survey_Book.pdf Also, this assumes up to \$49,108 in additional costs for other personnel expenses like PERS and health care, resulting in a total cost of \$91,250 per teacher per year. This likely overestimates costs.

⁵ PERS, *December 31, 2015 Actuarial Valuation*, page 8 (July 29, 2016).

⁶ The Oregonian, *PERS Beneficiaries Database*, <http://gov.oregonlive.com/pers/browse/>

⁷ *Moro v. State of Oregon*, 357 Or. 167 (2015).

⁸ PERS, *December 31, 2015 Actuarial Valuation*, page 6 (July 29, 2016).

⁹ PERS, *December 31, 2015 Actuarial Valuation*, page 8 (July 29, 2016).

¹⁰ PERS unfunded liability for school districts is \$8 billion (PERS, *December 31, 2015 Actuarial Valuation*, page 11 (July 29, 2016)). Oregon had 576,407 students enrolled in K-12 schools during 2015-16 (Oregon Department of Education, <http://www.ode.state.or.us/sfda/reports/r0073Select2.asp>).

¹¹ The Oregonian, *PERS Beneficiaries Database*, <http://gov.oregonlive.com/pers/browse/>

¹² The Oregonian, *PERS Beneficiaries Database*, <http://gov.oregonlive.com/pers/browse/>

¹³ PERS, *PERS: By the Numbers*, page 6, http://www.oregon.gov/pers/docs/general_information/pers_by_the_numbers.pdf (April 2016).

Increasing PERS cost will especially hurt schools, forcing them to cut school days, lay off teachers, increase class sizes, and eliminate programs like art and PE. Other critical services like police, fire, and community mental health will also suffer. Fair and constitutional solutions are needed to stabilize the PERS system, protect government services, and ensure stability for retirees. The following list provides a good starting point for bipartisan discussions:

1. Means-test retirement benefits by capping final average salary at \$100,000 per year. Up to \$1.2 billion in savings for an OPSRP cap, and a Tier 1/2 cap could possibly save hundreds of millions more.
2. Reduce unfairly high payouts and inequality among PERS members by using a market rate for money match annuities. Up to \$1.1 billion in savings.
3. Stop unfair pension spiking by preventing future unused vacation and sick leave from artificially increasing final average salary calculations. Up to \$0.35 billion in savings.
4. Follow twenty-six other states in limiting pension spiking by changing Final Average Salary from three consecutive years to five consecutive years. Savings being calculated.
5. Use the Social Security phased-in retirement age for all PERS general service starting in 2020. Savings being calculated.
6. Ensure that all PERS members contribute a fair share to their retirement by redirecting Individual Account Program contributions (6% of salary) into an account to pay future member benefits. Up to \$3.4 billion in savings.
7. Freeze PERS liability by ending pension credit for salary or years of service earned on or after January 1, 2018. Instead, all PERS members would receive a matching 6% contribution from their employer to their Individual Account Program. Savings being calculated.
8. Ensure long-term stability of the PERS system and alignment of benefits with the private sector by moving all employees hired after July 1, 2017 to a new defined contribution plan in which employers match 6% of an employee's salary into the Individual Account Program.
9. To safeguard flexibility for local governments in responding to any future changes in PERS rates, allow full bargaining regarding government payment of employee PERS contributions and limit such agreements to five-year periods.
10. To ensure immediate relief, include an emergency clause to allow the PERS board to recalculate rates to reflect savings from all changes as soon as the bill passes.
11. For legal reasons, specify that nothing in the bill creates contract rights, include a legal severability clause, and allow expedited review to the Oregon Supreme Court.