PRELIMINARY ANALYSIS
PUBLIC EMPLOYEES RETIREMENT SYSTEM PROPOSAL
79th Oregon Legislative Assembly – 2017 Regular Session

This form provides an outline for the preliminary analysis of proposals submitted to the Senate Committee on Workforce to address the rising costs and long-term sustainability of the Public Employees Retirement System (PERS). A technical team, including but not limited to individuals from Legislative Counsel, Legislative Fiscal, and PERS, will analyze each proposal under the following criteria for the Committee's consideration.

- Constitutionality
- Order of Magnitude in Savings
- Actuarial Soundness
- Impact on Employer Contribution Rates
- Impact on State and Local Budgets
- Impact on Public Employee Benefits
- Impact on public Employee Workforce
- Equitability of Costs & Benefits to Public Employees
- Administrative Feasibility

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Measure Numbers/LC (if any): Senate Bill 913

Summary of Proposal: Five different concepts are included in this measure:
1) Requires the PERS Board to use the lesser of the assumed earnings rate, or the PBGC rate for valuing annuity benefits when adopting the AEF tables.
2) Raises the normal retirement age for new General Service members to 67 and removes the option of retiring with 30 years of service at age 58. Early retirement age is raised to 57.
3) Redirects the six percent employee contribution from the IAP to a new account that will be applied to the cost of the member's pension.
4) Increases from three to five, the number of years used for Final Average Salary calculations.
5) Excludes elected officials from becoming members of PERS, but does not apply to judges or members of the Legislative Assembly.

Summary of Current Law: 1) The PERS Board currently determines the assumed earnings rate based on information from the Oregon Investment Council and other professionals. 2) Normal retirement age for OPSRP members is 65. 3) The six percent member contribution is the account-based benefit that receives annual earnings and losses. 4) The Final Average Salary used in benefit calculations is the high three years or 36 months of a member's employment. 5) Members who serve in qualifying positions are members of PERS.

Has a detailed actuarial analysis been completed for this proposal? A comprehensive analysis has not been completed. Several provisions have been evaluated separately (see the analysis for SB 599 as well as SB 560 as introduced and also its - 3 and - 5 amendments).

Please note that if multiple concepts are adopted together, such as with this bill, the resulting effect would not be the cumulative amount of the separate concepts illustrated below. Instead, the interactions between the various benefit modifications would produce a reduction in liability and uncollared contribution rate of smaller magnitude than the sum of the reductions shown below. If more than one concept will be incorporated into a legislative proposal, an additional analysis should be conducted to study the combined effects.

ANALYSIS

The analysis should address each of the following criteria to the extent that information is available.

1. **Constitutionality**

Legislative Counsel –

<u>Assumed interest rate</u>
Appears to meet the *Moro* standard for protection of accrued benefits This proposal does not alter the amount of benefits accrued by a retiring member before the change, but affects only predictions about the growth of those amounts in the future. However, note that this proposal would create an unusual situation in which the board uses the PBGC rate to predict future growth for annuities, but may use a different assumed interest rate for other purposes, including the crediting of Tier 1 member accounts and the valuation of PERS for the purpose of setting employer contribution rates. One could argue that this difference in rates is unreasonable, especially because the use of the higher assumed interest rate would lower employer contribution rates, while the use of the lower assumed interest rate would reduce benefit payments.

<u>Retirement age</u>
No constitutional concerns. Applies only to persons who establish membership in PERS on or after the effective date of the Act.

<u>Redirection of employee contributions</u>
Redirection of employee contributions to pay for benefits accrued on and after January 1, 2018, appears to meet the *Moro* standard for protection of accrued benefits, but the bill does not explain how to determine what benefits are accrued before and after January 1, 2018. Thus, the bill could be unconstitutional in application.

<u>Five-year final average salary</u>
Application of the new calculation to years after January 1, 2018, appears to meet the *Moro* standard for protection of accrued benefits. Note, however, that Greg Hartman mentioned in his testimony an argument that the bill does not protect accrued benefits. As we understand the argument from his brief comment, a member would argue that to protect accrued benefits, the bill should apply the current final average salary calculation, regardless of when the salary was earned, to benefits accrued before the change. In a simplified example, if a member had worked for 10 years before the change, the member would argue that the member should have the 3-year final average salary applied to 10 years of the member's service. The counter to this argument would be that the member has not yet completed the performance necessary to accrue the benefit of the higher salary earned at the end of the member's career. That view seems to be in accord with the opinion in *Moro*, but it is difficult to predict the outcome in the Supreme Court.

<u>Elimination of PERS for elected public officials</u>
No constitutional concerns. Applies only to elected public officials who are not already PERS members at the time of election or appointment.

2. **Order of Magnitude in Savings (for next three biennia, if possible)**
   PERS – A comprehensive actuarial analysis for this bill has not been completed, so projected savings have not been determined. Individual analyses have been conducted on elements of the bill (provisions 3 and 4 above), but note the caution stated above on projecting savings based on multiple concepts being adopted together.

   LFO – In absence of an actuarial analysis on this measure, a preliminary estimate of the savings cannot be accurately calculated.

3. **Actuarial Soundness**
   PERS – Within the context of whether this concept would, over the time period considered, allow projected employer contributions and investment income to fully fund the system, there is no data to conclude whether this concept would affect the system's actuarial soundness.

4. **Impact on Employer Contribution Rates (for next three biennia, if possible, including normal costs, unfunded actuarial liability (UAL), Individual Account Program/employee contributions, state agencies, school districts, and other PERS employers)**
   PERS – Please note that 2017-19 employer contribution rates have already been adopted, and those rate increases were limited by the PERS Board's rate collar policy. Cost reductions, if any, from this concept would be carried over to future biennia when the collar is fully implemented absent specific direction from the legislature to apply those savings in the next cycle. Doing so would postpone the full implementation of non-collared rates.

   As to whether this concept would in fact reduce system costs, we have not conducted an actuarial analysis on this bill as a whole so we cannot represent that there would or would not be cost savings.

   LFO – In absence of an actuarial analysis on this measure, a preliminary estimate of the employer rate impact cannot be accurately calculated.

5. **Impact on State and Local Budgets (cost savings and cost shifts, impact on General/Lottery Fund, and potential financial impact on collective bargaining)**
   PERS – See the comment on item 4.

   LFO – In absence of an actuarial analysis on this measure, a preliminary estimate of the state government General/Lottery Fund impact cannot be accurately calculated.

6. **Impact on Public Employee Benefits (Tier 1, Tier 2, Oregon Public Service Retirement Plan (OPSRP))**
   PERS – A comprehensive actuarial analysis has not been completed, so we cannot assess the extent to which these provisions would impact member benefits.

7. **Impact on Public Employee Workforce (rate of retirements, employers' ability to recruit and retain employees)**
   PERS – Technical analyses have been completed on some concepts within this bill (see the analysis for SB 599 as well as SB 560 as introduced and also its - 3 and - 5 amendments) covering concepts 1-4 of this bill. The fifth concept would affect a relatively small proportion of PERS members, so its system impact is minimal.

8. **Equitability of Costs and Benefits to Public Employees (costs/benefits)**
   PERS – Technical analyses have been completed on some concepts within this bill (see the analysis for SB 599 as well as SB 560 as introduced and also its - 3 and - 5 amendments) covering concepts 1-4 of this bill. The fifth concept would affect a relatively small proportion of PERS members, so its system impact is minimal.

9. **Administrative Feasibility**
   PERS – There will be a fiscal impact to the agency to reprogram benefit eligibility determinations to accommodate the new standard. Additionally, the agency will revise member education material in all formats to reflect the new standard.

Technical Issues of Note:
Legislative Fiscal – The measure may require clarification to ensure that budgetary savings begin with the 2017-19 biennium and reduce the recalculated 2017-19 employer contribution rates adopted by the PERS Board. Also, a more complete fiscal analysis will be prepared as the measure advances through the legislative process.