



Oregon

Kate Brown, Governor

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February 20, 2019

Honorable Senate President Peter Courtney
Oregon Legislative Assembly
900 Court St. NE, S-201
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President Courtney,

At the February 15, 2019 meeting of the Joint Ways and Means Subcommittee on Capital Construction, I was asked by Senator Betsy Johnson if PERS has reached a “legislative fatigue wall” where our systems and processes are not able to keep up with legislative directives. I responded that the simple answer is, if we’re not there, we are very close to it.

This letter responds to your request for my comment in writing, so let me expand on what I mean by PERS, the system and agency, reaching legislative fatigue. While the system and agency can’t be separated completely from each other, I will highlight some key observations for both.

For background, I have been the Director of Oregon PERS since July 2018. Prior to my joining the state, I worked for almost twenty years administering large public sector pension systems in Canada, first in Alberta and then in British Columbia. Both entities were set up as quasi-public sector organizations with size and complexity traits very similar to PERS and, consequently, provide a solid basis for comparison.

System Fatigue

PERS has a “system-wide problem” with a large unfunded actuarial liability (UAL) attributable to member benefits that, according to the Oregon Supreme Court, cannot be reduced. This problem is not solely limited to schools, local governments, or state agencies, but applies holistically to all PERS-participating employers and their past, current, and future employees. Any solution to the problem, should apply system-wide and reflect the most current, actuarial methods, assumptions, and calculations, as presented to the PERS Board.

There are no short-term, or inexpensive, solutions that solve the legacy UAL associated with a retirement system as mature as PERS. Simply put, the UAL was decades in the making and will take decades to resolve, using solid actuarial principles. Trying to pick winners, losers, or mandate “fairness” of employer rates and member benefits is not a long-term solution to this problem. In fact, some perceived solutions merely add complexity while basically maintaining the fiscal status quo, or create a deeper hole both fiscally and administratively in the long-term.

There is a strong argument to say the 2003 reforms that created the OPSRP pension program and the IAP account program for all members have been successful in establishing a sustainable cost

basis for OPSRP members, while providing what are seen to be adequate benefits. The legacy UAL cost for Tier One and Tier Two members will remain, and employers need to pay that until the UAL associated with these members is eliminated. This is the cost of the work PERS members have done over the last seven decades to create a system of public safety, infrastructure, schools, and other government services in Oregon.

The Oregon Legislative Assembly is the PERS plan sponsor. Member benefit levels, required employer contributions, and system funding are dictated by legislative mandate. The Oregon State Treasury in conjunction with the Oregon Investment Council (OIC) generates investment income to help pay member benefits. The PERS Board balances what is owed in benefits, earnings from revenue and investments, and determines what employers must pay for the current costs of the system while establishing the contributions required to cover the difference, the UAL.

The UAL and employer contribution rates will change from today. From year to year, PERS and the actuaries cannot precisely predict investment returns attained by OIC, any changes to benefit structure that may be approved by the legislature, and the demographic experience of our employers. All of these factors influence the UAL and employer rates, therefore any legislative solution based on holding to current projections will not be successful since dynamics will inevitably change the next day, month, or year.

However, PERS is a political conversation not only with the plan sponsors – the legislature – but also the governing bodies of more than 800 public employers and agency directors planning budgets for 100 state agencies.

Employers, members, legislators, the public, media, and other stakeholders suggest a variety of “PERS solutions” on a regular basis. They may do so with good intention, but generally without a comprehensive understanding of the impact their proposals have on the system, members, or employers. Many proposals are complicated ideas that require thoughtful actuarial and legal analysis to ensure they match the intent of the proponents, are implementable from a legal perspective, as well as provide long-term sustainability to the system.

While the intent may be for large changes to impact the UAL, and small changes to make the system more “fair” for some members, the actual impact of both is they do not accomplish their stated goals, but add complexity to a system which is already one of the most complex in the nation.

The *Moro* decision, which overturned most of the 2013 PERS reform legislation, is fairly clear in that only prospective member benefits may be altered – the UAL is caused by benefits that have been accrued, are owed, and cannot be changed. The current structure of the liabilities shows that there is minimal impact to the overall funding of the plan to be achieved by benefit change. The only substantive change is through payments into the system, be it through contributions or via other infusions of capital.

Agency Fatigue

For context, when I arrived in July 2018, the agency was in the final stages of developing the 2019-2021 Agency Request Budget. Our budget tried to reflect our mission of paying the right benefit to the right person at the right time. Our operations impact more than 800 individual employers, 100 state agencies, and 370,000 members. The work of our members and employers impacts every Oregonian, and we pay benefits to people in every state and a handful of foreign countries. For the 2019 – 2021 biennium, we anticipate receiving about \$4 Billion from employer contributions and pay about \$12 Billion in benefits.

We are an “Other Fund” agency, in that we do not receive General Funds. Consequently, as fiduciaries of these “Other Funds”, we plan wisely to achieve our mission. Every dollar we don’t spend on agency budget is one that can go toward member benefits. Our budgetary requests, I believe, strengthen the agency while helping to establish a longer term set of strategic actions that will enable us to meet the needs of our diverse stakeholders in the future.

As a new Director, I am reviewing all aspects of the agency to ensure long-term sustainability and will propose in later phases of our budgetary discussions, some elements that will enable forward progress. However, this plan is predicated on a period of legislative stability with regard to plan changes and budgeting.

While conscious of how PERS, the agency, needs to be integrated into the state government enterprise, it does constrain our ability to be agile as well as responsive to the myriad of legislative changes that are proposed, and if approved, impact the operational capacity of the agency when implemented. Some aspects of administration have been supported by manual systems and processes in order to meet the short implementation deadlines. PERS’ history of legislative changes that were approved, and subsequently found to be unconstitutional, has had the resultant impact of impeding forward progress on much needed operational process and system changes.

While the agency has been able to continue to administer the programs it is responsible for, from an enterprise risk management perspective, there is a risk that any future changes to the plan that aren’t given the appropriate time and resources for implementation could negatively impact the agency and its ability to function in a cost effective, efficient and risk-mitigated fashion.

Conclusion

PERS recognizes the importance of putting in place a long-term solution for the legacy UAL funding issue. We look forward to a solution that ensures long-term sustainability of the system while trying, as best possible, to balance the needs of all stakeholders. This balance includes the timing and implementation of a solution and its impact, so the agency can ensure its own long-term sustainability.

Thank you for the opportunity to provide clarification on my statement regarding reaching the “legislative fatigue wall.” PERS will continue to serve the Legislative Assembly, employers,

members, and stakeholders as we always have – as the purveyor of data, facts, and information on PERS.

Respectfully,

A handwritten signature in black ink, appearing to read "Kevin Olineck", is positioned above the typed name.

Kevin Olineck, Director
Oregon Public Employees Retirement System

cc: Joint Ways and Means Subcommittee on Capital Construction