PERS SOLUTIONS
FOR PUBLIC SERVICES

March 5, 2019

To: Senate Committee on Workforce

From: Tim Nesbitt
Interim Executive Director
PERS Solutions for Public Services

Re: SB 768, -1 Amendment and Related Concepts

This is to share our thinking on potential changes to current law related to the re-employment of public employees after retirement, as proposed in Senate Bill 768 and Senator Knopp's -1 amendment, for members of the Public Employees Retirement System.

In particular, we wish to address changes to the terms of the employment of retired public employees that can:

- Encourage employee transitions from high cost retirement programs;
- Accelerate employer "buy downs" of their unfunded pension liabilities; and,
- Enable employees to help pay back some of the legacy costs of their benefits.

There is a triple-win opportunity here for public employees, public employers and their taxpayers.

Context

As you know, PERS has an unfunded liability of $26.6 billion, a liability which is driving up the payroll costs borne by public employers and squeezing budgets for public services.

Separately, there are workforce challenges throughout public jurisdictions related to an aging workforce and the need to retain experienced personnel as older employees choose to retire.

Further, there are concerns about a "rush to the exit" by employees eligible to retire if prospective changes to the current system of retirement benefits are enacted or even considered by the Legislative Assembly.

Current Law

There are several provisions in current law that provide for the re-employment of retired members under certain conditions when such re-employment is in the public interest.

For Tier 1 and 2 employees (covered by ORS 238.082), general provisions allow for the re-employment of retired PERS members without affecting retirement benefits for periods of up to 1,040 hours per year. Other provisions for certain occupations and jurisdictions allow for re-employment with no limit on hours worked. For re-employed retirees in Tier 1/2, the employee accrues no additional retirement benefit and the employer makes no payment to PERS.

For OPSRP or Tier 3 employees (covered by ORS 238A.245), retirees who are re-employed after retirement must suspend the receipt of retirement benefits. These employees accrue additional retirement benefits while re-employed, and their employers pay their full PERS payroll rates.

Inequities in the Current System

The effects of current law provisions on a public employer's PERS payment obligations for re-employed retirees are as follows, based on employer contribution rates scheduled for July 1, 2019 through June 30, 2021. "UAL" = unfunded actuarial liability.

	% Employer Pays for accruing benefits	% Employer Pays to buy down UAL	% Employee Pays to buy down UAL	Total UAL Buy Down
Employed Active Employee				
Tier 1/2	15.25%	13.64%	0.0%	13.64%
OPSRP (Tier 3)	8.92%	13.64%	0.0%	13.64%
Re-employed Retiree				
Tier 1/2	0.0%	0.0%	0.0%	0.0%
OPSRP (Tier 3)	8.92%	13.64%	0.0%	13.64%

Obviously, the difference between Tier 1/2 and OPSRP contributions paid by employers arises from the continuing accrual of benefits for OPSRP employees, who are required to forego their retirement benefits during the period of their re-employment. This explains the difference in payments for accruing benefits, known as "normal costs." But it does not explain the disparity in treatment for an employer's UAL. The fact that the payroll for re-employed Tier 1/2 retirees is exempted from the PERS salary base has the effect of shifting a portion of the cost for the system's unfunded liabilities to the payrolls for other employees.

Employers benefit from lower PERS costs on re-employed Tier 1/2 retirees, but part of their PERS savings is shifted to other portions of their payrolls, a fact that few employers recognize. Employees benefit by collecting both a retirement benefit and a salary, but the employer's contribution to buy down the UAL on their behalf disappears. Thus, there is no benefit to the taxpayer over time besides the employment of an experienced employee.

Is There a Better Way?

We urge consideration of a better way to meet the public interest when re-employing a retired PERS member – one that addresses both the need for retired employees to perform services in the public interest and the need for buying down an employer's unfunded PERS liabilities to offset the crushing legacy costs of the system.

Work Back/Pay Back Plan

We propose an expansion of the current reemployment-of-retirees program not to recruit employees already retired but to encourage more working employees to cease the accrual of benefits, continue in their current jobs or other jobs for which they are qualified, begin collecting their retirement benefits and continue earning a salary. In exchange, the employee would contribute six percent of salary, or accept a salary reduction or "salary sacrifice" of six percent, which would be directed to buying down the employer's unfunded PERS liability. In addition, the employer would contribute an amount above the UAL rate that would otherwise apply to the position.

For employees: Employees would come out ahead over time, even after contributing the six percent of salary. In our modeling, an employee who shifts to working retirement status for five years and then retires, would come out ahead in nominal dollars for almost 20 years. Or, if such an employee were to invest half or more of his/her retirement benefit for the five years of working retirement, he/she would likely come out ahead even after 30 years or more of retirement. (See Exhibit A, attached.)

For employers: The buy down of the UAL should be set to at least equal if not exceed the UAL rate that applies to a non-retired active member in the position. Anything less would shift more costs to active member payrolls. When we modeled the effect of the employer continuing to contribute at the full PERS rate for the position, we found that employers would experience a near tripling of the rate by which they buy down their unfunded liabilities for Tier 1/2 employees, as illustrated in the following table.

	% Employer Pays For accruing benefits	% Employer Pays To buy down UAL	% Employee Pays to buy down UAL	Total UAL Buy Down
Current Active Employee				
Tier 1/2	15.25%	13.64%	0.0%	13.64%
OPSRP (Tier 3)	8.92%	13.64%	0.0%	13.64%
Proposed Work Back/ Pay Back Retiree				
Tier 1/2	0.0%	28.91%	6.0%	34.91%
OPSRP (Tier 3)	0.0%	22.56%	6.0%	28.56%

In our outreach to K12 employers, we have heard an interest in the program provided there are incentives for employers and as well as employees to participate. That suggests that somewhere above an employer rate keyed to the employer's UAL rate lies the sweet spot for incentives – to encourage employees who are eligible to retire to cease accruing benefits and to encourage employers to offer this opportunity to their employees.

Issues to Be Addressed

We note that there are a number of issues to consider in finalizing the design of this program.

Scope: Just Tier 1/2 or OPSRP as well? We recommend including OPSRP.

Duration: This program could be perceived as tying up promotional opportunities for a younger generation of public employees. For this reason, we recommend a five-year limitation for any employee's participation or a five-year sunset for the program.

IRS Compliance: IRS rules for qualified pension plans limit participation in programs of this kind to persons age 55 or older, depending on occupation and jurisdiction. These requirements will have to be made explicit in the legislation.

Mutual Agreement: The mutual agreement of employer and employees for participation in the program should be an essential feature of any program of this kind. We would not want to see participation become a bargaining chip or a leverage point for one party or the other in employer-employee relations.

Current Law Program: This program need not displace the existing program under current law for the re-employment of retired employees.

In Conclusion

We were pleased to hear the reaction to this proposal from an administrator at the University of Oregon, who told us that this is the only proposal he has heard which can recapture some of the legacy costs now baked into the system.

Given the Supreme Court's *Moro* decision in 2015, this may be the only way to realize any form of "pay back" from those who benefit from a PERS pension program that remains seriously underfunded and continues to accumulate liabilities from year to year.

Attachment: Simulation -- Scenario A, K12 Employee, Age 55 with 30 years of service @ $90,000/year

Scenario A: K-12 Employee, age 55 with 30 years of service at a salary of $90,000/year

Assumes 3.5%/year salary increases

PERS benefit under Full Formula is $43,582/year

Employee continues to work under Tier 1 + 3.5% salary growth

	Employer pays Salary	PERS Norm Cost @ 14%	Salary + PERS	Collared Rate UAL %	UAL Buydown	EE Pension increases to
Year 31	$93,150	$13,041	$106,191	10%	$9,315	*$46,612*
Year 32	$96,410	$13,497	$109,907	10%	$9,641	*$49,799*
Year 33	$99,785	$13,969	$113,754	14%	$13,970	*$53,152*
Year 34	$103,277	$14,459	$117,736	14%	$14,459	*$56,680*
Year 35	$106,892	$14,965	$121,857	18%	$19,241	*$60,389*
5 Year Total	$499,514	$69,931	$569,445		$66,625	

Employee retires and is re-employed at old salary; pays 6% to UAL Buydown
Employer pays full PERS rate but directs the full amount to UAL Buydown

	Employer pays Salary	PERS Norm Cost	Savings	PERS Norm Cost + UAL Rate	Employer pays UAL Buydown at full PERS rate	Employee pays UAL Buydown at 6%	Total UAL Buydown	EE Pension w/2% COLAs
Year 31	$93,150	$0	$13,041	24%	$22,356	$5,589	$27,945	$43,582
Year 32	$96,410	$0	$13,497	24%	$23,138	$5,785	$28,923	$44,018
Year 33	$99,785	$0	$13,969	28%	$27,940	$5,987	$33,927	$44,898
Year 34	$103,277	$0	$14,459	28%	$28,918	$6,197	$35,114	$45,796
Year 35	$106,892	$0	$14,965	32%	$34,205	$6,414	$40,619	$46,712
5 Year Total	$499,514	$0	$69,931		$136,557	$29,971	$166,528	$225,006

Plus 15 Years of Subsequent Retirment (w/ 2% annual COLAs)				
	Total Pension Received 15 years	$1,044,331	Total Pension Received 20 years	$1,032,817
	Total Pay & Pension Received 20 years	$1,543,845	Total Pay (-6%) & Pension Received 20 years	$1,502,359.74
Plus 20 Years of Subsequent Retirement (w/ 2% annual COLAs)				
	Total Pension Received 20 years	$1,467,296	Total Pension Received 25 Years	$1,359,988
	Total Pay & Pension Received 25 years	$1,966,810	Total Pay (-6%) & Pension Received 25 Years	$1,829,531.03
Plus 25 Years of Subsequent Retirment (w/ 2% annual COLAs)				
	Total Pension Received 25 years	$1,934,278	Total Pension Received 30 Years	$1,721,208
	Total Pay & Pension Received 30 years	$2,433,792	Total Pay (-6%) & Pension Received 30 Years	$2,190,750.74