

PERS Decision Expected in April

An evidentiary hearing last month in Portland marks the first high-profile legal step challenging the 2003 legislative reforms to the Public Employees Retirement System (PERS).

The Special Master, Judge David Brewer, has indicated his intent to adhere to a tight schedule, with his report to the Oregon Supreme Court due no later than April 12, 2004. At a recent status conference, a staff attorney for the Oregon Supreme Court told Judge Brewer that the court is committed to having the cases argued and submitted by the end of July.

Oregon Public Employees Retirement System

Legal Challenges Consolidated

Seven challenges to the 2003 legislative reforms have been consolidated into a single case. The legal claims fall into three broad categories:

- breach of contract
- impairment of contract
- unconstitutional taking

Challenges to the legislation have been brought by current and retired employees. Public employee unions (the PERS Coalition) are backing the challenges. There are approximately 250,000 active and inactive members of PERS and approximately 80,000 PERS retirees. Defendants in the case are the governor, the State of Oregon and several of its departments, the Public Employee Retirement Board and its former members, and at least 34 separate local government jurisdictions.

Joint Defense by State and Local Governments

The State of Oregon, the PERS board (PERB) and the Employer Defense Alliance are coordinating efforts to uphold the reforms. The Employer Defense Alliance includes the League of Oregon Cities, Oregon School Boards Association, Association of Oregon Counties and Special Districts Association of Oregon.

Findings of Fact Requested

After presenting evidence and expert testimony, the legal defense team asked the Special Master to make the following findings:

Member Benefits:

- Retirement benefits for PERS members have increased dramatically in recent years.
- Average benefit levels now exceed legislative and PERS Board targets to a significant degree. The average retirement benefit for a career PERS employee now exceeds the employee's highest public employment salary.
- Prior to the PERS reform legislation, average benefit levels were projected to continue to increase for the next 15 years. By 2015, average benefits were projected to exceed 124 percent of final salary.

Employer Costs:

- Employer costs to support the PERS system have increased dramatically in recent years.
- Without legislative reforms, employer costs are projected to reach nearly 30 percent of payroll by 2015 and to remain at or near that level for approximately 10 years before beginning to decline. This projected employer contribution rate is three times greater than historic cost levels.
- Rising retirement benefits are the direct and primary cause of rising employer costs.
- The cost of the PERS system increased dramatically between 1997 and 2002, not because of poor investment income but because of the

dramatic growth in PERS liabilities—the projected future benefits that PERS members were expected to receive.

PERS Board Practices:

- The increase and projected continued increases in member benefits and the corresponding increase and projected future increases in employer costs are entirely attributable to the application of the money match benefit calculations.
- The emerging dominance of the money match calculations and the dramatic growth of member benefits and projected future benefits was caused by the practices of the former PERS board with respect to funding and maintaining reserves, crediting investment income to Tier One member accounts, the use of outdated mortality tables to compute actuarial equivalency, and the calculation of money match benefits for members participating in the variable account program.

Impacts of the Reform Legislation:

- The PERS reform legislation will slow the growth of PERS projected future retirement benefits and projected future employer costs. No member's benefit, accrued by the effective date of the acts, will be reduced by the reform legislation.
- Under the reform legislation, some PERS members' projected future benefits will be higher than they would be without the legislation. Some PERS members' projected future benefits will be lower than they would be without the legislation. Under the reform legislation, all PERS members'