

State Administration and Veterans' Affairs Interim Committee

November 4, 2005

Testimony on behalf of MPERA

by Kelly Jenkins, PER Board General Counsel

I. Funding Proposal.

The funding legislation as drafted reflects the priorities of the Public Employees' Retirement Board, assuming a one-time cash infusion of \$25 million for the three retirement systems – of the eight it administers – that are not actuarially sound.

The one-time cash infusion, with the employer contribution increases noted for PERS and SRS, will make all the systems administered by the PER Board actuarially sound.

If actuarial assumptions are met and the systems do not have adverse experience, they will remain actuarially sound.

II. Procedural Proposal.

Staff has not had the opportunity to review this proposal with the PER Board. However, some comment is possible based on constitutional principles and the Internal Revenue Code.

In Section 1, subsections (3)(a) and (3)(b), reference is made to use of PER Board administrative resources and retirement system funds for legislative committee purposes.

We hope this committee and legislative staff know that the PER Board has always provided as much information and support as possible. The Board has long taken the position that better information will lead to better decision-making.

However, the Montana Constitution prohibits use of pension trust fund money for anything other than payment of benefits and retirement system administrative expenses. That is consistent with the Internal Revenue Code's "exclusive benefit rule," that must be complied with for the retirement systems to retain a tax qualified status.

Funding legislative committee studies with private donations (as allowed in subsection (3)(b)) causes some concern also. Allowing legislative study for those who can afford such a study (but perhaps only to the extent they wish to fund it) seems like an unwise precedent with a potential to cloud objectivity and limit the usefulness of the results.

To simplify and improve the proposed legislation, subsections (3)(b) and (3)(c) can be deleted. Subsection (3)(a) can be folded into a revised subsection (2)(d) that reads:

“(d) specify a date by which proposed legislation affecting any of the state’s public employee retirement systems must be submitted to the committee for review;”

MPERA Suggested Amendment to Section 3 (page 5):

(4) The sufficiency of the plan choice rate to actuarially fund the appropriate share of the defined benefit plan's unfunded liabilities must be determined as follows:

(a) The board shall determine the number of years required to actuarially fund the defined benefit plan's unfunded liabilities as of the June 30, 1998, actuarial valuation, which must be the initial schedule for the defined contribution plan to actuarially fund the plan's share of the unfunded liabilities. The board shall reduce the schedule by 1 year each biennium.

(b) During each subsequent actuarial valuation of the defined benefit plan conducted pursuant to 19-2-405, the board shall determine whether the plan choice rate minus the amount provided in subsection (2)(a) of this section is sufficient to pay the unfunded liability obligations within the schedule determined under subsection (4)(a) of this section. If the amount is insufficient to fund the liability over a period of ~~40~~ 17.25 years longer than the scheduled period or is more than sufficient to fund the liability over a period of 10 years earlier than the scheduled period, the board shall determine to the nearest 0.1% the amount of the ~~increase or decrease~~ change in the plan choice rate that is required to actuarially fund the liabilities according to the established schedule.

(5) If the board determines that the plan choice rate should be ~~increased or decreased~~ changed, the plan choice rate under 19-3-2117(2)(b) must be ~~increased or decreased~~ changed accordingly. If the plan choice rate is increased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a) must be decreased by that amount. If the plan choice rate is decreased, the allocation of employer contributions to member accounts under 19-3-2117(2)(a) must be increased by that amount.