

IN THE SUPREME COURT OF THE STATE OF OREGON

EVERICE MORO, TERRI DOMENIGONI, CHARLES CUSTER, JOHN HAWKINS,
MICHAEL ARKEN, EUGENE DITTER, JOHN O'KIEF, MICHAEL SMITH, LANE
JOHNSON, GREG CLOUSER, BRANDON SILENCE, ALISON VICKERY, and
JIN VOEK
Petitioners,

v.

STATE OF OREGON, STATE OF OREGON by and through the Department of Corrections, LINN COUNTY, CITY OF PORTLAND, CITY OF SALEM, TUALATIN VALLEY FIRE & RESCUE, ESTACADA SCHOOL DISTRICT, OREGON CITY SCHOOL DISTRICT, ONTARIO SCHOOL DISTRICT, BEAVERTON SCHOOL DISTRICT, WEST LINN SCHOOL DISTRICT, BEND SCHOOL DISTRICT, and PUBLIC EMPLOYEES RETIREMENT BOARD,
Respondents,

and

LEAGUE OF OREGON CITIES; OREGON SCHOOL BOARDS ASSOCIATION;
CENTRAL OREGON IRRIGATION DISTRICT; and ASSOCIATION OF OREGON COUNTIES;
Intervenors.

S061452 (Control)

WAYNE STANLEY JONES,
Petitioner,

v.

PUBLIC EMPLOYEES RETIREMENT BOARD, ELLEN ROSENBLUM, Attorney General and JOHN A. KITZHABER, Governor,
Respondents.

S061431

MICHAEL D. REYNOLDS,
Petitioner,

v.

PUBLIC EMPLOYEES RETIREMENT BOARD, State of Oregon; and JOHN A.
KITZHABER, Governor, State of Oregon,
Respondents.

S061454

GEORGE A. RIEMER,
Petitioner,

v.

STATE OF OREGON; OREGON GOVERNOR JOHN KITZHABER; OREGON
ATTORNEY GENERAL ELLEN ROSENBLUM; OREGON PUBLIC EMPLOYEES
RETIREMENT BOARD; and OREGON PUBLIC EMPLOYEES RETIREMENT
SYSTEM,
Respondents.

S061475

GEORGE A. RIEMER,
Petitioner,

v.

STATE OF OREGON; OREGON GOVERNOR JOHN KITZHABER; OREGON
ATTORNEY GENERAL ELLEN ROSENBLUM; OREGON PUBLIC EMPLOYEES
RETIREMENT BOARD; and OREGON PUBLIC EMPLOYEES RETIREMENT
SYSTEM,
Respondents.

S061860

**PETITIONERS' JOINT AND MORO PETITIONERS'
REVISED PROPOSED FINDINGS OF FACT**

INTRODUCTION

In its Response to Petitioners' Joint and Moro Petitioners' Proposed Findings of Fact, the State rejects several proposed findings on the alleged basis that they "are not findings of fact at all, but instead are recitations or descriptions of law, of statutory or legislative history, or case law for which no finding or stipulation is necessary because the cited document speaks for itself." State's Response, p 4. The State further states that: "[a]lso noted below are instances where, in State Respondents' opinion, the characterization of a legal principle or of the operation or effect of a particular statute is inaccurate." *Id.* Finally, the state notes that it is expressly reserving any relevancy objections. *Id.*

Petitioners offer the following two general comments to the State's objections:

Comment A: Petitioners assert that the first basis the state urges for rejection of proposed findings should, itself, be rejected. The purpose of the proposed findings of fact is to provide a record on which the Supreme Court may decide this case. That record is to be compiled by the Special Master, just as the Special Master did in the *Strunk* litigation and for which he earned the Court's much-deserved praise. The Special Master's report in *Strunk*, however, contained many statements to which the same objection voiced by the state here could have been made, and, apparently, were made by one or more of the parties

in that case. The Special Master made note of and dismissed these objections with the following statement in his report:

"Third, in their objections to proposed findings of fact, the parties frequently asserted that their opponents' proposals were veiled legal conclusions. Those complaints were not surprising, nor was it surprising that the parties making them had difficulty avoiding similar objections to their own proposed findings. In some respects, it is virtually impossible to address the facts in these cases without providing at least some contextual information concerning my understanding of the PERS statutes or rules. In doing so, however, I have attempted to avoid expressing an opinion when the meaning or effect of a statute or rule is uncertain."

See Ex. 15, p. 6. Even a cursory review of the Special Master's report in *Strunk* reveals that many of the statements contained in the report describe the PERS system and its operation, and those statements are taken from, summaries of or at least based on the statutes that establish the PERS system and the PERS contract.

The State does not complain in its first stated basis for objections that Petitioners' are improperly characterizing the statutes, the legislative history or the case law – only that Petitioners are reciting or describing those statutes, the legislative history and the case law. To the extent the State objects because the proposed findings contain citations to case law, those citations only are provided to show that these facts have previously been determined in prior judicial proceedings to which the State was a party. Even if the State somehow could

claim that it is not collaterally estopped from contesting these factual statements, the citations at least serve to legitimize the accuracy of the statements. At a minimum, if the State wishes to object to the accuracy of the facts taken from prior case law to which it was a party, it should state with precision why it believes the facts are inaccurate.

Given the task facing the Special Master in these proceedings, Petitioners submit that the State's first stated basis for objection is not well taken and should be rejected. It is for the Special Master to decide whether the Petitioners' proposed findings, and indeed any proposed findings, provide contextual or other information that will or may aid the Supreme Court in resolving the legal issues raised in these consolidated proceedings.

Comment B: As to the State's second stated basis for rejecting Petitioners' proposed findings, petitioners can only respond that it is difficult to respond to this complaint to a proposed finding when the State merely asserts that the recitation or the citation to authority is inaccurate and provides no specifics. That is the case throughout the State's objections to proposed findings where that basis is asserted. Without specificity in the objection, Petitioners are left with no response except to say that we believe the statements contained in the objected-to proposed finding are accurate.

With the foregoing as a basis for their response, Petitioners offer the following revisions in response to the State's response to Petitioners' Proposed

Findings of Fact. To the extent Petitioners were able to discern a concrete basis for the State's rejection of a particular proposed finding as inaccurate, Petitioners have made a good faith attempt to revise the proposed finding and have added the comment **[Revised]**. To the extent Respondents accepted certain proposed findings or parts of certain proposed findings, Petitioners have noted that the fact is now **[STIPULATED]**.

Except where specifically designated as Moro Petitioners' Proposed Findings, Moro Petitioners and Pro Se Petitioners Michael Reynolds, George Riemer, and Wayne Stanley Jones propose the following revised findings of fact jointly:

PETITIONERS' JOINT PROPOSED FINDINGS

General Operation of the System through 2003

1. Petitioners incorporate by this reference the findings regarding the General Operation of the Public Employee Retirement System (PERS) through the date of the 2003 PERS Legislation (Or Laws 2003, ch 3 (HB 2001); Or Laws 2003, ch 67 (HB 2003); Or Laws 2003, ch 68 (HB 2004); and Or Laws 2003, ch 625 (HB 3020); Or Laws 2003, ch 733 (HB 2020)) as set forth at pages 8-20 of the Special Master's Written Report and Recommended Findings of Fact dated April 8, 2004. (Ex. 1). **[STIPULATED]**

2003 Changes

2. Changes made by the 2003 PERS legislation included the following:

a. HB 2001: No earnings in excess of the guaranteed assumed earnings rate may be allocated to Tier One member accounts until the funding goal for the gain-loss reserve has been fulfilled for three consecutive years. This change was not challenged in the case of *Strunk v. PERB*, 338 Or 145, 108 P3d 1058 (2005) and was unaffected by the court's decision in that case. (Ex. 1, p. 59; Ex. 2). **[See Comment A]**

b. HB 2003, sections 1 and 13: All PERS member contributions made after January 1, 2004, are redirected to an account in the Individual Account Program (IAP). This change was challenged and upheld by the court in the *Strunk*, 338 Or at 193, case. (Ex. 1, p. 62; Ex. 2). **[See Comment A]**

c. HB 2003, Section 8: The crediting of Tier I member accounts at the assumed earnings rate must occur on a career-long, not an annual, basis. This change was challenged and voided by the court in the *Strunk*, 338 Or at 208, case. (Ex. 1, p. 65; Ex. 2). **[See Comment A]**

d. HB 2003, Sections 9 and 10: Tier One members who retire on or after April 1, 2000 and before April 1, 2004, will not receive a Cost of Living Adjustment (COLA) until their monthly allowances equal or exceed the allowances they would have received had their member accounts been credited with 11.33 percent, rather than 20 percent, interest for calendar year 1999. This change was challenged and voided by the court in the *Strunk*, 338 Or at 225, case. (Ex. 1, p. 66; Ex. 2). **[See Comment A]**

e. HB 2003, Section 3: After December 31, 2003, members may no longer direct contributions to the variable account. This change was challenged and upheld in the *Strunk*, 338 Or at 213, case. (Ex. 1, p. 67). **[See Comment A]**

f. HB 2004, Section 4: PERS must use new actuarial equivalency factor (AEF) tables as of July 1, 2003. The PERS Board must adopt AEFs every two years that “must use the best actuarial information on mortality available at the time.” This change was challenged and upheld in the *Strunk*, 338 Or at 236, case. (Ex. 1, p. 67; Ex. 2). **[See Comment A]**

g. HB 2020 : Established a successor retirement plan, the Oregon Public Service Retirement Plan (OPSRP), for all employees hired after August 28, 2003, that consists of a defined benefit program (the Pension Program) and a defined contribution portion (the IAP). See ORS ch 238A. This change was not challenged in the *Strunk* case and was unaffected by the court’s decision in that case. (Ex. 2). **[See Comment A]**

3. Petitioners incorporate by this reference the findings regarding the impact of the 2003 PERS Legislation on the individual petitioners as set forth at pages 92-120 of the Special Master’s Written Report and Recommended Findings of Fact dated April 8, 2004. (Ex. 1). **[STIPULATED]**

System Changes Since 2003

Impact of IAP

4. As a result of the diversion of the 6% percent employee contribution from the existing employee accounts, effective January 1, 2004, to the IAP accounts: **[STIPULATED]**

a. Tier I and Tier II participants receive a new benefit – the balance of the IAP account upon retirement. By 2012 the average balance of those accounts had grown to \$20,432. (Ex. 34, p. 8). **[STIPULATED]**

b. The Replacement Ratio (ratio of initial retirement benefit to the last salary before retirement) for money match retirees, on average, peaked in 2000 and has decreased since. **[Revised]**

c. Since 2003 the percentage of money match retirements has diminished so that by 2012 it was no longer the retirement formula for the majority of new retirements. (Ex. 34, p. 7, graph 2). **[Revised]**

d. Beginning January 1, 2004 employee contributions were deposited to the IAP account rather than to Tier I and Tier II employee accounts. These post 2004 employee contributions are not available to fund Tier I and Tier II defined benefits. (PERS Actuary Testimony). **[Revised]**

OPSRP

2. Since its creation in 2003, the number of OPSRP participants has steadily increased so that by December 31, 2012 of the 167,103 active participants

in the system 77,666 (46.47%) participated in OPSRP. (Ex. 49, p. 2).

[STIPULATED]

Side Accounts

3. In 2001, the legislature authorized PERS participating employers to issue revenue bonds and deposit the proceeds into PERS into what have become known as side accounts. See ORS 238.692, 238.694. Many employers have elected to create side accounts so that by December 31, 2012 the total amount in side accounts had reached approximately \$5.5 billion. (Ex. 34, p. 18).

[STIPULATED] Each year a portion of the funds from each employer's side account is drawn into the regular account to help partially or fully pay that employer's required contribution, thus producing what is referred to as the net employer contribution. Draws are taken from the side account on a basis which will fully distribute the side account on the same schedule as required for the payment of the underlying bonds. **[See Comments A and B]**

Collaring

4. In 2005, the PERS Board adopted a "rate collaring" approach to be used in setting employer contribution rates which limits the volatility of those rates. In general, an employer's contribution rate adjustment is collared at 20% of the existing rate (minimum of 3%) in a single biennium, though the collar expands if the employer's funding drops below certain levels. If the system experiences extraordinarily good or bad investment returns then collaring spreads the increase

or decrease in employer rates over more than one biennium. For a more detailed discussion of collaring see Ex. 32, pp. 11-14. **[STIPULATED]**

Earnings, Employer Rates & Funding

5. From 2003 to 2007, the Fund consistently earned more than the 8% assumption (Ex. 34, p. 16) and as a result, funding of the plan increased until PERS funding reached 97.1% (111.5% with side accounts) by December 31, 2007. (Ex. 34, p. 13). Employer contribution rates for the 2009-2011 biennium, which were based on the status of the fund on December 31, 2007, were on average 12.4% (4.73% with side accounts). (Ex. 34, p. 19). **[STIPULATED]**

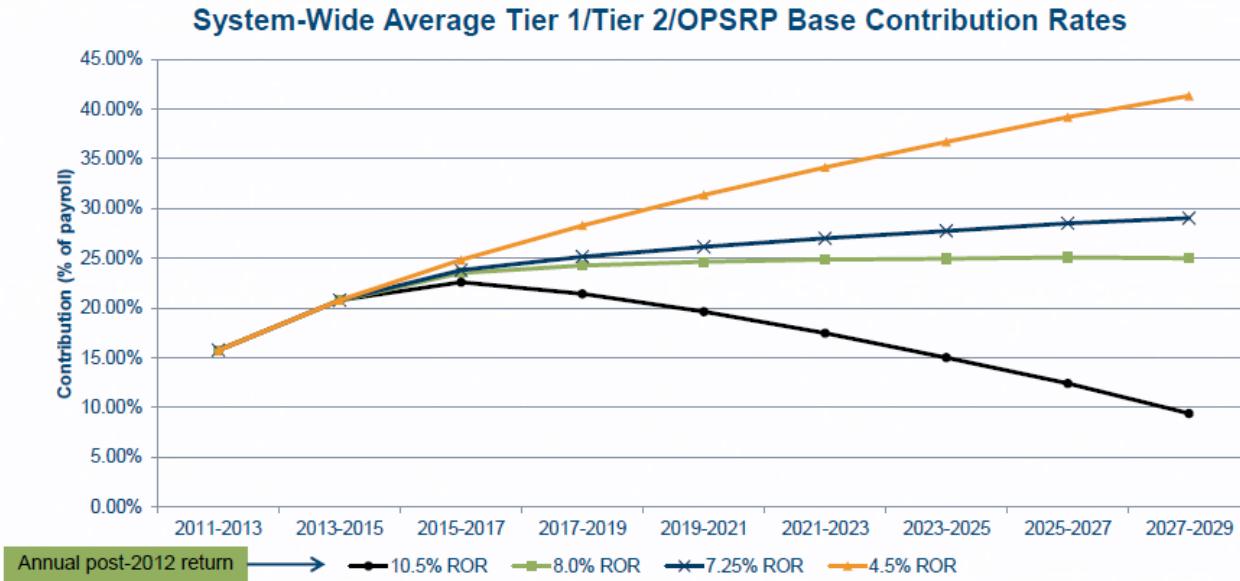
6. Prior to 2004, both employee and employer contributions supported the Tier I and Tier II pension plans. Determining the total yearly contribution to the plan required combining these contributions. From 1975 to 2005, these combined rates generally fell into the 15 to 18% range. (Ex. 34, p. 19). With the 2003 legislation, commencing January 1, 2004 employee contributions were diverted to the IAP account leaving employer contributions as the sole source of new contributions to support the Tier I and Tier II system. Comparing the 2009-2011 total contribution rate of 12.4% to the 1975-2005 range of total contribution rates shows that the 2009-2011 rate was substantially lower than average and lower than any single year by a substantial margin (Ex. 34, p. 19).

[Revised]

7. In 2008, the PERS fund lost 27.18% of its total value. (Ex. 34, p. 16). This was comparable to the losses suffered by pension plans around the country. This loss first had an impact on PERS employer rates in the 2011-2013 biennium, which was based on the financial condition of the plan on December 31, 2009. (Ex. 34, pp. 16, 19). As a result of these losses 2011-2013 PERS employer contribution rates increased to on average 16.3% (10.8% with side accounts) (Ex. 34, p. 16). This increase was limited by collaring. Without collaring the rates would have increased by approximately an additional 7%. (Actuary Testimony). The average contribution rate of 16.3% was roughly comparable to the 1975-2005 total contribution rate of the system. (Ex. 18, p. 20). **[Revised]**

8. The 2011 actuarial evaluation as presented to the PERS Board (Ex. 18) recommended increased contribution rates for the 2013-2015 biennium to continue to address the losses suffered in 2008. As a result, rates as adopted by the Board were to increase to 21.4% (15.7% with side accounts) on a system wide basis, with collaring deferring an additional 2% to the next biennium. (Ex. 18, p. 16). These would have been the system wide rates for 2013-2015 if the legislature had not acted. In the 2011 valuation the actuary indicated that barring investment experience in excess of assumptions that rates would likely stay at this level (or higher) for the foreseeable future. **[Revised]**

9. In a November 30, 2012 analysis the PERS actuary produced a chart showing projected employer contribution rates:



(Ex. 22, p. 7). The chart showed rates increasing until they topped out at about 25%, remaining at that level indefinitely assuming earnings were at the then-current earnings assumption of 8%. The analysis included fund earnings through October 31, 2012. If earnings were better than assumed, then rates fell and conversely if earnings were poorer than assumed, rates increased.

[Revised]

SB 822: Actuarial Estimates

10. Actuarial estimates done by the PERS Actuary in November of 2012 in preparation for the 2013 Legislative Session at the request of PERS showed that elimination of the ORS 238.372-378 (SB 656 (1991) and HB 3349 (1995)) benefits for out-of-state retirees would decrease average employer rates for the 2013-2015 biennium by 0.3% (Ex. 20), thereby lowering employer contributions for the biennium by about \$55 million. (Ex. 23, p. 6). This percentage decrease in

employer rates and contributions would continue for the 20 year period PERS utilizes for amortizing liabilities. (actuary testimony) **[STIPULATED]**

11. Actuarial estimates provided to the legislature in March of 2013 estimated that the total benefit decreases included in SB 822 would lower the total liabilities of the system by \$3.2 billion and accrued liabilities by \$2.6 billion. (Ex. 27). Both sums are expressed on a present value basis. **[STIPULATED]** The enactment of SB 822 would lower the system's total liabilities by 4.6% on average with the reduction falling somewhat more heavily on active members with their reductions lowering projected liabilities by 4.9% (Ex. 27, p. 2). As a result of this decrease in benefits, projected un-collared employer rates for 2013-2015 were expected to be lower by 2.5% and will continue in future bienniums. *Id.*

[Revised]

SB 822: Impact on Benefits & Employer Rates

12. The legislature passed SB 822, and it became effective on May 6, 2013. 2013 Oregon Laws, ch 53. The law cut COLA increases for all PERS participants (active, inactive, retired) and eliminated the SB 656 and HB 3349 benefits for PERS retirees who reside outside the state of Oregon. The history of these benefits is discussed in greater detail below at pages 16 to 31. **[See**

Comment A]

13. Section 1 of the law, reduced the maximum COLA for 2013 from 2.0% to 1.5%. Section 3 divorced the COLA benefit from any measure of inflation providing for an annual increase on and after July 1, 2014, as follows:

Annual Benefit Amount	Applicable COLA
First \$20,000	2.00%
\$20,000 to \$40,000	1.50%
\$40,000 to \$60,000	1.00%
\$60,000 or more	0.25%

As the table prepared by the PERS Actuary (Ex. 27, p. 1) indicated those retirees with higher benefits suffered a more severe cut in their benefits. [STIPULATED]
Since the thresholds were not indexed for inflation active members who have not yet retired will see generally greater decreases in benefits. (*actuary testimony*)

[See Comments A and B]

14. Sections 11-17 of the law eliminated SB 656 and HB 3349 benefits for any PERS retiree who does not reside in Oregon and is not subject to Oregon personal income tax effective January 1, 2014. **[See Comment A]**

15. Section 18 of the law required the PERS Board, “As soon as possible after the effective date of this 2013 Act,” to “recalculate the contribution rates of all employers,” and to “issue corrected contribution rate orders to employers affected by recalculated rates [***] within 90 days.” In addition, as a budget note the

legislature required the deferral of 1.9% of the projected 2013-2015 increase.

(Ex. 59, p. 389, 420). [See Comment A]

16. In response the PERS Board lowered rates for PERS employers 2.5% based on savings from the reduction of benefits and an additional 1.9% deferral. (Exs. 29, 30). The PERS Board limited this decrease so that no employer paid less than the amount of its 2011-2013 rate. Actual rates paid by employers for the 2013-2015 biennium dropped to an average of 17% (11.3% with side accounts). (Ex. 34, p. 19). **[STIPULATED]** This rate is consistent with the 1975-2005 total contribution rate of the system. (Ex. 34, p. 19). **[Revised]** [See Comments A and B]

2012 Advisory Valuation

17. Prior to the 2012 advisory valuation, PERS made several other changes which will have an impact on employer contribution rates. The PERS Board lowered its earnings assumption from 8% to 7.75%, adopted a new actuarial methodology (entry age normal), and re-amortized the UAL over a new 20-year period. (Exs. 28, 32). The 2012 valuation also included the excellent 2012 earnings of 14.29% (Ex. 34, p. 16). This valuation included the 2.5% lowering of employer rates by SB 822 but showed that this amount was roughly offset by the changes made by PERS in assumptions and methodology. See (Ex. 39, p. 12) (Comparing 2013-15 un-collared rates with 2015-17 advisory un-collared rates). Projected collared rates for 2015-2017 were on average 19.08% (12.93% with side

accounts). (Ex. 39, p. 19). The collar lowered projected 2015-2017 rates by about 4%. (Ex. 39, p. 17). This valuation did not include the impact of SB 861.

[Revised] [See Comment B]

SB 861: Actuarial Estimates

18. Although the PERS Actuary was not asked to provide the legislature with any actuarial estimates for SB 861, the actuarial analysis for SB 857, which had the same COLA reductions as SB 861, showed that such reductions would further lower the PERS UAL (12/31/11) by an additional \$2.1 billion and would lower employer contribution rates by an additional 2%. (Ex. 37, p. 3).

[STIPULATED]

SB 861: Impact on Benefits/Employer Rates

19. The legislature passed SB 861, and it became effective on October 8, 2013. 2013 Oregon Laws, ch 2 (Spec Sess). The law further lowered COLA benefits according to the following schedule (Exs. 40; 37):

Yearly Benefit	Senate Bill 822 COLA (No longer in effect after approval of SB 861)	Senate Bill 861 (*Ends in 2019)		
		COLA	First Supplemental payment for all benefit recipients*	Second Supplemental payment for benefit recipients whose yearly benefit is \$20,000 or less*
<\$20,000	2.00%	1.25%	0.25%	0.25%
\$20,000-\$40,000	1.50%			---
\$40,000-\$60,000	1.00%			
>\$60,000	0.25%	0.15%	\$150	

[See Comments A and B]

20. Section 8(6) of the law requires the PERS Board to pay the annual supplemental benefit payments out of the Contingency Reserve beginning in 2014. The statute sets out a tiered formula for calculating these payments (shown in the table above) and limits the amount of any annual supplemental payment to no more than \$150. The statutory provision and requirement for the PERS Board to pay annual supplemental payments sunsets on December 31, 2019. The total amount needed to fund these supplemental payments for the six-year period (2014 -2019) is estimated to be \$65 million. (Ex. 47). **[STIPULATED]** As of January 31, 2014 the contingency reserve had an estimated balance of \$600.2 million. (Ex. 47). **[Revised]**

21. Because SB 861 requires any supplemental payments to be paid from the PERS contingency reserve and the contingency reserve is not included as an asset when employer contribution rates are set, payment from that fund will have no immediate impact on employer rates due to the balance in that reserve. (PERS Actuary testimony). **[STIPULATED]** The provisions of SB 861 were not incorporated in the 2013-2015 revised rates but will impact 2015-2017 rates.

22. With the addition of the benefit reductions of SB 861, newly recalculated advisory 2015-2017 rates now show average employer collared rates at 18.7% (12.5% net rates with side accounts). Collaring has deferred approximately 2% of additional hikes, though excellent 2013 returns (15.95%) will lower that amount. (Ex. 49, p. 19; actuary testimony). This rate is only slightly

higher than the 1975-2005 total contribution rate of the system. (Ex. 34, p. 19).

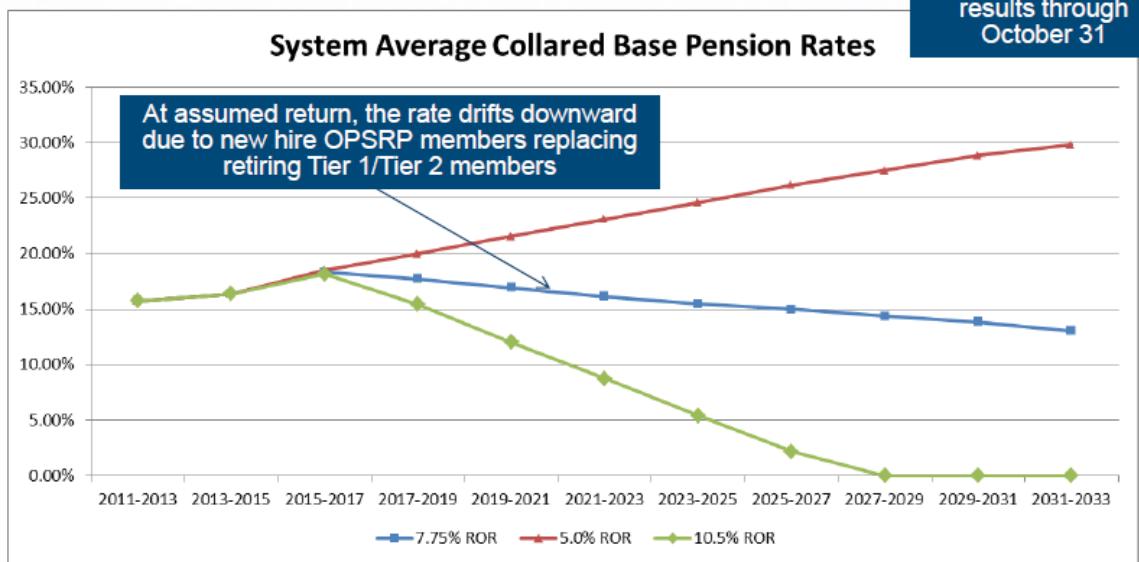
[Revised]

Current State of the System

23. On November 22, 2013, the PERS actuary presented a chart (Ex. 41, p. 16) to PERS similar to the one he had provided a year earlier (Ex 22, p. 7) leading-up to the 2013 legislative session. This chart included all of the PERS Board's changes from the 2012 actuarial valuation as well as 2012 and a substantial part of 2013 earnings (through October 31, 2013). The chart now shows rates topping out at approximately 18% and if earnings are at the now-assumed rate of 7.75%, rates trending downward to approximately 13% over the next 8 biennia. **[STIPULATED]** As before, higher earnings than the assumption cause rates to decrease more quickly and earnings lower than the assumption cause rates to increase. The chart itself attributes the downward trend in rates to the fact that new hire OPSRP members are replacing retiring Tier I and Tier II members. **[Revised]**

Steady Return Model Projections

Reflects effects of
SB 822 & SB 861
and investment
results through
October 31



The steady rate model illustrates impact of consistently achieving the assumed 7.75% return compared to plus or minus 2.75% of that rate

[Chart STIPULATED]

24. As of December 31, 2013, PERS was estimated to be 96% funded with side accounts and 87% funded without side accounts. (Ex. 49, p. 13).

[STIPULATED]

25. If the court decides to set aside these statutes, then PERS base contribution rates would increase by about 4.5%. When those increases would take place would depend on collaring and future earnings of the fund. Should earnings be at the assumed rate of 7.75% then the above chart from the PERS Actuary's November 22, 2013 analysis would continue to be accurate, though it would move upward by about 4.5%. (Actuary testimony) Rates will continue to

trend downward over time as a result of continuing increase in OPSRP members who are replacing retiring Tier I and Tier II members. **[Revised]**

26. The amount which will not be paid to retirees in 2013-2015 as a result of the passage of SB 822 and SB 861 is approximately \$70 to \$85 million for COLA and \$60 to \$70 million for SB 656 and HB 3349 benefits. (Ex. 47, p. 3). If the court determines that these statutes must be set aside, there are sufficient funds in the Contingency Reserve (\$668.7 million) following the tentative distribution of 2013 earnings to pay these amounts to retirees. (Ex. 49, p. 18). **[Revised]**

History of COLA

27. From 1964 to 1971 (See ORS 237.198 (1969); Oregon Laws 1963, ch 608 §9), PERS retirees received additional payments in what has been referred to as a “13th check system.” PERS retirees received these additional checks based on the financial condition of the system. In the final years of this system, retirees were receiving a 13th check with as much as 3.5 times the amount of their regular monthly benefit. (Ex. 48, p. 3). These additional amounts were not added to the base amount of the retirees’ benefits. *Id.* **[STIPULATED]**

28. In 1971, the legislature changed the approach to cost of living with the passage of Oregon Laws 1971, ch 738 §§11-12. (Ex. 50). The legislature gave the first of what came to be called ad hoc increases by permanently increasing retirees’ pensions in an amount consistent with the prior system of benefit increases (Ex. 48, p. 4). **[STIPULATED]** In addition, the legislature adopted a

“permanent” approach to cost of living which granted an increase based directly on a cost of living index (CPI Portland area-all items) capped at 1.5%. This benefit was no longer dependent on the financial condition of the system and the amount of each COLA increase was added to the retirement base. According to the PERS Actuary (Ex. 50, p. 91):

“This will provide, then, a permanent base for all pensions and will do away with the necessity of distributing excess interest to pre-1968 pensioners and will additionally provide all our pensioners with an annual cumulative increase of 1 ½ percent per year. In further explanation, were the index to go up to 3 percent in 1972, in 1973 a retireant would receive 1 ½ percent increase. In 1973, if it were 3 percent, he would receive 1 ½ percent of the 1973 computed base. In no event, should the CPI go downward, would the individual ever go below the starting base of benefits received at retirement.

[See Comments A]

29. The COLA provision was a part of the “public employes retirement package, providing increased benefits.” (Ex. 50, p. 5). PERS summary of the bill (Ex. 50, pp. 83-85) described the COLA as follows:

“The most important post-retirement increase benefit is an amount adjustment applicable to all PERS members who are retired after 1972. It allows an annual increase or decrease of no more than 1-1/2 percent of the current total service retirement benefit of a retired employee, based upon the increase or decrease in the Consumer Price Index for the preceding year. In no event can a declining CPI reduce the retired member’s service benefits below those to which he would have been entitled if no such cost-of-living adjustment had been adopted.

"Under current trends, this appears to assure an annual increase in service retirement benefits of 1-1/2 percent as long as current inflationary increases continue.

"The improvements indicated are all of a type which are becoming the accepted standard for retirement systems in either the public or private sector. Since HB 1397 does not envision any change in employee contributions, the entire cost must be financed from employer contributions. [***]

"As proposed by HB 1397, the [total] package will cost the employer some 7.4 percent. [***] Although this major package of retirement benefit increases can be financed within the state service for 1971-73 with little or no added costs above those already budgeted, it must be emphasized that some local governments will face increased costs as early as 1972-73."

[See Comment A]

30. PERS Director James McGoffin testified that, "The Board felt that under the evaluations they would be able to recommend one and a half automatic ongoing CPIs, Consumer Price Index post retirement increase." (Ex. 50, pp. 18-19). He was invited by the legislative committee to "go through that 1 and a half percent increases [***] again." (Ex. 50, p. 27). He explained that:

"It is a 1 and a half percent increase. Whatever the cost of living change is, if it exceeds 1 and a half, there's a 1 and a half percent increase would be granted. [***] So, say it increased 3 percent per year, 1 and a half percent would be used, and the increase would be there. The extra one and a half percent [***] would be carried forward to be considered in the following year with whatever took place. [***] [T]he meaning or purpose of the benefit is to take account of what has happened to the cost [***] of living in the interval of time, and the idea

of putting a maximum on this is to set some basis of control as to cost of the benefit.”

[See Comment A]

31. In 1973, the legislature increased the COLA cap to 2%. See Oregon Laws 1973, ch 695 §1; (Ex. 51). The Committee Chair described the change (Ex. 51, pp. 87-88) as follows:

“The original bill contained a cost of living escalator. Presently PERS law contains a one and a half percent maximum cost of living escalator fee that is tied to the Consumer Price Index in the Portland area, and it says that by any amount that the Portland CPI raises that the benefit of employees in the year following who are retired will be increased by a similar amount, up to a maximum of 1 and a half percent. The proposal was to the bill [***] to raise to whatever the increase in the Consumer Price Index might be [***] and the actuary warned us earlier when he was here that he was not able to determine a cost factor for an unlimited Consumer Price Index escalator. He recommended that it be capped at some level and proposed 3 percent, a 2.5 percent, and the Oregon State Employees Association and others recently proposed a 2 percent level, so it increases only one half of 1 percent.

“As originally written, we weren’t quite able to determine what the price would be, but it would be in excess of nine tenths of 1 percent payroll if it’s reduced to only 2 percent for an increase of one half of 1 percent. That cost would be three tenths of 1 percent.”

[See Comment A]

32. PERS Director McGoffin explained that PERS was willing to support an increase of up to 2 and a half percent but in a “fiscally responsible” way with a maximum and a minimum. (Ex. 51, p. 25). He was questioned about where

PERS ranked in comparison to western states in terms of overall benefits, McGoffin informed the committee that with the addition of SB 411 benefits Oregon would move from about 7th to about 4th or 5th. (Ex. 51, p. 40). **[See Comment A]**

33. Between 1973 and 1989, the legislature also provided additional ad hoc increases during times of high inflation (Ex 48 Attachment A) to protect the purchasing power of PERS retirees. The last ad hoc increase was in 1989 (Ex. 48, p. 4). **[See Comment A]**

34. Subsequently, the legislature made only “housekeeping” changes to the COLA statute. See Oregon Laws 1989, ch 799 §2 and Oregon Laws 2001, ch 945 §79. (Exs. 52, 57). In 1989, for “easier reading,” the legislature removed the original section 1 which provided for both the annual adjustment and the 2 percent cap and separated the two concepts into current sections 1 and 2. (Ex. 52, p. 17). In addition, the legislature clarified that COLAs are also payable to beneficiaries of retirees. *Id.* In 1995, the statute was renumbered from ORS 237.060 to ORS 238.360. Finally, in 2001, the legislature removed the old ORS chapter 237 words “current service” in front of “contributions of the public employers” from section 4 of the statute to clarify that the COLA would be funded from the usual employer contribution rates set by the actuary under ORS 238.225. (Ex. 57).

[See Comment A]

35. For the past 40 years, therefore, all PERS retirees have received a yearly COLA increase capped at 2% (ORS 238.620), with the exception of the

2003 PERS Legislation COLA change struck down by the court in *Strunk*. To the extent that inflation exceeds 2% the additional percentage is banked so that in later years of low inflation the COLA increase will be 2% if the bank is sufficient. (Ex. 26). Historically PERS retirees receive the 2% COLA increase except in those instances when inflation is lower than 2% in their initial years of retirement (Ex. 48, p. 3). **[See Comment A]**

36. The current inflation assumption of PERS is 2.75%. This assumption is developed by the PERS actuary and approved by PERB (Ex. 32, Appendix p. 40). The CPI (Portland) upon which the 1973 statute based the COLA benefit has never been below zero in any year since it was first measured in 1962 (Ex. 48, Attachment A). **[STIPULATED]**

37. In support of the SB 822 changes, the legislature did not cite any problems with the CPI system. Instead, Senator Develin explained, “Much of the conversation about the Bill so far has been whether across the board 2 percent COLA should remain in effect or whether there should be a reduction in COLAs so that employer costs may be reduced, making more funds available for schools and other employers participating in PERS to devote to their core governmental functions.” (Ex. 59, p. 578). Similar arguments were raised in support of passage of SB 861 (Ex. 60, p. 166 (“massive layoffs in schools”), p. 171 (“thousands of people with mental health issues” and “the people we have to

protect the public from" through our "public safety system.") [Revised]; [See Comment A]

History of SB 656 & HB 3349 Benefits

38. For PERS members who became part of the PERS retirement system prior to 1991, their contract of employment with the state entitled them to eventual retirement under one of three methods that produced the highest retirement benefit. [See Comments A and B]

a. Those methods included the so-called full formula, pension plus annuity and money match methods. See, generally *Strunk*, 338 Or at 160. Regardless of the method chosen, retirement benefits earned before 1991 were exempt from the state's income tax. *Strunk* at 176 (citing ORS 237.201 (1989).

[See Comments A and B]

b. The factors the PERB used in calculating the service retirement allowance for a member under the three formulae were the following: the member's length of service (ORS 238(2)(a)(B)); the member's final average salary (ORS 238(2)(a)(B) ; the member's accumulated contributions (account balance) at the time of retirement (ORS 238.300(1); unused sick leave (ORS 238.350) ; and the member's age at retirement (ORS 238.280). A member's actual service retirement allowance also depended on PERB's application of actuarial equivalence factors that PERB had adopted and were in effect at the time of the member's retirement. ORS 238.607. [See Comments A and B]

39. In 1991, the state decided to begin taxing the retirement benefits of PERS retirees. *Strunk* at 176 (*citing* Oregon Laws 1991, ch 823). In 1991, the state decided to begin taxing the retirement benefits of PERS retirees. *Strunk* at 176 (*citing* Oregon Laws 1991, ch 823). The retirement incomes of PERS retirees, therefore, were treated similarly to the retirement incomes of all non-PERS retirees, both resident and non-resident, whose retirement incomes that were based on work performed in Oregon already were subject to Oregon income tax. ORS 316.127(1)(a). **[See Comments A and B]**

a. The state estimated that taxation of PERS retirees' benefits would result in a net revenue gain to the General Fund for the 1991-93 and 93-95 biennia of \$98.9 and \$97.7 million respectively. See Revenue Analysis of HB 2352-B, Legislative Revenue Office, June 24, 1991. **[See Comments A and B]**

40. Also in 1991, the state legislature decided to grant some PERS retirees an increase in their service retirement allowances to ameliorate the effects of subjecting their retirement incomes to the state's income tax. Oregon Laws 1991, ch 796. That increase ranged from 1% to 4% of a PERS retiree's service retirement allowance, based on the years of service of that retiree. *Id.* The increase was to be funded by employer contributions. *Id.* **[See Comments A and B]**

a. The state estimated that the service retirement allowance increase would cost all public employers \$50.6 million in each of the 1991-93 and

1993-95 biennia. See Fiscal Analysis of SB 656, C-Engrossed, Prepared by Legislative Fiscal Office, 6/18/91 (Ex. 53). Of that amount, \$18.8 million would be borne by state agencies, of which 40% would be paid out of the General Fund ("GF"). *Id.* [See Comments A and B]

b. The GF also would receive \$2.25 million in additional taxes generated by the increase. See SB 656-C, Legis Rev Office, 6/19/91 (Ex 53).

41. In 1995, the legislature enacted a second law that also increased PERS retirees' service retirement allowances. Oregon Laws 1995, ch 569 (HB 3349). [See Comments A and B]

a. Rather than simply ameliorate to some degree the economic consequences of the income tax on PERS retirees' retirement incomes, as the 1991 increase had done, this increase sought to fully nullify the tax consequences for work performed prior to 1991. See Revenue Impact of HB 3349, Legislative Revenue Office, June 6, 1995 (Ex. 54). In granting this increase, the legislature was fully aware that the increase would more than offset the economic consequences of subjecting PERS retirees' retirement incomes to state income taxation for three categories of retirees: 1) those for whom a portion of their retirement incomes were simply a return of contributions and therefore not subject to income taxation; 2) those who resided out of state and, therefore, paid no state income tax; and 3) those in lower income tax brackets who paid less than the top marginal state tax rate. See House State and School Finance Committee,

May 12, 1995, Tape 227B (testimony of Dick Yates, Legislative Revenue Office).

[See Comments A and B]

b. In considering HB 3349 as originally introduced, the House State and School Finance Committee ("HSSFC") chair expressed concern that while the intention behind the bill was to satisfy a lawsuit (*Chess/Stovall*) then pending in Marion County Circuit Court concerning the damages to be awarded PERS retirees as a result of the Hughes decision), he had no intention of endorsing a bill unless it stated that it was in settlement of the lawsuit. See HSSFC, May 12, 1995, Tape 225B. Sections 2(1) and 2(3) of the bill were drafted to address the Chair's concerns. Section 2(1) provided that the increase in benefits was intended to fully compensate for damages as a result of the state's decision to subject PERS retirement benefits to state income taxation. Section 2(3) specified that no person would acquire a contractual right to the benefit increase provided for in the bill. The Chair summarized the intent behind section 2(3) as follows: "So if plaintiffs in case decided not to accept this settlement, we would have no obligation to pay that beyond any funds that we might obligate during the current biennium. If we chose to rescind this." *Id.*, tape 227B. The chair summarized his position with respect to both sections 2(1) and 2(3) as follows:

"I would like to say for the public record that between the section sub 1 and the entire section 2 this is intended to settle the suit that has been brought by the public retirees and uh PERS retirees and there is not a contractual right

to this benefit if it is awarded and if the settlement should not work out then we would anticipate actually rescinding this benefit."

Ibid. A settlement was reached and approved ultimately by the *Chess/Stovall* court. See *Strunk*, 338 Or at 176. [See **Comments A and B**]

42. The increase authorized by House Bill 3349 was an alternative to the increase granted by the 1991 legislature, and any retiree was entitled to the benefit increase that was the more advantageous of the two. Ch 569, §3(1). [See **Comments A and B**]

43. The 1995 law utilized a formula to calculate the amount of the increase. First, the formula required PERS to calculate the percentage of benefits due a PERS retiree for work performed prior to 1991 when the tax exemption was repealed. Next, PERS was required to multiply the percentage times a fraction --1/.91 – and took that result, expressed as a percentage, and multiplied it times the benefit amount due the retiree under one of the three methods mentioned above to calculate the amount of the increase. Or Law 1995, ch 569, §3. [See **Comments A and B**]

44. HB 3349's revenue analysis projected \$19 million in tax revenues stemming from paying \$250 million in past-due increased benefits for the period January 1, 1991 to December 31, 1995. See Revenue Impact of HB 3349C, Legislative Revenue Office, June 6, 1995 (Ex. 54). The report noted that some of the \$250 million in benefits would not be taxable either because the retiree lives

out-of-state or has no taxable income." *Id.* The revenue report declined to project a revenue gain going forward as a result of taxation of the increased benefits, concluding that "because, like salary increases and other state expenditures, they are considered part of the growing Oregon economy." *Id.* [See Comments A and B]

45. HB 3349 was also projected to cost public employers \$53.9 million and \$71.8 million in the 1995-97 and 1997-99 biennia, respectively. See Legislative Fiscal Analysis, HB 3349 C-Engrossed, June 6, 1995 (Ex. 54). Of those amounts \$27.3 million and \$36.4 million, respectively, were to paid by state agencies, of which 34% would come from the General Fund. *Id.* [See Comments A and B]

46. At the same time the legislature was considering House Bill 3349, a second bill was pending in the legislature that would provide an alternative means of achieving compliance with the equal-tax-treatment mandate of *Davis v. Michigan*, 489 US 803, 109 S Ct 1500 (1989). Instead of taxing all state and federal retirement benefits, Senate Bill 562 would have exempted state and federal retirement incomes from the state's income tax. This bill was estimated to negatively impact the state's General Fund due to lost tax revenue to the tune of \$496 million in the 1995-97 biennium, and \$172 million in the 1997-99 biennium. See Revenue Impact of SB 562, Legislative Revenue Office, February 24, 1995.

[See Comments A and B]

47. Chapter 569 (HB 3349) became effective on July 14, 1995. At the time of its enactment, non-resident PERS retirees' retirement incomes remained subject to Oregon's income tax. ORS 316.127(1)(a) (1995 Replacement Part). That changed in 1997, when the legislature amended ORS 316.127 by adding a section 8 to the statute. That section declared that "[r]etirement income received by a nonresident does not constitute income derived from sources within this state unless the individual is domiciled in the state." Or Laws 1997, ch 839, §10. It further provided that the amendment applied retrospectively to income received after December 31, 1995. Ch 839, §11. **[See Comments A and B]**

48. From January 1, 1996 until December 31, 2011, non-resident PERS retirees received the same gross monthly service retirement allowance as their state resident PERS counterparts who, except for their post-retirement residence, were otherwise similarly situated. In fact non-resident and resident retirees received the same gross monthly service retirement allowance without regard for post-retirement residency since the PERS system first started in 1945. From 1945 until December 31, 2011, the PERS statutes did not authorize PERB to use as a factor in calculating or adjusting a member's gross service retirement allowance, nor has PERB ever attempted to use as a factor in calculating or adjusting a member's gross monthly, the post-retirement residency of the member. **[See Comments A. Petitioners wish to point out, however, that the State's claim that this proposed finding is a "statement or argument of law"**

mischaracterizes what is contained in the proposed finding. This proposed finding contains several "factual" assertions, to wit: 1) "[f]rom January 1, 1996 until December 31, 2011, non-resident PERS retirees received the same gross monthly retirement allowance as their state resident PERS counterparts who, except for their post-retirement residence, were otherwise similarly situated; 2) "non-resident and resident retirees received the same gross monthly service retirement allowance without regard for post-retirement residency since the PERs system first started in 1945;" and 3) "[f]rom 1945 until December 31, 2011, the PERS statutes did not authorize PERB to use as a factor in calculating or adjusting a member's gross service retirement allowance, nor has PERB ever attempted to use as a factor in calculating or adjusting a member's gross monthly [sic], the post-retirement residency of the member." With the exception of the first part of the third factual assertion, which could be characterized as a mixed fact-law statement, these assertions are all factual. They are either true or they are not as historical facts. As with most of the State's objections, the State does not dispute their truth.]

49. In 2011, for the first time ever, the legislature decided to begin treating non-resident PERS members differently from their in-state, similarly-situated counterparts in the payment of their gross monthly service retirement allowance. Effective January 1, 2012, the legislature required PERB to adjust downward a

non-resident PERS member's gross service retirement allowance by an amount equal to that which PERB included in the member's service retirement allowance as a result of applying House Bill 3349. Or. Laws 2011, Ch 653, § 2(1) (codified as ORS 238.372(1)). The law achieved this result by stating that the increase authorized under the 1995 law could not be paid to a PERS member "if the board receives notice under ORS 238.372 to 238.384 that the payments made to the person under this chapter are not subject to Oregon personal income tax under ORS 316.127 (9)." However, the legislature limited the application of the law only to members retiring after January 1, 2012. Chapter 653, §2(2), codified as ORS 238.372(2). **[See Comments A and B]**

50. The 2013 legislature, in Senate Bill 822, changed the 2011 law in two primary respects. First, the legislature amended ORS 238.372(1) to extend the reduction in a non-resident member's service retirement allowance to those non-resident retirees whose service retirement allowance had included the increased benefits under Senate Bill 656 (1991). SB 822, §11. Second, it repealed ORS 238.372(2), thereby including all non-resident PERS retirees whose retirement allowances included increases under the 1991 or 1995 law and regardless of the date of their retirement. Senate Bill 822, section 11. **[See Comments A and B]**

a. Prior to Senate Bill 822, Oregon statutes governing PERS, with perhaps three exceptions, had never authorized PERB to adjust downward a

member's service retirement allowance after the member has retired and begun receiving a service retirement allowance. The first exception is if PERB has made an erroneous payment and seeks to recoup that erroneous payment from the member, ORS 238.715; the second is adjustments for members who elected to remain in the variable account upon retirement, ORS 238.260, and the final is the express condition that the increase in HB 3349 and SB 656 may be taken away if the exemption from Oregon's income tax for PERS members' retirement benefits is ever reinstated. The legislature has not reinstated the income tax exemption for PERS members' retirement benefits. **[See Comments A and B]**

51. Approximately 18,000 PERS retirees (or beneficiaries), or 15% of PERS retirees, are non-residents. (Budget Report and Measure Summary, Joint Committee on Ways and Means, April 5, 2013) (LFO Bill information packet).

[See Comment A]

a. Putting COLAs aside, Senate Bill 822 will, over the 2013 -2015 biennium, produce a savings of \$55 million in employer contributions. (Fiscal Impact of Proposed Legislation (SB 822), Legislative Fiscal Office, March 28, 2013). **[See Comment A]**

b. Because employer contributions fund the benefits Senate Bill 822 takes away, the \$55 million savings in employer contributions also equals the amount of benefit reductions for non-resident retirees. **[See Comment B]**

c. All other things being equal, PERS members who retired before or closer to the time of the 1991 tax repeal were awarded a service retirement allowance that included a larger benefit increase under House Bill 3349 than PERS members retiring later. Necessarily, the negative financial impact on their overall service retirement allowance caused by Senate Bill 822 will be much greater than the average, while the impact will be less than average for PERS members retiring later and with fewer pre-1991 years of public service. (Ex. 20, p. 2). **[See Comment B]**

52. Senate Bill 822 as a whole was projected to achieve \$810 million in system-wide savings for the 2013-15 biennium. (Budget Report and Measure Summary, Joint Committee on Ways and Means, April 5, 2013). The \$55 million in cost savings achieved by reducing non-resident retirees' service retirement allowances represents 6.8% of the system-wide cost savings that Senate Bill 822 would achieve. **[See Comment A]**

53. The state collects state income taxes on resident retirees' retirement incomes by having the PERS employer withhold projected tax amounts from resident retirees' paychecks, subject to correction at the end of the year for any over-withholding or under-withholding of taxes due. **[See Comment B]**

54. The state collected revenue from taxing PERS pensions in the years 2007 – 2012 in the following amounts:

2007 -	\$105 million	(Ex. 72, p. 19)
2008 -	\$117 million	(Ex. 71, p. 18)

2010 -	\$125 million	(Ex. 70, p. 18)
2011 -	\$136 million	(Ex. 25, p. 18)
2012 -	\$141 million	(Ex. 34, p. 20; Ex. 49, p. 2)

[Revised] [Comment: The State objected that Petitioners provided no cites to the figures contained in the proposed finding. The State did acknowledge, however, that economic impact studies PERS has prepared do show projected tax revenues for 2012 of \$141 million, which is consistent with the figure for that year contained in the proposed finding. The remaining figures are taken as well from PERS-prepared documents, which petitioners have added to their exhibit list.]

MORO PETITIONERS' PROPOSED FINDINGS

Instead of responding point by point to the State's objections to the assumptions used by their actuary to project the impact of SB 822 and 861 on the individual petitioners, Moro Petitioners respond generally that, their expert's projections are within a reasonable range of difference from those of the State. In addition, Moro Petitioners maintain that the percentage approach to analyzing the impact of the legislation on their benefits is the better approach because it avoids the question of what is the appropriate rate to calculate actuarial present value.

As Petitioners explain in their response to the State's Proposed Findings of Fact, they disagree that 7.75% is the appropriate rate for an individual petitioner. Petitioners further note the following stipulated facts are offered merely to demonstrate that, based on an actuary's projections, SB 822 and SB 861 will have a substantial, adverse impact on petitioners. Petitioners do not concede that the projections of their actuary or of PERS are an accurate measure of actual damages petitioners will suffer as a result of these two bills.

55. Petitioner Everice Moro (“Moro”)(DOB 3/19/49) is a Tier I PERS retiree and an Oregon resident. (Ex. 1). Prior to retirement, she was employed as an Educational Assistant by the Estacada School District and was a member of the Oregon School Employees Association (OSEA). She retired from PERS employment effective July 1, 2011, under the Money Match calculation method, Benefit Option 2A, with a gross monthly benefit of \$1,509.28 and with 30 years and 3 months of service. Based on this service time, her SB 656 benefit percent is 4%. Of this service, 10 years and 7 months were prior to October 1, 1991, resulting in an HB 3349 benefit 3.4602%. She has a COLA Bank balance of 1.67% as of July 1, 2013. According to the calculations of Actuary David MacLennan, her total loss attributable to SB 822 and 861 is as follows:

<u>Everice Moro’s Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$8,101	1.2%
Attributable to SB 861:	\$68,573	10.2%

56. Petitioner Terri Domenigoni (“Domenigoni”)(DOB 7/1/49) is a Tier I PERS retiree and an Oregon resident. (Ex. 2). Prior to retirement, she was employed as an Elementary School teacher by the Oregon City School District and was a member of the Oregon Education Association (OEA). She retired from PERS employment effective July 1, 2005, under the Formula plus Annuity calculation method, Option 2A, with a gross monthly benefit of \$1,930.86 and with 24 years 0 months of service. Based on this service time, her SB 656 benefit

percent is 2%. Of this service, 10 years and 3 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 4.2239%. She has a COLA Bank balance of 3.77% as of July 1, 2013. According to the calculations of Actuary David MacLennan, her total loss attributable to SB 822 and 861 is as follows:

<u>Terri Domenigoni's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$28,797	3.0%
Attributable to SB 861:	\$101,315	10.5%

57. Petitioner Charles Custer ("Custer") (DOB 6/27/40) is a Tier I PERS retiree and an Oregon resident. (Ex. 3). Prior to retirement, he was employed as a Fire Fighter by the Tualatin Valley Fire & Rescue and was a member of the International Association of Fire Fighters (IAFF). He retired from PERS employment effective July 1, 1993, under the Full Formula calculation method, Option 3A, with a gross monthly benefit of \$2,740.83 and with 25 years 0 months of service. Based on this service time, his SB 656 benefit percent is 3.0%. Of this service, 23 years and 3 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 9.1978%. He has a COLA Bank balance of 13.31% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>Charles Custer's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$44,287	4.2%
Attributable to SB 861:	\$72,200	6.9%

58. Petitioner John Hawkins (“Hawkins”)(DOB 5/2/45) is a Tier I PERS retiree and an Oregon resident. (Ex. 4). Prior to retirement, he was employed by Linn County and was a member of the Service Employees International Union (SEIU). He retired from PERS employment effective February 1, 2003, under the Money Match calculation method, Option 2, with a gross monthly benefit of \$2,289.09 and with 25 years 3 months of service. Based on this service time, his SB 656 benefit percent is 3.0%. Of this service, 13 years and 11 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 5.4510%. He has a COLA Bank balance of 3.77% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>John Hawkins’s Estimated Benefit Loss</u>	<u>Dollar Loss</u>	<u>Percentage Loss</u>
Attributable to SB 822:	\$32,752	3.30%
Attributable to SB 861:	\$91,371	9.20%

[Revised]

59. Petitioner Michael Arken (“Arken”)(DOB 1/28/46) is a Tier I PERS retiree and an Oregon resident. (Ex. 5). Prior to retirement, he was employed by City of Portland and was a member of the Oregon AFSCME Council 75 (AFSCME). He retired from PERS employment effective March 1, 2002, under the Money Match calculation method, Option 2, with a gross monthly benefit of \$2,505.60 and with 21 years 10 months of service. Based on this service time, his

SB 656 benefit percent is 2.0%. Of this service, 11 years and 5 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 5.1715%. He has a COLA Bank balance of 3.77% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>Michael Arken's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$59,767	4.48%
Attributable to SB 861:	\$147,540	11.06%

60. Petitioner Eugene Ditter ("Ditter") (DOB 7/31/53) is a Tier I PERS retiree and an Oregon resident. (Ex. 6). Prior to retirement, he was employed as an Aparatus Operator and Paramedic by the Tualatin Valley Fire & Rescue and was a member of the International Association of Fire Fighters (IAFF). He retired from PERS employment effective January 1, 2003, under the Full Formula calculation method, Option 3, with a gross monthly benefit of \$6,339.94 and with 30 years 0 months of service. Based on this service time, his SB 656 benefit percent is 4.0%. Of this service, 18 years and 9 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 6.1813%. He has a COLA Bank balance of 3.77% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>Eugene Ditter's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$458,474	13.6%
Attributable to SB 861:	\$530,421	15.7%

[Revised]

61. Petitioner John O'Kief ("O'Kief") (DOB 9/9/45) is a Tier I PERS retiree who is a resident of Sequim, Washington. (Ex. 7). Prior to retirement, he was employed as an Elementary School teacher by the Ontario School District and was a member of the Oregon Education Association (OEA). He retired from PERS employment effective June 1, 2002, under the Money Match calculation method, Option 2, with a gross monthly benefit of \$3,372.50 and with 27 years 11 months of service. Based on this service time, his SB 656 benefit percent 3.0%. Of this service, 17 years and 3 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 6.1112%. He has a COLA Bank balance of 3.77% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>John Okief's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822 (COLA):	\$187,356	
Attributable to SB 822 (Tax Adj.):	\$52,272	
Total:	\$239,628	10.7%
Attributable to SB 861 (COLA):	\$296,532	
Attributable to SB 822 (Tax Adj.):	\$55,200	
Total:	\$351,732	15.7%

62. Petitioner Michael Smith (“Smith”)(DOB 10/20/39) is a Tier I PERS retiree who is a resident of Tucson, Arizona. (Ex. 8). Prior to retirement, he was employed as a Principal by the Beaverton School District and is a member of the Oregon PERS Retirees, Inc. (OPRI). He retired from PERS employment effective July 1, 1996, under the Money Match calculation method, Option 1, with a gross monthly benefit of \$4,466.81 and with 30 years 0 months of service. He changed his option to 15-year certain on November 11, 1996. Based on his service time at retirement, his SB 656 benefit percent is 5.0%. Of this service, 25 years and 3 months were prior to October 1, 1991, resulting in an HB 3349 benefit of 8.3242%. He has a COLA Bank balance of 8.49% as of July 1, 2013. According to the calculations of Actuary David MacLennan, his total loss attributable to SB 822 and 861 is as follows:

<u>Michael Smith’s Estimated Benefit Loss</u>	<u>Dollar Loss</u>	<u>Percentage Loss</u>
Attributable to SB 822 (COLA):	\$55,256	
Attributable to SB 822 (Tax Adj.):	\$36,094	
Total:	\$91,350	8.4%
Attributable to SB 861 (COLA):	\$68,344	
Attributable to SB 822 (Tax Adj.):	\$35,862	
Total:	\$104,206	9.6%

[Revised]

63. Petitioner Lane Johnson (“Johnson”)(DOB 8/17/55) is an active Tier I PERS member and an Oregon resident. (Ex. 9). He is employed as a teacher

by West Linn School District and is a member of the Oregon Education Association (OEA). As of May 31, 2013, he had 23 years and 3 months of credited service time. If he retired as intended effective July 1, 2014, he would have a total of 24 years and 4 months of service time and would retire under the Full Formula calculation method. Based on this service time, his SB 656 benefit percent would be 2.0%. Of this service time, 1 years and 7 months were before 1991, resulting in an HB 3349 benefit of 0.6435%. If he selected Option 2 and his beneficiary were the same age as he, according to the calculations of Actuary David MacLennan, his projected monthly benefit amount at an age 58 retirement would be \$1,995 and his total loss attributable to SB 822 and 861 is as follows:

Lane Johnson's Estimated Benefit Loss	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$31,418	2.8%
Attributable to SB 861:	\$140,867	12.4%

[Revised]

64. Petitioner Greg Clouser (“Clouser”)(DOB 2/8/68) is an active Tier II PERS member and an Oregon resident. (Ex. 10). He is employed as a Corrections Corporal by the State of Oregon, Department of Corrections and is a member of Oregon AFSCME (AFSCME). As of May 31, 2013, he had 12 years and 3 months of credited service time. If he retired at age 55, he would have a total of 22 years and 1 months of service time and would retire under the Full Formula calculation method. If he selected Option 2 and his beneficiary were the

same age as he, according to the calculations of Actuary David MacLennan, his projected monthly benefit amount at retirement would be \$3,330 and his total loss attributable to SB 822 and 861 is as follows:

<u>Gregory Clouser's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$157,492	7.4%
Attributable to SB 861:	\$294,914	13.8%

[Revised]

65. Petitioner Brandon Silence ("Silence") (DOB 10/28/81) is an active OPSRP member and a resident of Oregon. (Ex. 11). He is employed as a Fire Fighter/Paramedic by City of Salem and is a member of the International Association of Fire Fighters (IAFF). As of December 31, 2013, he had 6 years and 5 months of credited service time. If he retired as intended effective July 1, 2035, he would have a total of 28 years and 11 months of service time and would retire under the OPSRP Formula calculation method. If he selected Option 2 and his beneficiary were the same age as he, according to the calculations of Actuary David MacLennan, his projected monthly benefit amount at retirement would be \$7,922 and his total loss attributable to SB 822 and 861 is as follows:

<u>Brandon Silence's Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$1,107,583	19.7%
Attributable to SB 861:	\$1,260,580	22.5%

66. Petitioner Alison Vickery (“Vickery”)(DOB 6/5/61) is an active Tier II PERS member and an Oregon resident. (Ex. 12). She is employed as a teacher by the Bend School District and is a member of the Oregon Education Association (OEA). As of May 31, 2013, she had 12 years and 2 months of credited service time. If she retired as intended at age 60 effective July 1, 2021, she would have a total of 20 years and 3 months of service time and would retire under the Full Formula calculation method. If she selected Option 2 and her beneficiary were the same age as she, according to the calculations of Actuary David MacLennan, her projected monthly benefit amount at retirement would be \$2,167 and her total loss attributable to SB 822 and 861 is as follows:

<u>Alison Vickery’s Estimated Benefit Loss</u>	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$38,389	3.2%
Attributable to SB 861:	\$147,862	12.2%

[Revised]

67. Petitioner Jin Voek (“Voek”)(DOB 5/20/83) is an active OPSRP member and an Oregon resident. (Ex. 13). He is employed as a Fire Fighter by the City of Portland and is a member of the International Association of Fire Fighters (IAFF). As of December 31, 2012, he had 2 years and 0 months of credited service time. If he retired as intended at age 53, he would have a total of 25 years and 6 months of service time and would retire under the OPSRP Formula calculation method. If he selected Option 2 and his beneficiary were the same

age as he, according to the calculations of Actuary David MacLennan, his projected monthly benefit amount at retirement would be \$4,334 and her total loss attributable to SB 822 and 861 is as follows:

Jin Voeks's Estimated Benefit Loss	Dollar Loss	Percentage Loss
Attributable to SB 822:	\$366,416	11.8%
Attributable to SB 861:	\$497,419	16.0%

[Revised]

Economic Findings

General

68. The 2007 recession, like past recessions, reduced general fund revenues for Oregon and it will take some time before tax revenues return to previous levels. Given Oregon's greater reliance on income taxes as the major source of general fund revenues, taxes tend to be volatile through the business cycle and difficult to predict. (Ex. 73).

69. In Oregon public education resources are more than 50% dependent on state revenue and thus the source of funding is more unpredictable. This over-reliance on state funding is the long-term consequence of Measures 5, 47 and 50, which changed the way property taxes are assessed in early to mid-1990. (Ex. 73).

70. Short term effects of the recession have compounded the longer-term effects from Measures 5, 47, and 50. These longer-term effects have been

impacted by the increasing demands for other state needs, especially social services/health care and public safety. (Ex. 73).

71. In contrast to the long-term factors, the recovery out of the recent recession is in full swing. Recent employment numbers show improvement and the recovering economy is showing up in improving general fund tax revenues for Oregon. The result is better funding for state services, including the state school fund that is distributed to school districts and education service districts. (Ex. 73).

Economic Conditions in the State of Oregon and Influences
on General Fund Revenues

72. Oregon tends to be more volatile through the business cycle compared to the nation as a whole. With Oregon's relative concentration in durable manufacturing, from electronics to wood products, the Oregon economy tends to grow faster during expansions and fall deeper into recession during contractions of the national economy. Of all the tax bases, income tends to be the most volatile source through the business cycle. This combination places Oregon in the position of having general fund revenues that are difficult to predict and move in a very wide band. (Ex. 73)

73. In comparing changes in employment from the start of each of the recessions suffered by the state of Oregon back to 1948, the recent recession had a total job drop of slightly more than 8% while the 1980 recession had a total job loss of almost 12%. The expected length of time to recover these lost jobs is likely to be similar to what took place in the 1980s. Job loss recovery has been very

slow but steady and we expect to recover lost jobs by early to mid-2015.

Unemployment changes show a similar picture. (Ex. 73).

74. Income taxes tend to be more volatile compared to sales and property taxes. Oregon relies on personal income taxes more than any other state. With this combination of a more volatile economy and a more volatile tax base, general fund revenues can rise rapidly in recoveries and fall steeply in economic downturns. (Ex. 73).

75. With personal income taxes making up 85% of the general fund revenues, state funding is very much influenced by the business cycle. General fund revenues tend to fall during recessionary periods, which places constraints on all services provided by the state. (Ex. 73).

Longer-Term Pressures on Financing Local Public Education

Long Term Factors for State General Fund Revenue

76. Downturns in the business cycle cause state general fund revenues to decline. In the last recession it took more than four years to get back to the same level of general fund revenues. Comparing the December 2007 projection to actual revenues, Oregon collected \$8.3 billion less for the general fund between 2007-2009 and 2011-2013 biennia. For both 2009-11 and 2011-13 actual general fund revenues were more than \$3 billion (20%) less than predicted in December 2007. (Ex. 73).

77. Although Oregon is considered a high tax state when looking only at personal income tax, the same cannot be said when comparing Oregon to other states when looking at all general fund revenue. Oregon is a relatively lower tax burden state in comparison with others, with taxes 11.8% lower per capita than the U.S. average. Oregon is ranked 33rd for state taxes as a percentage of personal income. State taxes as a percentage of state product show Oregon as 14.8% below the national average. (Ex. 73).

Changing the Formula for Property Taxes

78. Property taxes are the primary source of funding in Oregon for local governments. With the advent of Measures 5, 47 and 50, the formula for calculating property taxes limited their growth and made the state responsible for replacing lost funding to K-12 school districts. Prior to Measure 5, about 2/3 of school funding came from local property taxes. After Measure 5 changes were phased in, about 2/3 of school funding now comes from the state. This shift moved K-12 school district funding from a relatively stable funding source of property taxes to the more volatile income taxes. (Ex. 73).

79. Measure 5 (1990) put caps on the maximum property tax rates. At the beginning of the 1990s, the average rate was about \$27 per \$1,000 of real market value. Now the average effective rate is about \$12 per \$1,000 of real market value. (Ex. 73).

80. Measure 47 was passed in 1996, then amended by Measure 50 in 1997. These measures suppressed the value at which property would be assessed. Measure 50 changed the way property is assessed for taxation, lowering the assessed value and limiting the annual growth in assessed value, which ensured that assessed value would not grow as fast as real market value. Indeed, over time the difference between real market value and assessed value has increased, even after accounting for reduction in market values after the housing bubble burst. (Ex. 73).

81. Combined with the cap on tax rates, limits on assessed values means over time property taxes are increasingly limited in the amount of revenue they are able to raise. Together, Measures 5 and 50 amount to a \$13 billion reduction in property taxes in the 2011-2013 biennium. (Ex. 73).

Growth of Other State Services

82. State funding for public safety has increased faster than population growth. The lion's share goes to the Department of Corrections due to expanding prison populations. The prisoner population more than doubled since the passage of Measure 11 so that today, more than 14,000 people are imprisoned by the State of Oregon. (Ex. 73).

83. Spending on human services has also outpaced population growth. This includes spending on the Oregon Health Plan and other Human Services spending. (Ex. 73).

84. Since Measure 5 changes were fully phased in, the amount of state general fund/lottery fund funding for education has remained flat while inflation-adjusted spending for human services and public safety has increased. And while state education funding has stayed relatively constant, the state population has grown. That means less real money is spent per person for education over time. If inflation-adjusted state GF/LF spending on education had increased at the same rate as population growth instead of staying flat, about \$4.25 billion more in state funding would have gone to K-12 education between 1999-2001 and 2013-2015. (Ex. 73).

85. Oregon invests less in education than nearly every other state as a percent of the total state budget. So while the state is responsible for most K-12 funding, the state doesn't prioritize education funding as much as other states do. In 2012 only Maine and Wyoming spent a smaller percentage of their state budgets on education than Oregon. (Ex. 73).

Recent Economic Conditions and Budgeting for the 2013-2015 Biennium

86. While the recent recession has been dubbed the "Great Recession" for the United States, in fact Oregon's Great Recession was in the early 1980s. At that time job losses almost reached 12%, while the recent recession has seen job losses of slightly more than 8%. The state's seasonally adjusted unemployment rate topped out at 12.1% in 1982 while the highest seasonally adjusted unemployment rate for the recent recession was 11.6%. (Ex. 73).

87. The economic recovery will be reaching its fifth year as we move into late summer-early fall. Job growth has been steadily climbing, reaching 2% growth in April 2013 and now is growing faster than the U.S. job growth rate. For all of 2013, Oregon had the third fastest job growth of the 50 states. (Ex. 73).

Better Job Growth Will Continue into 2015

88. In Oregon, the economy has already experienced an acceleration in job growth in 2013. Similar to the U.S. as a whole, this was largely due to improvement in housing and the public sector. As a result, more regions of the state began adding jobs. Looking forward growth is likely to pick up a bit further, into the 40,000 jobs per year range, or an annual growth rate of 2.4 percent in 2015. (Ex. 73).

89. Better economic times have translated into higher general fund tax revenues. The 2013-15 general fund budget showed a 14% increase over the budget for the prior biennium. This is a significant increase relative to past biennia. The increase between the two biennia is largely due to \$1.9 billion more in general fund resources being authorized for expenditure in the 2013-15 biennium than were spent in 2011-13. This 14% increase in general fund expenditures is the largest percentage increase since a 14.9% increase in the 1999-2001 biennium. Drilling down into the 2013-15 Oregon state budget, K-12 education was allocated \$6.55 billion compared to \$5.714 billion allocated for the 2011-13 biennium. Estimates to maintain service levels of the 2011-13 biennium

suggest that the allocation for 2013-15 would have been \$6.315 billion, or an increase of approximately \$601 million. The allocated increase for 2013-15 above 2011-13 was \$836 million, or around \$235 million above maintaining current service levels for K-12 education. (Ex. 73).

90. The current forecast for general fund revenues is for continued growth, though not as strong as we have seen from some previous recoveries. Current projections show 10.9% growth for 2015-2017 general fund revenue (\$1.711 billion more than 2013-2015), 8.6% growth in 2017-2019 (\$1.507 billion more than 2015-2017) and 9.8% growth for the 2019-2021 General Fund revenue (\$1.868 billion more than 2017-2019). (Ex. 73).

91. The personal income tax kicker will occur if personal income taxes plus all other general fund revenues except for corporate income taxes increase 2% or greater for the biennium compared to the close of session estimate for that biennium. The kicker is a refund to personal income taxpayers of the amount that is above the COS estimate once the 2% threshold is obtained. As of the March 2014 forecast for general fund revenues, the advent of triggering the personal income tax kicker is only \$100 million (the forecast is 1.3% above COS). (Ex. 73).

Summary

92. Many state and local governments have struggled during this last recession including adequate funding of K-12 education. Oregon shares in this

struggle and has some unique factors that compound this challenge, which have been discussed above. (Ex. 73). Some of those factors are:

a. Demographic changes along with shifts in spending from an aging population will mean slower tax revenue growth relative to past periods. Oregon's general fund revenues are concentrated in personal income taxes. You have a highly volatile tax with a highly volatile economy, making revenue projections and expenditure planning difficult.

b. Oregon moved the major funding for K-12 education from a more stable property tax base to the more uncertain personal income tax base.

c. With K-12 education now dependent on state funding, it is in competition with public safety and human services for scarce resources. (Ex. 73).

d. Oregon, by many measures, is a relatively low tax burden state and percent of budget spent on education is one of the lowest among the states.

e. The underlying volatility of Oregon and its public finance system shows up in this recent recovery with faster job growth for Oregon compared to the nation and rapid growth in general fund revenues.

f. Changes to Oregon's PERS benefits which lower employer contributions do not make any fundamental change to Oregon's revenue system and ultimately will not resolve Oregon's K-12 funding issue. While changes to Oregon's PERS benefits which lower employer contribution rates would lower the cost of services (as would cutting teacher's salaries or larger classrooms with

fewer teachers), they do not address the fundamental issues underlying our tax revenue system for funding Oregon's K-12 education.

Respondent School District Funding

93. According to the Oregon Department of Education (Ex. 64), Respondent West-Linn Wilsonville School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	8,950.50	\$5,540	\$49,586,331
2006-2007	9,170.90	\$5,900	\$54,108,893
2007-2008	9,170.90	\$6,223	\$57,073,874
2008-2009	9,187.30	\$6,096	\$56,007,737
2009-2010	9,185.40	\$6,147	\$56,462,396
2010-2011	9,264.31	\$6,014	\$55,719,470
2011-2012	9,274.22	\$6,199	\$57,487,021
2012-2013	9,427.35	\$6,318	\$59,561,862
2013-2014	9,776.06	\$6,825	\$66,721,161
2014-2015	9,933.10	\$7,181	\$71,332,201

94. According to the Oregon Department of Education (Ex. 65), Respondent Oregon City School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	9,271.80	\$5,506	\$51,051,802
2006-2007	9,143.60	\$5,864	\$53,620,109
2007-2008	9,393.10	\$6,188	\$58,125,259
2008-2009	9,376.00	\$6,052	\$56,742,470
2009-2010	9,357.50	\$6,136	\$57,413,348
2010-2011	9,279.96	\$6,013	\$55,796,804

2011-2012	9,332.00	\$6,191	\$57,772,836
2012-2013	9,345.00	\$6,320	\$59,059,079
2013-2014	9,250.78	\$6,842	\$63,291,797
2014-2015	9,194.91	\$7,197	\$66,084,607

95. According to the Oregon Department of Education (Ex. 66), Respondent Estacada School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	2,886.70	\$5,548	\$16,014,987
2006-2007	2,779.20	\$5,903	\$16,405,166
2007-2008	2,732.20	\$6,189	\$16,910,496
2008-2009	2,972.00	\$6,024	\$17,902,732
2009-2010	3,262.20	\$6,076	\$19,821,679
2010-2011	3,262.24	\$5,917	\$19,303,395
2011-2012	3,316.80	\$6,152	\$20,403,621
2012-2013	3,278.20	\$6,163	\$20,202,090
2013-2014	3,138.25	\$6,705	\$21,042,967
2014-2015	2,744.64	\$7,133	\$19,576,703

96. According to the Oregon Department of Education (Ex. 67), Respondent Bend-La Pine School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	16,802.90	\$5,485	\$92,160,949
2006-2007	17,170.70	\$5,826	\$100,042,204
2007-2008	17,761.40	\$6,141	\$109,078,492
2008-2009	17,885.10	\$6,022	\$107,520,720
2009-2010	17,855.10	\$6,120	\$109,274,439
2010-2011	18,115.44	\$5,981	\$108,354,855
2011-2012	18,160.03	\$6180	\$112,236,904

2012-2013	18,421.67	\$6,299	\$116,032,143
2013-2014	18,471.81	\$6,814	\$125,865,191
2014-2015	18,879.43	\$7,152	\$135,028,138

97. According to the Oregon Department of Education (Ex. 68), Respondent Ontario School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	3,590.50	\$5,446	\$19,552,935
2006-2007	3,590.50	\$5,780	\$20,753,043
2007-2008	3,537.30	\$6,108	\$21,604,999
2008-2009	3,411.40	\$5,972	\$20,373,122
2009-2010	3,333.70	\$6,034	\$20,116,202
2010-2011	3,308.97	\$5,902	\$19,528,727
2011-2012	3,308.97	\$6,113	\$20,228,007
2012-2013	3,216.82	\$6,234	\$20,055,211
2013-2014	3,202.68	\$6,753	\$21,626,242
2014-2015	3,198.21	\$7,075	\$22,627,248

98. According to the Oregon Department of Education (Ex. 69), Respondent Beaverton School District's funding for the period 2005-2015 was estimated as follows:

School Year	ADMW	Total Formula Revenue per Extended ADMW	Total Formula Revenue
2005-2006	42,425.30	\$5,414	\$229,707,068
2006-2007	43,361.30	\$5,768	\$250,128,666
2007-2008	43,408.20	\$6,084	\$264,093,694
2008-2009	43,471.30	\$5,976	\$259,767,156
2009-2010	43,933.40	\$6,053	\$265,950,432
2010-2011	44,647.62	\$5,915	\$264,079,704
2011-2012	44,956.91	\$6,122	\$275,217,042
2012-2013	45,131.46	\$6,242	\$281,691,636

2013-2014	45,421.95	\$6,761	\$307,089,053
2014-2015	45,828.81	\$7,158	\$328,024,479

DATED this 28th day of March, 2014.

s/Gregory A. Hartman

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CERTIFICATE OF FILING

I certify that on March 28, 2014, I filed the original of this PETITIONERS' JOINT & MORO PETITIONERS' REVISED PROPOSED FINDINGS OF FACT by electronic filing with the Appellate Court Administrator, Appellate Court Records Section, by using the court's electronic filing system pursuant to ORAP 16.

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing PETITIONERS' JOINT & MORO PETITIONERS' REVISED PROPOSED FINDINGS OF FACT upon the following individuals on March 28, , 2014, by email or by using the court's electronic filing system pursuant to ORAP 16 on March 28, 2014:

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I hereby certify that on March 28, 2014, I served a true copy of this PETITIONERS' JOINT & MORO PETITIONERS' REVISED PROPOSED FINDINGS OF FACT by United States Postal Service, first class mail certified mail, return receipt requested, on:

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