

OSBA Legislative Highlights



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State Supreme Court strikes down most 2013 PERS reforms

The state Supreme Court on April 30 struck down major provisions of 2013 legislation designed to hold down spiraling costs of the state Public Employees Retirement System (PERS).

The court's ruling effectively eliminates much of the anticipated \$5.3 billion in savings from the legislation. As a result, PERS will calculate what are expected to be significantly higher employer contributions in years ahead. Preliminary estimates from the Legislative Fiscal Office show that for the 2017-19 biennium, K-12 schools could see increased PERS costs of \$358 million, or 5.5 percent. Unless the PERS Board wants to reset the current employer rates in light of this opinion, which is highly unlikely, rates for 2015-17 will hold steady. But the opinion does impact employer rates into the future.

The court's ruling upheld a portion of the legislation limiting tax benefits to out-of-state retirees, but struck down provisions that would have limited cost-of-living adjustments (COLA) to retirees. The court held that the Legislature could limit cost-of-living adjustments on benefits earned after the law took effect, but that such limits could not be applied retroactively.

In other words, those who have already retired cannot see their cost-of-living raises reduced. Those public employees who are still working could face the prospect of a COLA that somehow factors in earnings before and after the effective date of the legislation.

Jim Green, OSBA's deputy executive director, said the association is disappointed by the ruling.

"If the Legislature does not take additional action, this decision wipes out the bulk of the savings contained in the PERS legislation, which means that schools across the state are going to face significantly higher PERS costs going forward," Green said. "That translates to teacher layoffs and higher class sizes. It also creates an actuarial nightmare in calculating retiree benefits for those individuals who have not yet retired."

Green said OSBA's legal firm is still analyzing the decision and weighing legal options.

"Obviously there are still a lot of unknowns related to this opinion. We do not know actual impacts on school district rates or impacts on retirees or current employees, and we may not know for a while. PERS is working to show to show the impacts and we will send those out as they become available," Green added.

In the meantime, if you have questions please feel free to contact Jim Green at jgreen@osba.org.

Interim bargaining bill heard in second committee

House Bill 2544, an interim bargaining bill that has already cleared the House, was heard this week in the Senate Workforce Committee. The bill would add a binding arbitration clause to the expedited bargaining process.

HB 2544 as written would change ORS 243.698. Under the bill, if the parties fail to reach an agreement through bargaining, or agreed mediation, upon expiration of the 90-day period, the matter would be submitted to the State Conciliation Service for continued mediation for up to 15 days. If the parties fail to reach agreement, the matter moves to the Employment Relations Board for binding arbitration as provided by ORS 243.742 and 243.746. Employees in the bargaining unit subject to the binding arbitration would not be able to strike.

For school districts, expedited bargaining is a tool that is not often used, since most employment relations issues are contained in a collective bargaining agreement. For a district to go through this process, it must first notify the union in writing of any anticipated changes that create a duty to bargain. Within 14 calendar days after the notification, if a demand to bargain is not filed, then the school district may implement the proposed changes without further obligation to bargain. If the union responds indicating it wishes to negotiate, the parties then enter into negotiations, with the district able to implement changes at the end of 90 days. Currently in statute there is a mechanism for both parties to agree to mediation, but there is no requirement to participate in binding arbitration.

OSBA Legislative Specialist Lori Sattenspiel testified in opposition to HB 2544: "While schools use the expedited bargaining process carefully, it is a necessary tool. Most collective bargaining agreements are pretty comprehensive, but there are occasional issues or unforeseen fiscal changes not covered by the collective bargaining agreement that can be resolved through the expedited bargaining process."

Sattenspiel also added, "Locally elected school board members are accountable for use of public tax dollars spent in their school districts. To take these important decisions from the hands of districts and put them into the hands of arbitrators is a bad idea."

Contact OSBA Legislative Specialist Lori Sattenspiel (lsattenspiel@osba.org) if you have questions or comments.

To view the bill:

www.osba.org/Resources/Article/Legislative/BillTracking.aspx?key=HB_25440&ptadd=:%20HB_25440%20Details

House Rules Committee holds hearing on ethics, public records changes

On Monday, the House Committee on Rules held a public hearing on a package of bills introduced by Republican lawmakers in response to the recent troubles plaguing former Gov. John Kitzhaber. Proposals included in the bills included giving the Legislature the ability to order an investigation into the activities of the governor and changes to Oregon's ethics laws.

Of concern to OSBA were proposed changes to Oregon's public records law contained in **House Bill 3505**. Specifically, new timelines proposed for completing public records requests would be challenging for school districts to implement without affecting day-to-day district operations. The bill also contains limits on fees for the completion of public records requests.

The bill included provisions that prohibit local governments, including school districts, from charging requestors for the time and work involved in fulfilling a public records request if it takes more than three weeks. HB 3505 also effectively requires all public records requests to be filled within six weeks, or local governments could face potential legal actions.

OSBA Legislative Specialist Morgan Allen told the committee that the timelines are of great concern to school districts. He noted that schools and school districts operate under a much different calendar than most other public bodies. "We have Christmas, spring break and summer vacation when most or all of our staff are not working or using vacation time...I could imagine a situation when a public records request comes in on a Thursday or Friday before summer vacation starts...would the expectation be that the district fulfill that even when the offices are closed or the staff who fill those requests are out on vacation?"

OSBA is also concerned about the potential to bog down principals, teachers or other school staff with public records requests at a time when schools are trying to provide the best education possible for students, with limited resources. OSBA understands and supports the idea of open and transparent government, but K-12 education is arguably the most scrutinized and open form of government in our state already. At a time when school districts are struggling to keep their doors open and facing more layoffs and program cuts, limiting a school district's ability to recover the costs to fulfill a public records request and requiring it to be completed in an arbitrary timeframe create an unreasonable burden for school districts to bear.

House Bill 3505 is not scheduled for further action, but a legislative work group is expected to try to finalize a package of ethics reforms before the session concludes.

Contact OSBA Legislative Specialist Morgan Allen (mallen@osba.org) if you have questions or comments.

To view the bill:

www.osba.org/Resources/Article/Legislative/BillTracking.aspx?key=HB_35050&ptadd=:%20HB_35050%20Details

Charter school funding bill receives hearing

The House Revenue Committee held a public hearing on **House Bill 2150A** this week. The bill would amend ORS 338.013 and 338.155. This bill was first heard and subsequently amended in the House Education Committee before being sent to the Revenue Committee in April.

HB 2150A is intended to amend a law enacted in 2011 under passage of **House Bill 3417**. HB 3417 was passed to help school districts experiencing declining enrollment, provided that they also sponsor a charter school. The bill changed how the Average Daily Membership/Weighted (ADMw) was calculated to allow a school district to realize the decline and subsequent resources losses, over two years.

As a result of the 2011 legislation, some districts received additional revenue even though their charter schools had closed.

HB 2150A addresses those unintended consequences by restoring the original method for ADMw calculation. The amended bill addresses those school districts that had a charter school close in 2014-15, allowing 5 percent of the ADMw calculation of funds to be kept by the school district to cover costs associated with the charter school's closure. The bill sets up a reserve fund of 3 percent of the ADMw calculation, which will be held at the Department of Education. These funds can be accessed by school districts that submit receipts for reimbursement for any additional closure costs during the 2015-16 school year. Any funds remaining after the completion of the 2016 school year will be returned to the State School Fund.

The bill has not been scheduled for any further action.

Contact OSBA Legislative Specialist Lori Sattenspiel (lsattenspiel@osba.org) if you have questions or comments.

To view HB 2150A:

www.osba.org/Resources/Article/Legislative/BillTracking.aspx?s=15&t=&r=&q=2150&c=50&key=HB_21500&ptadd=HB_2150_Details