Association of Oregon Counties
GOVERNANCE STEERING COMMITTEE
AGENDA

November 15, 2011 9:45 a.m. – 11:45 a.m	**AOC Annual Conference** Eugene Hilton- O'Neill Room

Co-Chairs Commissioners Duyck and Fisher

9:45 a.m.	Introductions/Agenda & Minutes Approval	Co-Chairs
9:50 a.m.	Privatizing the Sale of Liquor in Oregon?	Commissioner Roger Nyquist
10:00 a.m.	NACo Resolution on Post-Office Closures *(possible action)*	Commissioner Joe Laurance
10:10 a.m.	MERS- Pending litigation and State/County options	Keith Dubanevich, Chief of Staff for AG John Kroger
10:40 a.m.	PERS Update- Advisory Rates and *Arken/Robinson* Sup Ct. Opinion	Paul Cleary, Executive Dir. of PERS
11:15 a.m.	County Payments Legislative Task Force and February 2012 Session preview	Co-Speaker Bruce Hanna
11:45 a.m.	Adjourn	Co-Chairs

Governance Steering Committee
Association of Oregon Counties

October 10, 2011 Meeting Minutes

Members: Present: Washington County Chair Andy Duyck, Columbia County Commissioner Earl Fisher, Gilliam County Judge Pat Shaw, Linn County Administrator Ralph Wyatt (NACA-Administrators), Yamhill County Commissioner Leslie Lewis, Jefferson County Commissioner John Hatfield (Phone), Clackamas County Assessor and Tax Collector Bob Vroman, Lincoln County Clerk Dana Jenkins (Phone).

Guests: Multnomah County Assessor Randy Walruff, Alex Cuyler (Lane County), Jim McCauley (Washington County), Troy Rayburn (Clackamas County), House and Senate General Government Committee Administrator Jan Nordlund

AOC Staff: Mike Eliason

Co-Chair Duyck convened the meeting

Employment Relations Board (ERB) budget

Mike Eliason updated the committee on the status of the ERB workgroup. State general fund was only provided for one year of the two year budget cycle and a workgroup is currently tasked with finding a long-term solution to the budget. The state continues to push for an assessment on local governments to fund work done by ERB that relates to local governments. The workgroup is made up of equal members from labor and management. John Lattimer is the county representative on the workgroup. Mike Eliason was the county representative during the legislative session and reported that counties, along with other local governments, were only willing to accept an assessment if a) organized labor also contributed and b) there were documentable improvements to the ERB process. The workgroup continues, with a resolution necessary by the February 2012 session.

Affiliate Updates

Dana Jenkins gave the report for the clerks. He discussed the clerks' support for the PCP bill and hoped progress would be made during the interim. He noted the clerk's just completed their annual conference last month in Coos County.

Ralph Wyatt reported that administrators met last month at the AOC Summer Conference in Silverton. Most of the meeting consisted of a legislative report from various AOC staff.

Mark Noakes gave the report for both the Assessors and the Tax Collectors. The Assessors continue to discuss the Comcast case fallout
Laurie Steele reported the Treasurers were holding their annual conference next week in Eugene and otherwise had nothing to report.

Co-Chair Fisher adjourned the meeting at 11:48 a.m.

AOC Association of Oregon Counties

Draft NACo Resolution on Limiting Closures of Rural Post Offices

Issue:

The United States Postal Service (USPS) is considering closing 3,700 post offices across the country, most of which are located in rural America. In Oregon, 41 post offices are proposed to be closed and 80% of those on the list are more than ten miles from the next nearest post office.

Proposed Policy:

NACo urges support of legislation to ensure that all Americans have adequate access to a post office and that rural communities are not isolated from this important service. There is bipartisan support for S. 1668, which will require that a post office closure cannot result in more than a ten-mile distance between post offices, measured on roads that are accessible year-round.

Background:

The U.S. Postal Service is designed to be a self-supporting government enterprise and receives no tax dollars for operating expenses. It relies on the sale of postage, products and services to fund its operations. USPS is currently facing an $8.3 billion budget deficit and closing post offices is one of several proposals the Postal Service has put forth recently to cut costs. Other proposals include transitioning to a national five-day per week delivery schedule and closing or consolidating over 250 mail processing facilities.

Although the USPS is facing difficult financial times, the Postal Regulatory Commission has reportedly found that maintaining rural post offices amounts to only 0.7% of the Postal Service's budget. Reducing service to rural communities and senior citizens will have little or no benefit to their balance sheet and making residents have to drive 20 or 30 miles one-way to reach the nearest post office would have a detrimental effect on the community. Rural post offices are often a community hub and a place where citizens congregate and talk to neighbors. In addition, there are legitimate concerns related to a potential lack of predictable avenues for sending and receiving certified or registered mail, as well as the additional loss of communication in rural communities that lack quality high speed internet service.

Fiscal Urban/Rural Impact:

Tangible benefits to rural communities include the service to small businesses, many of whom rely on the post office in order to stay in business. The impact would also be felt in the loss of jobs. It has been estimated by the Postal Service that the proposed closures would result in about 3,000 postmasters, 500 station managers, and between 500 and 1,000 postal clerks losing their jobs nationwide. Rural communities that have already been decimated by the recent recession, as well as long-term economic issues, cannot afford another blow.

Developments

Real estate news and analysis from The Wall Street Journal

MAY 26, 2011, 5:03 PM ET

Oregon Judge Denies Foreclosure, Challenges MERS

By Nick Timiraos

A federal judge in Oregon delivered a potential setback to the mortgage industry's electronic lien-registry system in a ruling issued Wednesday.

Oregon allows lenders to foreclose without going to court, but the state requires banks to record the ownership history of the mortgage with local county governments in those non-judicial foreclosures. The Mortgage Electronic Registration Systems, or MERS, was created by the mortgage industry in the 1990s to facilitate the recording of mortgages that were being bundled and resold as securities.

Wednesday's ruling says that banks should be required to process foreclosures through the court system in Oregon for loans that are in the MERS system. But it's not clear whether the ruling by itself will turn Oregon into a judicial foreclosure state for loans assigned to MERS.

A spokeswoman for MERS said the ruling was "inconsistent" with other state decisions, citing two in the past year that found MERS had satisfied state law. The spokeswoman said MERS planned to appeal.

"That's the problem. We have rulings on both sides, so it's very difficult to determine what's going to happen," said James Stout, the lawyer who represented the homeowners.

The case concerned Ivan and Katherine Hooker of Tigard, Ore., who took out a $260,000 mortgage from GN Mortgage LLC in 2005. The Hookers defaulted on their mortgage in 2009, and Bank of America Corp., which had acquired the loan, went to foreclose on the borrower.

MERS had been named as the nominee for the mortgage in 2005, ostensibly allowing banks to record the assignment electronically, eliminating the step of recording it with the county.

But the court found holes in the chain of title. While the loan had been made by GN, the mortgage had been assigned to MERS by a different entity, Guaranty Bank. "The record is silent as to how or when Guaranty Bank obtained" the mortgage, wrote Judge Owen M. Panner.

The court also concluded that MERS's use had run afoul of Oregon statutes that require all mortgage assignments to be recorded in county land records in non-judicial foreclosures. "While I recognize that plaintiffs have failed to make any payments on the

Available to WSJ.com Subscribers


Zynga Chief Seeks to Claw Back Stock

Bank Quandary: Valuing Assets

Goldman Sachs and Morgan Stanley, which became bank-holding companies to help them survive the financial crisis, are considering an accounting change that would make them look more like a traditional bank.


Cole Suspect's Trial Tests Gitmo Rules


For Sprint, Free Pays Off

About Developments

The Developments blog features exclusive news, analysis and commentary on residential and commercial real estate from The Wall Street Journal's real estate bureau. Send tips, comments and questions to **developmentsblog@wsj.com**.

note since September 2009, that failure does not permit defendants to violate Oregon law regulating non-judicial foreclosure," wrote Judge Panner.

BofA is still free to pursue a judicial foreclosure, though Stout says the bank will have to correct any potential deficiencies in the chain of title. A BofA spokeswoman didn't immediately respond to a request for comment.

The opinion included a particularly scathing treatise on the pitfalls of MERS, which it said had allowed lenders to "shirk" their traditional due diligence duties. Judge Panner raised concerns over how the system was used in states such as Oregon that don't require banks to foreclose on borrowers through the court system.

The broadside against MERS in the decision is excerpted below:

> Foreclosure by advertisement and sale, which is designed to take place outside of any judicial review, necessarily relies on the foreclosing party to accurately review and assess its own authority to foreclose. Considering that non-judicial foreclosure of one's home is a particularly harsh event, and given the numerous problems I see in nearly every non-judicial foreclosure case I preside over, a procedure relying on a bank or trustee to self-assess its own authority to foreclose is deeply troubling to me.
>
> I recognize that MERS, and its registered bank users, created much of the confusion involved in the foreclosure process.... [T]he MERS system creates confusion as to who has the authority to do what with the trust deed. The MERS system raises serious concerns regarding the appropriateness and validity of foreclosure by advertisement and sale outside of any judicial proceeding.
>
> Additionally, the MERS system allowed the rise of the secondary market and securitization of home loans. A lender intending to immediately sell a loan on the secondary market is not concerned with the risk involved in the loan, but with the fees generated. If a lender aims to quickly pass a loan off onto an investor, a stated-income loan appears not as an unacceptable risk, but as an income stream. MERS makes it much more difficult for all parties to discover who "owns" the loan. When a borrower on the verge of default cannot find out who has the authority to modify the loan, a modification or a short sale, even if beneficial to both the borrower and the beneficiary, cannot occur.
>
> When no borrowers default, the problems inherent in the MERS system may go unnoticed. Unfortunately for banks, borrowers, investors, and courts throughout the country, many borrowers are now defaulting. Countless grantors of trust deeds now face the harsh prospect of losing a home outside of any judicial proceeding. At the same time, the MERS system greatly increased the number of investors stuck holding worthless notes. A lender that knows it will immediately sell a loan on the secondary market has no incentive to ensure the appraisal of the security is accurate. Similarly, the lender need not concern itself with the veracity of any representations made to the borrower. In short, the MERS system allows the lender to shirk its traditional due diligence duties. The requirement under Oregon law that all assignments be recorded prior to a non-judicial foreclosure is sound public policy.

« Previous
Foreclosure Sales High, But Volumes Drop

Next »
Sheen Puts Beverly Hills Home Up for Sale

DEVELOPMENTS HOME PAGE

Email Printer Friendly

Share:

Like Send 85 people like this. Be the first of your friends.

Add a Comment

Name

We welcome thoughtful comments from readers. Please comply with our guidelines. Our blogs do not require the use of your real name.

Developments on Twitter

Like Developments on Facebook

Most Popular

Read Commented All Blogs

1. Nevada Foreclosure Filings Dry Up After 'Robo-Signing' Law
2. Twelve Questions on Obama's Refi Plan
3. Lawmaker Asks for Audit of Fannie Mae Expenses
4. That New Renter? Probably a Single Mom
5. Should Fannie, Freddie Write Down 'Underwater' Mortgages?

Sort alphabetically by:

Developments NAME LOCATION

Click on the image for biography:

PERS Update

A presentation to
Association of Oregon Counties

Paul R. Cleary
Executive Director

November 15, 2011

PERS Oregon Public Employees Retirement System

PERS Membership, Retirements, and Benefits

- 233,000 active and inactive members; OPSRP (new program in 2003) now has the largest pool of active members
- 113,000 retirees/beneficiaries receiving monthly benefits
- 1 in 12 Oregonians is receiving or will receive a PERS benefit
- Average 6,000 retirements per year (peaked at 12,500 in 2003); more than 70,000 members are eligible to retire
- Average age at retirement: 60
- Average years of service at retirement: 23
- Average annual benefit for those who retired from 1990-2009: $25,436
- Average annual benefit for 2009 retirees: $32,052 (53% of final average salary); just under $2,700 per month

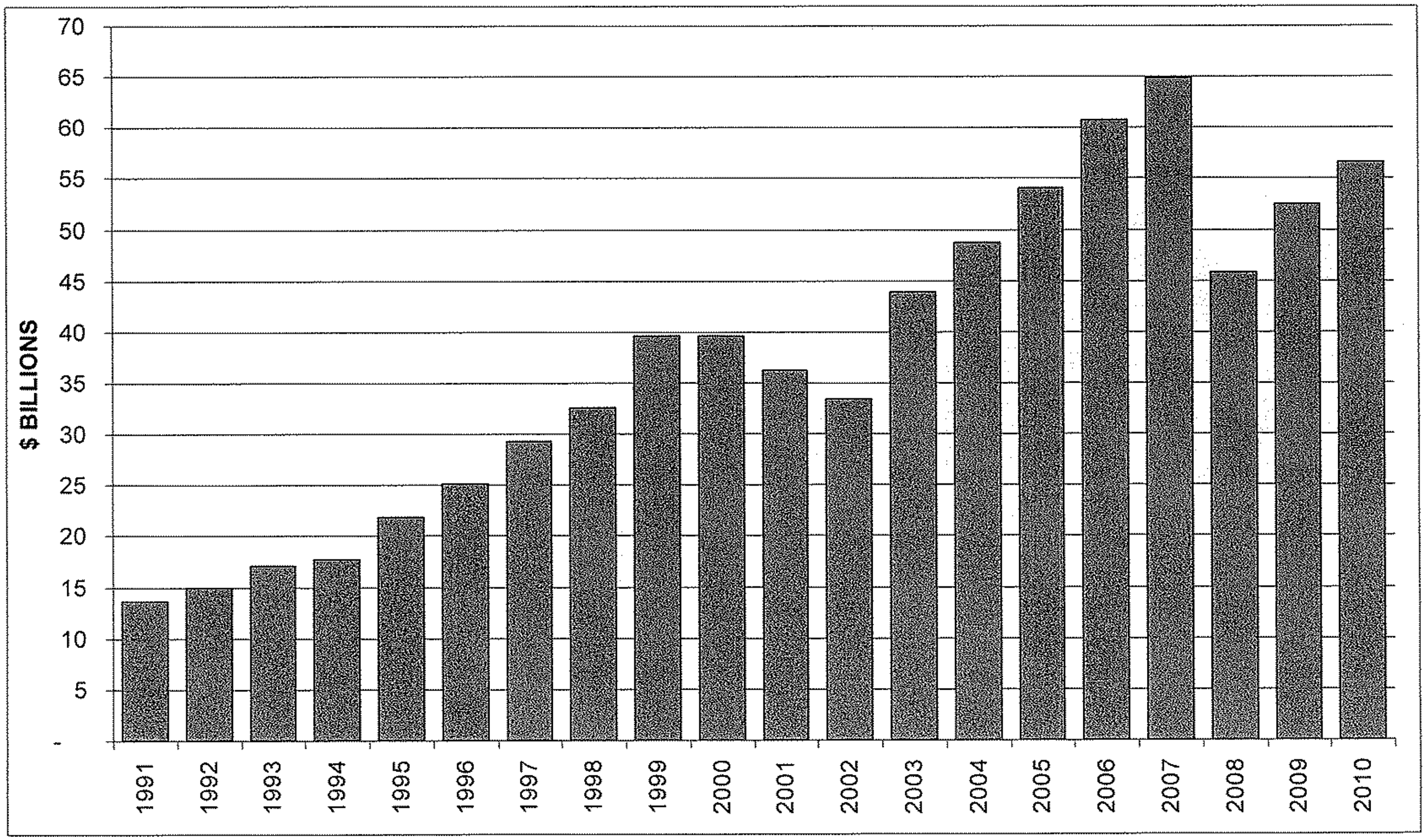
PERS Membership by Category

		State Agencies	Local Govt.	School Districts	Total
Tier One	Active	14,207	17,255	21,234	52,786
	Inactive	5,698	7,314	8,254	21,266
Tier Two	Active	13,362	17,806	21,221	52,389
	Inactive	3,489	5,963	6,178	15,630
OPSRP	Active	20,288	30,506	37,600	88,394
	Inactive	671	839	947	2,457
Sub-total	Active	47,857	65,567	80,145	**193,569**
	Inactive	9,858	15,379	14,116	**39,353**
Retirees*		27,403	29,467	56,594	**113,464**
TOTAL					**346,386**

* Includes beneficiaries but not members who received total lump-sum retirement or account withdrawal payouts.

PERS Oregon Public Employees Retirement System

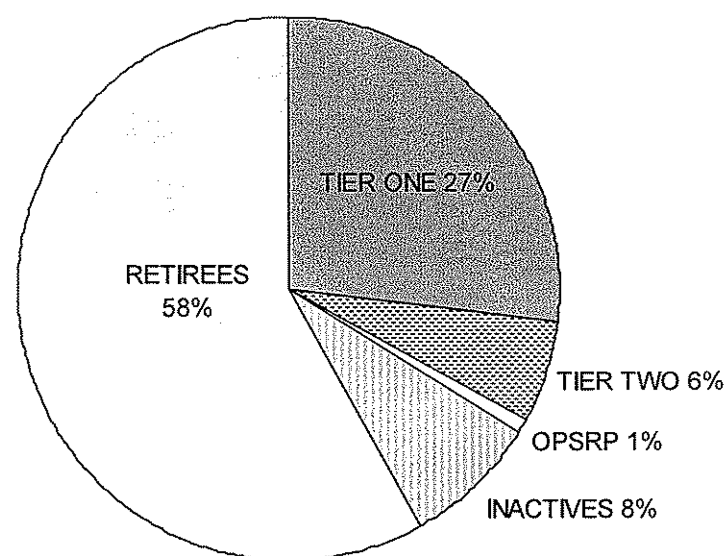
PERS Fund Value (as of December 31, 2010)



Investment Earnings and Benefit Funding

- Earnings are the key to PERS' funded status and employer rate amounts and trends. From 1970-2010, investment income provided 71% of PERS' revenue (employer contributions provided 22% and member contributions 7%)
- Approximately 66% of PERS' total accrued liability is for members no longer working in PERS jobs (retirees and inactives); more than 1/3 of an employer's current contribution rate (2011-2013) is associated with this group but assessed on the payroll of today's active employees
- Tier One active members represent 27% of accrued liabilities. More than 54% of Tier One active member liability is for members over age 55, and 80% of the Tier One active member liability is for members over age 50

Accrued Liabilities



2007-2010 Funded Status and UAL

	Calendar Year			
	2007	2008	2009	2010
Funded Status				
Including side accounts (%)	112%	80%	86%	87%
Excluding side accounts (%)	97%	70%	76%	78%
Unfunded Actuarial Liability (UAL)				
Including side accounts ($ billion)	$ -6.1*	$11.0	$8.1	$7.7
Excluding side accounts ($ billion)	$1.5	$16.1	$13.6	$13.3

* This is a surplus.

PERS Oregon Public Employees Retirement System

Average Net Employer Rates and Contributions

	2009-2011	2011-2013	2011-2013 Net Increases
State Agencies			
Net Employer Rate	3.3%	10.1%	+ 6.8%
Contributions ($M)	$153	$510	+ $357
Projected Payroll ($M)	$4,710	$5,070	
School Districts			
Net Employer Rate	5.4%	11.4%	+ 6.0%
Contributions ($M)	$308	$703	+ $395
Projected Payroll ($M)	$5,750	$6,190	
Independents/All Others			
Net Employer Rate	6.4%	10.9%	+ 4.5%
Contributions ($M)	$422	$770	+ $348
Projected Payroll ($M)	$6,570	$7,070	
All Employers			
Net Employer Rate	5.2%	10.8%	+ 5.6%
Contributions ($M)	$884	$1,984	+ $1,100
Projected Payroll ($M)	$17,030	$18,330	

"Net Employer Rate" includes side account offsets but not IAP contributions or the costs of debt service on Pension Obligation bonds. Contributions are total new dollars coming into the system, by biennium. Rates for 2011-2013 were effective July 1, 2011. Payroll amounts were projected based on the December 31, 2009 valuation payroll and assuming a 3.75% annual payroll growth.

Net Employer Advisory Contribution Rates*

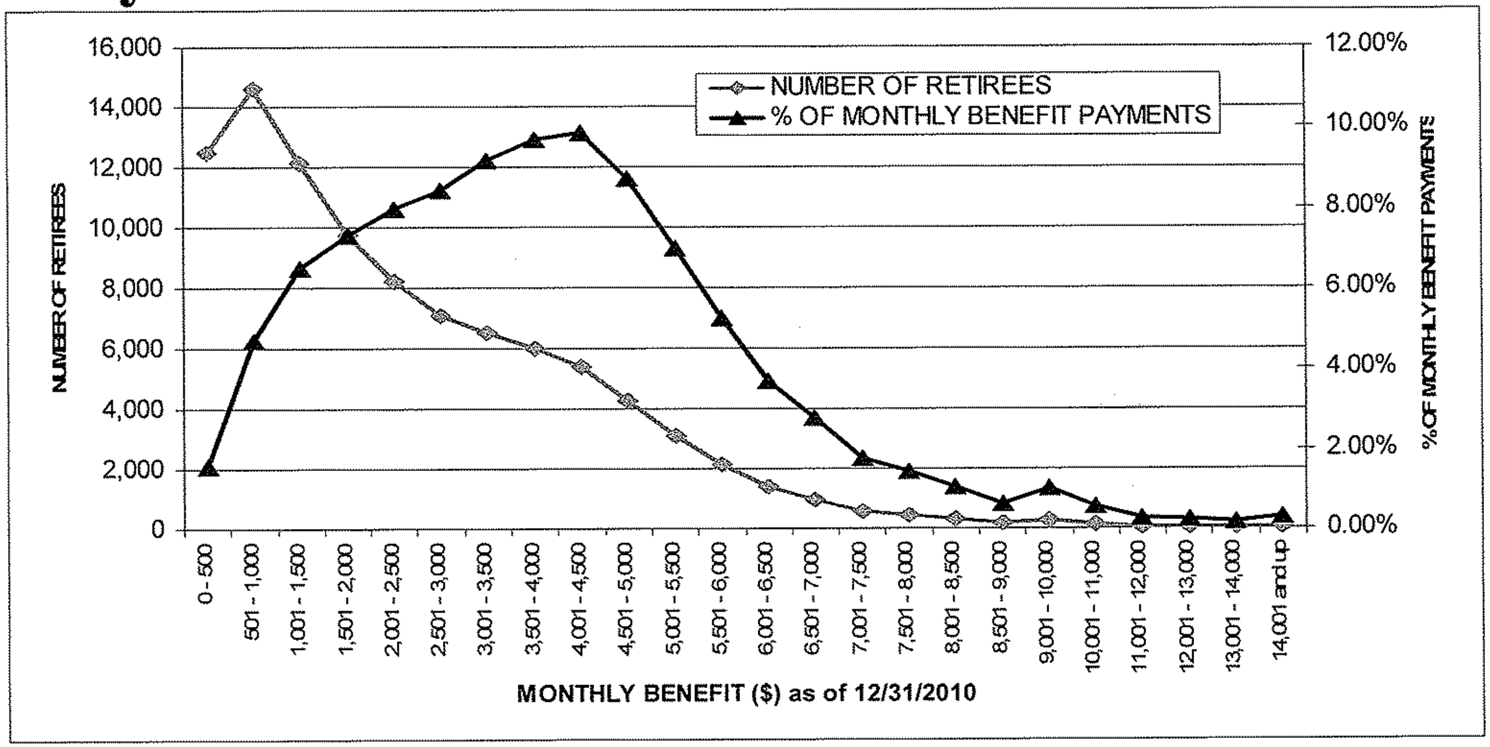
- Poor investment performance in 2011 could lead to lower side account rate offsets and net rate increases in excess of base rate increases
- Changes in net rates vary significantly by individual employer and, to a lesser extent, by rate pool

Avg. Net Employer Rates	SLGRP	School Districts	OPSRP	System Wide
2011-2013	10.8%	11.7%	9.2%	10.8%
2013-2015 (advisory)	14.2%	15.8%	12.5%	14.2%
Net rate increase	**3.4%**	**4.1%**	**3.3%**	**3.4%**

* Includes retiree health care but not IAP

PERS Oregon Public Employees Retirement System

Monthly Benefits: All Retirees



Monthly Benefit ($)	# of Retirees	% of Total $	Monthly Benefit ($)	# of Retirees	% of Total $	Monthly Benefit ($)	# of Retirees	% of Total $	Monthly Benefit ($)	# of Retirees	% of Total $
0 - 500	12,468	1.58%	3,001 - 3,500	6,524	9.16%	6,001 - 6,500	1,373	3.69%	9,001 - 10,000	249	1.02%
501 - 1,000	14,630	4.69%	3,501 - 4,000	5,980	9.68%	6,501 - 7,000	955	2.78%	10,001 - 11,000	124	0.56%
1,001 - 1,500	12,114	6.50%	4,001 - 4,500	5,371	9.86%	7,001 - 7,500	566	1.77%	11,001 - 12,000	55	0.27%
1,501 - 2,000	9,718	7.32%	4,501 - 5,000	4,256	8.71%	7,501 - 8,000	429	1.43%	12,001 - 13,000	43	0.23%
2,001 - 2,500	8,210	7.97%	5,001 - 5,500	3,089	6.99%	8,001 - 8,500	294	1.05%	13,001 - 14,000	28	0.16%
2,501 - 3,000	7,085	8.42%	5,501 - 6,000	2,118	5.25%	8,501 - 9,000	167	0.63%	14,001 and up	39	0.28%
Subtotal	**64,225**		**Subtotal**	**27,338**		**Subtotal**	**3,784**		**Subtotal**	**538**	
% of total	**66.98%**	**36.48%**	**% of total**	**28.51%**	**49.64%**	**% of total**	**3.95%**	**11.36%**	**% of total**	**0.56%**	**2.52%**

TOTAL RETIREES: 95,885
TOTAL DOLLARS: $231,313,084

PERS Oregon Public Employees Retirement System

Public Records Law

Oregon Revised Statute 192.502 states:

The following public records are exempt from disclosure under ORS 192.410 to 192.505:

(2) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(12) Employee and retiree address, telephone number and other non-financial membership records and employee financial records maintained by the Public Employees Retirement System pursuant to ORS chapters 238 and 238A.

PERS Oregon Public Employees Retirement System

Public Records Requests Resolution

- Statesman Journal and Oregonian requested retiree information, including name and retirement benefit amount in late summer 2010
- PERS denied the requests based on its understanding of public records law and past advice by the Attorney General's (AG's) office
- The newspapers asked the AG's office to review our denial and the AG determined the requested information should be released
- PERS petitioned for a court review of the AG's orders; a mediated settlement and resulting court judgments require PERS to provide certain information in two phases (November 21, 2011 and March 9, 2012)
- PERS Coalition (union and retiree groups) filed a class-action lawsuit November 4, 2011 to prevent the release of retiree names and other non-financial information

PERS Oregon Public Employees Retirement System

Anticipated Information Releases Under Settlement Agreement

November 21, 2011

- Name of every retired member receiving a PERS retirement benefit
- Amount of the benefit

March 9, 2012

- Retirement date
- Retirement plan (Tier One, Tier Two, OPSRP Pension Plan, disability)
- Calculation method used to derive the benefit
- Member's years of service
- Member's final salary

PERS Oregon Public Employees Retirement System

Oregon Supreme Court Decision: *Arken/Robinson/Goodman*

- October 6, 2011 ruling that PERS can collect approximately $156 million in overpayments made to 28,000 benefit recipients as a result of 1999 earnings overcrediting to Tier One member regular accounts (20% later reduced to 11.33%)
- Repayment options in the Board's original order:
  - Lump-sum benefit recipients: repay in lump-sum
  - Monthly benefit recipients: repay in lump-sum or actuarial reduction method (ARM) in which a benefit is reduced each month based on recipient's anticipated lifespan
- Assuming the Oregon Supreme Court denies the petition for reconsideration in *Robinson* or otherwise affirms its current decisions, PERS anticipates completing the overpayment recovery project in 2012

Oregon PERS' Economic Impact

- PERS benefits paid to Oregonians in 2010: nearly $2.7 billion of the $3 billion total paid to all recipients
- Total increase in Oregon economic output: $3.2 billion* (compared to employer contributions of approximately $1 billion in 2010)
- Oregon jobs supported: 29,124*
- Wages of Oregon jobs supported: $881 million*
- Estimated state income taxes paid by PERS retirees in Oregon: $125 million

* As of 2010, based upon economic multipliers provided by the U.S. Department of Commerce's Bureau of Economic Analysis (BEA)

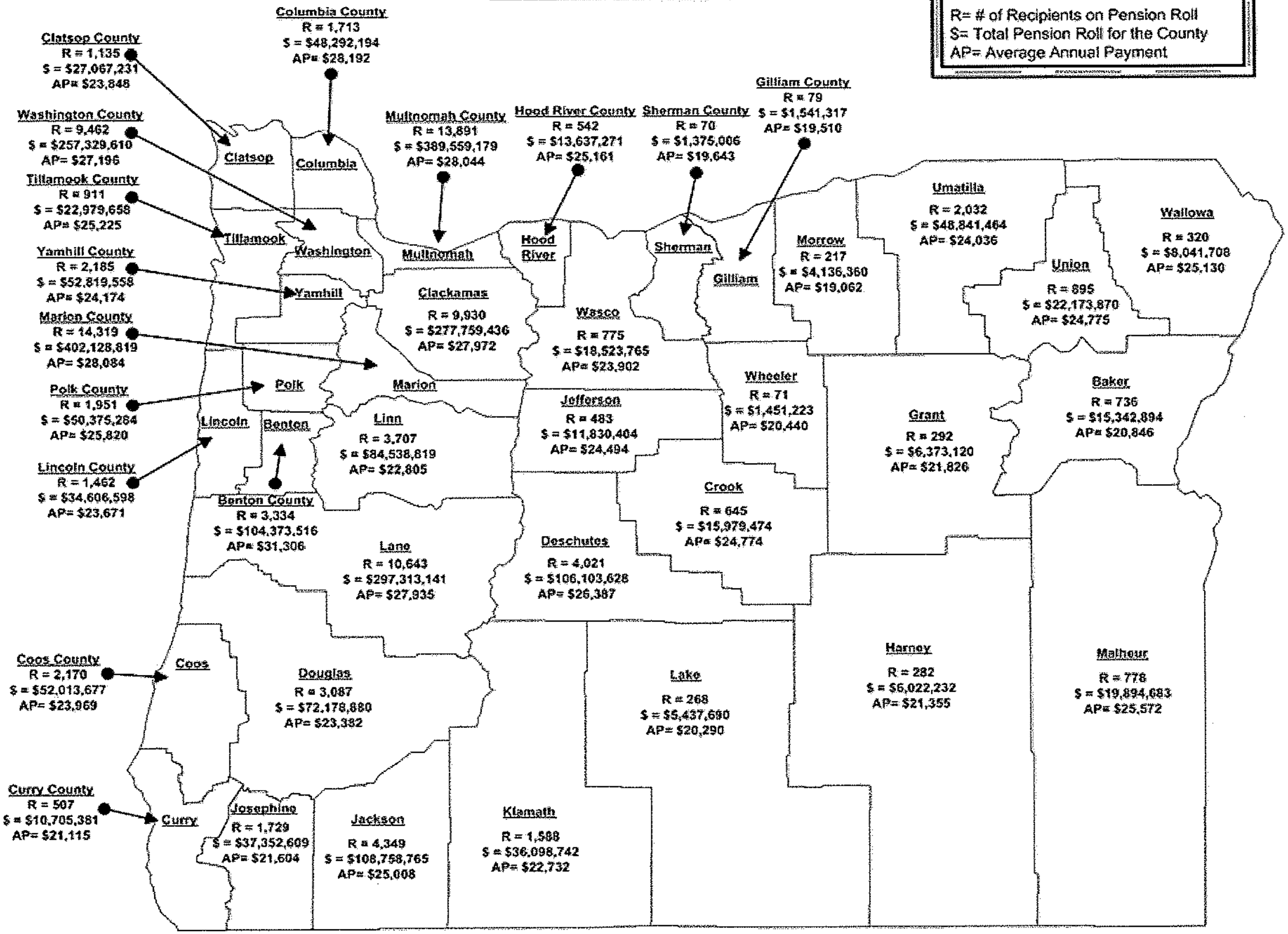
PERS Oregon Public Employees Retirement System

Total Benefit Payments by County

3/1/2011 – Data Source: IRSM File for the 2010 Tax Year

LEGEND

R= # of Recipients on Pension Roll
$= Total Pension Roll for the County
AP= Average Annual Payment



Public Employees Retirement System
11410 SW 68th Parkway
Tigard, OR 97223

503-598-7377 or toll free 888-320-7377
http://oregon.gov/PERS

OREGON LEGISLATIVE ASSEMBLY
Office of the Senate President
Office of the Co-Speakers

For Immediate Release
September 26, 2011

President Courtney: Robin Maxey, (503) 986-1605
Co-Speaker Hanna: Angela Wilhelms, (503) 986-1802
Co-Speaker Roblan: Jessica Adamson, (503) 986-1302

Presiding Officers Announce Formation of County Payments Legislative Task Force

SALEM—Oregon legislative leadership today announced the formation of an official County Payments Legislative Task Force. The legislative group will focus on potential impacts to the State and counties if Congress does not reauthorize a federal law that provides critical funds to 33 of Oregon's 36 counties to offset financial losses incurred because of reduced economic activity on federally-owned forestland.

The task force will review past actions, make recommendations, and propose new policy concepts for the Legislature to consider. Its work will focus on the impact to specific county services should payments expire, opportunities for renewed economic activity in affected counties, and the status of recommendations made in a report issued in 2009 by the Governor's Task Force on Federal Forest Payments and County Services.

"This is an issue of absolute vitality across all of Oregon. The federal government owns vast tracts of forestland throughout Oregon. Inactivity on that land threatens the livelihood of rural counties, and this is only compounded by the lingering threat that the federal timber payments program will expire," said Co-Speaker Hanna (R-Roseburg). "I asked the other presiding officers to join me in forming this task force not so we could beg for a handout, but so we can identify long-term solutions to help counties provide critical services, including those services – such as roads and police – required on federally-owned land."

"Right now our State is dependent on the federal government for these payments. We need a short-term solution to pay for critical county services without them. We need a long-term strategy for putting rural Oregon back to work so we don't need them. We have to end the cycle that sends our counties into crisis every time Congress balks at reauthorization," said Senate President Peter Courtney (D-Salem/Gervais/Woodburn)

"Addressing the issue of federal payments is critical to the financial stability of all of Oregon. As one county goes, so do we all. The economic prosperity of Coos County impacts the prosperity of the Portland Metro Region and that of Eastern Oregon. As the Congress argues over reauthorization, the economic health of our state and local communities sits in the balance.

This committee will offer legislators the important opportunity to address the short and long term issues that may come if Congress refuses to meet its obligation to local communities like mine," said Co-Speaker Arnie Roblan (D-Coos Bay). "We need local strategies to grow our economic base, and a long-term commitment to land management that restores economic opportunities on federal lands hand-in-hand with healthy forest stewardship."

Members of the Joint Legislative Task Force on County Payments are:

Co-Speaker Bruce Hanna (R-Roseburg), Co-Chair
Co-Speaker Arnie Roblan (D-Coos Bay), Co-Chair
Senator Joanne Verger (D-Coos Bay), Co-Chair
Senator Lee Beyer (D-Springfield)
Senator Ted Ferrioli (R-John Day)
Senator Fred Girod (R-Stayton)
Senator Jeff Kruse (R-Roseburg)
Senator Betsy Johnson (D-Scappoose)
Representative Phil Barnhart (D-Springfield)
Representative Mike McLane (R-Prineville)
Senate President Peter Courtney (D-Salem), Alternate Member

The task force will coordinate with local and federal leaders engaged in this issue to help educate Oregonians and provide practical and feasible recommendations. Co-Chairs Verger, Roblan and Hanna will establish a meeting schedule for the group in hopes of providing recommendations for the 2012 and 2013 legislative sessions.

###