Strunk/Eugene Implementation Methods

September 23, 2005

PERS
Oregon Public Employees Retirement System

Overview

- Results of ***Eugene*** Decision
- Implementation of Settlement Agreement
- Sources of Funds for Implementation
- Tier One Portion
  - Administrative Expenses
  - Reserves
  - Direct Recovery
- Direct Recovery
  - Methods and Goals
  - Actuarial Reduction Proposal
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    - Adjustment Process
    - Examples
- Other Issues (Charge-Offs, Waivers, Interest/Costs)

Eugene Decision

- Controversy made moot
  - 2003 PERS Reform legislation
  - Settlement Agreement
    - Currently challenged in *White* case

Settlement Agreement
2004 PERS Board Actions

- Change Variable Match calculation – EFFECTIVE July 2004
- Re-allocate 1999 “Employer in Variable” earnings – EFFECTIVE March 2004
- Adopt contingent rate order in April 2004 reallocating 1999 earnings:
  - Contingency Reserve to 7.5%
  - Gain/Loss Reserve to 30 months funding level
  - 11.33% to Tier One regular accounts
  - Contingent on outcome of *Strunk* challenges
- Employer rates and reserves adjusted accordingly except for contingent reallocation – EFFECTIVE July 2005

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Sources of Funds

Funds to credit Contingency and Gain/Loss Reserves will come from the following 1999 reallocations:

- Employer accounts to 11.33%
- BIF Reserve to 11.33%
- Tier One member regular accounts to 11.33%

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1999 Reallocations

	To Contingency Reserve ($)	To Gain/Loss Reserve ($)	Percent	**Total Reallocated ($)**
Employers	169,002,690	669,263,432	32.57	838,266,122
BIF	221,022,035	875,263,975	42.60	1,096,286,010
Tier One	128,824,376	510,154,271	24.83	638,978,647
Tier Two	2,193,584*	0	0	0
Total Increase	$518,849,101	$2,054,681,678	100	$2,573,530,779

* This is the amount Tier Two would contribute to the Contingency Reserve, but staff recommends against this reallocation (see accompanying memo).

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Tier One Regular Accounts

Every Tier One member with a regular account that received 1999 earnings allocation will be adjusted

- Current Tier One members' (~100,000) next annual statement will show the new balance after the reallocation
- What about accounts that have closed since 1999 earnings were credited?
  - Retired members: 32,725
    (27,000 owe overpayment; 5,500 owed $ from COLA Freeze, earnings, etc.)
  - Withdrawals: 6,093
  - Death beneficiaries: 738
  - Alternate payees (divorces): 841
  - Final lump sum installment after 4/1/2000: 573

Actuary Estimates of Impacts

The Board's actuary estimates that approximately $1.6 billion in UAL reductions will not occur if these amounts are not recovered

- Active Tier One Members: $500 million
- Inactive Tier One Members: $300 million
- Retired Tier One Members: $800 million

Possible Sources for Tier One Recovery

1. Administrative expenses
   - Legally: DOJ opinion raises questions
   - Fiscally: Shifts burden entirely to current Tier One and Tier Two members
   - Fiduciary: Not justified if other methods equitably align burden with benefit
2. Contingency/BIF Reserves
   - Legally: Similar concerns as administrative expenses
   - Fiscally: Shifts burden to future earnings
   - Fiduciary: Creates same benefit/burden mismatch between former and current members
3. Direct recovery

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Direct Recovery Analysis

- Legally: Provided for in ORS 238.715
  - Alluded to by *Strunk* and Lipscomb
  - Not prohibited by 2003 legislation or court decisions (*Strunk* "fixed benefit" issue)
- Fiscally: Individual recalculation is significant effort but only way to accurately assess allocation's impact on each recipient
- Fiduciary: Comes closest to aligning recovery with those who benefited

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Possible Sources for Tier One Recovery

	Administrative Expenses	Contingency/ BIF Reserves	Direct Recovery
Legal	DOJ opinion raises questions	Not direct but similar concerns as with Admin Expenses	Provided for in ORS 238.715; and alluded to by *Strunk* and Lipscomb; not prohibited by 2003 legislation or court decisions (*Strunk* "fixed benefit" issue)
Fiscal	Shifts burden to current members	Shifts burden to member and employer earnings	Individual recalculation (43,000 recipients) is only way to accurately assess allocation's impact
Fiduciary	Not justified if other methods equitably align burden with benefit	Creates same mismatch between former and current members	Comes closest to aligning recovery with those who benefited

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Direct Recovery Method Goals

1. Monthly payment recipients not required to write check unless they choose to pay off
2. Minimize current benefit payment reductions
3. Make adjustments by a consistent method
4. Consider administrative impact

Actuarial Reduction

- Provided for in ORS 238.715(1)(b)
- Adjusts monthly payment to amount deemed by actuary to recover overpayment
- Extends repayment over the actuarially-determined lifetime
- System-wide solution that treats everyone consistently
- One-time adjustment; no future monitoring or recalculation
  - Based on actuarial balancing of mortality assumptions. Not a one-to-one collection but instead an actuarially-determined benefit adjustment.

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Actuarial Calculation

Two elements to establish:

1. Retroactive amount PERS owes recipient for COLA Freeze and any under-crediting from *Strunk* decision, to calculation date
2. Amount recipient owes PERS from re-allocation of 1999 earnings. Two parts:
    1. Recalculated benefit based on new allocation of 11.33% earnings for 1999. Will yield new benefit amount as of calculation date (including COLA for intervening years).
    2. Difference between actual benefit paid and recalculated benefit to calculation date

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Process of Payment Adjustments

Step 1: Offset COLA Freeze retroactive payment against overpayment amount. Check to member if surplus; actuarial reduction if amount owed

Step 2: Begin paying recalculated payment as of calculation date. In some cases, will be higher than current payment after COLA Freeze lifted

Step 3: If amount owed to PERS, reduce recalculated benefit payment to reflect recovery of overpayment by actuarial reduction

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Classes of Affected Members

Combined application of the *Strunk/Eugene* decisions will generally affect the following groups in the manner described:

1. Eff. retirement dates from 4/1/2000 to 3/1/2004: Have received all payable earnings but many subject to COLA Freeze from 7/1/2003
2. Eff. retirement dates from 4/1/2004 to 3/1/2005: Need to be credited with 2003 earnings; no COLA Freeze
3. Eff. retirement dates after 4/1/2005: Were calculated with *Strunk/Eugene* changes so no adjustments
4. Variable Account Participants: 1999 reallocation will have less impact depending on relative size of regular and variable accounts
5. Misc. Recipients: Everyone with an account that received 1999 earnings allocation (e.g., earlier retired member with partial lump sum payable in installments beyond 1999)

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Example: 4-1-2000 Retirement

April 1, 2006 Calculation Date

Current benefit payment:	$2,335	
Recalculated benefit payment:	$2,299	(- $36 or - 1.54%)
Total amount owed PERS:	($9,184)	
Benefit after actuarial reduction:	$2,271	(- $28 or - 1.22%)

Total reduction from current benefit: (- $64 or - 2.74%)

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Example: 4-1-2004 Retirement

April 1, 2006 Calculation Date

Current benefit payment:	$2,275
Recalculated benefit payment:	$2,337 (+ $63 or + 2.8%)
Total amount PERS owes retiree:	$1,483

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Actuarial Reduction: Method Check to Goals

1. Requires no check from recipients (unless they choose to pay off)
2. Minimizes benefit payment reductions by spreading over actuarial period
3. Makes consistent adjustments that are spread over the entire system
4. Minimizes administrative impact by using system-wide approach, thus limiting number of adjustments and tracking

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Other Issues

- Implementation Plan will address collection policies to recover overpayments for recipients not receiving monthly payments
- Charge-off policy will be developed for uncollectable amounts
- Waive recovery of overpayments of $50 and under (aggregate basis) – included in charge offs
- No basis to recover interest or costs on overpaid amounts