

# SAVE SCHOOL FUNDING

A funny thing happened in the 2003 legislative session in the PERS debate – everybody forgot the amendments of 1999. Everybody likewise forgot the law in the various court battles challenging the PERS reforms of 2003.

Oregon Laws 1999 Chapter 317 Section 9 provides as follows:

**SECTION 9.** ORS 238.600 is amended to read:

238.600. (1) A system of retirement and of benefits at retirement or death for employees of public employers hereby is established and shall be known as the Public Employees Retirement System. Any similar system being operated by a public employer on April 8, 1953, may be integrated into this system as hereinafter provided.

**(2) If the Public Employees Retirement System is terminated, or if contributions may no longer be made to the system, each member of the system has a nonforfeitable right to the benefits that the member has accrued as of the date of the termination, or as of the date that contributions may no longer be made to the system, to the extent that those benefits are funded.**

If you recall, this was just before the last burst upward in the stock market bubble and the fight was over who gets to keep all the excess. The legislators said that PERS gets to keep all the excess – provided that they give up future demands for actuarial underfunding if the market turns around.

Since the June 23, 1999, date that the legislation was signed by the Governor the various governmental entities throughout Oregon have together paid nearly 7 BILLION extra dollars of public money to PERS. Several billion dollars were borrowed and transferred to PERS upon the claim that the decision makers were legally compelled to deliver the money. That is, the lawyers in back rooms crafted the scheme to raid the public trust for their own personal benefit and for the benefit of judges, public attorneys, and other high end public employees wanting extraordinary lump sum payouts upon retirement.

There is one more big issue. On July 1, 2004, there will be nearly 50,000 inactive public employees who will be able to claim that they are entitled to 150% of the payoff amount because they had a life long PERS contract. This is because of Senate Bill 258 that was enacted late in the 2003 legislative session after the so-called PERS reform court battles began their journey.

The statutory legal standard where the Multnomah County Counsel must refuse to aid the Commissioners is whether the actions amount to “willful and wanton” neglect of duty. The transfer of excess money to PERS is exactly that kind of misconduct. Your commissioners and other public servants, including the attorney offering the advice and the judges who would rule on the matter, stand to gain handsomely by ignoring certain provisions of Oregon law.

I lost a relative on March 7, 2004, because of the lack of adequate funding for medical services. The court would likely reject any claim I might raise challenging the legality of the transfer and conversion of billions of public dollars to the personal interests of public employees. If only a few people received the money we would call it embezzlement. Instead, because the theft is distributed among all public employees according to status and length of service, it is called public policy.

The Portland School Board has threatened to cut several weeks of school during the next school year if voters support the repeal of the Multnomah County income tax. This is not only heartless but legally conflicts with the Oregon Constitutional mandate to adequately fund education.

Please support me by signing and sending the petition (on the opposite side) to attempt to compel Multnomah County to comply with existing law. The commissions, even after a general election, could just use their power to reverse anything I might get on the ballot anyway. So it is effective only at trying to focus attention.

Respectfully,

Ron Ledbury (Oregon Center For Poverty Law & Economics) (5/19/2004)