The (Minimal) Impact of HB 2456

There is a lot of misplaced angst about HB 2456, which passed the 2011 Oregon Legislature advertised as a measure that will decrease some PERS benefits for retirees who live out-of-state. AFSCME members should understand that HB 2456 will not impact very many people — *even our out-of-state members*.

Many people — including PERS members, legislators and especially reporters who wrote articles about HB 2456 — do not understand that there are actually two pieces of old legislation that are used to calculate the "extra" benefit that was devised as a solution to the 1989 *Davis* case, which said it was illegal to tax federal retirees if Oregon state and local government retirees were not taxed. **Key fact: you get the better calculation of the two bills**. Here is an oversimplified synopsis of those two bills:

- **SB 656** (Passed in 1991) — This measure created a new sliding scale of "extra" benefits for employees from 1991 forward (based on total years of service, *not* total years after 1991). The scale is as follows: 10-20 total years, 1 percent. Up to 25 years, 2 percent. Up to 30 years, 3 percent. 30 or more years, 4 percent.

- **HB 3349** (passed in 1995) — This measure used a sliding scale that went backwards *from* 1991 to determine what "extra" percentage retirees would receive to offset the imposed Oregon income tax. Roughly speaking, if you had 30 years of service prior to 1991, you received a full 9 percent increase. If you had 20 years prior to 1991, you received two-thirds of the full amount (6 percent). If you had 10 years you received one-third of the full amount (3 percent) and so on. **The key trigger to this calculation is how many years of service one has in PERS prior to 1991**. Moreover, *any years accrued after 1991 count for nothing under HB 3349*.

Here are the two things you need to know. One, again, as mentioned earlier, you get the better of the two calculations. **Two, more importantly to this discussion, 2011's HB 2456 only does away with 1995's HB 3349**. *The SB 656 calculation stays intact*. In other words, the Legislature is taking away what is the lesser option for the vast majority of those currently in the system.

Here is an example. Joe Smith is retiring on Jan. 1, 2012 (the implementation date for this session's HB 2456) with 30 years of PERS service, meaning he began work on Jan. 1, 1982. Smith would therefore have would have 9 years of service prior to 1991 and 21 years of service from 1991 forward. The 9 years of service prior to 1991 — again, the only years that count under HB 3349 — would grant Smith one-third of the maximum benefit of 9 percent under this bill's formula — in other words, 3 percent. That is the first calculation.

Here is the second calculation. While our hypothetical Mr. Smith has 9 years of service prior to 1991, he has 21 years from 1991 forward, for an overall total of 30 years. Under the SB 656 calculation — 30 years of service — he gets a benefit of 4 percent. **You get the better of the two**, so again, the fact that this year's HB 2456 will eliminate the old HB 3349 calculation has no impact — our Mr. Smith gets his benefit from the SB 656 calculation because it's more.

So Who's Impacted How?

Again, the vast majority of people currently in PERS began after 1991. Those who did begin prior to 1991 and are still working generally don't have very many years that were prior to 1991. So …

- First and foremost, *if you started in PERS after 1991*, this bill is irrelevant to you. You have no pre-1991 years to calculate under HB 3349 (see above). Period. You get the better of the two formulas. Your percentage from the HB 3349 formula, with no pre-1991 years, would be zero, so it doesn't matter that

HB 3349 is going away. Your calculation will come from the SB 656 formula (again, see above), and *that's not going away*.

- If you are a career PERS employee, you will only be impacted — and then, minimally — **if you currently have (roughly) 35 or more years in the system right now**. That would give you 15 or more years that are pre-1991 years, so your sliding scale calculation may have been slightly higher under the HB 3349 formula. *But even then, it's not all or nothing*. You still receive the 4 percent calculation from SB 656.

- The biggest potential losers, so to speak, would be people who were in PERS up until 1991, but then left PERS to work in the private sector the rest of their career. They will lose their "extra credit" for the pre-1991 years and have no post-1991 years for the newer calculation. So people in that boat *who also happen to live out-of-state* will lose some money. But that's not you.

Yes, this seems complicated at first blush. It actually is pretty straightforward. **HB 2456 will impact very, very few current PERS members**. And finally, remember this: if you live in Oregon and plan on continuing to do so, none of this matters at all.

Feel free to contact Mary Botkin or Don Loving if you have any questions.

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