



# CITY OF PORTLAND

OFFICE OF FINANCE AND ADMINISTRATION

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October 27, 1999

## Memorandum

TO: Mayor Vera Katz  
Commissioner Jim Francesconi  
Commissioner Charlie Hales  
Commissioner Dan Saltzman  
Commissioner Erik Sten  
City Auditor Gary Blackmer

FROM: Tim Grewe, Director *Tim Grewe*  
Finance and Administration

SUBJECT: PERS Litigation Resolution

The Office of Finance and Administration has introduced a resolution before Council that would allow the City to join a consortium of local governments in a suit against the Public Employees Retirement System. OFA recommends that Council pass this resolution.

### Background

In October 1998, PERS sent employers contribution rates to all governments within the state. The rates for a number of local governments, including the City, were sharply higher than the previous rate. Portland's rate was set to increase by approximately 80%, from 9.29% of payroll to a new rate of 17.4% of payroll (plus the 6% pick-up). This increase was due to a large increase in the City's unfunded liability in the system.

OFA has aggressively acted to try and reduce both the unfunded liability and the rate set by PERS. We have been a consistent voice at PERS Board meetings, hearings and rulemaking sessions. We have uncovered numerous errors by the staff and board, accounting and crediting practices that work to the detriment of local governments and policies that make it impossible for employers to reap the benefits of a boom in the stock market. Most of our efforts at the PERS Board have been rejected.

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OFA worked closely with the Office of Governmental Relations and other employers to pass legislation that would accomplish our objectives of providing an excellent retirement for employees while giving local governments a stable rate. The package of bills passed the Senate, but were defeated in the House.

**Need for litigation**

OFA and representatives of other local governments believe that there is sufficient evidence of negligence on the part of the PERS Board and staff in the performance of their duties to warrant a lawsuit. The City's unfunded liability currently stands at \$257 million. If we are successful in our suit, we may be able to reduce the size of this liability and minimize future increases to the City's employer rate. The employers group has hired the firm of Harrang, Long, et al to formulate legal theory for the case. Harrang, Long believes that the cost to pursue litigation through the first appeal (presumably the Supreme Court) will be approximately \$200,000 to \$230,000. The members of the group will split the cost, with a formula to be worked out. OFA estimates that the City's share will be between 33-50% (\$75,000 to \$115,000). Funds for this will be reimbursed from the PERS Pension Bonds the City has recently sold.

If you have any questions, please give me, Ken Rust or Steve Manton

TG KR SM

35839

**RESOLUTION No.**

Authorize the City to initiate or join in legal action to resolve issues regarding Public Employees Retirement System (PERS) Board administration of PERS accounts (Resolution)

WHEREAS, the City of Portland has consistently paid to PERS the amounts PERS has stated were required to fund the City's employer contributions to the system,

WHEREAS, despite the fact that the City has consistently paid as required, PERS notified the City in October 1998 that it had an unfunded liability of \$257 million, Other public employers were also notified of a similar increase in unfunded liability owed to PERS,

WHEREAS, the City, along with other public employers in the state, has conducted extensive investigation regarding the policies and practices of the PERS Board that have resulted in the increased liability and it appears that those policies and practices will result in continually escalating employer obligations,

WHEREAS, although requested to do so, the Legislative Assembly in the 1999 Legislative session did not take action to provide direction to the PERS Board or to ameliorate the situation that has resulted from the actions of the PERS Board,

WHEREAS, although requested to do so, the PERS Board did not take action to reduce past, present or future liabilities for public employers in the state,

WHEREAS, other local government bodies are considering joining together to take legal action to resolve issues relating to the PERS Board's policies and practices,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Portland, a municipal corporation of the State of Oregon, that the Council hereby authorizes the City to initiate or join in legal action against the Board of the Public Employees Retirement System in order to determine the legality of past PERS Board action and obtain direction for future PERS Board administration of accounts

Mayor Vera Katz  
Linda Meng Im  
November 1, 1999  
Adopted by the Council

**NOV 03 1999**

**Gary Blackmer**  
Auditor of the City of Portland  
By *Britta Olson*  
Deputy

**RESOLUTION NO. 35839**

Title

Authorize the City to initiate or join in legal action to resolve issues regarding Public Employees Retirement System (PERS) Board administration of PERS accounts (Resolution)

INTRODUCED BY	DATE FILED <b>OCT 29 1999</b>
MAYOR VERA KAT	Gary Blackmer Auditor of the City of Portland
NOTED BY COMMISSIONER	By <u>Clay Kershner</u> Deputy
Affairs	
Finance and Administration	
Safety	
Utilities	
Works	
BUREAU APPROVAL	For Meeting of _____
Bureau Office of Finance and Administration- Bureau of Financial Management	ACTION TAKEN
Prepared by Steve Manton      Date 10/27/99	
Budget Impact Review ____ Completed      ____ Not Required	
Bureau Head Ken Rust Tim Grewe	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS	
		YEAS	NAYS
Consent <span style="border: 1px solid black; border-radius: 50%; padding: 2px 5px;">Regular</span>	Francesconi	✓	
NOTED BY	Hales	✓	
City Attorney	Saltzman	✓	
City Auditor	Sten	✓	
City Engineer	Katz	✓	