

2-3-2006

## Portland's Fire & Police Disability & Retirement Fund: Time for Change

City Club of Portland (Portland, Or.)

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### Recommended Citation

City Club of Portland (Portland, Or.), "Portland's Fire & Police Disability & Retirement Fund: Time for Change" (2006). *City Club of Portland*. Paper 528.

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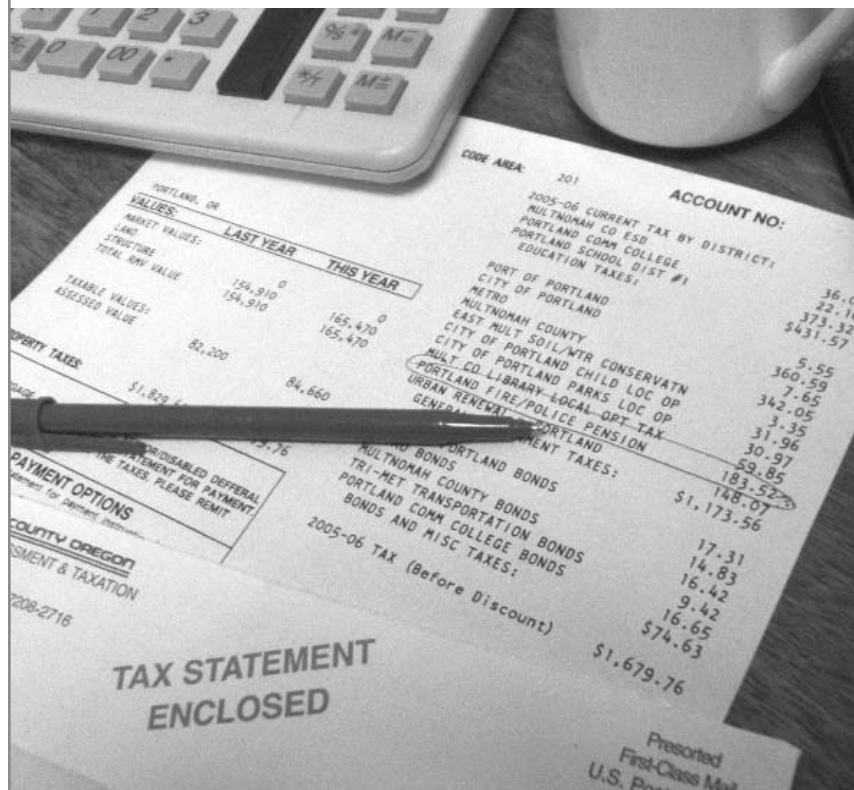
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**City Club of Portland**  
 Good citizens are the riches of a city

Published in City Club of Portland  
 Bulletin Vol. 87, No. 36  
 February 3, 2006  
 [Online edition posted Jan. 17, 2006]

## Portland's Fire & Police Disability & Retirement Fund Time for Change



City Club members will vote on this report on Friday, February 3, 2006. Until the membership vote, City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated February 17, 2006 and online at [www.pdxcityclub.org](http://www.pdxcityclub.org).

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## EXECUTIVE SUMMARY

Portland's Fire and Police Disability and Retirement Fund (FPD&R) is a combined pension and disability system that serves Portland's sworn fire and police employees. The fund is governed by a board of trustees that includes public officials, representatives from the police and fire unions and citizen representatives.

The fund is likely the last pay-as-you-go system in the United States. As such, current property tax revenue, rather than investment income, is used to pay the pension and disability benefits for retirees and injured firefighters and police officers. Because the pension system is not pre-funded, the ongoing financial viability of the fund has been an issue of public concern for many years. Annual pension and disability spending has increased from \$49.8 million to \$75.4 million in the past 10 years. The unfunded liability of future pensions is currently \$1.684 billion and will continue to grow to \$8.4 billion in about 40 years. Local media have also raised concerns about the high rate of disabilities in Portland's fire and police bureaus and loopholes that allow injured employees to receive double compensation, which has increased public scrutiny of the system.

In response to these concerns,

Mayor Tom Potter appointed a nine-person independent review committee (IRC) in February 2005 to evaluate options to fully or partially pre-fund the pension system. In addition, City Council charged the IRC with examining the case management and costs of FPD&R's disability system. Your committee was charged with shadowing the IRC's work while conducting its own research in order to comment publicly on the IRC's recommendations to City Council.

### Pension System

As with previous City Club studies of the FPD&R fund, your committee determined that the fund's pay-as-you-go structure is detrimental to the city's financial health and places an unnecessarily heavy burden on property tax payers in Portland. The FPD&R levy has primacy over all **serial levies**, as well as the city's general fund, as demonstrated by the **compression** effect created by statewide Ballot Measures 5, 47 and 50. According to Drew Barden, the city's economist, it is probable that at some point FPD&R's levy will not be adequate to cover the fund's liabilities, which would have a dire effect on the city's ability to provide services to its citizens.

see glossary on page 28

FPD&R is forbidden by city charter to retain reserves greater than \$750,000. Thus, Portland's taxpayers are forced to pay every dollar that is required by the fund, rather than benefitting from investment income that pre-funding would provide. The primary argument against pre-funding the system is that it would temporarily create a generational inequity, as one generation of taxpayers would be forced to pay for the retirement of those firefighters and police officers who have already served, as well as pre-paying for those who are currently in service. **Your committee weighed these concerns and recommends a gradual conversion to pre-funding the system.**

All city employees who are not members of FPD&R are members of Oregon's Public Employees Retirement System (PERS) or the newly revised PERS plan, the Oregon Public Service Retirement Plan (OPSRP). Your committee found no compelling reason to retain the FPD&R system beyond retirement of current members. **Your committee recommends that current FPD&R members remain in the pension system until the death of the final member and all surviving beneficiaries. Your committee also recommends placing all newly sworn fire and police hires into OPSRP. These recommendations are substantially similar to those of the IRC.**

### Disability System

The IRC hired a disability consulting firm, HDM Solutions, Inc. (HDM), to compare FPD&R's disability system with those of comparable cities. Fire and police disability claims in every other city in the comparison set were managed by their state's workers' compensation system. HDM also compared the cost per claim between fire and police disability claims in those cities with those of their other city employees. They were nearly identical. In Portland, the cost per claim within the FPD&R system was three times higher than the cost of workers' compensation claims for other city employees. HDM further stated that the city's workers' compensation approach was more in line with industry standards than the approach taken by FPD&R. **For these reasons, your committee recommends moving all new disability claims into the workers' compensation system.** Although existing claims must continue to be addressed using FPD&R standards, your committee found no reason to maintain duplicate disability administrations. **Therefore, your committee recommends moving the administration of existing FPD&R disability claims to the city's Office of Risk Management, the entity that administers the workers' compensation system. Your com-**

mittee's disability recommendations correspond with those of the IRC.

## Administration and Accountability

Although significant improvements were made in 2000 when the configuration of FPD&R's Board of Trustees was changed to include three citizen members, your committee is still concerned about accountability. Conflicts of interest, unmet obligations and lack of experience among the board members are manifestations of a poorly structured board. **Until the FPD&R system ceases to exist as a separate entity, your committee recommends that an independent agent conduct a performance audit at regular intervals not to exceed five years.**

The long-standing nature of many of FPD&R's problems is due, in large part, to the fact that its authorization rests in the city's charter. For good reasons, the charter is difficult and slow to change. However, the protective mechanism of the charter has for too long stood in the way of much needed reforms at FPD&R. The right to subrogation (the city's ability to collect third-party payments) is a significant example of this. Your committee found widespread agreement that subrogation should be part

of FPD&R's disability system, but City Council has not taken action to bring this amendment to citizens for a vote. The charter is also unclear whether FPD&R's levy is based on assessed value or real market value, creating even more financial uncertainty for FPD&R and the city of Portland.

FPD&R was a system designed to protect firefighters and police officers at a time when disability and retirement benefits for public employees did not exist. These protections are now available to all city employees. OPSRP and workers' compensation have many features and efficiencies that FPD&R is lacking and your committee believes that now is the time to phase out FPD&R in a way that continues to protect current members and will serve future generations of firefighters and police officers as well as the citizens of Portland.

see glossary on page 28

see glossary on page 28

## Recommendations

IRC Recommendations*	Your Committee's Recommendations
----------------------	----------------------------------

Begin actuarial financing of the FPD&R pension fund.



New hires should be placed into the Oregon Public Service Retirement Plan (OPSRP) and the current levy should be used to pay the Entry Age Normal Costs on new hires (as described by Milliman).

Existing members of FPD&R should retain their current pension benefits.



Existing members should retain their current pension benefits and remain members of FPD&R.

Move new public safety hires to OPSRP.



The city should "pick up" the required 6 percent member contribution to PERS [sic].



The 6 percent individual account program cost for new hires should be a negotiating point between the fire and police unions and the city.

Move all new disability claims for sworn public safety officers into workers' compensation.



All new claims by sworn fire and police employees should be administered by the city's workers' compensation system.

\* The recommendations of the IRC have been paraphrased for brevity. The full text of its recommendations is available beginning on page 24.

IRC Recommendations*	Your Committee's Recommendations
----------------------	----------------------------------

Provide disabled public safety officers with at least 75 percent income replacement.



In recognition of the different risks and injuries that fire and police personnel are subject to in their public safety roles, disability benefits that address job-specific injuries and health conditions should be added to the city's list of standard workers' compensation benefits for these employees. Job-specific benefits should be negotiated between the city and the unions with reference to comparable jurisdictions.

The city's Office of Risk Management should administer all current FPD&R disability claims.



The city of Portland's workers' compensation system should administer all existing FPD&R disability claims under the rules set forth by the FPD&R system until such claims are closed or otherwise resolved.

The city should develop a funding mechanism to pay for disability claims that includes a financial incentive to the fire and police bureaus to return disabled workers to the job.



City Council should hold the fire and police bureaus accountable for managing the disability claims of their sworn employees as they do all other city bureaus.

\* The recommendations of the IRC have been paraphrased for brevity. The full text of its recommendations is available beginning on page 24.

IRC Recommendations*	Your Committee's Recommendations
----------------------	----------------------------------

No recommendation.

The city charter should make explicit that the full 2.8 mills of the FPD&R levy be assessed on real market value.

No recommendation.

While in existence, a performance audit of the FPD&R system should be conducted at regular intervals not to exceed five years. As long as the city auditor sits on the FPD&R Board of Trustees and supervises the fund administrator, this audit should be conducted by an independent agent.

No recommendation.

The city's elected officials should vigorously engage in a privately funded voter education campaign prior to any election in which the conclusions and recommendations of this report, either in whole or in part, are included on the ballot.

No recommendation.

City Club of Portland should take a leadership role in convening and educating community leaders, the media, unions and other stakeholders, and other members of the public about the vital importance of acting on the conclusions and recommendations in this report.

\* The recommendations of the IRC have been paraphrased for brevity. The full text of its recommendations is available beginning on page 24.

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## BACKGROUND

The Portland Fire and Police Disability and Retirement fund provides disability and retirement benefits to the sworn members of the fire and police bureaus and their survivors. The fund was established in 1948 by adoption of chapter 5 of the city charter. Six subsequent amendments, the most recent in November 2000, have been adopted. The fund is governed by a 12-member board of trustees, which includes the mayor, city auditor, city treasurer, fire and police chiefs, active members of the fire and police bureaus, and three citizens at large. The fund is financed entirely by a property tax levy.

The financial viability of the fund has been questioned by members of City Council and other city officials for a number of years. Unlike Oregon's Public Employee Retirement System (PERS), the FPD&R pension system is not pre-funded, meaning benefits are paid from current tax collections rather than from investment income. Annual pension and disability spending has increased from \$49.8 million to \$75.4 million in the past 10 years. The unfunded liability of future pensions is currently \$1.684 billion and will continue to grow to \$8.4 billion in about 40 years.<sup>1</sup> In addition, Portland's fire and police bureaus experience a high-

er rate of disabilities than other fire and police agencies across Oregon.<sup>2</sup>

Spearheaded by Commissioner Dan Saltzman, in January 2005 City Council agreed upon a plan (see Appendix D for Resolution No. Substitute 36287) to study the FPD&R system. The plan called for Mayor Tom Potter to appoint a nine-person citizen panel to review the FPD&R system and report to City Council by January 1, 2006. The panel was comprised of an actuary, four human resource specialists, a former public administrator and three members of the FPD&R Board of Trustees, two of whom represent the fire and police unions. The IRC was charged with conducting an actuarial analysis of the fund, evaluating options for fully or partially pre-funding the pension system's liabilities and examining disability costs and case management. In its authorizing resolution, City Council underscored the need to provide an appropriate level of employee benefits for firefighters and police officers while being good stewards of tax dollars. The IRC held its first meeting on February 24, 2005. Milliman, an actuarial and consulting firm, and HDM Solutions, Inc. (HDM), disability consultants, were contracted by the IRC to conduct an analysis and projection of the FPD&R pension fund and to produce recommendations for improvements to the FPD&R disability program.

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**City Club has studied FPD&R and its predecessor programs 11 times since 1932, including an in-depth look in 1988, followed by a charter amendment report in 1989. These reports are available online at [www.pdxcityclub.org](http://www.pdxcityclub.org).**

The IRC released its report in December 2005. City Council held work sessions in December 2005 and January 2006. At the time of publication of this report, City Council is expected to place FPD&R reform measures on the November 2006 ballot.

### **City Club's History with FPD&R**

City Club has studied FPD&R and its predecessor programs 11 times since 1932, including an in-depth look in 1988, followed by a charter amendment report in 1989. These reports are available online at [www.pdxcityclub.org](http://www.pdxcityclub.org). Most of the studies proposed changes to benefit levels. In 1988, City Club recommended replacing FPD&R's disability program with the workers' compensation system, partially funding the pension plan (although it specifically did not recommend enrolling new hires in PERS) and changing the membership of the FPD&R's Board of Trustees to include citizen representatives. In addition, when considering shifting FPD&R away from being a solely pay-as-you-go system, past study committees were concerned with generational equity for tax payers paying for FPD&R benefits.

Prompted by mounting concerns about the financial viability of FPD&R and its impact on other

city services, City Club launched a new study in June 2005 to explore the issues surrounding FPD&R, follow the work of the IRC and analyze its outcomes. Your committee was asked to consider changes (or no changes) to the FPD&R system that would allow the city of Portland to do the following:

1. Employ, train and retain diverse, highly qualified people in its fire and police bureaus;
2. Maintain a competitive, fiscally sound retirement and disability system for fire and police employees, retirees and their families;
3. Maintain a funding level that pays for FPD&R obligations, keeps Portland's tax structure economically competitive with other cities, and is capable of funding other critical public services over the coming decades; and
4. Maintain a system that is administered by an objective and fiscally responsible board of trustees.

The scope of City Club's study was similar to that of the IRC in that your committee evaluated options for fully or partially pre-funding the pension system; examined disability costs and financial implications of current case management practices; and considered the financial implica-

tions of FPD&R funding on other city services. City Club's study committee was asked to recommend support for or rejection of the proposed actions that come before City Council, with the option of offering recommendations of its own.

To that end, your committee of 11 City Club members, all screened for conflict of interest, met regularly between June 14 and January 9, 2006, attended meetings of the IRC, FPD&R Board of Trustees and City Council. Your committee read and analyzed numerous reports, articles and other materials, and interviewed witnesses with expertise in finance, economics, pension and disability plans, as well as stakeholders of the fund.

Since the last City Club analysis of FPD&R in 1988, much has changed in both the structure of the fund and the tax system that finances it. In 1989, chapter 5 of the city charter was amended to adjust retirement and disability benefits and the size of the board was increased to allow for citizen representation. This same charter amendment eliminated employee contributions to the plan. These charter changes were, in part, a response to a 1971 state requirement (ORS 237.620 (4)) that, in order to be exempt from Public Employee Retirement System, public employers in Oregon must offer their employees benefits that are "equal to or



better than” PERS. Since 2003, the equal-to-or-better-than test must be satisfied every two years.<sup>3</sup>

### Financing FPD&R

FPD&R is a defined-benefit, pay-as-you-go system that is funded through a millage levy. In general, millage levies are no longer allowed in Oregon; however, the FPD&R levy was exempted by legislation in 1991.\* By city charter, the levy is restricted at \$2.80 per \$1,000 of assessed value. Expenses that exceed that limit are the responsibility of the city’s general fund.

### Tax Reform Ballot Measures

In 1990, Oregonians passed Ballot Measure 5, which limited property taxes for local governments to \$10 per \$1,000 of assessed value. Under Measure 5, when local tax levies exceed the \$10 limit, all affected levies are reduced on an aggregate level to bring the total tax collected within the \$10 limit. This effect is known as **compression**.<sup>4</sup>

\* In 1991, the Legislature determined that the electorate did not intend for levies to be raised or lowered by changing the assessment ratio of their properties. Subsection 4 of ORS 310.125 reads, “This section does not apply to levies which were approved for the purpose of financing a fire and police disability and retirement fund.”

In 1996 Oregon voters passed Ballot Measure 47, which defined the assessed value of a property as 90 percent of the real market value of the 1995-96 tax year or the assessed value of the 1994-95 tax year, whichever was lower, and capped future increases at 3 percent per year.<sup>5</sup> Measure 47 proved difficult for tax assessors to implement, so the Legislature rewrote Measure 47 and sent the revisions to voters as Measure 50, which passed in 1997. Measure 50 changed the calculation of compression, which had been determined on an aggregate level, to a property-by-property basis. This change made accurate projections of tax revenue virtually impossible.<sup>6</sup>

### Most Recent Reform Efforts

In 1998, City Council considered a charter amendment for the November 1998 ballot, but the issue was withdrawn pending further study.<sup>7</sup> In 1999, City Council created an independent committee to recommend charter changes that were ultimately passed by the voters in 2000.<sup>8</sup> These charter amendments changed the membership of the FPD&R Board of Trustees from three police representatives, three fire representatives, the fire and police chiefs, the mayor, the city auditor and the city treasurer to its current configuration of

two police representatives, two fire representatives, three citizen members, a joint seat held by the chiefs of fire and police, the mayor, the city auditor and the city treasurer. (See below.) This charter change also prohibited the payment of disability compensation to incarcerated members.

### Recent History of FPD&R and PERS

In response to a funding crisis of its own, PERS was reformed in 2003, and new members are now enrolled in a revised plan known as the Oregon Public Service Retirement Plan (OPSRP). The state’s equal-to-or-better-than test now applies to OPSRP rather than PERS. As of January 1,

#### FPD&R Board Composition

Prior to Charter Changes in 2000 (9 Votes)	After Charter Changes in 2000 (11 Votes)
Mayor	Mayor
City auditor	City auditor
City treasurer	City treasurer
3 fire representatives	2 fire representatives
3 police representatives	2 police representatives
	3 at-large citizens (1 selected by the fire and police unions, 1 selected by the mayor and 1 selected by the board)
	Joint seat (1 vote) shared by fire and police chiefs

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2005, FPD&R was valued at 274 percent of OPSRP.<sup>9</sup> In other words, as a result of the creation of OPSRP, FPD&R now provides significantly greater benefits than legally required by statute. Again using the equal-to-or-better-than test, FPD&R benefits are also more generous than all other public employee pension plans that are exempt from OPSRP.

## DISCUSSION AND ANALYSIS

### FPD&R Levy

Portland is likely the only major city in the United States to operate a pay-as-you-go pension system.<sup>10</sup> The FPD&R levy is one of Portland's two floating levies (the other being urban renewal levies) that have priority over local option serial levies.\* The city charter gives the FPD&R levy primacy over other levies because the payment of pension benefits is a contractual obligation as opposed to service provisions that are not contractual.

As such, the FPD&R levy could theoretically compress all local serial levies down to zero dollars. While this is not likely, the estimated compression rate in fiscal year 2004-05 was 30 percent. This means that the Multnomah County Library levy (\$0.75 per \$1000), the city of Portland Parks and Recreation levy (\$0.39 per \$1000) and Portland's Children's Investment Fund levy (\$0.40 per \$1000) are currently receiving only 70 percent of their projected — and voter-approved — revenue, in part because the FPD&R levy (\$2.80 per \$1000) has prima-

cy.<sup>11</sup> Additionally, to compensate for properties that have reached the \$10 per \$1000 limit established by Measure 50, FPD&R must set its levy at a rate that disproportionately affects properties that have not reached the \$10 per \$1000 limit in order to generate the necessary tax revenue to cover its annual projected liabilities.

#### **Assessed Value versus Real Market Value**

Ballot Measures 47 and 50 together require that tax assessors calculate both the assessed value and the real market value of every property in Portland, charging the property owner the lesser of the two amounts.<sup>12</sup> These two methods of valuation create further doubt about the viability of the current pay-as-you-go system because the city charter is ambiguous as to whether the \$2.80 per \$1000 limit is based on the assessed value or real market value of the property. Chapter 5-103(b) of the city charter states:

The Council shall levy each year, at the same time and in the same manner that other taxes are levied, a tax upon all taxable property within the City of Portland not exempt from taxation, not to exceed two and one-half (2-1/2) mills on each dollar valuation, sufficient to produce and provide a sum equal to said required amounts so prepared and transmitted by the Board.

\* Serial levies have a fixed tax rate per \$1,000 that is established prior to the authorization of the levy. Floating levies' tax rates are determined annually. In the case of FPD&R, the board of trustees provides City Council with the amount of the annual liability of the system and City Council authorizes the FPD&R levy at a rate that will fund that liability.

see glossary on page 28

see glossary on page 28

Chapter 7-110 (5) adds:

At the same time other levies of taxes are made and in addition to tax levies authorized by the Charter or other authorizations by the voters, the Council shall levy each year a special tax of three-tenths of a mill on each dollar of the assessed valuation of the property in the City of Portland not exempt from taxation, which shall be credited each year to the Fire and Police Disability and Retirement Fund provided for by Section 5-101 of the Charter and said special tax of three-tenths of a mill shall be in addition to all other taxes which may be levied according to law.

Prior to the passage of Measure 50, property taxes in Oregon were assessed on *either* assessed value or real market value. Measure 50 muddied the waters by having taxpayers pay the lower of the two assessments. The charter language is not explicit on this issue and refers only to the levy being assessed “...at the same time and in the same manner that other taxes are levied...” If the levy is based on the real market value, the margin before which the levy reaches its maximum and the city’s general fund must be tapped to cover FPD&R costs is reasonably sufficient. However, there is an impending danger if the levy is based on the assessed value, because those values were capped in the 1997-98 tax year and their rate of growth is limited to 3 percent per year under the terms of Measure 50.

Historically, real market value has increased at a rate greater than 3 percent, leading to a sizeable difference between the two. In fiscal year 2004-05 the levy rate was \$1.46 per \$1,000 of real market value and \$2.25 per \$1,000 of assessed value.<sup>13</sup> There is a real possibility that the fund’s liability would meet or exceed the levy’s cap if the city must rely on assessed valuations. That scenario would have dire effects on the city’s ability to provide basic services because the general fund would be responsible for any liabilities that the levy could not cover. In theory, the city’s ability to provide fire and police protection (not to mention water, street maintenance and other city services) would be compromised because the general fund would be paying the pensions of retired sworn fire and police employees, rather than paying current employees. In addition, Portland would likely lose its AAA bond rating. According to the city’s Office of Management and Finance staff, the working assumption is that the FPD&R levy is based on real market value; however, this assumption has not been tested in a court of law.

## Pension System

### Pension Funding Options

One obvious solution to the uncertainty of a pay-as-you-go system is to pre-fund the system.

This is not a new idea and several proposals ranging from partial to full funding have been suggested as part of this and previous reviews. The arguments against pre-funding the system are generally based on issues of generational equity — the generation of taxpayers that bears the burden of funding the system would be forced to pay for both the retirements of the generation of sworn public safety employees who came before them, as well as the pensions of those who are currently serving them. A counter argument is that the sooner the system is funded, the sooner taxpayers can benefit from the fund’s ability to earn investment income.

see glossary on page 28 Milliman, the actuarial firm hired by the IRC, recommended that the levy pay the normal cost of new hires going into OPSRP using the entry age actuarial cost method. The entry age actuarial cost method is a standard method for actuarial funding. Normal costs are based on the assumption that a portion of an employee’s salary is invested, and that amount plus investment returns would cover the cost of that employee’s retirement benefit. The entry age actuarial cost method simply converts normal costs into a percentage of an individual’s salary at entry into the system.

FPD&R could be pre-funded in part or in whole by selling pension obligation bonds. In theory,

**The arguments against pre-funding the system are generally based on issues of generational equity — the generation of taxpayers that bears the burden of funding the system would be forced to pay for both the retirements of the generation of sworn public safety employees who came before them, as well as the pensions of those who are currently serving them.**

revenue from the bonds would be invested so that the difference between the investment earnings would be greater than the interest paid to bondholders. This process, known as **arbitrage**, is widely used to fund pension systems. The risk inherent in this proposition is that the financial market could take a downturn to such an extent that investment income would be insufficient to cover costs. In a worst case scenario, the general fund would need to cover both the pension requirements and the debt service. However, pension obligation bonds would not exacerbate the effect of compression on tax levies because general obligation bonds are outside the \$10 per \$1000 limitation established by Measures 5 and later affected by Measures 47 and 50.

Although it is unlikely, given current market projections, that the levy would exceed its \$2.80 limit if the system were to be fully funded through a combination of paying normal costs on new hires and paying the remainder through pension bonds, it is possible.<sup>14</sup> If normal costs were paid on new hires only, and the liability on current FPD&R members continued to accrue on a pay-as-you-go basis, the risk would be reduced (because there would be no arbitrage) and the levy would stay within its \$2.80 limits whether the investments of the normal fund contributions earned 8 percent (as the Oregon

Investment Council has historically exceeded on PERS investments) or a more conservative 5.25 percent.<sup>15</sup>

While acknowledging the advantages of pre-funding the system, there are several reasons FPD&R trustees should not assume responsibility for investing the funds. The first is to ensure a firewall between the city's other resources and the fund. Secondly, FPD&R's trustees are not investment professionals and should not be given responsibility for those assets, especially given current concerns about conflict of interest.\* Thirdly, the city does not have the authority to invest in equities, so they would need authorization from the Legislature to do so. Instead the city could give the Oregon Investment Council, which is an independent investing body with a proven track record of performance that exceeds the market, the responsibility to manage the fund. Authorization from the Legislature would be necessary for the Oregon Investment Council to invest money on behalf of FPD&R.

#### **FPD&R, PERS and OPSRP**

The FPD&R pension system is a defined-benefit system that, by its very nature, places the risk on the payer, in this case, property taxpayers in Portland. PERS, also a defined-benefit system,

\* For further discussion of governance and accountability, see pages 16 and 17.

suffered (until 2004) from projections that were based on outdated actuarial lifespan models and an unsustainable minimum rate of return of 8 percent. These projections underestimated the number of years that pension benefits would be payable and overestimated the investment earnings available to pay those benefits. OPSRP is a hybrid plan that combines a defined-benefit plan with a defined-contribution plan, thereby sharing the risk between employers and employees. In addition, the guaranteed rate of return is limited and the actuarial tables have been updated.

According to Milliman, OPSRP had the highest **replacement ratio** of a peer group of nine retirement plans. OPSRP members generally are enrolled in Social Security, whereas FPD&R members, by their choice, are not. Even when Social Security was removed from the calculation, OPSRP continued to have a higher replacement ratio than FPD&R due to projected earnings from the Individual Account Program (IAP).<sup>\*16</sup>

FPD&R members do not currently contribute to Social Security,

though, as a group, they may choose to do so at any time with a formal request from their full membership to City Council. Most OPSRP members do contribute to Social Security. FPD&R's benefit package was designed, in part, to provide benefits (e.g., long-term disability benefits) that do not exist in all other pension systems, including OPSRP, because they are provided by Social Security. In some cases, these benefits are offset when benefits are provided through workers' compensation available through other insurers, and could be purchased by the Portland Firefighters Association and Portland Police Association.<sup>17</sup>

#### **Pension Portability**

Portland's firefighters and police officers are among the very few public employees in Oregon who are not members of PERS or OPSRP. This makes it difficult for Portland firefighters and police officers to move to other jurisdictions, and for outside public safety officers to come to Portland. Partial pensions on multiple pension systems (e.g., a partial career under FPD&R and a partial career under PERS or OPSRP) generally provide a

\* The OPSRP Individual Account Program (IAP) is comprised of any employee contributions into the OPSRP system, including the 6 percent of salary required by ORS.200(1)(a). "An active member of the Public Employees Retirement System shall contribute to the Public Employees Retirement Fund and there shall be withheld from salary of the member 6 percent of that salary as an employee contribution." According to the January 2005 revision of "The PERS Chapter 238 Program: Your Member's Handbook: A Guide to PERS Chapter 238 and OPSRP Individual Account Program Benefits And Services 2003-2005," IAP contributions, depending on the arrangements made between employers and employees, may come from members either as a pre-tax or an after-tax contribution or paid by employers and sent on behalf of members.

lower combined retirement income than a single pension system. Whether this has measurable implications for recruitment and retention is unclear to your committee.

#### **Individual Account Program**

According to an actuarial analyst from PERS,<sup>18</sup> 71 percent of public employers, on behalf of nearly 75 percent of active public employees in the PERS/OPSRP system, pay their employees' 6 percent IAP contribution. This employer pick up was often negotiated in exchange for lower or no wage increases because these contributions come from pre-tax dollars and are not subject to payroll taxes. Because Portland firefighters and police officers are not members of the PERS/OPSRP system, the city and the fire and police unions have never negotiated the 6 percent employee contribution. A decision by City Council to grant the 6 percent contribution outside the collective bargaining process hobbles both parties' ability to engage in the give and take that defines labor negotiations.

#### **Governance (Pension System)**

Although the vast majority of the FPD&R's unfunded liability is the pension system, it requires very little of the trustees' time. David Thurman, city treasurer, theorized that the reason the treasurer, auditor and mayor were placed on the board in 1948 was to provide oversight and

accountability for the pension system and not to adjudicate disability claims. As immediate full funding is not a viable option, it is likely that there will remain an unfunded pension liability until the last of the current FPD&R pension members dies. It therefore stands to reason that there will be a role for an elected official to provide oversight and ensure accountability on the FPD&R Board until the unfunded liability is retired.

### **Disability System**

#### **System Accountability**

The FPD&R disability system is fraught with accountability problems. Among them are the financial disconnect between the fire and police bureaus and the disability fund itself; an inadequate system for tracking disability-related data; the decision-making process for disability claims; and the composition of the FPD&R Board of Trustees.

Portland's fire and police bureaus have little to no financial incentive to bring their injured employees back to work quickly because currently, once a firefighter or police officer is injured, that individual comes off the bureau's payroll and onto FPD&R's disability system. The current return-to-work structure further complicates the issue. In 1997, the administrative func-

tions in the police force were converted to civilian positions and, when disabled police officers filled these administrative slots as limited-duty positions, an employee sued the city over issues of equal pay for equal work. FPD&R and the fire and police bureaus have since negotiated a limited number (five firefighters and three police officers) of limited-duty positions for which the bureaus are reimbursed by FPD&R for a percentage of the salary of injured employees. These positions do not address the full extent of the need, and in the case of the police bureau, they are only available to those with temporary disabilities.

Employees also have a financial incentive to stay on disability under the current FPD&R system because medical coverage for their injuries ends when they return to work. So even if the employee is capable of limited-duty work, if the injury is long-lasting, it may remain in the employee's financial best interest not to return to work. In contrast, workers' compensation facilitates injured employees returning to work as soon as possible and continues to cover all medical costs associated with the injury for the remainder of that person's life. The approach taken by workers' compensation is consistent with the best practices of the industry, which have demonstrated that it is signifi-

**The FPD&R disability system is fraught with accountability problems. Among them are the financial disconnect between the fire and police bureaus and the disability fund itself; an inadequate system for tracking disability-related data; the decision-making process for disability claims; and the composition of the FPD&R Board of Trustees.**

cantly better for the physical and mental health of the injured party to return to work as soon as possible, even if only in a limited-duty position.<sup>19</sup>

Representatives of the Portland Firefighters Association and the Portland Police Association told your committee they are concerned that moving new disability claims into workers' compensation will increase the number of claims rejected. HDM, the disability consulting firm hired by the IRC, found that the city's workers' compensation rejection rates were within industry norms (and the norms referenced included firefighters and police officers covered by workers' compensation). Unfortunately, FPD&R does not collect data on the percentage of claims rejected so no direct comparison was possible.

In HDM's report to the IRC, all of the firefighters and police officers in comparable cities were covered by workers' compensation.\* The majority of those cities included supplemental coverage, either through their unions or through workers' compensation, to specifically address the types of injuries to which firefighters and police officers are subjected. Although firefighting and police work are

\* Comparable cities used were Cleveland; Denver; Fort Worth, Texas; Long Beach, California; Milwaukee; Oakland, California; Oklahoma City; Sacramento, California; Seattle and Tacoma, Washington.

inherently dangerous, in comparable cities, the cost per claim was nearly identical between general city employees and firefighters and police officers. Portland was the sole exception with FPD&R costs being more than three times higher than those managed by the city's workers' compensation system.

FPD&R trustees, FPD&R members and others expressed concern to your committee that the unique disabilities common among firefighters and police officers must be acknowledged. They believe it is beneficial to both claimants and the disability system to have decision-makers with personal knowledge and experience of the types of situations and risk factors that active firefighters and police officers face adjudicating disability claims. These witnesses stated that one of the unique benefits of FPD&R was having this expertise on the board, and they were concerned that this advantage would be lost if new claims were managed by workers' compensation.

The HDM report also raised questions about whether new employees or new claims should be moved into workers' compensation. The city attorney's office believes the contract for disability services comes into effect when a claim is made, not upon hiring. HDM reported that the most expeditious way to capture

savings in the provision of disability benefits is to have all new claims be under workers' compensation.<sup>20</sup> If all new claims are to be placed under the jurisdiction of workers' compensation, it would become increasingly costly to maintain two disability administrations. HDM, as well as the city's workers' compensation manager, concluded that additional cost savings could be captured by moving the administration of existing FPD&R disability claims into the city's Office of Risk Management, where the city's workers' compensation program is administered, while still retaining the FPD&R benefit package.

HDM estimated that the city would realize savings of \$2.7 million per year if all new claims were to be administered by workers' compensation. HDM based their savings estimates on their ability to find a private contractor that could administer FPD&R disability claims for \$300,000 a year, a claim that they substantiated. Although the IRC tried to fine-tune this estimate, the effort proved to be too complex for the IRC to resolve in the time available.

IRC members Bob Lemon and Leo Painton, both of whom are also FPD&R trustees and members of the fire and police unions respectively, took issue with HDM's estimates and wrote minority reports critical of the

**HDM estimated that the city would realize savings of \$2.7 million per year if all new claims were to be administered by workers' compensation.**

savings projection. While your committee agrees that some conclusions in the HDM report are unsubstantiated, we nevertheless believe that moving sworn fire and police disability claims into workers' compensation will result in a net savings for the city.

### **Data Management**

FPD&R has an antiquated data tracking system that makes reporting and analysis difficult. HDM found that much of the critical data is buried in text fields that required manual searches; the data collected are not comparable to the workers' compensation data (despite efforts to move the FPD&R system into closer compliance with workers' compensation); and that some key data points are not collected. Particularly significant to your committee, FPD&R does not track the number of staff recommendations that are either upheld or overturned by the FPD&R Board of Trustees. Without this information, it is difficult for City Council and other independent bodies, such as the IRC and your committee, to identify trends and irregularities in disability case management.

### **Decision-making**

Under the leadership of Babette Heefftle, FPD&R has made significant improvements in the way disability claims are managed. In 2005, Heefftle began requiring disability claims management staff have Oregon workers' com-

penetration claims examiner certification (new hires have 12 months to become certified). Yet FPD&R staff have no decision-making authority; they can only make recommendations to the FPD&R board.

### **Governance (Disability System)**

In 2000, the FPD&R Board of Trustees was reconfigured to address concerns about over-representation of FPD&R members on the board. The number of fire and police union members was reduced and three citizen members were added.

However, concerns persist, even among trustees, about the conflict of interest inherent in having FPD&R beneficiaries serving on a board that both defines policy and adjudicates disability claims. A subcommittee of the board of trustees, known as the Expediting Committee, adjudicates approximately 90 percent of the claims.\* The Expediting Committee is comprised of two fire and two police representatives and the city auditor and treasurer on a rotating basis, meaning four-fifths of the Expediting Committee are bene-

\* The Expediting Committee is a subcommittee of the FPD&R Board of Trustees that adjudicates all routine FPD&R disability claims. The most challenging claims are reviewed by the full board and any member can appeal the decision of the expediting committee to the full board. The members of the Expediting Committee are the four elected fire and police representatives as well as either the treasurer or auditor on a rotating basis. FPD&R Administrative Rule II. D.a

ficiaries of FPD&R, leaving their impartiality in question. Your committee also questions the inclusion of the city auditor and treasurer on the board since they have no expertise in disability claims management, and seem to continue on the board primarily as a relic of the city's charter. Your committee doubts the city auditor, city treasurer and mayor should be spending their time adjudicating disability claims.

### **Subrogation**

The FPD&R system is governed by chapter 5 of the city charter, and is limited to legal interpretation of the language for any issue not explicitly addressed in the charter. Subrogation is not mentioned in chapter 5, but according to Ken McGair, a deputy city attorney, subrogation of wages paid to injured employees who are not able to work is a contractual right. The charter's silence on subrogation prohibits FPD&R from collecting third-party insurance claims on medical payments. Firefighters and police officers may voluntarily turn over an insurance settlement, but they rarely do. A charter amendment that addresses the right to subrogation has been drafted and agreed upon by all parties involved, but City Council has yet to bring the new charter language before voters.

see glossary on page 28

### **Other Concerns**

Many improvements have been made in the way FPD&R manages disability claims in the 11 years since its last performance audit. (FPD&R's finances are audited annually.) These improvements include switching from a staff physician to relying on a preferred provider system for certifying injuries and improving the quality of the documentation presented by staff to the Expediting Committee. Many of these improvements were made with the explicit intent to bring FPD&R in compliance with workers' compensation standards. While these improvements were commendable efforts on the part of FPD&R staff and trustees, they have not all been codified in administrative rules. Thus, there is no guarantee that the recent improvements will be sustained over time.

## **Systems-wide Accountability**

Your committee found a great need for regular performance audits of the FPD&R system, the most recent being in 1994. And while two elected city officials — the mayor and the city auditor — serve on FPD&R's Board of Trustees, the routine duties assigned to them by charter and administrative rules detract from their ability to oversee the city's single largest liability. Rather

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than adjudicating disability claims, which they are currently required to do, their attention should be focused on providing public oversight and reforming the disability and pension systems. Since the auditor supervises the FPD&R administrator and is a member of the board, there is a conflict of interest in having him audit FPD&R. This conflict must be addressed in order to improve the accountability of FPD&R.

FPD&R has used the same actuarial firm, EFI, to conduct its actuarial audit for the past two decades. PERS changes its auditor every five years. Your committee found no indication of suspect activity. In fact, using a different industry-approved standard than EFI, Milliman authenticated EFI's data as part of the IRC's analysis. In this case, Milliman's independent audit validated the longtime work of EFI; however, without periodic validation, problems could remain hidden.

## **Political and Regulatory Challenges**

This is not the first time a group has been appointed by City Council or the mayor to study FPD&R's pension and disability systems. Many of these efforts appear to have fallen victim to

the forces of politics or have failed due to insufficient funding for a public education campaign.

Amendments to the city charter and measures that raise taxes require voter approval, and many of the recommendations contained in the IRC's report, as well as in this report, are of these two types. These are complicated issues and a well-funded campaign will be necessary to educate the voters about the issues involved.

Making changes to the FPD&R system is slow and cumbersome. This difficulty offers some protection by limiting the ability to make frequent changes, but it also hampers FPD&R's ability to keep up with changing trends and emerging issues. Workers' compensation is based on statutory law, which is easier to change.

Personal financial security when disabled and during retirement are justifiably important and emotional issues for firefighters and police officers, and for that reason, the cooperation of the Portland Firefighters Association and the Portland Police Association will be an important element in a successful campaign for change. Robert King, president of the police union, acknowledged problems with FPD&R's pay-as-you-go system and told your committee the

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police union is ready to be a partner in change. He understands that the options available for change are not win-lose; rather, they require balancing short- and long-term risks and benefits to all of Portland's employees and citizens.

Your committee's conclusions and recommendations follow.

**Robert King, president of the police union, acknowledged problems with FPD&R's pay-as-you-go system and told your committee that the police union is ready to be a partner in change.**



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## CONCLUSIONS

### Funding

1. FPD&R is overly reliant on property tax revenue and is reaching a critical threshold where real market value must continue to increase at an unsustainable rate in order to generate sufficient tax revenue to match projected liabilities.
2. FPD&R's pay-as-you-go pension system is not sensible because it cannot yield investment income to offset the cost of pension benefits.

### City's Financial Health

3. FPD&R is a significant financial liability and the longer the pay-as-you-go system remains in place, the greater the risk to the city's ability to provide services to its citizens, maintain its AAA bond rating and collect projected revenues from serial levies.
4. Tax compression, exacerbated by the primacy of FPD&R's levy over serial levies, jeopardizes other basic public services by tapping the city's general fund.
5. To compensate for properties that have reached the \$10 per \$1000 limit established by Measure 50, FPD&R must set its levy at a rate that disproportionately affects properties that have not reached the \$10 per \$1000 limit in order to generate the necessary tax revenue to cover its annual projected liabilities.

### Pension System

6. The FPD&R system is an historic artifact that has outlived its purpose. There is no rational basis for continuing the FPD&R pension system after the death of all current members and their surviving beneficiaries.
7. Enrolling new hires into OPSRP would be beneficial to future sworn fire and police employees and taxpayers because the replacement ratio is higher in OPSRP, the pension is portable, and financing would be more stable once the system is fully funded.

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8. Your committee found no reasonable justification for maintaining the FPD&R pension system when nearly every other public employee in Oregon is a member of the PERS/OPSRP system.

9. Fully or partially pre-funding the pension system, while temporarily placing an additional burden on current taxpayers, is necessary to protect the city's long-term financial well-being.

10. The city, the Portland Firefighters Association and the Portland Police Association should have the same opportunity to engage in negotiations regarding the 6 percent employee contribution as the city has with other unions whose members are enrolled in the PERS/OPSRP system.

### Disability System

11. It is necessary and appropriate to provide disability benefits that meet the needs of firefighters and police officers, who work in inherently dangerous occupations. This need must be balanced with the city's obligation to provide services for the public at-large and the duty of elected officials and public employees to be good stewards of public money.

12. Your committee found no compelling reason to maintain a unique disability system for firefighters and police officers given that FPD&R's cost per claim is three times higher than the city's workers' compensation system.

13. FPD&R's inability to collect subrogation payments places an unnecessary burden on Portland's taxpayers. It is indefensible that City Council has not taken action to rectify this technicality. In contrast, workers' compensation has the right to subrogation.

### Administration

14. FPD&R staff are hampered by working within an ineffective organizational structure that relies on an outmoded data system.

15. The FPD&R fund administrator and other staff have improved the quality of disability case management, but these changes have not been

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codified, nor are they sufficient to justify the continued operation of the FPD&R system.

## Governance

16. As a result of structural changes made in 2000, the composition of the FPD&R Board of Trustees is less susceptible to conflicts of interest. However, the current structure of the board fails to address a number of concerns:

- A. It is inappropriate that five of the 11 votes on the board of trustees, which has final decision-making authority on many issues including disability claims, are held by active members of the fire and police bureaus, and a sixth seat is held by an at-large member chosen by the fire and police bureau representatives.
- B. Concerns of conflict of interest are further aggravated because the vast majority of disability claims are adjudicated by a committee in which four-fifths of the members are beneficiaries of the system.
- C. The city auditor has an inherent conflict of interest serving as both supervisor of the fund administrator and as the city's chief accountability officer.
- D. It is unreasonable today for the city auditor and mayor to be responsible for adjudicating individual disability claims. As elected officials, their time and attention should be focused on ensuring wise use of public resources and general accountability of the system.
- E. Public interest is served by having at least one elected official serving on the FPD&R board as long as the fund continues to provide pension benefits.
- F. The city charter is flawed in that it gives final decision-making authority on disability claims to FPD&R trustees, but it does not provide that they have any experience in disability claims management. In contrast, workers' compensation officials must have state certification in claims management.

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## Accountability

- 17. FPD&R's practice of using the same actuarial firm year after year is inconsistent with sound pension management practices.
- 18. FPD&R's data systems do not efficiently or effectively record or report information required to measure key outcomes.
- 19. The fire and police bureaus should be held accountable for managing the number and cost of disability claims of their sworn employees as are other city bureaus.

## Political Issues

- 20. Previous efforts to significantly reform FPD&R have generally been ineffectual because the issues are complex and politically sensitive. In addition, solutions involve charter changes and require a significant voter education campaign to build a constituency for change.
- 21. Fire and police unions have a responsibility to advocate for and negotiate the best possible benefit packages for their members. Efforts to change benefits, even when the city's financial health is in danger, might well be met with understandable resistance by the unions.
- 22. The array of charter changes necessary to fully address the problems that your committee and the IRC have identified will require a voter-education campaign. While fire and police unions have a built-in voter constituency and the financial resources to mount a well-funded campaign, the city of Portland is legally prohibited from using public resources in support of ballot measures, even when referred to voters by City Council.

## Charter Clarity

- 23. The lack of clarity in the city's charter regarding whether the millage limits are based on assessed value or real market value has potentially dire implications for the financial health of the city.

## RECOMMENDATIONS

### Pension

#### **Independent Review Committee Recommendations:**

- Accept the recommendation of Milliman to begin actuarial financing of pensions for all future sworn officers to slowly reduce and finally pay off the \$1.684 billion unfunded actuarial liability the fund has accumulated.
- Existing members of the system will retain their plan and pension benefits, but no new members will join the FPD&R system after an effective date.
- On the effective date, newly hired public safety personnel will be placed in PERS/OPSRP rather than FPD&R. The City should “pick up” the required 6% member contribution to PERS [sic].

#### **Your Committee Recommends:**

1. New hires should be placed into the Oregon Public Service Retirement Plan (OPSRP) and the current levy should be used to pay the Entry Age Normal Costs on new hires (as described by Milliman).
2. Existing members should retain their current pension benefits and remain members of FPD&R.
3. The 6 percent individual account program cost for new hires should be a negotiating point between the fire and police unions and the city.

### Disability

#### **Independent Review Committee Recommendations:**

All new Disability claims for Portland public safety officers as of the effective date (either through City Council /member action or Charter change) should be processed by the Workers' Compensation system as administered by the City, and that public safety officers be provided additional benefit: A minimum income replacement of 75% as described in the HDM report. Further a majority of the Committee recommended moving the administration and management of open disability claims for current members to the City's Risk Management office. The City needs to develop a funding mechanism to pay for claims that includes a financial incentive to the Police and Fire Bureaus to return disabled workers to the job.

#### **Your Committee Recommends:**

4. The city of Portland's workers' compensation system should administer all existing FPD&R disability claims under the rules set forth by the FPD&R system until such claims are closed or otherwise resolved.
5. All new claims by sworn fire and police employees should be under the jurisdiction of the city's workers' compensation system.
6. In recognition of the different risks and injuries that fire and police personnel are subject to in their public safety roles, disability benefits that address job-specific injuries and health conditions should be added to the city's list of standard workers' compensation benefits for these employees. Job-specific benefits should be negotiated between the city and the unions with reference to comparable jurisdictions.
7. City Council should hold the fire and police bureaus accountable for managing the disability claims of their sworn employees as the City Council does for all other city bureaus.

### Charter

8. The city charter should make explicit that the full 2.8 mills of the FPD&R levy be assessed on real market value.

### Accountability

9. While the FPD&R system is in existence, a performance audit should be conducted at regular intervals not to exceed five years. As long as the city auditor sits on the FPD&R Board of Trustees and supervises the fund administrator, this audit should be conducted by an independent agent.

### Policy Development and Voter Education

10. The city's elected officials should vigorously engage in a privately funded voter education campaign prior to any election in which the conclusions and recommendations of this report, either in whole or in part, are included on the ballot.

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11. City Club of Portland should take a leadership role in convening and educating community leaders, the media, unions and other stakeholders, and other members of the public about the vital importance of acting on the conclusions and recommendations in this report.

## Transition Period

The governance issues raised by your committee and the IRC, perhaps obviously so, are relevant only as long as FPD&R exists. If your committee's recommendations are implemented, that is, if all disability claims are moved to the city's Office of Risk Management and new hires are moved into OPSRP, the FPD&R Board of Trustees and staff will be responsible only for the FPD&R pension system. As such, the responsibilities of the FPD&R trustees would diminish considerably as they would no longer be adjudicating disability claims. This would largely mitigate concerns about accountability and conflict of interest on the FPD&R Board of Trustees.

Because the pension plan represents the largest share of FPD&R's liability, your committee recommends having an elected official on the board of trustees overseeing the use of public resources. When the last beneficiary of the closed group leaves the system (in approximately 30 years), FPD&R would likely cease to exist entirely.

Respectfully submitted,

Mary Jane Aman  
Dave Dyk  
Peter Farrelly  
John Horvick  
Susan Kelly  
Paul Millius  
Elia Popovich  
Tatiana Terdal  
Donald Williams  
Christopher Woo  
Eva Schweber, chair

Jim Harris, research adviser  
Wade Fickler, research director

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- <sup>3</sup> Oregon Public Employees Retirement Board. (May 2005). Draft ORS 237.620 (4) Equal to or Better Than (ETOB) Test as of January 1, 2005.
- <sup>4</sup> Overview of property tax system prepared by Mark Campbell and Dave Boyer for joint session of Multnomah County Commission and Portland City Commission, September 6, 2005, p. 2.
- <sup>5</sup> Text of Ballot Measure 47.
- <sup>6</sup> Overview of property tax system prepared by Mark Campbell and Dave Boyer for joint session of Multnomah County Commission and Portland City Commission, September 6, 2005, p. 2.
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- <sup>8</sup> Id. at pp. 9-10.
- <sup>9</sup> Mercer Human Resource Consulting. (May 2005). Oregon Public Employees' Retirement Board: ORS 237.620 (4) Equal to or Better Than (ETOB) Test as of January 1, 2005.
- <sup>10</sup> City of Portland. (December 2005). Report of the FPD&R Independent Review Committee. p. 3.
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- <sup>13</sup> City of Portland. (December 2005). Report of the FPD&R Independent Review Committee.
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- <sup>18</sup> Statement to your committee by Dale Orrs, Coordinator, Actuarial Analysis Section, Oregon PERS.
- <sup>19</sup> HDM Solutions, Inc. (10/11/2005). Final Report and Finding: Analysis and Comparison of Disability Program for City of Portland's Fire and Police Disability and Retirement Program. Prepared for Independent Review Committee.
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## APPENDIX A: GLOSSARY

**Assessed Value:** The taxable value established for each property by the local assessing jurisdiction. (See Real Market Value.)

**Arbitrage:** The practice of taking advantage of an imbalance between two or more markets. A combination of matching deals are struck that exploit the imbalance, the difference between the market prices being profit.

**Compression:** The process of reducing property tax levies so that the total tax assessed by local governments complies with the \$10 per \$1,000 of assessed value limit established by Measure 5.

**Entry Age Actuarial Cost Method:** Converts normal costs into a percentage of an individual's salary at entry into the system. This allows for a percentage calculation, rather than a dollar amount, when determining the amount to be paid into a pension system to cover the costs of that employee's retirement benefits.

**Floating Levy:** Property tax levy with a rate that is determined annually. In the case of FPD&R, the board provides City Council with the amount of the annual liability of the system and City Council authorizes the FPD&R levy at a rate that will fund that liability.

**Millage Levy:** Property tax levy that is defined in mills per dollar. A mill is one one-thousandth (.001) of a dollar.

**Normal Costs:** Costs based on the assumption that a portion of an employee's salary is invested annually, and that amount plus the investment returns will cover

the cost of the employee's retirement benefit.

**Real Market Value:** The cash amount that an informed buyer could reasonably be expected to pay an informed seller in an arm's length transaction on the assessment date for the tax year. (See Assessed Value.)

**Replacement Ratio:** The percentage of an employee's salary needed to maintain the same standard of living after retirement. Replacement ratio is calculated by dividing the pension benefit by the final gross wage.

**Serial Levy:** A property tax levy that is set at a fixed rate per \$1,000. A serial levy's rate is established prior to the authorization of the levy and does not change annually.

**Subrogation:** The right of an insurer (who has paid the disabled person benefits) to pursue the disabled person's claim against the person who caused the disability, for the purpose of reimbursing the insurer. Subrogation also may include rights to proceed against not just the person who caused injury, but also any other insurer or entity who may be liable to the injured person. **Example:** FPD&R paid a disability claim for a firefighter or police officer injured in an automobile accident while on the job. If the injured employee also collected damages from an insurance company, with subrogation rights, FPD&R could be reimbursed either by the employee who had been twice compensated for the same injury or directly from the insurance company.

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## APPENDIX B: WITNESS LIST

Drew Barden, Economist, City of Portland

Gary Blackmer, City Auditor; FPD&R Trustee

Paul Corah, Bureau of Fire & Rescue, FPD&R Trustee

Jack Finders, President, Portland Firefighters Association, Local 43

Jim Francesconi, Former City Commissioner

Babette Heefle, Administrator, FPD&R

Linda Jefferson, Workers' Compensation Manager, City of Portland

Robert King, President, Portland Police Association

Bob Lemon, Bureau of Fire & Rescue; FPD&R Trustee

Greg Macpherson, State Representative; outside legal counsel for FPD&R; attorney, Stael Rives LLP;

Steve Manton, Pension Systems Manager, City of Portland

Robert McCrory, EFI, Actuarial Contractor to FPD&R

Leo Painton, Secretary/Treasurer, Portland Police Association; Independent Review Committee member; FPD&R Trustee

Charles Rosenthal, Citizen member of FPD&R Board of Trustees

Kenneth Rust, Chief Financial Officer, City of Portland

David Thurman, City Treasurer; FPD&R Trustee

Annie Versteeg, Assistant Administrator, Disability Claims Manager, FPD&R

Scott Warner, Senior Management Analyst, FPD&R

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## **APPENDIX D: CITY COUNCIL RESOLUTION No. SUBSTITUTE 36287**

Create an independent Citizen Review Committee to oversee a comprehensive analysis of the Portland Fire and Police Disability and Retirement (FPD&R) system.

WHEREAS, the City Council is committed to working collaboratively with all stakeholders in analyzing and recommending changes to the FPD&R system; and

WHEREAS, the City Council is committed to creating a process for analyzing FPD&R that is free from any real or perceived bias; and

WHEREAS, the City is committed to employing and training diverse, highly qualified, extremely effective people in its Police and Fire Bureaus; and

WHEREAS, the City understands the unique and often dangerous circumstances that the requirements of these jobs place Police Officers and Fire Fighters [sic] in; and

WHEREAS, the City must maintain a strong, fiscally sound retirement and disability system to uphold our commitment to Police and Fire employees and retirees and their families; and

WHEREAS, the City Council has an obligation to the taxpayers of the City of Portland to be a responsible steward of the public's resources; and

WHEREAS, each year the City must levy a significant amount of property tax dollars from its citizens to pay for that year's FPD&R pension obligations; and

WHEREAS, concerns have been raised about the disability system administered by the FPD&R Board of Trustees; and

WHEREAS, concerns have been raised about the impact of not pre-funding the retirement benefits of Portland firefighters and police officers.

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NOW, THEREFORE, BE IT RESOLVED, that City Council directs the creation of an independent nine-person citizen review committee ("Independent Committee"), whose membership will be approved by a separate resolution brought by the Mayor to Council on February 9, 2005, to oversee a comprehensive analysis of the FPD&R system; and

BE IT FURTHER RESOLVED, that the subject matter of the Independent Committee's report to council shall include:

- 1) An independent analysis of the actuarial projections relied on by the FPD&R Board;
- 2) An assessment of potential options for fully or partially pre-funding the pension portion of the FPD&R system;
- 3) An assessment of the possibility and effects of placing new hires in PERS, workers' compensation and Social Security;
- 4) A comparison of FPD&R's pension and disability costs with PERS, workers' compensation and Social Security, including Portland PERS firefighters and police officers, as well as with other comparable public safety systems;
- 5) A detailed analysis of FPD&R's disability costs, including but not limited to, case management; doctor review, periodic review of the long-term disabled, subrogation and an assessment of the actual and potential impact of limited duty positions in the Bureaus, including the impact on FPD&R disability costs of the decision by Council to eliminate light duty positions within the Fire and Police Bureaus;
- 6) An assessment of the impact that having Portland's public safety employees on an independent system has on recruitment and retention of public safety employees;
- 7) An assessment of legal and other issues pertinent to the analysis mentioned above;
- 8) A determination regarding which, if any, of the potential changes to FPD&R identified by the Independent Committee would require a vote of the people to change the City's Charter.

BE IT FURTHER RESOLVED, that the Independent Committee will be assisted in its assessment by a FPD&R Technical Committee, comprised of an equal number of Office of Management and Finance and FPD&R staff. Initially each office shall provide 3 staff members to support the Independent Committee. Should additional staff support be needed, it shall be supplied equally by the Office of Management and Finance and FPD&R. The Technical Committee will also consist of members of the City Attorney's Office to assist in



answering questions regarding the City's Charter and any legal issues relating to the relationship between the FPD&R fund and the City. Specific legal questions regarding disability and pension issues will be handled by outside counsel hired by the Independent Committee; and

BE IT FURTHER RESOLVED, that all costs associated with the Independent Committee, including contracting with an independent actuary, disability consultant, legal consultant and/or retirement consultant, will be funded by the Office of Management and Finance and the FPD&R Board of Trustees. However should either party decide to cease, or limit, their funding for any reason, the other party can fully fund the study; and

BE IT FURTHER RESOLVED, the Independent Committee shall direct the work of the FPD&R Technical Committee as well as any consultants that the Independent Committee decides that it needs to assist it in its analysis; and

BE IT FURTHER RESOLVED, that the Independent Committee will report back to City Council no later than January 1st, 2006. If the Independent Committee can not reach a consensus, then there shall be a majority report and a minority report.

Adopted by the Council: January 26, 2005

**GARY BLACKMER**  
Auditor of the City of Portland

Mayor Potter, Commissioners  
Adams, Leonard, Saltzman and Sten

Prepared by: Jeff Cogen  
January 24, 2005

By /S/ Colleen Phillips  
Deputy



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