

Shiprack seeks open Metro seat

Freshly retired union official Bob Shiprack has thrown his hat into the ring to fill an open seat on the Metro Council, the regional government that coordinates land-use and transportation planning in Clackamas, Multnomah and Washington counties.

Shiprack, 60, retired Oct. 1 after 25 years as executive secretary-treasurer of the Oregon State Building and Construction Trades Council.

In January, Metro Councilor Robert Liberty announced that he would be leaving before the end of his term — January 2013 — to take a job at the University of Oregon. Because fewer than two years remain in his term, the seat will be filled by appointment of the five remaining Metro councilors and Metro president.

"I'm seeking the seat because I would like to see a change in the style of leaders representing District 6," Shiprack told the Labor Press.

Liberty, a former staff attorney for the environmental group 1000 Friends of Oregon, has often been at odds with construction unions because of his staunch advocacy for conservative land development. He also opposes the Columbia River Crossing, a huge job-producer for construction workers.

Immediately after Liberty announced his departure (effective Jan. 15), his next-door neighbor Bob Stacey, who lost the November election for Metro president, said he wanted the job. Stacey is a former director of 1000 Friends of Oregon.

Shiprack said residents of District 6, which includes portions of Northeast, Southeast and Southwest Portland, "know that jobs are still the number one issue in the Metro area, and value a new councilor with experience that can help bring more jobs to our region.



BOB SHIPRACK

They want a councilor who will be a uniter — someone who has experience building broad coalitions around controversial issues."

Shiprack is a former six-term state legislator and past chair of the state's Energy Facility Siting Council. He was born and raised in Southeast Portland, which happens to be in District 6, although Metro hadn't been created yet.

The Metro Council is expected to declare a vacancy at its meeting Jan. 20 (after this issue went to press). Once it does, candidates will have four weeks to apply for the part-time post that pays \$37,774 year. After the application period ends, the Council will hold a public meeting, at which time councilors will interview applicants and invite members of the public to speak.

The current Metro Council is comprised of President Tom Hughes and Councilors Shirley Craddick, Carlotta Collette, Carl Hosticka, Kathryn Harrington, and Rex Burkholder.

(Editor's Note: A month after retiring, Bob Shiprack was diagnosed with colon cancer. Because a colonoscopy caught the cancer early, doctors were able to remove it surgically, with no need for chemotherapy or radiation. He told the Labor Press last week that he is cancer-free and recovering nicely. He wants to remind everyone not to put off having a colonoscopy when they are of age, typically after turning 50 years old.)

Oregon Supreme Court hears two PERS cases

Arken and Robinson lawsuits are related to public employees who retired between April 2000 and April 2004

SALEM — The Oregon Supreme Court heard oral arguments Jan. 6 on two PERS (Public Employee Retirement System)-related cases.

Both the "Arken" and "Robinson" cases relate to the so-called "window retirees" — people who retired from PERS between April 2000 and April 2004. Those who retired within this time frame received a benefits boost when the PERS board credited 20 percent market earnings to their retirement accounts in 1999. The amount was retroactively reduced to 11.33 percent by Marion County Circuit Court Judge Paul Lipscomb. PERS has said those retirees must re-pay the overage, though other than a series of letters demanding payment, the agency has not been overly aggressive in pursuing the matter while awaiting final legal decisions, said Don Loving, public affairs director of Oregon AFSCME Council 75.

In the Arken case, the PERS Coalition — a group of unions that represents public employees — takes the position that the window retirees are entitled to keep the original allocation because, in essence, the 2003 Legislature said they could. In Robinson, the argument is that the Legislature limited the ability of PERS to recover from these retirees and that what PERS has

done is inconsistent with these restrictions.

Only five of the Supreme Court's seven justices were on hand to hear the two cases: Chief Justice Paul De Muniz and Justices Thomas Balmer, Robert Durham, Rives Kistler and Virginia Linder. Justice Martha Lee Walters was absent; she gave no explanation for her whereabouts but said she would be weighing in on the decision. The other absent justice was Jack Landau, who was sworn into office on Jan. 5. Landau recused himself because his son is an attorney with the Eugene law firm that is leading the other side, Loving said.

Arken was the first case on the docket. Longtime PERS Coalition attorney Greg Hartman told the court that throughout the 2003 reform legislation debate in Salem, the "core principle" that lawmakers operated under was that no person who had already retired should lose any benefits. Noting that Lipscomb's decision on the 20 percent vs. 11.33 percent account crediting had not been finalized by higher courts yet when the Legislature took action in 2003, lawmakers in effect let stand the 20 percent and intended that to be the baseline for the window retirees.

"The record clearly indicates that the Legislature was upset with PERS and the PERS Board, and in essence they said they were not going to wait for all of the litigation to settle out, that this is what we'll do," said Hartman. "Both the legislative record and your court's decision in the Strunk case make clear that 20 percent was the amount for the window retirees." Opposition attorney Bill Gary argued

that the Legislature's intent was to codify 11.33 percent as the proper number; during rebuttal Hartman reiterated that could not be the case because the litigation surrounding the 20 percent vs. 11.33 percent debate, City of Eugene, had not been concluded at the time.

Robinson is not a PERS Coalition case proper, but is closely related. In a nutshell, Robinson ignores the argument regarding 20 percent vs. 11.33 percent and focuses on PERS' ability to reach into retirees' accounts and take money back. Opposition attorney Jim Malkin argued that if Tier 1 retirees (and virtually all of the window retirees are Tier 1) were held harmless for the overpayments, Tier 2 retirees were improperly hit by having to pay back the money indirectly by virtue of PERS making up the difference through "administrative expenses" — money that otherwise could be credited to member accounts.

"It's a classic case of robbing Peter to pay Paul," said Malkin.

Jim Coon, lead attorney for the Robinson case, countered that the Legislature understood what it was doing.

"They faced a difficult choice," said Coon. "The money had to come from somewhere, and the Legislature chose to hold harmless those already retired. Remember, this was 2003 — some of them had been retired three years already, decisions based on the 'promise' made to them by PERS when they left their jobs."

Decision in either case are not expected to be rendered until the end of the year, at the earliest.

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