

PERS: Another possibility for relief could come through Measure 97 if it passes

Continued from 1A

bankruptcy and it's not going to go away."

He compared it to dealing with household debt when a family has gotten in over its head. They should work to cut back their monthly expenses and look for ways to earn extra money, but while they do that it can also be helpful to refinance or get a debt consolidation loan that pays off all of their credit cards, medical bills, vehicle mortgages and other debts, replacing it with a single monthly payment that is easier to keep track of.

A pension obligation bond would be similar, giving school districts, fire departments, cities and other public employers a more predictable yearly payment for the bonds instead of the recent trend of unexpectedly large jumps in employer contributions as the unfunded liability grows.

Smith said after looking into the

option it seems like the best course would be a 10-year bond, at which point the state would re-assess the data and issue a second bond for the next 10 years. A third, shorter bond would likely be necessary after that.

The Legislative Fiscal Office released a report over the summer discussing the state's previous decision in 2003 to issue 25-year pension obligation bonds for \$2 billion of the unfunded PERS liability.

The report shows that for the first 12 years of the 25-year bond, the state has seen an estimated savings of \$471.2 million compared to the original projection of \$335.5 million, making it "financially beneficial" so far.

However, the report also cautions that most of the savings came from before the 2008 recession and could end up being outweighed by future poor market performance. It also noted that the trade-off has been a high debt ratio for the state

compared to other states, and that a new, larger issuance would "crowd out many other items needing state debt issuances, including capital construction projects related to state and local economic development, as well as improvements to public schools, universities and state agencies."

Smith said the growing unfunded liability must be paid by the state — and by extension local public employers — one way or another, however, and to him it still seems the best option.

"We can't legislate this away," he said.

Smith did note the efforts by Sen. Betsy Johnson (D-Clatsop County) and Sen. Tim Knopp (R-Bend) to create a bipartisan set of reforms to the system that is expected to survive a legal challenge at least partially intact. He said the reforms should chip away at the unfunded liability, similar to the family that turns down the heat and drives the

car less in order to put extra money toward their debt payments.

Those reforms include a \$100,000 cap on the final average salary used to calculate retirement benefits, a rule against using unused vacation and sick leave to inflate the final "salary," changing the final salary from a three-year to five-year average, moving all new public employees to a defined contribution plan and using market rates to calculate annuities instead of the 7.5 percent that was chosen in the 1980s and is far below today's rates.

Any reforms can only be applied to incoming employees, however. The Oregon Supreme Court has made it clear that the legislature doesn't have the authority to change its contract with current employees, which is why Smith said he did not vote for the 2013 reforms that were struck down by the court for that reason.

"When you shake hands, good deal or bad, you honor your word,"

he said.

Another possibility for some PERS relief comes through Measure 97. The \$3 billion-per-year tax on sales for corporations with more than \$25 million a year in sales is on the ballot in November. If it passes — and so far polls indicate it will — the influx of cash into the state's general fund could be used in part to help offset rising PERS costs.

However, Smith noted the state has other budget gaps to deal with, including a \$1.2 billion shortfall in the Oregon Health Authority. An extra \$6 billion per biennium into the state's \$18 billion general fund (out of a total state budget of about \$71 billion) is going to result in a "huge money grab," he said.

"In the past it's always been fighting over cuts, now it will be fighting over dollars," he said.

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ORACLE: 'The project was mismanaged and wracked by the failures of our bureaucracy'

Continued from 1A

answer a question about whether the state will be required to give any of the settlement money to the federal government.

"We received a very limited amount of cash as you will see; the cash is \$35 million," Brown responded. "These settlements are very challenging to resolve, and all of the parties had to do some give and take in order to resolve the matter."

The federal government contributed \$305 million for Cover Oregon. But federal officials may find it hard to recoup any part of the settlement's ostensible value. Not a penny of the amount will go to repay the state for the \$240 million it paid Oracle in connection with the project, or reimburse the state for any of the related damages cited in the state's lawsuit against Oracle.

Kristen Grainger, a spokeswoman for Brown, said the settlement was "carefully" and "creatively" constructed to let Oregon keep as much of it as possible, hopefully the whole amount.

"We are hopeful that (the federal government) will see that the needs of consumers are met," she said.

Sharing the blame

Under the agreement, neither side admits liability or wrongdoing. It also calls for a close working relationship between the two sides.

Besides the \$35 million in cash and \$60 million in customer support, the settlement also includes a six-year licensing agreement that would allow the state to get free software to upgrade some of its information technology systems.

The expansion of the state's relationship with Oracle represents a major departure from state officials' past representations that the company provided flawed software, did shoddy work and engaged in unethical, even criminal business practices. In fact, the state's lawsuit had asked a judge to ban Oracle from ever doing business with the state again.

Asked whether the state could entrust its IT systems to Oracle after the Cover Oregon failure, Brown said she was confident in the company's expertise around business enterprise software.

The settlement is "an incredible opportunity for us to take advantage of that expertise," Brown said. "Oregon had a bad

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— David Friedman, Willamette University College of Law professor

experience with Oracle in terms of developing the Cover Oregon project."

But the state had no issue with the software services that Oracle provided the state during the past several years, she said.

Oregon House Minority Leader Mike McLane, R-Powell Butte, said Thursday that the settlement "marks the end of one of the most embarrassing chapters in Oregon's history."

"While Oracle clearly made mistakes, there is no escaping the fact that the state, too, shares blame for the failure of Cover Oregon," McLane said. "From the very beginning, the project was mismanaged and wracked by the failures of our bureaucracy."

"Despite the state's obvious culpability, Attorney General Rosenblum put tens of millions of taxpayer dollars on the line for a legal strategy that was motivated by politics and never stood a

realistic chance of recovering everything that was lost."

Rosenblum responded that the settlement wouldn't have happened had she not pursued the litigation.

"We now intend to work together again, and I call upon the good representative to let go of the acrimony and political bashing and join Oregon and Oracle in making positive changes in our IT systems going forward," the attorney general said.

It appears that Rosenblum and her attorneys had felt the \$6 billion lawsuit was worth much more than Oregon eventually settled for. Contract ledgers show the state has paid more than \$15 million to outside lawyers in connection with the case, which does not include other state costs.

Her side had obtained internal Oracle emails that would not look good in court, or in the national media. One company employee

said that the company had been "raping" the state. An expert Oracle troubleshooter said the company's work in Oregon was so poor that the employees responsible should be publicly "flogged."

The state's lawyers in court said they'd obtained other documents showing that Oracle knew its software products could not provide the services it had promised while trying to win the Oregon contract.

Grainger, the Brown spokeswoman, said reelection considerations or other politics did not play a role in the desire to settle the case.

David Friedman, a Willamette University College of Law professor who has been sympathetic to Oracle's arguments in the case, said "I really do think this is a win-win. The state is getting a substantial amount of services and value from Oracle ... and Oracle can say 'Hey look, we're not racketeers, we're not fraudsters.'"

Tough talk is normal in a case like this, but "They're skipping off holding hands now through the wildflowers," he said, "essentially back in business with one another."

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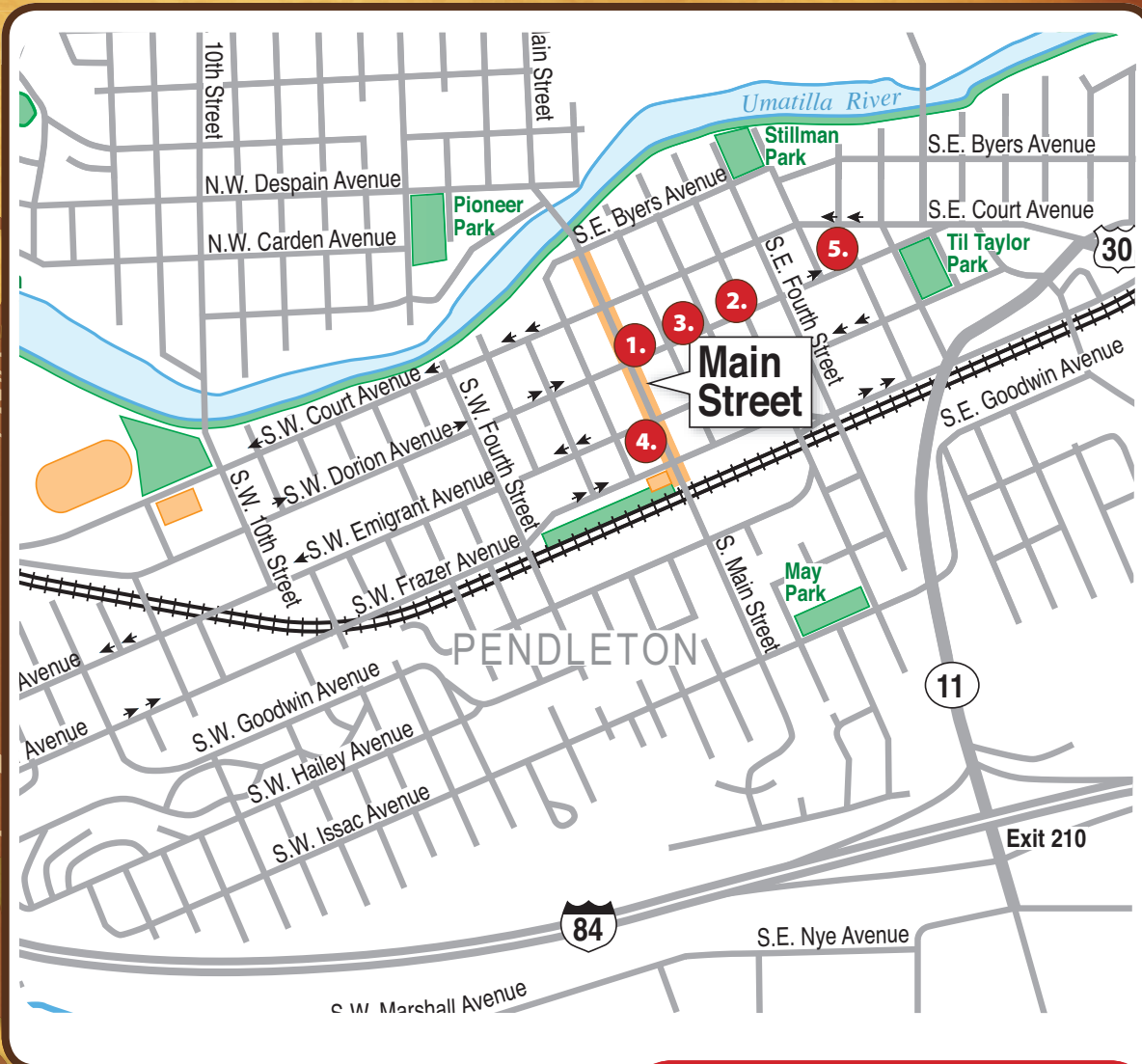
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