Shared Services Scenarios - Employee Benefits

Employee benefits, both those that are managed by the university system and those provided by the state, are discussed. Four scenarios describe current benefits management; effects on employee benefit plans if universities adopt local institutional boards; implications if some or all universities become separate legal entities with local institutional boards; and how the current situation could generate more efficiencies than currently exist.

It is important to recognize that employee benefit plans and changes to those plans are highly regulated by the Internal Revenue Service and other federal and state laws. Consequently, the Board and universities have discretion to change plans, but not without deference to applicable benefits plan regulations and laws; the universities’ separate and combined abilities to manage plans without financial or regulatory compliance harm to other participating universities; and to meet the fiduciary duties of prudence, loyalty, and exclusive purpose to act on behalf of all participants of the plans.

This overview of employee benefit issues and options is a preliminary list of considerations that arise with each scenario. Detailed analysis will be needed once the governance structure and legal entity status of the universities have been confirmed.

1. OUS RETIREMENT PLANS

Current Situation

OUS manages five (5) defined contribution plans and one (1) cash balance defined benefit plan, and coordinates frozen accounts in two of these plans with the Oregon Health Sciences University (OHSU). There is a limited degree of decentralized administration by university benefits and payroll offices for two active defined contribution plans: one a money purchase pension plan and the other a voluntary retirement savings 403(b) plan, both of which are served by three providers of retirement plan services and investment products. All other plan and payroll administration is performed centrally by OUS. As of May 2012, the combined assets under management for all OUS plans was slightly over $1 billion held in 15,000 accounts of active and former OUS participants.

Central administration services include vendor and plan services management, plan compliance with IRS, state, and federal regulations; correction of plan failures; preparation of regulatory filings; participant communications and services coordination; investment committee support; appeals; and training of campus administrators. In addition, OUS processes and coordinates loan, hardship, and divorce distributions for members of the OUS plans and, to a limited degree, the state’s deferred compensation plan.
One Legal Entity & Local Institutional Boards

This governance structure would have no measurable effect on OUS retirement plans, provided that local boards accept the current central plan authority and plan rules, continue to pay costs that may be incurred by a university for plan corrections and special services, and accept responsibility to other universities for maintaining the tax-qualified status of the plans. Unless the local boards were granted statutory authority to adopt university-specific plans, the universities would continue to participate in the OUS retirement plans.

Separate Legal Entities & Local Boards

This governance structure has major consequences for current OUS retirement plans. This assumes that each separating entity will operate under its own tax identification number (EIN/FEIN/TIN) and that each university will be spun off along with its associated retirement plan assets from the OUS retirement plans. No other option sufficiently protects other universities from the actions or inaction of a leaving entity that is not under the direct control of the plan sponsor.

Restructuring some or all of OUS' plans to multiple-employer plans to permit separate legal entities to participate in OUS retirement plans may be possible. However, this is a complex endeavor for the following reasons:

A. Legal research has been advised to determine separating entities’ status regarding exemption from federal and state securities registration requirements. Until that research is completed, questions about converting any OUS plans to multiple employer plans remain.

B. The entities’ receipt of tax proceeds and their budget oversight authority will be determinative of whether separated entities may be a considered a single employer for purposes of participating in OUS' governmental 403b) plans

C. Participation in a multiple employer plan would require each entity to accept central plan governance; to share administration and implementation expenses; and to provide access to systems, records, and procedures sufficient for compliance monitoring by the plan sponsor. Noncompliance with the plan or administration errors by a single entity jeopardizes the tax qualified status of the plan and other universities in the plan.

D. Legacy plans - including one frozen IRC 403(b) supplemental plan that includes hybrid OPERS/TIAA-CREF accounts, one active IRC 401(a) supplemental plan that includes

^1 IRS Notice 89-23, Section 2.b.
hybrid OPERS/TIAA-CREF accounts, and a frozen vendor portion of the active IRC 403(b) plan that includes accounts held by 16 discontinued vendors for active and inactive OUS employees - are unlikely to be restructured to multiple-employer plans, and would continue to require ongoing coordinated administration by OUS and each separate entity.

If multiple-employer plan design is not permitted or feasible, full separation of one or more entities from OUS plans requires each entity to establish its own plans and to replicate management duties currently performed by OUS.

Such a separation increases OUS' plan administration expenses due to the loss of total assets under management that contribute to favorable pricing arrangements with vendors and service providers. For example, under a worst case scenario, e.g., that two large universities withdraw their participants’ accounts, the assets of the OUS plans would be cut approximately in half with the following results:

E. The remaining universities would be set back for years in achieving plan cost reductions that are currently on track to improve participant and plan expenses five years after a complete plan redesign and buildup of assets.

F. Expense reimbursement credits that are provided by OUS’ newest plan provider to fund recordkeeping services would decline to the extent that employer or participant fees may become necessary to support plan operations.

G. Separating entities' plans are likely to begin operations with a less favorable expense profile for plan administration and for participants than is possible within the established OUS plans.

H. If any entities spin off as separate employers with separate plans, OUS plan documents and vendor contracts must be amended; participant records must be transferred or a clearinghouse developed to meet state records retention requirements (75 years from the end of a plan); recordkeeping systems of plan providers and transaction approval agreements would need to be revised. These processes would affect current and prior participants in all five of the OUS defined contribution retirement plans and in the defined benefit cash balance supplemental retirement plan.

In addition to the questions that would need to be fully addressed regarding which of the OUS plans could be converted to multiple employer plans, operational requirements to separate frozen plans and accounts are prohibitive. Many of legacy 403(b) contracts are individual
annuity and custodial agreements rather than group contracts, from which participants' accounts cannot be transferred to new plans without the individual consent of each participant.

**Current Situation with Options for More Efficiencies**

A current and key recommendation for cost and program efficiency is to further consolidate the number of vendors serving the Optional Retirement Plan and Tax-Deferred Investment 403(b) Plan to a single record-keeper and open-architecture advised investment menu, with options for participants to continue or establish new relationships with their personal investment advisors.

Additional Optional Retirement Plan recommendations are under development, and will be reported to the Board and 2013 legislative assembly.

---

2. **STAFF TUITION FRINGE BENEFITS**

**Current Situation**

All OUS universities offer staff tuition fringe benefits to employees working half-time or more. Employees may enroll in up to 12 credit hours per term at reduced tuition rates at any OUS campus, and qualifying employees may transfer the benefit to family members for use at any OUS campus.

Staff tuition fringe benefits are qualified under two sections of Internal Revenue Code. IRC 117 Qualified Tuition Reduction permits employees of educational institutions and their family members to exclude educational assistance for undergraduate education from their taxable incomes at any qualified educational institution; graduate courses can be taken at the educational institution where the graduate student works. IRC 127 Qualified Educational Assistance up to $5250 per calendar year is available to employees and retirees, but is not available to family members, and is available to employees of any employer that establishes a qualified educational assistance plan. OUS’ staff tuition benefit operates under both Internal Revenue codes to provide benefits for a broad range of employees, retirees and family members to participate in the undergraduate and graduate level courses available through the seven public universities.

Employees and their dependents may enroll at the “home” university where the employee works, or may enroll at another “host” university.

Two universities (UO and PSU) provide positive net "host" staff tuition enrollment to other universities' eligible staff and dependents. In FY11, the UO provided 249 more host enrollments
than were provided to UO employees by other OUS campuses. In the same period, PSU provided 152 more host enrollments than were provided to PSU employees by other OUS campuses. At an average revenue reduction of $1,161 per student\(^2\), forgone revenue was approximately $289,000 for the UO and $176,500 for PSU. Other OUS campuses accepted host enrollments, but not in excess of their employees’ enrollments at other universities.

The staff fees program has been centrally coordinated since 2000, but was previously managed by each university. Central coordination of the staff tuition fringe benefit was introduced when transfer of the benefits to eligible dependents was implemented to ensure system-wide access and consistency, with local administrative processing by each campus.

**One Legal Entity & Local Institutional Boards**

This governance structure would have no measurable effect on staff tuition fringe benefits as long as local boards accept central coordination and plan rules.

**Separate Legal Entities & Local Boards**

This governance structure could convert staff tuition fringe benefits to control by each university, within IRC 117 and IRC 127 tax rules.

In addition to fringe benefits tax-compliant plan development, labor contract updates for staff tuition benefits would be required to reflect separate or separately-managed staff tuition enrollment processes. Program communications, procedures, compliance with tax laws, and employee benefits outreach would be a campus responsibility.

**Current Situation with Options for More Efficiencies**

If revenue losses for "host" universities through the staff tuition program is a material concern, program redesign could be considered to mitigate economic impacts associated with cross-institutional "home or host" staff tuition enrollments. If each university were to fund their employees’ IRC 127 tuition assistance benefit on a per-credit basis up to an established spending limit per person or per term, a local precedent has been established by a model adopted by OHSU in 2005 after OHSU participation in OUS’ program ended. OHSU’s model provided a fixed payment per credit hour to a qualified employee to apply to tuition at qualifying institutions, including OHSU, OUS universities, and one community college.

Under this type of model, each university would bear its own cost for the tuition reduction fringe benefit and no university would provide an implicit subsidy by hosting eligible staff or

\(^2\) OUS Budget Operations and Planning and Institutional Research data on Staff Fees Utilization FY2010-11 headcount of 5254; total staff fees tuition of $2.6 million; and calculated full tuition of $8.7 million.
dependents of the other schools. An IRC 117 Qualified Tuition Reduction Benefit could be adopted as well, to serve family member’s tuition at the undergraduate level.

The cost and operational efficiencies of redesigning the staff tuition program should be carefully considered in light of the current plan’s utilization by classified, unclassified, and faculty dependents and employees, and the careful analysis of its actual impact on student-to-faculty ratios and whether there is any real displacement of students who would otherwise enroll at regular undergraduate and graduate tuition rates.

3. STATE OF OREGON BENEFITS: PERS/OPSRP, PEBB, DEFERRED COMPENSATION

Current Situation

Member enrollment and employment reports for state benefit plans administration is decentralized to each university. Vendor and plan payments, HRIS/payroll services and coordination with the state programs on policy interpretation and coordination is done centrally by OUS.

One Legal Entity & Local Institutional Boards

This governance structure would have no measurable effect on state benefits if local institutional boards continue to accept central coordination with the state and payments by OUS. Unless the local boards were granted statutory authority to adopt university-specific plans, the universities would continue to participate in all state plans under their unique institutional identification numbers that were established for them nearly 10 years ago. They would, however, continue to be actuarially pooled with other OUS institutions for purposes of the Public Employees Retirement System (PERS/OPSRP) and the Public Employees Benefit Board (PEBB).

Board-directed changes in a university’s internal operations that separate it from OUS central services, payroll for example, would require each university that was so directed to duplicate work that is currently done centrally.

Separate Legal Entities & Local Boards

This governance structure would require conversion from OUS central payment and coordination with the state benefits programs, including one-time implementation activities to develop a centrally-available historical data clearinghouse for active and terminated employees of the separate entities. Each legal entity would be required to establish its eligibility to participate in the state’s governmental plans; to implement HRIS/IT systems that integrate with
state benefit systems; to develop security agreements, procedures, and rules to identify themselves as separate employers; and to develop member transfer processes for each.

**Current Situation with Options for Enhanced Effectiveness and More Efficiencies**

Several opportunities exist to improve state benefits for OUS employees, including:

**Deferred Compensation Plan**

The university system has the authority under ORS 351.094(3) to establish its own deferred compensation plan in lieu of participating in the state’s plan. Administrative savings could be achieved by internal coordination of participant distributions that are limited to OUS retirement plan providers. In FY11, the contributions to the state plan totaled $4 million that could otherwise increase the OUS plans’ assets under management, improving investment share classes and vendor services pricing.

**Public Employees Benefit Board (PEBB)**

A. OUS currently has the authority to establish its own flexible spending accounts, or could require return of forfeited account balances that are currently retained by PEBB in order to reduce administrative expenses that PEBB shifted to OUS universities in 2012.

B. PEBB benefits could be improved for university system employees by the following PEBB agreements:
   i. Coverage choices, claims processes, and network improvements for international, out-of-state, and rural members;
   ii. Adoption of the consumer directed health plan (CDHP) with a health savings account (HSA) as a plan option in 2014 or as a pilot for use by OUS employees;
   iii. Establishment and recognition by PEBB of a benefits council that represents the university system regarding employment-based needs which vary from those of state agencies, including but not limited to:
      1. Academic year schedules, sabbatical, and fellowship leave;
      2. Job locations outside of the PEBB’s primary provider network;
      3. Wellness programs that measure participation, include university-sponsored wellness and fitness resources, and reward health improvement;
      4. Meaningful, timely benefits communications that require less translation and collaterals development by campus benefits offices.
   iv. Funding designs consistent with higher education employment marketplace, including a gradual adoption of actuarially-supported contribution rates for active employees, retirees and members covered by COBRA;
v. Cost transparency, including providers’ cost and quality information sufficient to support adoption and use of Health Savings Accounts (HSA) in combination with a consumer directed health plan (CDHP); and

vi. Retiree enrollment and participation reporting of OUS’ pre-Medicare early retiree members for study of retiree health insurance for employees who elect OUS’ defined Optional Retirement Plan in lieu of PERS/OPSRP.

Additional recommendations related to PEBB are under development, and will be reported to the Board and 2013 legislative assembly after review by campuses and the Board.

4. OUS ALTERNATE HEALTH/WELFARE PLANS (PROSPECTIVE)

Current Situation

An alternative health and welfare insurance program is under study, along with two other options identified in Section 43 of Senate Bill 242. Recommendations will be presented to the state’s legislative assembly in 2013, after review and comment by the universities and the Board.

One Legal Entity & Local Institutional Boards

This governance structure would have no effect if local institutional boards and universities participate in an OUS health and welfare insurance program authorized by the state legislature. Unless the local boards were granted statutory authority to adopt university-specific plans, the universities would continue to participate in the OUS health and welfare plans.

Separate Legal Entities & Local Boards

This governance structure could adopt a statutorily approved insurance program that serves OUS’ benefits philosophy, employee demographics, and geographic distribution of plan members. Other public entities in the State of Oregon operate plans that serve multiple employers, both fully insured and self-insured, realizing the pooling of risk and purchasing scale of a large group. Further, structure could allow for customization of benefit provisions among the respective local institutions, while retaining the general advantages of pooling and scale.

Other issues to consider include timing of the separate entities’ entry into a multi-employer plan; plan design; administrative resources (staff and systems) of the separate entities; and labor contract changes.
Current Situation with Options for Enhanced Effectiveness and More Efficiencies

Additional recommendations are under development, and will be reported to the Board and 2013 legislative assembly after review by campuses and the Board.