HB 2875 -3 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/24, 4/7

WHAT THE MEASURE DOES:

Directs Public Employees Retirement Board to study public employee retirement and report to legislative committee by September 15, 2022.

ISSUES DISCUSSED:

- Effort recruit and retain fire professionals in Office of State Fire Marshal (OSFM)
- Typical employee of OSFM comes from a position with PERS firefighter designation

EFFECT OF AMENDMENT:

-3 Replaces the measure. Defines, for purposes of the Public Employees Retirement System, that "firefighter" includes employees of the State Fire Marshal whose primary duties include fire investigation, fire prevention, fire safety, fire control, or fire suppression. Applies to current and future employees of the State Fire Marshal. Provides that employee of State Fire Marshal is entitled to service as a firefighter for service performed before, on, or after effective date.

Requires PERS to pay tax remedy no later than the first day of the second calendar month following notice by the retiree that their retirement benefits are subject to Oregon income taxes if notice is received between January 1 and April 15. (This was HB 2867-1)

Restores PERS membership and retirement credit forfeited in 2020 if person performs at least 600 hours of service in 2021. Declares emergency, effective on passage. (This was HB 2375-1)

BACKGROUND:

There are two classifications for all primary Public Employees Retirement System (PERS) plans: General Service, and Police and Fire (P&F). Examples of qualified P&F positions include certain Department of Corrections employees, Oregon State Police officers, local government police officers, parole and probation officers, the state and deputy state fire marshal, and persons employed by cities, counties, or districts whose duties involve firefighting. All other qualifying positions are classified as General Service. Employees classified as P&F under PERS statutes can retire at an earlier age and have a higher benefit factor used in calculating their retirement benefits. According to PERS, these enhanced benefits raise the cost of benefits members earn while in that status by four to five percent of payroll. Those costs increase further if existing General Service members move into P&F status.

House Bill 2875-3 includes in definition of "firefighter" employees of the State Fire Marshal whose primary job duties are fire investigation, fire prevention, fire safety, fire control, or fire suppression.

A U.S. Supreme Court ruling in 1989 *(Davis v. Michigan Department of* Treasury) directed states to tax federal and state retirement benefits in the same manner. Legislation enacted in Oregon in 1991 (Senate Bill 656) and in 1995 (House Bill 3349) established a "tax remedy" payment to retirees of the Public Employees Retirement System (PERS) to offset the effect of subjecting their benefits to state income tax. Only Tier 1 members are eligible to receive the tax remedy, and only if the following conditions are met:

- PERS membership was established prior to July 14, 1995;

- Service time accrued prior to October 1, 1991, or at least 10 years of creditable service; and
- Benefits are subject to Oregon income tax.

Legislation in 2011 (House Bill 2456) eliminated the tax remedy for members retiring on or after January 1, 2012, who do not pay Oregon income tax because they are not Oregon residents. In 2013, Senate Bill 822 was enacted to eliminate the tax remedy for all non-resident retirees regardless of their retirement date.

PERS receives information each fall from the Oregon Department of Revenue to determine whether the retiree filed an Oregon income tax return as a resident. If there is no indication that a return was filed, PERS sends a letter to the retiree asking them to certify, under penalty of perjury, that their benefit is subject to Oregon taxes as a resident. A second letter is sent to those who have not yet certified, explaining that the tax remedy benefit will not be paid beginning in the next calendar year if certification is not made by the end of the year. For those who certify after the start of the calendar year, the tax remedy will not be restored until the next calendar year.

House Bill 2875-3 requires PERS to begin paying the tax remedy by the second calendar month following notification from the retiree that their benefits are subject to Oregon income tax if notification was made between January 1 and April 15.

PERS provides the Oregon Public Service Retirement Program (OPSRP) to eligible employee who were hired on or after August 29, 2003. OPSRP is a hybrid retirement program that provides a defined benefit plan (i.e., a pension) and a defined contribution plan (i.e., the Individual Account Program (IAP)). Membership for both the pension and the IAP begins on the first day of the month after the employee completes six full calendar months of employment. Once membership is established, the member is vested in the IAP employee account immediately; however, if the employer makes the IAP contributions for the member, vesting occurs on the earliest of the following dates: when the member completes 600 hours in each of any five years; when the member reaches normal retirement age; when the IAP program is terminated; when the member becomes disabled; or when the member dies. To vest in the pension program, the member must work at least 600 hours in each of any five calendar years. A member who has not yet vested in the pension program will forfeit all retirement credit if they perform fewer than 600 hours of service in each of five consecutive calendar years. The forfeiture takes effect at the end of the fifth year.

HB 2875-3 restores PERS membership and retirement credit forfeited in 2020 if person performs at least 600 hours of service in 2021.