FISCAL IMPACT OF PROPOSED LEGISLATION **Measure: HB 2875 - A**

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Date:	April 8, 2021

Measure Description:
Defines, for purposes of the Public Employees Retirement System, that a "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 an employee of the State Fire Marshal is entitled to service as a firefighter for service performed before, on, or after the measure's effective date. Directs the Public Employees Retirement Board to pay an eligible retiree's personal income tax remedy no later than the first day of the second calendar month following notice by the retiree that the retiree's retirement benefits are subject to Oregon personal income taxes if the notice is received between January 1 and April 15. Restores membership and forfeited retirement credit in the Oregon Public Service Retirement Plan if calendar year 2020 was the member's fifth consecutive year of performing fewer than 600 hours of service, but the member performs 600 or more hours of service in calendar year 2021.

Government Unit(s) Affected:
Oregon State Police (OSP), Public Employees Retirement System (PERS), Statewide

Summary of Fiscal Impact:
Costs related to the measure may require budgetary action - See explanatory analysis.

Analysis:
House Bill 2875, A-engrossed, replaces the introduced version. The measure amends the definition of "firefighter," for purposes of eligibility in the Public Employees Retirement System (PERS), to include an employee of the State Fire Marshal whose primary duties include fire investigation, fire prevention, fire safety, fire control or fire suppression. The updated definition of "firefighter" applies to both current and future employees of the State Fire Marshal. The measure provides that an employee of the State Fire Marshal is entitled to service in PERS as a firefighter for all service performed as an employee of the State Fire Marshal, whether performed before, on, or after its effective date.

The measure changes the current annual process for tax remedy eligibility for PERS members. If the Public Employees Retirement Board receives notice that a person is or has become subject to Oregon personal income tax between January 1 and April 15 in a calendar year, an increase in benefits would become effective as soon as administratively feasible, but no later than the first day of the second calendar month following receipt of notice by PERS. However, if PERS receives notice that a person is subject to Oregon personal income tax after April 15, the increase in benefits takes effect on the first day of the calendar year following receipt of notice by PERS. If PERS receives notice that a person in no longer subject to Oregon personal income tax between January 1 and April 15 in a calendar year, the decrease in benefits becomes effective as soon as administratively feasible, but no later than the first day of the second calendar month following receipt of notice by PERS. However, if PERS receives notice that a person is no longer subject to Oregon personal income tax after April 15, the decrease in benefits takes effect on the first day of the calendar year following receipt of notice by PERS.

The measure directs PERS, in consideration of the COVID-19 pandemic, to restore the membership and retirement credit for any member of the Oregon Public Service Retirement Plan (OPSRP) that forfeited all retirement credit in calendar year 2020 because the member performed fewer than 600 hours of service for the fifth consecutive year. Any person who performs 600 hours or more of service in calendar year 2021 shall have the OPSRP membership and any retirement credit forfeited at the end of calendar year 2020 restored.

The measure takes effect 91 days after adjournment *sine die*.

Oregon State Police: Police and Fire Classification

The Office of the State Fire Marshal is budgeted within the Oregon State Police (OSP). While the measure would not increase OSP's workload or require OSP to hire additional staff, OSP would likely incur some costs from its implementation. The Office of the State Fire Marshal has 65 employees, and if a large percentage of them are added to the Police and Fire classification under the PERS plan, the State Fire Marshal could incur more than $200,000 Other Funds in employer contributions for the entire length of their service. The exact amount of the increase in employer contributions, which would depend on how many employees fall under the Police and Fire classification, apply to service performed before, on, or after the measure's effect date. For that reason, the fiscal impact to OSP is indeterminate.

Public Employees Retirement System: Police and Fire Classification

The provisions in the measure that change the Police and Fire classification of PERS benefits would have an indeterminate impact on the PERS plan, because it is unclear how many members would be added to the Police and Fire classification. The measure's unlimited retroactivity further adds to the indeterminate fiscal impact, as employer contributions for firefighter members would increase for the entirety of their service with the Fire Marshal. To implement the measure, PERS would be required to bill employers (i.e., Oregon State Police) for the increased contributions (and earnings on those contributions) for each member that is added to the Police and Fire classification as a result of this measure.

Public Employees Retirement System: Tax Remedy Eligibility

Each fall, PERS receives information from the Oregon Department of Revenue (DOR) to determine whether a retiree filed an Oregon income tax return as a resident. If PERS has no reason to believe that a return was filed, then PERS sends a letter to the retiree/beneficiary asking the retiree/beneficiary to certify, under penalty of perjury, that the retiree/beneficiary's retirement benefit is subject to Oregon personal income tax as a resident of Oregon. If PERS does not receive that certification, PERS sends a second letter to anyone who has not yet certified, explaining that PERS will not pay the tax remedy benefit beginning in the next calendar year if the certification is not made by the end of the certification year. For those who certify after the start of the calendar year, the tax remedy will not be restored until the next calendar year. The measure requires PERS to pay the tax remedy no later than the first day of the second calendar month following notice by the retiree/beneficiary that the retirement benefits are subject to Oregon personal income tax if the notice is received between January 1 and April 15.

The provisions in the measure relating to tax remedy eligibility are anticipated to have a minimal fiscal impact on PERS' biennial budget and agency operations. PERS anticipates that it will receive and process an increasing number of residency certifications. While the exact number is unclear, PERS anticipates that the increase in certifications would be minimal because most of the tax remedy eligibility determinations would occur at the end of the calendar year in response to data PERS receives from DOR. The measure may also impact the agency's information technology, if PERS needs to make system programming changes to the jClarety and ORION applications, which manage the pension system and the individual account program.

Public Employees Retirement System: Restored Membership and Retirement Credit

PERS currently has 176,000 active members that support approximately 146,000 retirees and beneficiaries (i.e., 1.19 active members per retiree/beneficiary). Currently, the Loss of Membership (LOM) batch job runs annually and converts members that meet the applicable criteria into LOM status. Although PERS is unclear how many members would be impacted by the measure, an average of 4,200 members went into LOM status in calendar years 2018 and 2019 prior to the COVID-19 pandemic. According to PERS, approximately 4,700 accounts went into LOM status in calendar year 2020.

To implement the provisions relating to restoring membership and retirement credit, PERS will review the approximately 4,700 accounts that went into LOM status in 2020, determine the accounts in which the member worked 600 hours or more in 2021, and restore membership to those accounts. PERS would need to notify employers regarding those employees whose membership was restored and bill them for contributions during restored membership. PERS estimates it would incur approximately $193,608 Other Funds in 2021-23 in personal services costs to complete this project. In addition, PERS anticipates needing Information Technology professional services to make the necessary system changes to the LOM process, including adjustments to calculations and employment dates. PERS estimates it would incur approximately $140,000 Other Funds in 2021-23 in services and supplies costs to make these necessary system changes. Overall, PERS estimates it would incur $333,608 Other Funds in 2021-23 to implement the measure. PERS would not need to hire any additional staff.

The impact to the PERS plan would depend on the number of members that are restored from LOM status, the members' salaries and the number of hours they worked over 600 hours per year. It should also be noted that the employers would be paying increased contributions on these staff returned from LOM status for their service.