

**TESTIMONY ON SB 297
BEFORE THE HOUSE COMMITTEE ON JUDICIARY
APRIL 29, 2021**

**PRESENTED BY: PHILLIP LEMMAN, DEPUTY STATE COURT ADMINISTRATOR
OREGON JUDICIAL DEPARTMENT**

Chair Bynum, Vice Chairs Noble and Power, and Members of the Committee:

Summary

SB 297 provides that judicial marshal and deputy judicial marshal members of the Oregon Judicial Department's Marshal's Office, who are trained and certified as police officers by the Department of Public Safety Standards and Training (DPSST), are police officers for purposes of the Public Employees Retirement System (PERS).

The Oregon Judicial Department (OJD) employs a judicial marshal and two deputy judicial marshals. Each of these three is DPSST trained and certified as a police officer. They are the only certified police officers in the state not included in the PERS definition of "police officer." Passage of this bill will permit OJD to retain and recruit judicial marshals on a similar footing with executive branch law enforcement agencies.

The bill would apply to the three incumbent judicial marshal employees. There will be a one-time cost to credit past service performed as a judicial marshal with DPSST certification. Future OJD PERS obligations will increase somewhat as OJD will pay a higher employer contribution rate for marshals than is currently paid.

Background

The Chief Justice established the OJD Security and Emergency Preparedness Office (SEPO) in 2007 to execute the requirements of ORS 1.177 regarding court security, emergency preparedness and business continuity.

The duties of the office are assigned by the Chief Justice. Those duties have changed over time. In recognition of that the Legislature, in 2012, authorized OJD Marshals to receive and maintain police training and certification through DPSST.

In 2013, the Legislature included judicial marshals in the statutory definition of peace officer.

In 2017 SEPO became the OJD Marshal's Office and is recognized as a law enforcement unit.

In the 2020 Regular Session, the Senate Judiciary Committee approved this same measure with a unanimous vote, and it also passed the full Senate with a unanimous vote (28-0-2 excused). In the House, this committee approved the measure with a unanimous vote (10-0-1 excused). The bill was awaiting third reading and final passage when the legislative session abruptly came to an end.

This session, the bill was sent to the Senate floor with a do-pass recommendation from the Senate Committee on Judiciary and Ballot Measure 110 Implementation, where it was passed with a vote of 25 aye - 1 nay - 4 excused).

Need for Change

The Chief Marshal and the two deputy marshals are trained and certified police officers. They are the only certified police officers in Oregon not included in the statutory PERS definition of police officer.

They are authorized to make arrests.

They are responsible for the security of judges, staff, and the public in court facilities.

They satisfy the PERS policy related to the recommended criteria for inclusion in the P&F classification. In talking with PERS staff about this bill and the request for inclusion in P&F PERS, we were told following review of the information we submitted, that:

“The judicial marshals clearly fall under the IRC 72(t) definition for “qualified public safety employee,” since their principal duties include services requiring specialized training in area of police protection.

The office is hampered by the challenges related to recruitment and retention of qualified judicial marshal candidates without the ability to offer P&F PERS.

This request has the support of the Oregon Association of Chiefs of Police and the Oregon State Sheriff's Association, which also have supported previous versions of this bill. Those groups -- along with the Oregon State Police, the US Marshals Service, and the US Secret Service -- regularly work together with the OJD Marshals sharing information related to threat assessment, daily operations of our courts, and travel of our judges.

I'm happy to answer questions now or wait until Chief Marshal Evan West concludes his testimony.