

SB 588 -1, -2 STAFF MEASURE SUMMARY

Senate Committee On Labor and Business

Prepared By: Whitney Perez, LPRO Analyst

Meeting Dates: 1/30, 2/4, 2/27, 3/6

WHAT THE MEASURE DOES:

The measure specifies that when a member of the Public Employees Retirement System who is a police or firefighter requests a contested case hearing to dispute a final denial of an application for a disability retirement allowance, the Public Employees Retirement Board (board) shall hold the contest case hearing within 90 days after the request for the hearing, or, upon good cause, within 180 days of the request for a hearing. The measure specifies that if the board does not hold a contested case hearing within this specified time, the member prevails in disputing the final denial. The measure specifies that when a member of the Oregon Public Service Retirement Plan who is a police or firefighter requests a contested case hearing to dispute a final denial of an application for disability benefits, the Public Employees Retirement Board (board) shall hold the contest case hearing within 90 days after the request for the hearing, or, upon good cause, within 180 days of the request for a hearing. The measure specifies that if the board does not hold a contested case hearing within this specified time, the member prevails in disputing the final denial. The measure provides that "post-traumatic stress disorder" suffered by a police officer or firefighter is an injury or disease sustained in the actual performance of duties for purposes of specified benefits under PERS in certain circumstances. Defines "DSM-5." The measure directs the board to hold all outstanding contested case hearings that have been requested by a police officer or a firefighter before the effective date of this measure to dispute a final denial of an application for disability retirement allowance or for disability benefits within 180 days after the effective date of this measure. Declares an emergency, effective on passage.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

ISSUES DISCUSSED:

- Impact of the pandemic on the Public Employees Retirement System (PERS)
- Administrative hearing process
- Office of Administrative Hearings role in contested cases
- Ability to receive benefits with PTSD diagnosis
- Differing benefits between Tier 1, Tier 2, and Oregon Public Service Retirement Plan members
- Able to work impact on eligibility to receive benefits

EFFECT OF AMENDMENT:

-1 Replaces the measure. The amendment specifies that when a member of the Public Employees Retirement System (PERS) who is a police officer or a firefighter requests a contested case hearing to dispute a final denial for disability retirement allowance or disability benefits, the Public Employees Retirement Board (board) shall ensure that the contested case is referred for a hearing no later than 180 days after the request for the hearing, or no later than 360 days after the request for the hearing, if the member requests an extension. The amendment specifies that if the contested case is not referred for a hearing within this timeframe, the member prevails in disputing the final denial. The amendment directs the board to refer for a hearing all contested cases that a police officer or firefighter has requested a hearing for before the effective date of this measure to dispute a final denial of an application for disability retirement allowance or disability benefits within 360 days after the effective date of this measure. The amendment specifies for the disability retirement allowance that a member is not

considered to be mentally or physically incapacitated for an extended duration and unable to perform any work for which qualified if the member is able to perform any job that the member is physically and psychologically capable of performing, has or is able to obtain the necessary skills and training for, that the member can perform in a regular and predictable manner, and for which the member can earn at least \$1,400 per month. The amendment specifies that disability benefits shall be paid until a member returns to employment or receives earned income in any month in an irregular or unpredictable manner that exceeds ten percent of the monthly salary of the member as of the last full month of employment before the disability began. The amendment specifies that for purposes of disability benefits under the Oregon Public Service Retirement Plan, a member is not considered disabled and unable to perform any work for which qualified if the member is able to perform any job that the member is physically and psychologically capable of performing, has or is able to obtain the necessary skills and training for, that the member can perform in a regular and predictable manner, and for which the member can earn at least \$1,400 per month. Declares emergency, effective on passage.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: May have revenue impact, but no statement yet issued

-2 Replaces the measure. The amendment specifies when the Public Employees Retirement Board must refer a contested case for a hearing when the Public Employees Retirement System member requesting the hearing is a police officer or firefighter and the contested case is for disability retirement allowance or disability benefits. The amendment specifies when a police officer or firefighter of the Public Employees Retirement System is considered disabled for purposes of receiving benefits. Declares an emergency, effective on passage.

Detailed Summary:

Section 1

Adds Section 2 to ORS chapter 238, which contains Oregon laws for the Public Employees Retirement System (PERS).

Section 2

Specifies that a PERS member who is a police officer or firefighter requests a contested case hearing to dispute a final denial of an application for disability retirement allowance, the Public Employees Retirement Board (board) shall ensure the contested case is referred for a hearing within 180 days, or, if the member requests an extension, within 360 days of the request. Specifies that if the contested case is not referred within this time frame, the member prevails in disputing the final denial of the application.

Section 3

Adds Section 4 to ORS chapter 238A, which contains Oregon laws for the Oregon Public Service Retirement Plan (OPSRP).

Section 4

Specifies that is a OPSRP member who is a police officer or a firefighter requests a contested case hearing to dispute a final denial of an application for disability benefits, the board shall ensure that the contested case is referred for a hearing within 180 days, or, if the member requests an extension, within 360 days from the date of the request. Specifies that if the contested case is not referred within this time frame, the member prevails in disputing the final denial of the application.

Section 5

Directs the board to refer for a hearing all contested cases that a police officer or firefighter has requested a hearing before the effective date of this measure to dispute a final denial of an application for disability retirement allowance or for disability benefits within 360 days of the effective date of this measure.

Section 6

Specifies that a member of PERS who is a police officer or firefighter is considered to be disabled and entitled to disability retirement allowance if they are found to be mentally or physically incapacitated for an extended duration, as determined by medical examination, and unable to perform the work the member performed at the time the member became disabled, by injury or disease sustained while in actual performance of duty and not intentionally self-inflicted. Specifies that when a PERS member who is a police officer or firefighter and has been employed by a participating employer for at least ten years is found to be mentally or physically incapacitated for an extended duration, as determined by medical examination, and unable to perform the work the member performed at the time the member became disabled, from something other than injury or disease sustained while in actual performance of duty or intentionally self-inflicted, the member is entitled to disability retirement allowance. Makes conforming and technical amendments.

Section 7

Cancels disabled retirement for a PERS member who is retired because of disability and was employed as a police officer or firefighter at the time they became disabled and is determined by the board to not be incapacitated to the extent that they are disabled from the performance of the work they performed at the time they became disabled. Specifies that the member is eligible for reemployment and, if they are not reinstated with a participating employer, the member shall receive separation benefits or service retirement benefits.

Section 8

Specifies that a OPSRP member is no longer disabled and entitled to disability benefits when the member returns to employment with any employer, including self-employment, or the member receives earned income in any month in an irregular or unpredictable manner that exceeds ten percent of the monthly salary the member received s of the last full month of employment before disability began. Specifies that a OPSRP member who is a police officer or firefighter is considered disabled if the member is found to be mentally or physically incapacitated for an extended duration and unable to perform the work the member performed at the time they became disabled, by reason of injury or disease that was not intentionally self-inflicted.

Section 9

Specifies that a OPSRP member is considered disabled and entitled to retirement credit and hours of service credit for vesting purposes for the period of time they are disabled if they were a police officer or firefighter at the time they became disabled and they are found to be mentally or physically incapacitated for an extended duration and unable to perform the work the member performed at the time they became disabled, by reason of injury or disease that was not intentionally self-inflicted.

Section 10

Makes conforming amendment.

Section 11

Specifies that Sections 2 and 4 of the measure apply to requests for contested case hearings made on or after the effective date of this measure.

Section 12

Specifies that the amendments to Oregon law by Sections 6 through 10 of the measure apply to open applications for disability benefits or continuation of disability benefits that have not yet been referred for a contested case hearing before the effective date of this measure.

Section 13

Declares emergency, effective on passage.

FISCAL: May have fiscal impact, but no statement yet issued

REVENUE: No revenue impact

BACKGROUND:

The Public Employees Retirement System (PERS) provides retirement benefits for state agencies and approximately 900 units of local government. PERS is overseen by a five-member board that appoints an executive director to manage the agency's daily operations, including the management of benefits for more than 393,000 active, inactive, and retired members and beneficiaries. PERS members are in one of three plans, depending on when they first became a member. The three plans are: Tier One, Tier Two, and the Oregon Public Service Retirement Plan (OPSRP). PERS members who work in positions that meet the definitions for "police officer" and "firefighter" are eligible for special benefit provisions such as retiring at an earlier age and calculating their retirement benefit with a higher statutory factor.

Senate Bill 588 provides that "post-traumatic stress disorder" suffered by a police officer or firefighter is an injury or disease sustained in the actual performance of duties for purposes of specified benefits under PERS in certain circumstances.