



# Oregon

Tina Kotek, Governor

## Public Employees Retirement System

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February 17, 2025

**TO:** House Committee on Labor and Workplace Standards

**FROM:** Kevin Olineck, Director, PERS

**SUBJECT:** HB 3363 Written Testimony, February 17, 2025

Thank you for the opportunity to send in written testimony regarding HB 3363. This bill would require all employers to use the same calculation when setting their overtime cap, and to examine this overtime cap yearly.

Currently, ORS 238A.130 states that, for the purposes of final average salary (the amount used in calculating a member's retirement benefit), salary does not include: "...Any amounts attributable to hours of overtime that exceed the average number of hours of overtime for the same class of employees as established by rule of the Public Employees Retirement Board..."

After this statute was passed, which happened during the creation of the OPSRP benefit tier, PERS conducted rulemaking and adopted OAR 459-075-0030. This provided that the average number of hours of overtime for an employee class shall be determined by the employer based on a reasonable expectation of the average number of hours of overtime employees, in that class, would perform over the course of a calendar year. Employee class is not defined in statute or rule. Currently, public employers make determinations about which of their employees are in the same class- typically those with the same or similar work.

Currently, PERS accepts reports from all employers regarding average overtime for the employer's different employee classes. Because the agency is not involved in the business of PERS-participating employers, we do not make decisions regarding the amounts of average overtime for an employee class.

The cost to the plan for this bill is indeterminate. The agency is working to determine hours of overtime worked by all employees for an example employer, comparing it to the current cap set by that employer, and then calculating using the standardized formula in the bill. The amount of change to overtime hours in the cap (up or down) would be wholly dependent on the current formula an employer uses, and how similar or different it would be from this standardized formula.

Administratively, while PERS would not have to do the calculations required in this formula, the agency would have to process every change to the employers' overtime cap for every employee class. Our employer reporting system (EDX) allows an employer to put in an overtime cap for each employee at the date of hire. After that, if the overtime cap needs to change, employers must submit a "demographic change request" to PERS' employer service center, with each employees' name, and the amount of the new cap. This could potentially mean more work for staff, particularly if actual overtime hours vary year over year. The agency also anticipates

greatly increased employer education and support in administering this bill, as this calculation is not currently followed by all PERS-participating employers.

The agency is currently working with AFSCME, and the Department of Administrative Services (DAS)- our largest PERS employer who reports on behalf of all state agencies - on the underlying issues this bill is trying to solve. We look forward to continuing that work as the legislative session continues.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin Olineck". The signature is written in a cursive, flowing style.

Kevin Olineck  
PERS Director