

Monday, May 11, 2015

**Written Testimony of Rob Bovett before the
Senate Workforce Committee
in Support of House Bill 3495**

Chair Dembrow, Vice-Chair Thatcher, and Senators Gelser, Knopp, and Rosenbaum,

Thank you for the opportunity to testify in favor of House Bill 3495.

House Bill 3495 fixes an ambiguity in the Oregon Public Service Retirement Plan (OPSRP) statutes. Unlike PERS Tier 1 and 2, the OPSRP contribution start date language is unclear. Throughout the years, PERS has given various directives to public employers. Some are operating under “paid when paid.” Others are operating under “paid when earned.” Since public employers use a variety of pay periods and pay dates, the impacts are also varied. The PERS auditors have indicated this should be fixed. So we anticipate that PERS will be issuing a new single directive to all public employers, which will apply to new OPSRP employees effective January 1 of 2016.

The bill itself does not impact any existing OPSRP members. But there has been discussion about what might happen if there was retroactive application outside of this legislation. Depending on the particular employee, applicable pay period, and applicable pay date, retroactive application could mean entitling some existing OPSRP members to a relatively small additional amount added to their OPSRP account. *NOTE: I have a potential conflict of interest. I am an OPSRP member as the result of my years of service as the Lincoln County District Attorney. I have no idea if my OPSRP account would benefit under this scenario.*

Although this clarifying legislation is only prospective in application, enacting HB 3495 might increase the possibility that PERS would allow retroactive application to be funded out of employer contingency. If that were to happen, costs and litigation relating to interpretation of the ambiguous statute could be avoided.

On March 10, 2015, the PERS Legislative Advisory Committee (LAC) met and discussed this legislation. The LAC is comprised of union and employer representatives. At the end of the meeting, the LAC supported moving this bill forward.

For the reasons discussed above, the Association of Oregon Counties (AOC) urges the Committee to move HB 3495 to the House floor with a “do pass” recommendation.

Sincerely,



Rob Bovett
AOC Legal Counsel