

Testimony Before the House Committee on Business and Labor

In Support of HB 2786 -3

April 3, 2019

Members of the committee, my name is Hasina Wittenberg and I appear before you today on behalf of the Multnomah County Prosecuting Attorney's Association in support of HB 2786 with the -3 amendment. The Multnomah County Prosecuting Attorney's Association represents all Deputy District Attorneys in Multnomah County. With me today are Jenna Plank and Traci Anderson, vice-president and president of the Association.

WHO DOES HB 2786 APPLY TO?

There are approximately 373 eligible deputy district attorneys in the state. These hard-working deputy district attorneys should be included in the police and fire tier of PERS. HB 2786 -3 will prospectively put these employees in the police and fire tier of PERS (the bill has a regular effective date of January 1, 2020).

Attached to this testimony is a breakdown by county of the number of deputy district attorneys statewide. All deputy district attorney's whose counties have opted into the Public Employees Retirement System (PERS) would qualify for the police and fire benefit under HB 2786 -3; 32 of the 36 counties participate statewide (Morrow, Tillamook, Union and Wheeler are not PERS employers; there are a total of 8 deputy district attorneys in the non-participating counties).

WHY WE QUALIFY?

The IRS provides special rules for benefits paid to "public safety employees" and the legislature has enacted such a plan defining the employees eligible for that benefit in ORS 238.005 (police and fire definition).

The Oregon Constitution, Article VII Section 17, defines a prosecuting attorney as follows: "There shall be elected by districts comprised of one, or more counties, a sufficient number of prosecuting attorneys, who **shall be law officers of the state**, and of the counties within their respective districts, and **shall perform such duties pertaining to the administration of law, and general police** as the legislative assembly may direct.

District Attorneys are also directly charged by the legislature as being the agency in charge of all death investigations that occur in the state. Under ORS 146.100, "Death investigations shall be under the direction of the district medical examiner **and the district attorney** for the county where the death occurs."

ORS 8.780 defines a deputy district attorney as having "the same qualifications as the district attorney, and subject to the district attorney, has the same functions as the district attorney."

HOW ARE OTHER STRIKE PROHIBITED EMPLOYEES TREATED?

ORS 243.736 defines "**strike prohibited public safety employees**" as: (1) Deputy District Attorneys, (2) Emergency Communication Workers, (3) Employees of Oregon Youth Authority who has custody, control or supervision of youth offenders, (4) Firefighters, (5) Guards at a correctional institution or mental hospital, (6) Parole and Probation officers who supervises adult

offenders and (7) Police officers. The attached document contains a listing of strike prohibited employees and a listing of employees who are currently being provided with police and fire PERS benefits. While each of these employees, no doubt, performs significant and important work in our communities, they are simply not remotely as close to critical public safety law enforcement as Deputy District Attorneys.

Deputy district attorneys are the only strike prohibited class of employees who are in the general service category of PERS.

OUR JOBS ARE DIFFICULT TO RETAIN FOR A CAREER

A 2017 analysis of the Multnomah County District Attorney's Office found that turnover early in the career was a substantial problem with approximately 46% of attorneys having less than five years of experience and pre-retirement turnover approaching 45%.

The Robert M. La Follette School of Public Affairs produced a study on "Public Safety and Assistant District Attorney Staffing" for the State of Wisconsin. In this report, Prof. Dresang reports that in Milwaukee and Dane counties, "which have the state's highest crime rates and the largest DA staff, almost one-half of the prosecutors have fewer than 5 years of experience. This lack of experience is not ideal for any organization, but it is especially critical for criminal justice and public safety agencies."

DEPUTY DISTRICT ATTORNEY STATISTICS

Multnomah County Specific Statistics:

- Since 2000 there were 164 separations (102 were lower level DDA 1 & 2 and on average reached 1.6 years of service and 3.9 years of service respectively)
- There is a 62% chance that a member won't vest in PERS because of attrition
- Of the senior members there were 48 DDA 3s who left with 11 years of service and 14 DDA 4s with an average seniority of 20 years
- The number retiring from 2000 – 2018 after a full career is nine or a 5.4% chance of even reaching full retirement

COSTS

After adoption of the amendment, there should be no fiscal to the PERS agency. Deputy district attorneys are employees of their respective counties. The bill is prospective and if passed and signed by the Governor will take effect on January 1, 2020. We expect the Ways and Means Committee to deliberate further on the fiscal impact of this legislation.

Thank you for the opportunity to testify in support of this legislation we would be pleased to answer any questions the committee may have.

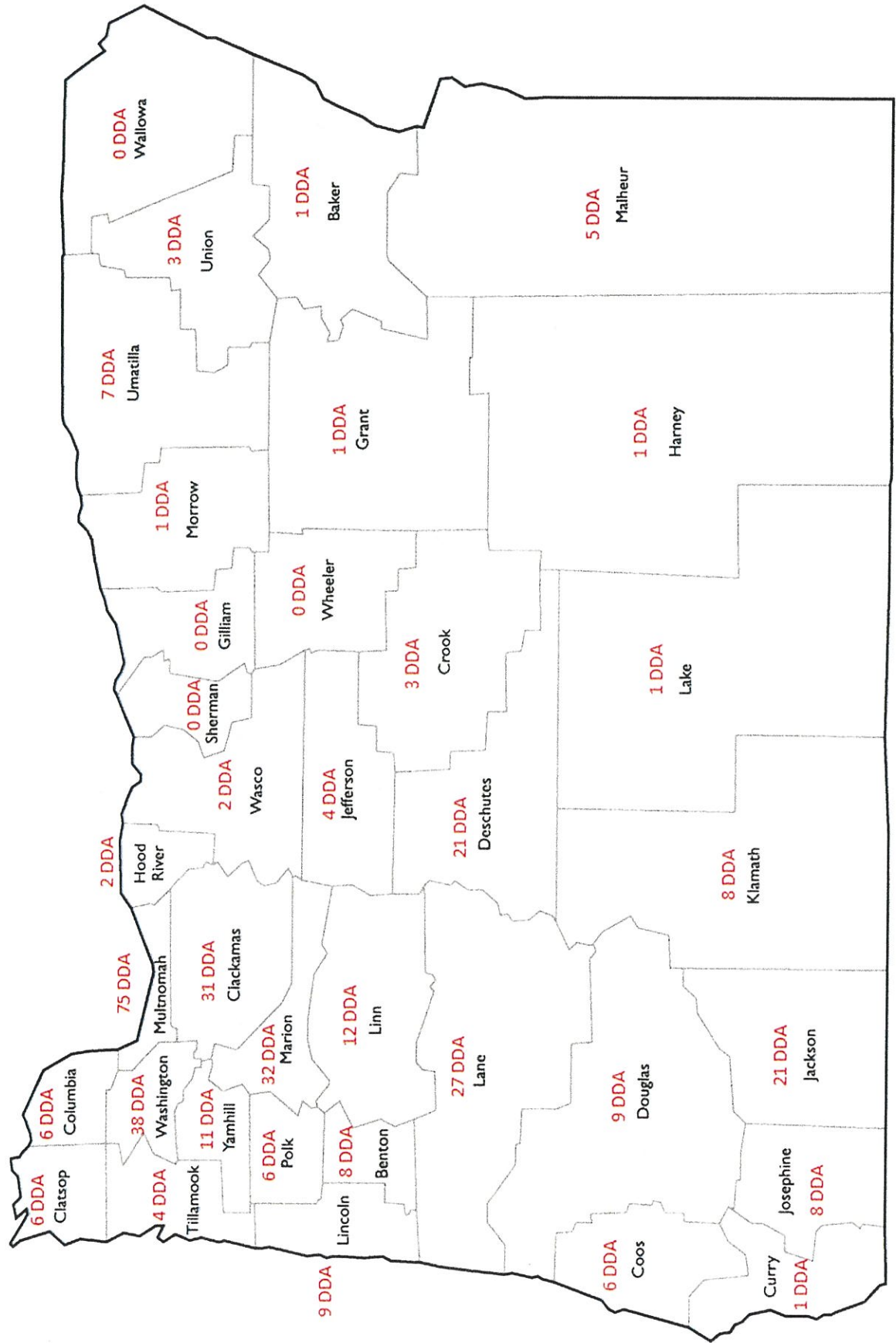
Alphabetical by County

County	Population	Number of DDAs
Baker	16,504	1
Benton	90,951	8
Clackamas	416,672	31
Clatsop	39,182	6
Columbia	51,782	6
Coos	63,888	6
Crook	23,123	3
Curry	22,669	1
Deschutes	186,875	21
Douglas	109,045	9
Gilliam	1,855	0
Grant	7,190	1
Harney	7,289	1
Hood River	23,377	2
Jackson	217,479	21
Jefferson	23,758	4
Josephine	86,352	8
Klamath	66,935	8
Lake	7,863	1
Lane	374,748	27
Lincoln	48,920	9
Linn	125,047	12
Malheur	30,480	5
Marion	341,286	32
Morrow	11,166	1
Multnomah	807,555	75
Polk	83,696	6
Sherman	1,758	0
Tillamook	26,690	4
Umatilla	76,985	7
Union	26,222	3
Wallowa	7,051	0
Wasco	26,437	2
Washington	588,957	38
Wheeler	1,357	0
Yamhill	105,722	11
Total	4,146,866	370

Largest # of Total DDAs/county

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Harney	7,289	1
Grant	7,190	1
Wallowa	7,051	0
Gilliam	1,855	0
Sherman	1,758	0
Wheeler	1,357	0
Total	4,146,866	370

*County populations taken from 2017 US Census Bureau quick facts @ www.census.gov



Strike Prohibited Public Safety Employees

ORS 243.736

PERS "Police and Fire"

ORS 238.005(19) [police definition]

- (1) Deputy District Attorneys
- (2) Emergency Communication Workers
- (3) Employees of the Oregon Youth Authority who have custody, control or supervision of youth offenders
- (4) Firefighter
- (5) Guard at a correctional institution or mental hospital
- (6) Parole and Probation Officers who supervise adult offenders
- (7) Police Officer

- (1) Employees classed as police officers who work at DOC before 7/27/1989
- (2) State Police Officers
- (3) Regulatory Specialists at the Oregon Liquor Control Commission
- (4) Sheriffs and Deputies who are classified as police officers or corrections officers
- (5) Police chiefs and police personnel who are classified as police officers
- (6) University police officers
- (7) Parole and Probation officers classified as police officers
- (8) Police officers
- (9) Airport police
- (10) Employees at the Department of Agriculture who are classified as "livestock police"
- (11) All employees at DPSST other than secretary and clerical personnel
- (12) Investigators at DOJ
- (13) Corrections officers
- (14) Lottery personnel designed as "lottery enforcement agents"
- (15) The director of the department of corrections
- (16) An employee who transfers into a police officer position at DOC (after 7 years of such service)
- (17) An employee at DOC classified as a police officer before 7/27/89 if they remain in such position
- (18) School district police
- (19) Teachers at the Oregon Youth Authority
- (20) Employees at youth correction facilities who have custody, control, treatment, investigation or supervision of juveniles
- (21) Juvenile parole and probation officers
- (22) DHS employees who provide care for residents in residential facilities