

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2054

82nd Oregon Legislative Assembly – 2023 Regular Session

Legislative Fiscal Office

Only Impacts on Original or Engrossed Versions are Considered Official

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Measure Description:

Provides that district attorneys and deputy district attorneys qualify as police officers under Public Employees Retirement System.

Government Unit(s) Affected:

Counties, District Attorneys, Public Employees Retirement System

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

See analysis.

Analysis: The measure would add District Attorneys (DA) and Deputy District Attorneys (DDA) to the Police Officer and Firefighter (P&F) definition under Public Employees Retirement System (PERS) statute (ORS 238.005(19)), making them eligible for the retirement benefits afforded to individuals who qualify as a Police Officer or Firefighter. Under current law, both classifications qualify for General Service retirement benefits or equivalent benefits for select counties discussed below.

Funding for DA offices is hybrid. The state funds the compensation of the 36 DA positions while counties are responsible for funding an estimated 430 DDA positions for a total of 466 positions. However, the total number of positions is subject to change based on the actual number of DDAs hired. Apart from state funding, 24 counties have elected to provide supplemental compensation for their elected DA with the remaining counties providing no supplement. No current estimate exists for the amount counties pay in supplemental compensation, which would include Other Payroll Expenses, such as PERS employer contributions funded by counties.

In addition, ORS 237.620(5) states that a public employer of police officers or firefighters does not have to provide PERS benefits if the public employer provides retirement benefits that are equal to or better (ETOB) than the retirement benefits they would have under PERS. Four counties have been determined by PERS to have ETOB (Morrow, Tillamook, Union, and Wheeler. Note: Morrow County transitioned to become a PERS-covered employer for all employees hired after Summer 2020).

Statewide

For the counties participating in PERS, the estimated fiscal impact of this measure would be \$3.2 million in total funds, or by about one percent of PERS-eligible payroll costs, to reclassify 420 (vs. the 466 positions the Legislative Fiscal Office estimates) DA and DDA from general service to a P&F retirement benefit plan. PERS has estimated that the average employer contribution rate for DAs and DAAs would increase by 0.2%, from 21.1% to 21.3%. This estimate was calculated by the PERS in-house Actuarial Services Section based on Bureau of Labor Statistics (BLS) data for attorney salaries and therefore serves only as an initial estimate, as PERS does not have position classification data for DA or DDA positions and therefore had to utilize the BLS surrogate data for estimating purposes. In addition, PERS was also unable to use specific benefit plan data for each DA or DAA position to

determine the actual impact (i.e., Tier 1, Tier 2, and Oregon Public Service Retirement Plan). A similar calculation for the four ETOB counties is not currently available and therefore is indeterminate.

District Attorneys

The estimated fiscal impact of this measure on the state DA budget and for the 36 DAs positions is \$490,753, General Fund, as requested by the DAs in a 2023-25 policy package (#103). This estimate, however, has not been validated by PERS or the Department of Administrative Services.

Counties

Under this measure, counties would have two funding obligations associated with the increase in PERS employer contributions (1) DA supplemental compensation for which no estimate is currently available and is therefore indeterminate; and (b) DDA. There is currently no discrete estimate of these costs, and therefore are indeterminate.

Public Employees Retirement System

PERS estimates the fiscal impact to PERS would be \$120,000 Other Funds for accounting services, but excluding possible additional programming changes, which is anticipated to have a minimal fiscal impact. ORS 238.610 directs that the administrative operations expenses for the agency are to be paid from earnings on the Public Employees Retirement Fund or, in years when such earnings are insufficient, through a direct charge to participating public employers.

There are several different federal definitions for “public safety officer,” which is the federal equivalent of P&F. Because individuals are designated as P&F under the PERS statute does not necessarily mean they are also P&F under federal tax law definitions. When a group of PERS P&F members who are not eligible under the federal definition is added to the state definition, the agency must spend resources to track them separately for compliance purposes.

The measure has a subsequent referral to the Joint Committee on Ways and Means for consideration of the budgetary impact on the state-funded portion of DA compensation.