Oregon
Tina Kotek, Governor

Public Employees Retirement System
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February 1, 2023

TO: Senate Committee on Finance and Revenue

FROM: Kevin Olineck, Director, PERS

SUBJECT: SB 540 Written Testimony, February 1, 2023

For taxpayers who are 62 years of age or younger and are receiving retirement pay or pension for service in the Armed Forces of the United States, SB 540 would subtract from federal taxable income up to $17,500 of that benefit as well as up to $17,500 in retirement pay or pension from other sources, including Oregon PERS.

Because this exclusion applies to PERS payments, the agency will be required to administer this bill if it passes. As written, the agency has concerns about both its ability to administer this bill as well as the cost and complexity of that administration.

First, it is important to note that PERS requests federal tax form W-4P from members upon retirement. That form informs PERS of how much the member wishes to have withheld for federal and state tax purposes. While this form has a place to report other pensions or annuities, it does not tell us the source of those other pensions or annuities. The agency will continue to use this form to determine amounts of withholding.

PERS does not currently have a method of identifying those retired members who receive both a PERS pension and a pension from the Armed Forces. The agency will have to revise our current information sharing agreements with the Department of Revenue or will have to set up some sort of self-reporting mechanism to accept reports of this other source of income from affected retired members.

PERS also administers a tax remedy benefit for Tier One PERS retirees whose PERS benefits are subject to Oregon state income tax. ORS 238.362(1) requires the agency to proportionally reduce the amount of this tax remedy benefit for any PERS retirement benefits that are partially or wholly excluded from Oregon personal income tax. Therefore, for those PERS retirees who are eligible to receive a tax remedy, while also falling under the subtractions in this bill, their tax remedy benefits will be removed or reduced. This will result in a reduction in the monthly benefit these retirees receive. This benefit adjustment will have to be done manually by PERS staff, or system programming will be required specifically for this population (see additional programming concerns in final paragraph, below) resulting in higher administrative costs for the agency.

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Since SB 540 would exclude from Oregon income tax a certain amount of benefits received by Armed Services retirees and some, but not all, of state retirees, we respectfully suggest that, if not already taken into account, legislative council should examine this bill against the Supreme Court decision in *Davis v. Michigan*, 489 U.S. 803 (1989).

Finally, once this group of retirees is identified, PERS must establish some way of correcting federal tax form 1099-R that we send to retirees. Specifically, due to the exclusions from taxable income, without a correction, Box 16 will be inaccurate. While PERS could re-program its system to automatically correct this for a certain identified group of retirees, it would be cost-prohibitive, particularly because we would have to stop the corrections after the retiree ages out from the exclusion. These two factors, as well as the time it would take to program something like this into our system mean that staff for the foreseeable future would need to manually identify and correct these 1099-R forms in our system.

PERS is currently working to identify these costs of administration for the bill as written and will provide those to the Legislative Fiscal Office through the fiscal impact statement process. We look forward to further discussing our agency’s perspective on the impacts of this bill as written, and potential amendments to the bill to lessen or eliminate these impacts.

Sincerely,

Kevin Olineck
PERS Director