

Testimony Before the House Committee on Emergency Management, General Government & Veterans

In Support of HB 2054

February 28, 2023

Members of the committee, please accept this written submission in support of HB 2054 which comes to you at the request of my client the Multnomah County Prosecuting Attorney's Association and the Oregon District Attorney's Association represented by Amanda Dalton. The Multnomah County Prosecuting Attorney's Association represents Deputy District Attorneys in Multnomah County. Appearing before you today are Amanda Nadell and Mariel Mota, president and equity officer of the Association.

WHO DOES HB 2054 APPLY TO?

There are approximately 420 eligible district attorney/deputy district attorneys in the state. These hard-working public safety employees should be included in the police and fire tier of PERS. HB 2054 will prospectively put these employees in the police and fire tier of PERS; the bill has a regular effective date of January 1, 2024.

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 2054; 33 of the 36 counties participate statewide (Tillamook, Union and Wheeler are not PERS employers; there are a total of 9 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.

County 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:

- In October 2022, there were 53 DDAs with 0-5 years of experience as compared to 29 DDAs with 5+ years of experience.
- There is a 62% chance that a member won’t vest in PERS because of attrition.
- Since July 2020, there were 30 separations from the office (four L1; six L2; eleven L3; and nine L4 DDAs).
- The number retiring from 2000 – 2018 after a full career is nine or a 5.4% chance of even reaching full retirement.

COSTS

Deputy district attorneys are employees of their respective counties. According to PERS estimates HB 2054 will result in a 0.2% increase to county employer contribution rates. Again, the bill is prospective and if passed and signed by the Governor will take effect on January 1, 2024. We expect the Ways and Means Committee to deliberate further on the fiscal impact of this legislation as it relates to the State General Fund requirements.

Thank you for the opportunity to submit testimony in support of HB 2054 we urge your support of this important legislation.

Strike Prohibited Public Safety Employees

ORS 243.736

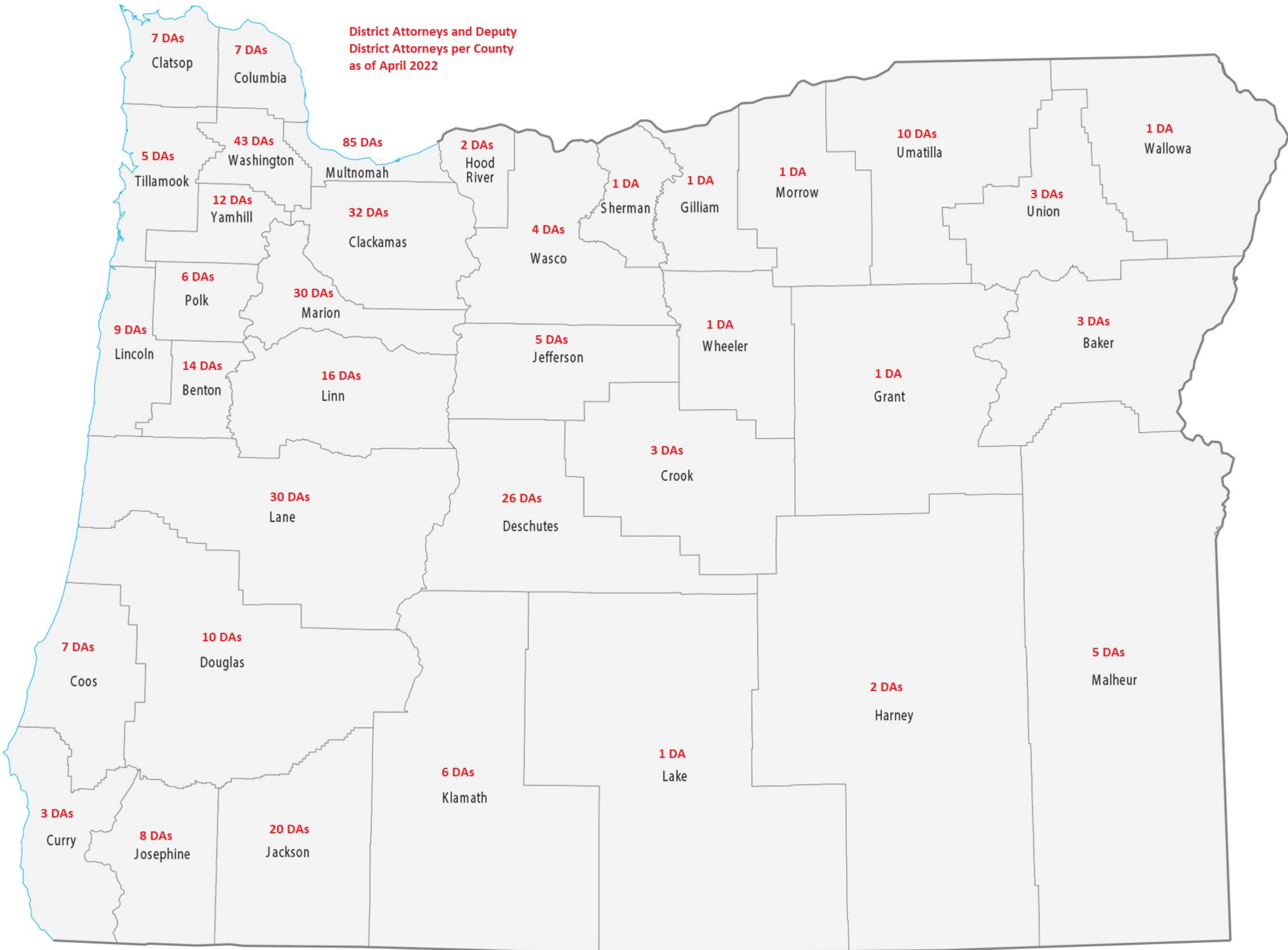
PERS "Police and Fire"

ORS 238.005{19} [police definition]

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

- (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) Port of Portland 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 (OYA)
- (20) Employees at youth correction facilities who have custody, control, treatment, investigation or supervision of juveniles
- (21) Juvenile parole and probation officers at OYA
- (22) DHS employees who provide care for residents in residential facilities
- (23) Judicial marshals under ORS 1.177

**District Attorneys and Deputy
District Attorneys per County
as of April 2022**



County	Valuation Payroll	Current Pension Contributions	Additional Contributions From Change	Percent Increase in Contributions	Current Average Rate	Average Rate After Change	Change to Average Rate
Baker County	\$6,035,458	\$1,233,342	\$13,446	1.1%	20.4%	20.7%	0.2%
Benton County	\$35,597,586	\$6,429,962	\$96,751	1.5%	18.1%	18.3%	0.3%
Clackamas County	\$184,403,399	\$45,407,066	\$314,066	0.7%	24.6%	24.8%	0.2%
Clatsop County	\$17,268,044	\$2,929,743	\$53,679	1.8%	17.0%	17.3%	0.3%
Columbia County	\$13,447,960	\$2,719,631	\$53,720	2.0%	20.2%	20.6%	0.4%
Coos County	\$19,255,068	\$5,153,137	\$44,126	0.9%	26.8%	27.0%	0.2%
Crook County	\$2,906,723	\$732,664	\$19,373	2.6%	25.2%	25.9%	0.7%
Curry County	\$6,358,463	\$1,903,394	\$23,683	1.2%	29.9%	30.3%	0.4%
Deschutes County	\$86,028,100	\$16,524,308	\$224,091	1.4%	19.2%	19.5%	0.3%
Douglas County	\$29,078,185	\$11,582,487	\$63,867	0.6%	39.8%	40.1%	0.2%
Gilliam County	\$2,565,257	\$254,900	\$8,678	3.4%	9.9%	10.3%	0.3%
Grant County	\$3,853,106	\$245,962	\$8,288	3.4%	6.4%	6.6%	0.2%
Harney County	\$5,009,816	\$1,071,799	\$8,830	0.8%	21.4%	21.6%	0.2%
Hood River County	\$8,536,060	\$1,053,764	\$19,888	1.9%	12.3%	12.6%	0.2%
Jackson County	\$52,935,850	\$9,990,822	\$118,792	1.2%	18.9%	19.1%	0.2%
Jefferson County	\$7,528,956	\$1,028,494	\$33,455	3.3%	13.7%	14.1%	0.4%
Josephine County	\$24,626,285	\$6,271,675	\$44,257	0.7%	25.5%	25.6%	0.2%
Klamath County	\$4,458,441	\$675,784	\$41,190	6.1%	15.2%	16.1%	0.9%
Lake County	\$5,112,771	\$1,139,089	\$4,852	0.4%	22.3%	22.4%	0.1%
Lane County	\$116,009,148	\$26,183,370	\$239,172	0.9%	22.6%	22.8%	0.2%
Lincoln County	\$5,707,103	\$1,073,554	\$70,163	6.5%	18.8%	20.0%	1.2%
Linn County	\$44,116,874	\$12,010,595	\$139,627	1.2%	27.2%	27.5%	0.3%
Malheur County	\$9,091,445	\$1,810,066	\$27,321	1.5%	19.9%	20.2%	0.3%
Marion County	\$99,441,452	\$18,874,584	\$214,509	1.1%	19.0%	19.2%	0.2%
Morrow County	\$281,410	\$41,596	\$0	0.0%	14.8%	14.8%	0.0%
Multnomah County	\$427,946,303	\$78,774,846	\$729,462	0.9%	18.4%	18.6%	0.2%
Polk County	\$23,307,160	\$5,657,724	\$39,678	0.7%	24.3%	24.4%	0.2%
Sherman County	\$2,792,394	\$550,418	\$7,557	1.4%	19.7%	20.0%	0.3%
Umatilla County	\$18,919,082	\$3,377,947	\$52,213	1.5%	17.9%	18.1%	0.3%
Wallowa County	\$513,645	\$86,797	\$4,253	4.9%	16.9%	17.7%	0.8%
Wasco County	\$7,658,138	\$988,558	\$26,196	2.6%	12.9%	13.3%	0.3%
Washington County	\$177,940,108	\$41,749,027	\$370,585	0.9%	23.5%	23.7%	0.2%
Yamhill County	\$38,937,767	\$6,770,580	\$56,427	0.8%	17.4%	17.5%	0.1%
Grand Total	\$1,487,667,558	\$314,297,684	\$3,172,195	1.0%	21.1%	21.3%	0.2%