



Oregon

Tina Kotek, Governor

February 10, 2026

Public Employees Retirement System

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The Honorable Senator Kathleen Taylor, Chair
The Honorable Senator Cedric Hayden, Vice-Chair
Senate Committee on Labor and Business
900 Court St NE
Salem, OR 97301

Re: Written Testimony for SB 1569

Dear Senators Taylor and Hayden:

Thank you for the opportunity to provide testimony on SB 1569.

Chair Taylor, on behalf of the committee, asked us to answer four questions, our written answers appear below.

1. As currently written, how many individuals does SB 1569 affect?

From PERS' perspective, the number of individuals affected is unknown. Employers do not report job titles of their employees to us, as it is not needed to calculate their benefits. Employers do report whether or not their employee is a Police & Fire member, or a General Service member (among other information like salary). We rely on the PERS participating employers to properly categorize their employees. While we can provide advice to employers, we do not make the decision whether someone falls into the statutory definition of "police & fire" on behalf of the employer. In some rare cases, if we perform an audit of an employer, we will conduct that analysis on groups of their employees, depending on job description.

We've been made aware of quite a few different numbers. AFSCME has quoted about 200 of their members only as affected by the bill. This covers mostly Multnomah County and City of Portland, and the statewide positions (Assistant attorneys general, Military protection officers and leaders). The statewide positions are all employed by one employer: State of Oregon. There are 22 assistant attorneys general in the Department of Justice criminal division, and 12 force protection officers and leaders.

The closest groups to most of the employers affected, counties and cities, are League of Oregon Cities and Association of Oregon Counties. They have conducted some surveys of their members, but the exact numbers are not known to PERS at this time. What we have heard from these groups is that there is some confusion on who would fall into some of the groups, as each employer has different job titles for these kinds of

roles. For example, roles in County juvenile justice departments, and evidence technicians and forensic scientists.

2. As currently written, what would the cost be for SB 1569 to PERS?

As far as cost to the PERS plan, we have returned an indeterminate fiscal to LFO. As noted above, we do not have an estimate of the number of members impacted. Beyond that, we do not know the (probably varied) salaries of each person to calculate the impact of moving their payroll from an employers' general service payroll to their police & fire payroll.

To explain:

Employers pay a PERS contribution rate that is a percentage of their payroll. Payroll is split between "general service" payroll and "police & fire" payroll. This bill covers both OPSRP and Tier One/Tier Two members.

Systemwide for 2025-27, the OPSRP general service normal cost rate is 10.47% of payroll and OPSRP police & fire normal cost rate is 15.74%. On average across the plan. All payroll from the groups in the bill would be moved to the "police & fire" payroll group, which would result in an increased 5.27% being paid in contributions on these employees' salaries. This is separate than the 6% IAP contribution that employers or members pay that comes out of an employees' paycheck.

Systemwide for 2025-27, the Tier One/Tier Two general service normal cost rate is 14.87% of payroll, and the Tier One/Tier Two police & fire normal cost rate is 21.86% of payroll. The Tier One/Tier Two members affected by this bill would result in an increased 6.99% being paid on these employees' salaries. These costs would lie with each individual employer who employs these groups of members.

There would be a small increase in the Unfunded Actuarial Liability across all tiers. Even though police & fire service would be prospective, because these members could retire early, PERS will be paying them retirement benefits for longer. Therefore, the value of their previous service rises because they will be contributing less service overall (and less contributions) and will retire earlier than they could in general service. However, this number would be small, and would not be realized until the 2027 actuarial valuation when our actuaries will be able include them in our actuarial valuations and bi-annual experience studies.

Administrative costs will be minimal, as the agency relies on information reported by employers. We would be able to provide customer service to employers as to what the new statutory roles are, but we do not make determinations on which employees belong in which statutory category (unless we're doing a comprehensive employer audit, and

those are rare). We will be accepting changes in reporting for each of these employees, and we have a process in place to do that.

3. Which sections of SB 1569 would potentially violate federal law / impact Oregon's standing with federal regulations?

The ways that this bill could run afoul with federal regulations come from looking at whether or not each group of employees listed in the bill would meet the definition of "public safety employee" in the Internal Revenue Code. Specifically: 26 US Code Section 72(t). This definition states that a public safety employee is: "any employee of a state or political subdivision of a state who provides police protection, firefighting services, emergency medical services, or services as a corrections officer or as a forensic security employee..."

When making this analysis at PERS, we look at the primary job duties of the job, and what they do, compared to the federal definition. It should be noted that "police protection" is not defined in federal law, so much of this analysis is up to legal interpretation. We are not attorneys, and so this is not a legal opinion. We would also suggest if other interpretations were sought (besides the testimony already provided by Legislative Counsel), Ice Miller is a law firm with extensive experience in tax law, particularly as it interacts with public retirement plans.

- A. Assistant Attorneys General with DOJ criminal division- **No**. Their primary duties involve prosecution, not police protection.
- B. Juvenile custody service specialists- **Yes**. Their primary job duties mirror those of a corrections officer in prisons- Responsible for the supervision, control, and security of adjudicated and pre-adjudicated youth.
- C. Juvenile Court Counselors- **No**. Based upon these enumerated job descriptions in statute, the primary duties of the court counselors seem to be about providing investigation and court advocacy support which are not the same as police protection. For example, police officers are not statutorily mandated to represent the interests of individuals (in custody) they are investigating before the court. There are also the duties of "take charge" of a child before and after a court hearing, including bringing the child to court. These duties do involve custody of individuals like services provided by corrections officers; however, they are not primary duties and based upon the email clarifications from various stakeholders, the actual full custodial duties are performed by the Custody Service Specialists. Overall, they would not fit under the federal definition.
- D. Forensic Scientists and Evidence technicians on the county, municipal, or university level- **No**. Their primary duties do not involve providing police protection, or acting as a corrections officer. They do not fit under the other categories of a public safety employee.

- E. Employees who are responsible for obtaining, classifying, and verifying fingerprints using electronic or manual methods. **No-** The agency used the job description provided by AFSCME of a “police identification technician” at the City of Portland (who this category was based off of). Also, we believe their primary duties do not involve police protection or corrections officer duties (despite some periods of custody of individuals).
 - F. Certified medicolegal death investigators- **No.** Their primary duties do not involve providing police protection or corrections officer services. They do not bring suspects into custody, perform arrests, or provide protection to persons or property, nor do they perform corrections officer duties.
 - G. Force protection officers and leaders employed by the Oregon Military Department- **Yes.** They provide police protection of people and property (both state and federal). Per the job description provided to us by AFSCME, they are authorized to take into custody (arrest) individuals who present a threat to the persons or property being protected.
4. Any other information you think could help the committee better understand the impacts of SB 1569.

All of our analyses are just that, analyses, and not binding on the federal government. As you can imagine, there is no guidance or rulings provided to states by the IRS on specific groups of employees if asked. There are both consequences to the plan, and consequences to individual PERS members if we add people to the definition of police officer who do not meet the federal definition.

Consequences to the plan: Tax exempt status relies on average retirement age. The federal government only recognizes “general service” and “public safety employee” retirement groups. We cannot deny a PERS member a retirement that is due to them under state statute. Therefore, if people who do not meet the federal definition retire at 55 (normal retirement age), they will be considered general service employees and drive down our average retirement age.

Age 60 has been identified as a “safe harbor” by the IRS for an acceptable average retirement age of general service employees (hence why the normal retirement age for Hazardous Position is 60). Going below that could result in the IRS stripping us of our tax-exempt status as a government sponsored retirement plan. Without tax exempt status, we would no longer be a retirement plan. We do not get “downgraded” to a private retirement plan. We would simply be a very large group of people with a very large investment fund. All investment income would become taxable. Taxation would begin of ALL PERS members’ benefits, even if they have not retired and cannot access their money. Members would owe tax on employer contributions, accrued earnings, and all vested benefits (again, no matter if they can currently access the money). Government retirement plans have protections under federal law that the plan would

also lose. These include: exemptions from ERISA rules, special funding rules, special (more generous) benefit limits, and special federal regulatory safe harbors.

Consequences to individual members: While we cannot provide tax advice to specific members, members who retire at age 55 as police & fire members from PERS, would still be considered "general service" members to the federal government. This *could* result in early retirement penalties from the federal government that the member was not aware of, and/or did not prepare for (usually a 10% penalty on the withdrawal).

Thank you for the opportunity to provide this information.

Sincerely,



Kevin Olineck
PERS Director