

House Bill 2281

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Public Employees Retirement System)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that member of Public Employees Retirement System may withdraw account held for member in system only if member withdraws all other member accounts in system that member is eligible to withdraw and withdraws from pension program of Oregon Public Service Retirement Plan if member is eligible to do so.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; amending ORS 238.105, 238.115, 238.265, 238.440, 238A.120
3 and 238A.375.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 238.265 is amended to read:

6 238.265. (1) Except as otherwise provided in this section, a member of the Public Employees
7 Retirement System may withdraw from the Public Employees Retirement Fund the amount credited
8 to the member account, if any, for the member if:

9 (a) The member is separated from all service with participating public employers;

10 (b) The member is separated from all service with employers who are treated as part of a par-
11 ticipating public employer's controlled group under the federal laws and rules governing the status
12 of the system and the fund as a qualified governmental retirement plan and trust;

13 (c) The member has not attained earliest service retirement age; and

14 (d) The separation from service is not by reason of death or disability.

15 (2) If a member wishes to withdraw the member account, if any, of the member under this sec-
16 tion, the member must transmit to the Public Employees Retirement Board a withdrawal request.
17 The board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn
18 amounts, if:

19 (a) The board determines that the separation is not a bona fide separation; or

20 (b) The member fails to remain absent from the service of all employers described in subsection
21 (1) of this section for at least one calendar month following the month in which the member sepa-
22 rates from service.

23 (3) If a member has contributed to the fund in each of five calendar years and has separated
24 from all service in the manner described in subsection (1) of this section before reaching earliest
25 service retirement age, the member may elect to withdraw the member account of the member under
26 this section at any time before reaching earliest service retirement age. If the inactive member does
27 not make an election to withdraw under this section, the member shall be paid the benefits or re-
28 tirement allowances described in ORS 238.425.

29 **(4) A member who is vested in the pension program established under ORS chapter 238A**
30 **and who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 **a member account under this section only if the member also withdraws from the pension**
 2 **program. A member who has an individual account or accounts in the individual account**
 3 **program established under ORS chapter 238A may withdraw a member account under this**
 4 **section only if the member also withdraws all individual accounts pursuant to ORS 238A.375.**
 5 **A member who has an account established under ORS 238.440 may withdraw a member ac-**
 6 **count under this section only if the member also withdraws the account established under**
 7 **ORS 238.440.**

8 [(4)] (5) Withdrawal of a member account under this section cancels all membership rights in the
 9 system, including the right to claim credit for any employment before withdrawal.

10 **SECTION 2.** ORS 238A.120 is amended to read:

11 238A.120. (1) A vested inactive member may withdraw from the pension program if:

12 (a) The actuarial equivalent of the member's benefit under the pension program at the time of
 13 withdrawal is \$5,000 or less; and

14 (b) The inactive member has separated from all service with participating public employers and
 15 with employers who are treated as part of a participating public employer's controlled group under
 16 the federal laws and rules governing the status of the system and the fund as a qualified govern-
 17 mental retirement plan and trust.

18 (2) Upon withdrawal under this section, the Public Employees Retirement Board shall pay the
 19 withdrawing member the actuarial equivalent of the member's benefit in a lump sum.

20 (3) If a vested inactive member withdraws from the pension program under this section and is
 21 thereafter reemployed by a participating public employer:

22 (a) The person may reestablish membership in the pension program only for the purpose of ser-
 23 vice performed after the person is reemployed; and

24 (b) Any service performed before the withdrawal may not be credited toward the period of ser-
 25 vice required by ORS 238A.100 or 238A.115 or toward the accrual of retirement credit under ORS
 26 238A.140, 238A.150 or 238A.155.

27 **(4) A member who has an individual account or accounts in the individual account pro-**
 28 **gram established under ORS 238A.025 may withdraw from the pension program under this**
 29 **section only if the member also withdraws all individual accounts pursuant to ORS 238A.375.**
 30 **A member who has a member account established under ORS chapter 238 may withdraw**
 31 **from the pension program under this section only if the member also withdraws that mem-**
 32 **ber account in the manner provided by ORS 238.265. A member who has an account estab-**
 33 **lished under ORS 238.440 may withdraw from the pension program under this section only**
 34 **if the member also withdraws the account established under ORS 238.440.**

35 [(4)] (5) For the purposes of this section, the actuarial equivalent of a member's benefit does not
 36 include any value attributable to adjustments to the benefit under ORS 238A.210.

37 **SECTION 3.** ORS 238A.375 is amended to read:

38 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-
 39 tribution of the amounts in the member's employee account, rollover account and employer account
 40 to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member
 41 has separated from all service with participating public employers and with employers who are
 42 treated as part of a participating public employer's controlled group under the federal laws and
 43 rules governing the status of the system and the fund as a qualified governmental retirement plan
 44 and trust.

45 (2) If an inactive member of the individual account program who is not vested in the employer

1 account receives a distribution under subsection (1) of this section, the employer account of the
2 member is permanently forfeited as of the date of the distribution.

3 **(3) A member may not make an election under this section for less than all of the**
4 **member's individual accounts described in ORS 238A.350 in which the member is vested.**

5 **(4) A member who is vested in the pension program established under this chapter and**
6 **who is eligible to withdraw from the pension program under ORS 238A.120 may make an**
7 **election under this section only if the member also withdraws from the pension program. A**
8 **member who has a member account established under ORS chapter 238 may make an**
9 **election under this section only if the member also withdraws that member account in the**
10 **manner provided by ORS 238.265. A member who has an account established under ORS**
11 **238.440 may make an election under this section only if the member also withdraws the ac-**
12 **count established under ORS 238.440.**

13 [(3)] **(5)** If an inactive member receives a distribution under subsection (1) of this section and is
14 subsequently reemployed by a participating public employer, any service performed before the date
15 the member became an inactive member may not be used toward the period of service required for
16 vesting in the employer account under ORS 238A.320.

17 **SECTION 4.** ORS 238.105 is amended to read:

18 238.105. **(1)** Whenever, within five years after the employee is separated from all service entitl-
19 ing the employee to membership in the system, an employee who has withdrawn the amount credited
20 to the member account of the member reenters the service of an employer participating in the sys-
21 tem, the employee's rights in the system that were forfeited by the withdrawal shall be restored
22 upon repaying to the board within one year after reentering the service of the employer, the full
23 amount so withdrawn together with the interest that would have been accumulated on the sum had
24 the amount not been withdrawn.

25 **(2) Restoration of rights under this section does not affect any forfeiture of rights of a**
26 **person by reason of:**

27 **(a) Withdrawal of an account established under ORS 238.440;**

28 **(b) Withdrawal from the pension program under ORS 238A.120; or**

29 **(c) Withdrawal of individual accounts pursuant to ORS 238A.375.**

30 **SECTION 5.** ORS 238.115 is amended to read:

31 238.115. **(1)(a)** A member of the system who, after separation from all service entitling the em-
32 ployee to membership in the system and withdrawal of the amount credited to the member account
33 of the member, reenters the service of an employer participating in the system and serves as an
34 active member of the system for 10 years after that reentry, and who has not otherwise obtained
35 restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full
36 month of creditable service forfeited by the withdrawal for each three full months of service as an
37 active member after that reentry if the member, within 90 days before the effective date of retire-
38 ment of the member:

39 **(A)** Applies in writing to the board for restoration of creditable service; and

40 **(B)** Pays to the board in a lump sum for credit to the member account of the member the amount
41 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
42 a year after the date of the withdrawal and before the effective date of retirement of the member.
43 The interest shall be computed at the annual rate of 7.5 percent.

44 **(b)** If a member who obtains restoration of creditable service as provided in this subsection does
45 not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after

1 reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to re-
 2 flect the percentage of creditable service restored.

3 (c) A member who obtains restoration of creditable service as provided in this subsection is not
 4 entitled to elect to receive the service retirement benefit described in ORS 238.305 (2) or (3).

5 (2) A member who forfeited creditable service rendered to a public employer before March 27,
 6 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the
 7 Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did
 8 not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws
 9 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member,
 10 before the effective date of retirement of the member:

11 (a) Applies in writing to the board for the restoration of the creditable service; and

12 (b) Pays to the board in a lump sum for credit to the member account of the member an amount
 13 determined by the board to be equal to the full amount of contributions so withdrawn and the in-
 14 terest that would have accumulated to the regular account of the member had those contributions
 15 not been withdrawn.

16 (3)(a) A member of the Public Employees Retirement System who was a member of an associ-
 17 ation established pursuant to ORS chapter 239 (1997 Edition), but separated from all service entitl-
 18 ing the employee to membership in the system of the association and withdrew the amount credited
 19 to the member account of the employee in the retirement fund of the association, and who, after that
 20 separation, entered the service of an employer in the field of education participating in the Public
 21 Employees Retirement System and served as an active member of that system for 10 years after that
 22 entry, and who has not otherwise obtained restoration of all creditable service forfeited by the
 23 withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System
 24 equal to all creditable service forfeited by the withdrawal if the member within 90 days before the
 25 effective date of retirement of the member:

26 (A) Applies in writing to the Public Employees Retirement Board for that creditable service; and

27 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
 28 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
 29 a year after the date of the withdrawal and before the effective date of retirement or effective date
 30 of application of the member. The interest shall be computed at the rate actually credited to regular
 31 accounts for that period.

32 (b) This subsection provides a method of obtaining creditable service for forfeited creditable
 33 service described in this subsection that is in lieu of any application of subsection (1) of this section
 34 for that purpose.

35 **(4) Restoration of creditable service under this section does not affect any forfeiture of**
 36 **rights of a person by reason of:**

37 **(a) Withdrawal of an account established under ORS 238.440;**

38 **(b) Withdrawal from the pension program under ORS 238A.120; or**

39 **(c) Withdrawal of individual accounts pursuant to ORS 238A.375.**

40 **SECTION 6.** ORS 238.440 is amended to read:

41 238.440. (1) A police officer or firefighter who is a member of the system may elect to make
 42 additional contributions to the fund to purchase increased benefits between the date of retirement
 43 and age 65. The rate of additional contribution shall be determined by the actuary, dependent upon
 44 the age of the police officer or firefighter at the date of election, so as to provide monthly payments
 45 on the basis of \$10 per unit of benefits purchased. No police officer or firefighter may elect to pur-

1 chase more than eight units. For each \$10 unit purchased by the police officer or firefighter, the
 2 employer shall purchase an equal \$10 unit. A police officer or firefighter who is retained until age
 3 65 shall receive a lump sum refund of the additional contributions made toward units purchased,
 4 plus interest thereon, but shall receive no benefits from the additional contributions by the employer
 5 for such units. If a police officer or firefighter retires after age 60 but prior to age 65, the units
 6 purchased by additional contributions shall provide increased monthly benefits based on life ex-
 7 pectancy, but the matching units purchased by the employer shall not, regardless of age, exceed \$10
 8 per month per unit purchased by the police officer or firefighter. If a police officer or firefighter is
 9 absent from the employment of a participating employer for any reason and because of such absence
 10 is unable to make monthly additional contributions, the benefits provided under this section shall
 11 be actuarially reduced upon the retirement of the police officer or firefighter. **The Public Employ-**
 12 **ees Retirement Board shall establish an account for each member who elects to make addi-**
 13 **tional contributions under this section and shall credit all contributions made by that**
 14 **member and interest on those contributions to the account.**

15 (2) Notwithstanding subsection (1) of this section, a police officer or firefighter who retires prior
 16 to age 60 may apply for and receive an actuarially reduced unit income commencing at any date
 17 between the date of early retirement and age 60, with monthly benefits payable for at least 60
 18 months or any other monthly formula in excess of 60 months but always terminating by age 65.
 19 Such a police officer or firefighter may elect to pay in a lump sum within the 60 days immediately
 20 preceding early retirement the contribution that the police officer or firefighter would have made
 21 to the [unit income] account had the police officer or firefighter worked to age 60.

22 (3) Any police officer or firefighter who elects to make additional contributions to purchase in-
 23 creased benefits may elect at any time before termination to cancel such election. Having once
 24 canceled such election, no police officer or firefighter shall be again permitted to make additional
 25 contributions.

26 (4) *[The additional contributions made by the police officer or firefighter under this section shall*
 27 *be refunded to the police officer or firefighter only when]* **A member may withdraw the amounts**
 28 **credited to the account established for the member under this section if:**

29 (a) The member is separated from all service with participating public employers; and

30 (b) The member is separated from all service with employers who are treated as part of a partici-
 31 pating public employer's controlled group under the federal laws and rules governing the status
 32 of the system and the fund as a qualified governmental retirement plan and trust.

33 **(5) A member who withdraws the amounts credited to the account established for the**
 34 **member pursuant to subsection (4) of this section may not thereafter make additional con-**
 35 **tributions under this section.**

36 *[(5)]* (6) A police officer or firefighter who has elected to make additional contributions under
 37 this section and who transfers to employment in which not entitled to make such additional contri-
 38 butions may retain the account established under subsection (1) of this section for five years imme-
 39 diately following such transfer by not requesting a withdrawal. If, at the end of the five-year period,
 40 the police officer or firefighter has not reached age 50, or has not returned to employment in which
 41 entitled to make additional contributions under this section, the election shall be canceled and the
 42 amount of the account established under subsection (1) of this section shall be refunded to the police
 43 officer or firefighter.

44 *[(6)]* (7) Any election to make additional contributions under this section and any cancellation
 45 of such election shall be submitted to the employer and to the board in writing.

