

B-Engrossed
House Bill 2284

Ordered by the Senate May 30
Including House Amendments dated February 23 and Senate Amendments
dated May 30

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.

Provides that person who is absent from service with public employer by reason of disciplinary action or other administrative action does not have break in service under Public Employees Retirement System if person challenges action and is subsequently reinstated pursuant to judgment, administrative order, settlement or other resolution of challenge and person accepts reinstatement or is employed by different public employer.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; and amending ORS 238A.025.

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

4 **SECTION 1.** ORS 238A.025 is amended to read:

5 238A.025. (1) The Oregon Public Service Retirement Plan is established. The purpose of the
6 Oregon Public Service Retirement Plan is to provide career public employees with a secure and fair
7 retirement income at an affordable, stable and predictable cost to the taxpayers. The Oregon Public
8 Service Retirement Plan is composed of a pension program and an individual account program. The
9 pension program and the individual account program are separate accounts for purposes of federal
10 income tax qualification, and the assets of each program must be held as part of the trust estab-
11 lished by ORS 238.660 for the exclusive benefit of the participants and beneficiaries. It is the intent
12 of the Legislative Assembly that pursuant to section 414(k) of the Internal Revenue Code the indi-
13 vidual account program be established and maintained as a tax-qualified defined contribution gov-
14 ernmental plan for the purposes of sections 72(d) and 415 of the Internal Revenue Code. The Public
15 Employees Retirement Board may create separate accounts within the Public Employees Retirement
16 Fund for the pension program and the individual account program.

17 (2) Notwithstanding any provision of ORS chapter 238, any person who is employed by a partic-
18 ipating public employer on or after August 29, 2003, and who has not established membership in
19 the Public Employees Retirement System before August 29, 2003, is entitled to receive only the
20 benefits provided under the Oregon Public Service Retirement Plan for periods of service with par-
21 ticipating public employers on and after August 29, 2003, and has no right or claim to any benefit
22 under ORS chapter 238 except as specifically provided by this chapter.

23 (3)(a) Any person who is an active member of the Public Employees Retirement System on Au-
24 gust 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service per-
25 formed before, on and after August 29, 2003, unless the person has a break in service on or after

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 August 29, 2003. If the person has a break in service on or after August 29, 2003, the person is en-
2 titled to receive the benefits provided by ORS chapter 238 for all creditable service performed before
3 the break in service, and the benefits provided under the Oregon Public Service Retirement Plan for
4 periods of service with participating public employers after the break in service.

5 (b) Except as provided in this subsection, a person has a break in service for the purposes of
6 this subsection if the person performs no service with a participating public employer in a qualifying
7 position for a period of six consecutive months.

8 (c) If a person leaves employment with a participating public employer for purposes that would
9 qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a break in ser-
10 vice for the purposes of this subsection only if the person performs no service with a participating
11 public employer in a qualifying position for a period of 12 consecutive months after leaving em-
12 ployment with the participating public employer.

13 (d) If a person leaves employment with a participating public employer for career development
14 purposes pursuant to written authorization of the participating public employer under a written
15 policy of the employer that applies generally to the class of employees to which the member belongs,
16 the person has a break in service for the purposes of this subsection only if the person performs no
17 service with a participating public employer in a qualifying position for a period of 12 consecutive
18 months after leaving employment with the participating public employer.

19 (e) A person does not have a break in service for the purposes of this subsection by reason of
20 any period of time during which the person leaves employment with a participating public employer
21 for the purpose of serving as a member of the Legislative Assembly during a legislative session.

22 (f) A person does not have a break in service for the purposes of this subsection by reason of
23 any period of time during which the person is absent from employment with a participating public
24 employer and receives a disability retirement allowance under ORS 238.320.

25 (g) A person does not have a break in service for the purposes of this subsection by reason of
26 any period of time during which the person leaves employment with a participating public employer
27 based on the seasonal nature of the person's employment as long as the person returns to employ-
28 ment with the public employer before the expiration of 12 full calendar months.

29 **(h) A person does not have a break in service for the purposes of this subsection by**
30 **reason of any period of time during which the person is absent from service with a partic-**
31 **ipating public employer by reason of a disciplinary action or other administrative action if:**

32 **(A) The person challenges the disciplinary action or other administrative action;**

33 **(B) A judgment, an administrative order, a settlement or other resolution of the chal-**
34 **lenge provides for the reinstatement of the person with the public employer; and**

35 **(C) The person either accepts reinstatement with the public employer, or is employed by**
36 **a different public employer, within one year after the judgment, order, settlement or other**
37 **resolution becomes effective.**

38 (4) A person establishes membership in the system before August 29, 2003, for the purposes of
39 this section if:

40 (a) The person is a member of the system, or a judge member of the system, on August 28, 2003;

41 or

42 (b) The person performed any period of service for a participating public employer before August
43 29, 2003, that is credited to the six-month period of employment required of an employee under ORS
44 238.015 before an employee may become a member of the system.

45 (5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public

1 Service Retirement Plan.

2 (6) The provisions of this section do not apply to a person elected or appointed as a judge as
3 defined in ORS 238.500.

4 **SECTION 2. The amendments to ORS 238A.025 by section 1 of this 2007 Act apply to any**
5 **period when a person is absent from service with a participating public employer by reason**
6 **of a disciplinary action or other administrative action, without regard to whether that period**
7 **occurs before, on or after the effective date of this 2007 Act.**

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