

# House Bill 2284

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 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.

## A BILL FOR AN ACT

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

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

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

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

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

(3)(a) Any person who is an active member of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003, unless the person has a break in service on or after August 29, 2003. If the person has a break in service on or after August 29, 2003, the person is entitled to receive the benefits provided by ORS chapter 238 for all creditable service performed before the break in service, and the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers after the break in service.

(b) Except as provided in this subsection, a person has a break in service for the purposes of

**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 this subsection if the person performs no service with a participating public employer in a qualifying  
 2 position for a period of six consecutive months.

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

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

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

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

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

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

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

28 **(B) The person is subsequently reinstated with the public employer pursuant to a judg-**  
 29 **ment, an administrative order, a settlement or other resolution of the challenge.**

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

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

34 (b) The person performed any period of service for a participating public employer before August  
 35 29, 2003, that is credited to the six-month period of employment required of an employee under ORS  
 36 238.015 before an employee may become a member of the system.

37 (5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public  
 38 Service Retirement Plan.

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

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