

SENATE AMENDMENTS TO RESOLVE CONFLICTS TO A-ENGROSSED HOUSE BILL 2285

By COMMITTEE ON RULES

June 18

1 On page 1 of the printed A-engrossed bill, line 4, before the period insert “, and section 2,
2 chapter ___, Oregon Laws 2007 (Enrolled House Bill 2284)”.

3 On page 3, after line 3, insert:

4 “**SECTION 1a. If House Bill 2284 becomes law, section 1 of this 2007 Act (amending ORS**
5 **238A.025) is repealed and ORS 238A.025, as amended by section 1, chapter ___, Oregon Laws**
6 **2007 (Enrolled House Bill 2284), is amended to read:**

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

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

25 “(3)[(a)] Any person who is [*an active*] a member of the Public Employees Retirement System on
26 August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service
27 performed before, on and after August 29, 2003, **unless the person’s membership in the system**
28 **is subsequently terminated under ORS 238.095**[, *unless the person has a break in service on or*
29 *after August 29, 2003*]. If the [*person has a break in service*] **person’s membership in the system**
30 **is terminated under ORS 238.095** on or after August 29, 2003, the person is entitled to receive [*the*
31 *benefits provided by ORS chapter 238 for all creditable service performed before the break in service,*
32 *and*] the benefits provided under the Oregon Public Service Retirement Plan for periods of service
33 with participating public employers after the [*break in service*] **termination of membership**.

34 “[*(b) Except as provided in this subsection, a person has a break in service for the purposes of this*
35 *subsection if the person performs no service with a participating public employer in a qualifying posi-*

1 tion for a period of six consecutive months.]

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

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

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

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

19 “[g] 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 based on the seasonal nature of the person’s employment as long as the person returns to employment
22 with the public employer before the expiration of 12 full calendar months.]

23 “[h] A person does not have a break in service for the purposes of this subsection by reason of
24 any period of time during which the person is absent from service with a participating public employer
25 by reason of a disciplinary action or other administrative action if:]

26 [(A) The person challenges the disciplinary action or other administrative action;]

27 [(B) A judgment, an administrative order, a settlement or other resolution of the challenge pro-
28 vides for the reinstatement of the person with the public employer; and]

29 [(C) The person either accepts reinstatement with the public employer, or is employed by a differ-
30 ent public employer, within one year after the judgment, order, settlement or other resolution becomes
31 effective.]

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

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

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

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

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

43 “**SECTION 1b. If House Bill 2284 becomes law, section 2, chapter ___, Oregon Laws 2007**
44 **(Enrolled House Bill 2284), is repealed.”.**

45 On page 6, after line 41, insert:

1 “**SECTION 6a.** If House Bill 2284 becomes law, section 6 of this 2007 Act is amended to read:
2 “**Sec. 6.** (1) The amendments to ORS 238A.025, 238A.165, 238A.305 and 243.800 and section 46b,
3 chapter 733, Oregon Laws 2003, by sections [1] 1a, 2, 3, 4 and 5 of this 2007 Act, and the repeal of
4 ORS 238.180 and 238A.157 and section 2a, chapter 733, Oregon Laws 2003, by section 7 of this 2007
5 Act, apply to all service by members of the Public Employees Retirement System, whether performed
6 before, on or after August 29, 2003.
7 “(2) As soon as possible after the effective date of this 2007 Act, the Public Employees Retire-
8 ment Board shall recalculate the benefits of any person who retired before the effective date of this
9 2007 Act if the benefits of the person were affected by the application of ORS 238A.025, as in effect
10 immediately before the effective date of this 2007 Act.
11 “(3) As soon as possible after the effective date of this 2007 Act, the Public Employees Retire-
12 ment Board shall adjust the service credit of any active or inactive member who was affected by the
13 application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act.
14 “(4) As soon as possible after the effective date of this 2007 Act, the Public Employees Retire-
15 ment Board shall adjust contributions and account balances of the individual accounts described in
16 ORS 238A.350 for any active or inactive member who was affected by the application of ORS
17 238A.025, as in effect immediately before the effective date of this 2007 Act. The board may refund
18 contributions, or require additional contributions, for adjustments to account balances made under
19 this subsection.”.
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