

House Bill 3451

Sponsored by Representative BUTLER; Representative SCHAUFLEER (at the request of Oregon School Boards Association)

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**.

Modifies manner in which retirement credit is calculated under Oregon Public Service Retirement Plan. Provides that pension program members accrue one-twelfth of year of retirement credit for month in which member performs 50 or more hours of service.

Provides that members of Public Employees Retirement System entitled to receive benefits under ORS chapter 238 accrue month of creditable service for month in which member has 50 or more hours of creditable service.

Applies to all service by members of system, whether performed before, on or after effective date of Act.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; and amending ORS 238.005, 238.300,
3 238.535, 238A.140 and 238A.142.

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

5 **SECTION 1.** ORS 238A.140 is amended to read:

6 238A.140. *[(1) A pension program member shall accrue no retirement credit for any calendar year*
7 *in which the member has fewer than 600 hours of service. A member may not accrue more than one*
8 *full year of retirement credit in any calendar year.]*

9 **(1) A pension program member accrues one-twelfth of a year of retirement credit for**
10 **each month in which the member is an active member of the program and performs 50 or**
11 **more hours of service. A pension program member receives no retirement credit for any**
12 **hour of service for which benefits under this chapter are not funded by employer contribu-**
13 **tions and earnings on the fund.**

14 **(2) A member who is a school employee accrues six months of retirement credit if the**
15 **member is employed during a calendar year for the full period during which the school or**
16 **other institution where the member is employed is normally in session.**

17 *[(2)]* **(3)** When an eligible employee becomes a member under ORS 238A.100, the board shall
18 credit the eligible employee with retirement credit for the period of employment required of the
19 employee under ORS 238A.100.

20 *[(3) Except as provided in this section, a pension program member shall accrue one full year of*
21 *retirement credit for each calendar year in which the member has 2,000 hours of service or more.]*

22 *[(4) Except as provided in this section, a pension program member shall accrue a prorated year*
23 *of retirement credit for each calendar year in which the member has 600 hours of service or more but*
24 *fewer than 2,000 hours of service. The prorated retirement credit shall be calculated by dividing the*
25 *number of hours of service by 2,000.]*

26 *[(5) If an active member of the pension program works as a school employee for one or more par-*
27 *ticipating public employers during a calendar year, and the number of hours of service required for a*

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 *full-time school employee employed by the participating public employer or employers is less than 2,000,*
 2 *the member accrues retirement credit for the calendar year as follows:]*

3 *[(a) The member accrues one full year of retirement credit for the calendar year if the member's*
 4 *hours of service as a school employee are equal to or greater than the number of hours of service re-*
 5 *quired of a full-time school employee employed in the same position or a comparable position by the*
 6 *participating public employer or employers during the calendar year.]*

7 *[(b) The member accrues a prorated year of retirement credit for each calendar year in which the*
 8 *member has at least 600 hours of service but less than the number of hours of service required of a*
 9 *full-time school employee employed in the same position or a comparable position by the participating*
 10 *public employer or employers during the calendar year. The prorated retirement credit shall be calcu-*
 11 *lated by dividing the number of the member's hours of service as a school employee by the number of*
 12 *hours of service required of a full-time school employee in the same position or a comparable*
 13 *position.]*

14 *[(c) The Public Employees Retirement Board shall adopt rules governing the accrual of retirement*
 15 *credit on a prorated basis by an active member who works in both a school employee position and*
 16 *another qualifying position during the same calendar year, or who works as a school employee for more*
 17 *than one participating public employer during the same calendar year.]*

18 *[(6) An active member of the pension program who works as an academic employee of a community*
 19 *college during a calendar year:]*

20 *[(a) Accrues one full year of retirement credit for the calendar year if the member is employed 1.0*
 21 *full-time equivalent on a nine-month or 12-month basis.]*

22 *[(b) Accrues a prorated year of retirement credit for each calendar year in which the member per-*
 23 *forms the services of less than 1.0 full-time equivalent. The member is entitled to prorated retirement*
 24 *credit under this paragraph in an amount determined by dividing by 1,200 the number of hours cal-*
 25 *culated to be the equivalent of the percentage in excess of 0.375 full-time equivalent for a member em-*
 26 *ployed on a 12-month basis, or in excess of 0.50 full-time equivalent for a member employed on a*
 27 *nine-month basis.]*

28 [(7)] (4) For purposes of this section, "school employee" means:

29 (a) A person who is employed by a common school district, a union high school district or an
 30 education service district;

31 (b) An employee of the State Board of Higher Education [*or the Oregon Health and Science*
 32 *University*] who is engaged in teaching or other school activity at an institution of higher education;
 33 **and**

34 (c) An employee of the Department of Human Services, the Oregon Youth Authority, the De-
 35 partment of Corrections or the State Board of Education who is engaged in teaching or other school
 36 activity at an institution supervised by the authority, board or department.[: *and*]

37 [(d) *An employee of a community college district other than an academic employee.*]

38 **SECTION 2.** ORS 238.005 is amended to read:

39 238.005. For purposes of this chapter:

40 (1) "Annuity" means payments for life derived from contributions made by a member as provided
 41 in this chapter.

42 (2) "Board" means the Public Employees Retirement Board.

43 (3) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
 44 cember 31 following.

45 (4) "Continuous service" means service not interrupted for more than five years, except that

1 such continuous service shall be computed without regard to interruptions in the case of:

2 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
 3 who remained in that employment until having established membership in the Public Employees
 4 Retirement System.

5 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
 6 of the employer within one year of the date of being otherwise than dishonorably discharged and
 7 remained in that employment until having established membership in the Public Employees Retirement
 8 System.

9 (5) "Creditable service" means any period of time during which an active member is being paid
 10 a salary by a participating public employer and for which benefits under this chapter are funded by
 11 employer contributions and earnings on the fund. For purposes of computing years of ["creditable
 12 service,]" *full months and major fractions of a month shall be* **each month in which a member has**
 13 **50 or more hours of creditable service is** considered to be one-twelfth of a year [*and shall be*
 14 *added to all full years*]. "Creditable service" includes all retirement credit received by a member.

15 (6) "Earliest service retirement age" means the age attained by a member when the member
 16 could first make application for retirement under the provisions of ORS 238.280.

17 (7) "Employee" includes, in addition to employees, public officers, but does not include:

18 (a) Persons engaged as independent contractors.

19 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
 20 ployer or public employers do not total 600 hours in any calendar year.

21 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
 22 vided sheltered employment or made-work by a public employer in an employment or industries
 23 program maintained for the benefit of such persons.

24 (d) Persons employed and paid from federal funds received under the Emergency Job and Un-
 25 employment Assistance Act of 1974 (Public Law 93-567) or any other federal program intended pri-
 26 marily to alleviate unemployment. However, any such person shall be considered an "employee" if
 27 not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to
 28 have the person so considered by an irrevocable written notice to the board.

29 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
 30 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
 31 shall be deemed to have been in effect since the inception of the system.

32 (8) "Final average salary" means whichever of the following is greater:

33 (a) The average salary per calendar year paid by one or more participating public employers to
 34 an employee who is an active member of the system in three of the calendar years of membership
 35 before the effective date of retirement of the employee, in which three years the employee was paid
 36 the highest salary. The three calendar years in which the employee was paid the largest total salary
 37 may include calendar years in which the employee was employed for less than a full calendar year.
 38 If the number of calendar years of active membership before the effective date of retirement of the
 39 employee is three or fewer, the final average salary for the employee is the average salary per cal-
 40 endar year paid by one or more participating public employers to the employee in all of those years,
 41 without regard to whether the employee was employed for the full calendar year.

42 (b) One-third of the total salary paid by a participating public employer to an employee who is
 43 an active member of the system in the last 36 calendar months of active membership before the ef-
 44 fective date of retirement of the employee.

45 (9) "Firefighter" does not include a volunteer firefighter, but does include:

1 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and

2 (b) An employee of the State Forestry Department who is certified by the State Forester as a
3 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
4 fires as described in ORS 477.064.

5 (10) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
6 lowing.

7 (11) "Fund" means the Public Employees Retirement Fund.

8 (12)(a) "Member" means a person who has established membership in the system and whose
9 membership has not been terminated as described in ORS 238.095. "Member" includes active, inac-
10 tive and retired members.

11 (b) "Active member" means a member who is presently employed by a participating public em-
12 ployer in a qualifying position and who has completed the six-month period of service required by
13 ORS 238.015.

14 (c) "Inactive member" means a member who is not employed in a qualifying position, whose
15 membership has not been terminated in the manner described by ORS 238.095, and who is not retired
16 for service or disability.

17 (d) "Retired member" means a member who is retired for service or disability.

18 (13)(a) "Member account" means the regular account and the variable account.

19 (b) "Regular account" means the account established for each active and inactive member under
20 ORS 238.250.

21 (c) "Variable account" means the account established for a member who participates in the
22 Variable Annuity Account under ORS 238.260.

23 (14) "Normal retirement age" means:

24 (a) For a person who establishes membership in the system before January 1, 1996, as described
25 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
26 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

27 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
28 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
29 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
30 firefighter.

31 (15) "Pension" means annual payments for life derived from contributions by one or more public
32 employers.

33 (16) "Police officer" includes:

34 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
35 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
36 persons committed to the custody of or transferred to the Department of Corrections and employees
37 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
38 whether or not such classification was authorized by law.

39 (b) Employees of the Department of State Police who are classified as police officers by the
40 Superintendent of State Police.

41 (c) Employees of the Oregon Liquor Control Commission who are classified as enforcement of-
42 ficers by the administrator of the commission.

43 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
44 by the sheriff, are the regular duties of police officers or corrections officers.

45 (e) Police chiefs and police personnel of a city who are classified as police officers by the

1 council or other governing body of the city.

2 (f) Parole and probation officers employed by the Department of Corrections, parole and pro-
3 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
4 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes
5 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
6 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
7 ented by a labor organization, any proposal by the county to change that classification or to cease
8 to classify adult parole and probation officers as police officers for the purposes of this chapter is
9 a mandatory subject of bargaining.

10 (g) Police officers appointed under ORS 276.021 or 276.023.

11 (h) Employees of the Port of Portland who are classified as airport police by the Board of
12 Commissioners of the Port of Portland.

13 (i) Employees of the State Department of Agriculture who are classified as livestock police of-
14 ficers by the Director of Agriculture.

15 (j) Employees of the Department of Public Safety Standards and Training who are classified by
16 the department as other than secretarial or clerical personnel.

17 (k) Investigators of the Criminal Justice Division of the Department of Justice.

18 (L) Corrections officers as defined in ORS 181.610.

19 (m) Employees of the Oregon State Lottery Commission who are classified by the Director of the
20 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

21 (n) The Director of the Department of Corrections.

22 (o) An employee who for seven consecutive years has been classified as a police officer as de-
23 fined by this section, and who is employed or transferred by the Department of Corrections to fill
24 a position designated by the Director of the Department of Corrections as being eligible for police
25 officer status.

26 (p) An employee of the Department of Corrections classified as a police officer on or prior to
27 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
28 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
29 tem implemented pursuant to ORS 240.190 does not affect police officer status.

30 (q) Employees of a school district who are appointed and duly sworn members of a law
31 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
32 police officers commissioned by the district.

33 (r) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
34 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
35 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
36 Department of Corrections or the Oregon Youth Authority.

37 (s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
38 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
39 in such facilities.

40 (t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation
41 officers.

42 (17) "Public employer" means the state, one of its agencies, any city, county, or municipal or
43 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
44 created by one or more such governmental organizations to provide governmental services. For
45 purposes of this chapter, such agency created by one or more governmental organizations is a gov-

1 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
 2 sue and be sued.

3 (18) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
 4 to (6) (1999 Edition).

5 (19) "Qualifying position" means one or more jobs with one or more participating public em-
 6 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
 7 any service in a job for which a participating public employer does not provide benefits under this
 8 chapter pursuant to an application made under ORS 238.035.

9 (20) "Retirement credit" means a period of time that is treated as creditable service for the
 10 purposes of this chapter.

11 (21)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
 12 employer in return for services to the employer, plus the monetary value, as determined by the
 13 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
 14 other advantages the employer furnishes the employee in return for services.

15 (b) "Salary" includes but is not limited to:

16 (A) Payments of employee and employer money into a deferred compensation plan, which are
 17 deemed salary paid in each month of deferral;

18 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
 19 paid in each month of participation;

20 (C) Retroactive payments made to an employee to correct a clerical error or pursuant to an
 21 award by a court or by order of or a conciliation agreement with an administration agency charged
 22 with enforcing federal or state law protecting the employee's rights to employment or wages, which
 23 shall be allocated to and deemed paid in the periods in which the work was done or in which it
 24 would have been done; and

25 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
 26 652.190.

27 (c) "Salary" or "other advantages" does not include:

28 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
 29 employer;

30 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
 31 dependents, for which the employee has no cash option;

32 (C) Payments made on account of an employee's death;

33 (D) Any lump sum payment for accumulated unused sick leave;

34 (E) Any accelerated payment of an employment contract for a future period or an advance
 35 against future wages;

36 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
 37 gratuitous payment;

38 (G) Payments for periods of leave of absence after the date the employer and employee have
 39 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
 40 sick leave and vacation;

41 (H) Payments for instructional services rendered to institutions of the Department of Higher
 42 Education or the Oregon Health and Science University when such services are in excess of full-
 43 time employment subject to this chapter. A person employed under a contract for less than 12
 44 months is subject to this subparagraph only for the months to which the contract pertains; or

45 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an

1 employee.

2 (22) "School year" means the period beginning July 1 and ending June 30 next following.

3 (23) "System" means the Public Employees Retirement System.

4 (24) "Vested" means being an active member of the system in each of five calendar years.

5 (25) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
6 hours of service per year.

7 **SECTION 3.** ORS 238.300 is amended to read:

8 238.300. Upon retiring from service at normal retirement age or thereafter, a member of the
9 system shall receive a service retirement allowance which shall consist of the following annuity and
10 pensions:

11 (1) A refund annuity which shall be the actuarial equivalent of accumulated contributions, if
12 any, by the member and interest thereon credited at the time of retirement, which annuity shall
13 provide an allowance payable during the life of the member and at death a lump sum equal in
14 amount to the difference between accumulated contributions at the time of retirement and the sum
15 of the annuity payments actually made to the member during life shall be paid to such person, if any,
16 as the member nominates by written designation duly acknowledged and filed with the board or shall
17 otherwise be paid according to the provisions of this chapter for disposal of an amount credited to
18 the member account of a member at the time of death in the event the member designates no ben-
19 eficiary to receive the amount or no such beneficiary is able to receive the amount. If death of the
20 member occurs before the first payment is due, the member account of the member shall be treated
21 as though death had occurred before retirement.

22 (2)(a) A life pension (nonrefund) for current service provided by the contributions of employers,
23 which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added
24 to the sum of the annuity, if any, under subsection (1) of this section and the annuity, if any, pro-
25 vided on the same basis and payable from the Variable Annuity Account, both annuities considered
26 on a refund basis, results in a total of:

27 (A) For service as a police officer or firefighter, two percent of final average salary multiplied
28 by the number of years of membership in the system as a police officer or firefighter before the ef-
29 fective date of retirement.

30 (B) For service as other than a police officer or firefighter, including service as a member of the
31 Legislative Assembly, 1.67 percent of final average salary multiplied by the number of years of
32 membership in the system as other than a police officer or firefighter before the effective date of
33 retirement.

34 (b) A pension under this subsection shall be at least:

35 (A) For a member who first establishes membership in the system before July 1, 2003, the
36 actuarial equivalent of the annuity provided by the accumulated contributions of the member. A
37 person establishes membership in the system before July 1, 2003, for the purposes of this subpara-
38 graph if:

39 (i) The person is a member of the system, or a judge member of the system, on the day imme-
40 diately before July 1, 2003; or

41 (ii) The person performed any period of service for a participating public employer before July
42 1, 2003, that is credited to the six-month period of employment required of an employee under ORS
43 238.015 before an employee may become a member of the system.

44 (B) For a member who made contributions before August 21, 1981, the equivalent of a pension
45 computed pursuant to this subsection as it existed immediately before that date.

1 (c) As used in this subsection, “number of years of membership” means the number of full years
 2 of creditable service plus any remaining fraction of a year of creditable service. Except as other-
 3 wise provided in this paragraph, in determining a remaining fraction, *[a full month shall be]* **each**
 4 **month in which a member has 50 or more hours of creditable service is** considered *[as]* **to be**
 5 one-twelfth of a year *[and a major fraction of a month shall be considered as a full month]*. Mem-
 6 bership of a school district employee, an employee of the State Board of Higher Education engaged
 7 in teaching or other school activity at an institution of higher education or an employee of the
 8 Department of Human Services, the Oregon Youth Authority, the Department of Corrections or the
 9 State Board of Education engaged in teaching or other school activity at an institution supervised
 10 by the authority, board or department, for all portions of a school year in a calendar year in which
 11 the district school, institution of higher education or school activity at an institution so supervised
 12 in which the member is employed is normally in session shall be considered as a full one-half year
 13 of membership. The number of years of membership of a member who received a refund of contri-
 14 butions as provided in ORS 237.976 (2) is limited to the number of years after the day before the date
 15 on which the refund was received. The number of years of membership of a member who is sepa-
 16 rated, for any reason other than death or disability, from all service entitling the member to mem-
 17 bership in the system, who withdraws the amount credited to the member account of the member in
 18 the fund during absence from such service and who thereafter reenters the service of an employer
 19 participating in the system but does not repay the amount so withdrawn as provided in this chapter,
 20 is limited to the number of years after the day before the date of so reentering.

21 (3) An additional life pension (nonrefund) for prior service credit, including military service,
 22 credited to the member at the time of first becoming a member of the system, as elsewhere provided
 23 in this chapter, which pension shall be provided by the contributions of the employer.

24 **SECTION 4.** ORS 238.535 is amended to read:

25 238.535. (1) Prior to attaining 60 years of age, all judge members shall elect in writing to retire
 26 under either paragraph (a) or (b) of this subsection. The election shall be irrevocable after the judge
 27 member attains 60 years of age. Any judge member who fails to make the election provided for in
 28 this subsection prior to attaining 60 years of age shall be retired under the provisions of paragraph
 29 (a) of this subsection.

30 (a) Upon retiring from service as a judge at the age of 65 years or thereafter, a judge member
 31 who has made contributions to the Public Employees Retirement Fund during each of five calendar
 32 years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund)
 33 provided by the contributions of the judge member and the state in an annual amount equal to
 34 2.8125 percent of final average annual salary multiplied by the number of years of service as a judge
 35 not exceeding 16 years of service as a judge and 1.67 percent of final average salary multiplied by
 36 the number of years of service as a judge exceeding 16 years of service as a judge, but the annual
 37 amount shall not exceed 65 percent of final average salary.

38 (b) Upon retiring from service as a judge at the age of 60 years or thereafter, a judge member
 39 who has made contributions to the Public Employees Retirement Fund during each of five calendar
 40 years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund)
 41 provided by the contributions of the judge member and the state in an annual amount equal to 3.75
 42 percent of final average salary multiplied by the number of years of service as a judge not exceeding
 43 16 years of service as a judge and two percent of final average salary multiplied by the number of
 44 years of service as a judge exceeding 16 years of service as a judge, but the annual amount shall
 45 not exceed 75 percent of final average salary.

1 (c) Any judge member electing to retire under paragraph (b) of this subsection shall serve as a
 2 pro tem judge, without compensation, for 35 days per year for a period of five years. A judge who
 3 serves more than 35 days per year may carry over the additional days to fulfill the pro tem service
 4 obligation in future years. The five-year period shall commence on the judge member's date of re-
 5 tirement or the date on which the judge member commences pro tem service under ORS 238.545 (4),
 6 whichever is earlier. Judge members may be reimbursed for expenses incurred in providing pro tem
 7 services under this paragraph. Upon certification from the Chief Justice that any judge member who
 8 retired under paragraph (b) of this subsection has failed to perform the pro tem services required
 9 under this paragraph, and has not been relieved of the obligations to perform those services in the
 10 manner provided by this paragraph, the Public Employees Retirement Board shall recalculate the
 11 service retirement allowance of the noncomplying judge member as though the judge member elected
 12 to retire under paragraph (a) of this subsection, and the noncomplying judge member shall receive
 13 only that recalculated amount thereafter. A judge may be relieved of the pro tem service obligation
 14 imposed by this paragraph if the judge fails for good cause to complete the obligation. A retired
 15 judge member who is relieved of the obligation to serve as a pro tem judge shall continue to receive
 16 the retirement allowance provided in paragraph (b) of this subsection.

17 (d) For the purpose of paragraph (c) of this subsection:

18 (A) "Good cause" includes, but is not limited to:

19 (i) Physical or mental incapacitation of a judge that prevents the judge from discharging the
 20 duties of judicial office;

21 (ii) Failure of the appointing authority to assign a judge to the requisite amount of pro tem
 22 service, whether because of insufficient need for pro tem judges, a determination by the appointing
 23 authority that the skills of a judge do not match the needs of the courts, clerical mistake, or oth-
 24 erwise; or

25 (iii) Death of a judge.

26 (B) "Good cause" does not include:

27 (i) A judge's refusal, without good cause, to accept pro tem assignments sufficient to meet the
 28 required amount; or

29 (ii) A judge's affirmative voluntary act that makes the judge unqualified to serve as a judge of
 30 this state including, but not limited to, failure to maintain active membership in the Oregon State
 31 Bar, acceptance of a position in another branch of state government, or acceptance of a position in
 32 the Government of the United States or of another state or nation.

33 (e) The Chief Justice may make rules for the implementation of this subsection.

34 (2) As used in subsection (1) of this section, "final average salary" means whichever of the fol-
 35 lowing is greater:

36 (a) The average salary per calendar year paid to a judge member in three of the calendar years
 37 of service as a judge before the judge member retires, in which three years the judge member was
 38 paid the highest salary.

39 (b) One-third of the total salary paid to a judge member in the last 36 calendar months of service
 40 as a judge before the judge member retires.

41 (3) As used in subsection (1) of this section, "number of years of service" means the number of
 42 full years plus any remaining fraction of a year. In determining a remaining fraction, [*a full month*
 43 *shall be*] **each month in which a judge member has 50 or more hours of creditable service is**
 44 **considered [as] to be** one-twelfth of a year [*and a major fraction of a month shall be considered as*
 45 *a full month*].

1 (4) For a judge who elects to become a judge member as provided in ORS 237.215 (3) (1989
2 Edition), the service retirement allowance under subsection (1) of this section on retirement at the
3 age of 70 years and either 12 years of service or two full six-year terms as a judge shall be at least
4 the equivalent of the retirement pay the judge would have received had the judge retired under ORS
5 1.314 to 1.390 (1989 Edition).

6 (5) A judge member who has made contributions to the Public Employees Retirement Fund dur-
7 ing each of five calendar years and who attains the age of 60 years shall be retired upon written
8 application by the judge member to the board on a reduced service retirement allowance that shall
9 be the actuarial equivalent of the service retirement allowance provided for in subsection (1)(a) of
10 this section.

11 (6) For the purposes of this section, a judge who elects to become a judge member as provided
12 in ORS 237.215 (3) (1989 Edition) shall be considered to have made contributions to the Public Em-
13 ployees Retirement Fund during one calendar year for each calendar year during which the judge
14 made contributions to the Judges' Retirement Fund.

15 (7)(a) Notwithstanding subsection (1)(a) of this section, the maximum percentage used in calcu-
16 lating the annual amount of the life pension (nonrefund) for a judge who is a judge member on
17 September 27, 1987, or who elected to become a judge member in the manner provided by ORS
18 237.215 (3)(b) or (4)(b) (1989 Edition), shall be the percentage specified by paragraph (b) of this sub-
19 section if either:

20 (A) On September 27, 1987, the judge had more than 28 years of service that were creditable
21 either under the system; or

22 (B) On September 27, 1987, the judge had more than 28 years of service that were creditable
23 under the Judges' Retirement Fund established pursuant to ORS 1.314 to 1.390 (1989 Edition) and
24 the judge became a member of the system under the provisions of ORS 237.215 (3)(b) (1989 Edition).

25 (b) The maximum percentage used in calculating the annual amount of the life pension
26 (nonrefund) of a judge member who meets the requirements of paragraph (a) of this subsection shall
27 not exceed 45 percent plus 1.67 percent multiplied by the number of years of service as a judge that
28 exceed 16 years and that were served on or before September 27, 1987.

29 (c) In computing the annual amount of the life pension of a judge who meets the requirements
30 of paragraph (a) of this subsection, the board shall use the percentage specified by paragraph (b)
31 of this subsection and the final average salary of the judge computed on the date of retirement, not
32 the final average salary of the judge computed as of September 27, 1987. In making the computation
33 under this subsection, the board shall use the definition of "final average salary" provided by ORS
34 238.535 as amended by section 2, chapter 625, Oregon Laws 1987.

35 **SECTION 5.** ORS 238A.142 is amended to read:

36 238A.142. (1) Subject to ORS 238A.140 [(6)] (2), an academic employee of a community college
37 who during a calendar year is employed 0.375 full-time equivalent on a 12-month basis, or is em-
38 ployed 0.50 full-time equivalent on a nine-month basis, is considered to have performed 600 hours
39 of service in the calendar year for all purposes under this chapter.

40 (2) Subject to ORS 238A.140 [(6)] (2), an academic employee of a community college who during
41 a calendar year is employed 1.0 full-time equivalent on a nine-month or 12-month basis is considered
42 to have performed 1,200 hours of service in the calendar year for all purposes under this chapter.

43 (3) The governing body of a community college shall determine the duties of an academic em-
44 ployee of the community college that constitute a full-time equivalent in any discipline or academic
45 activity for the purposes of this section.

1 **SECTION 6.** The amendments to ORS 238.005, 238.300, 238.535, 238A.140 and 238A.142 by
2 sections 1, 2, 3, 4 and 5 of this 2007 Act apply to all service by members of the Public Em-
3 ployees Retirement System, whether performed before, on or after the effective date of this
4 2007 Act.

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