

Senate Bill 478

Sponsored by Senator WALKER

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 judge member of Public Employees Retirement System may not be required to remain resident of Oregon as condition of retirement under option requiring 35 days of pro tem service for five years.

A BILL FOR AN ACT

1
2 Relating to judges' retirement; amending ORS 238.535.

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

4 **SECTION 1.** ORS 238.535 is amended to read:

5 238.535. (1) Prior to attaining 60 years of age, all judge members shall elect in writing to retire
6 under either paragraph (a) or (b) of this subsection. The election shall be irrevocable after the judge
7 member attains 60 years of age. Any judge member who fails to make the election provided for in
8 this subsection prior to attaining 60 years of age shall be retired under the provisions of paragraph
9 (a) of this subsection.

10 (a) Upon retiring from service as a judge at the age of 65 years or thereafter, a judge member
11 who has made contributions to the Public Employees Retirement Fund during each of five calendar
12 years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund)
13 provided by the contributions of the judge member and the state in an annual amount equal to
14 2.8125 percent of final average annual salary multiplied by the number of years of service as a judge
15 not exceeding 16 years of service as a judge and 1.67 percent of final average salary multiplied by
16 the number of years of service as a judge exceeding 16 years of service as a judge, but the annual
17 amount shall not exceed 65 percent of final average salary.

18 (b) Upon retiring from service as a judge at the age of 60 years or thereafter, a judge member
19 who has made contributions to the Public Employees Retirement Fund during each of five calendar
20 years shall receive as a service retirement allowance, payable monthly, a life pension (nonrefund)
21 provided by the contributions of the judge member and the state in an annual amount equal to 3.75
22 percent of final average salary multiplied by the number of years of service as a judge not exceeding
23 16 years of service as a judge and two percent of final average salary multiplied by the number of
24 years of service as a judge exceeding 16 years of service as a judge, but the annual amount shall
25 not exceed 75 percent of final average salary.

26 (c) Any judge member electing to retire under paragraph (b) of this subsection shall serve as a
27 pro tem judge, without compensation, for 35 days per year for a period of five years. A judge who
28 serves more than 35 days per year may carry over the additional days to fulfill the pro tem service
29 obligation in future years. The five-year period shall commence on the judge member's date of re-
30 tirement or the date on which the judge member commences pro tem service under ORS 238.545 (4),
31 whichever is earlier. Judge members may be reimbursed for expenses incurred in providing pro tem

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 services under this paragraph. **A judge member may not be required to remain a resident of**
2 **this state as a condition of retirement under paragraph (b) of this subsection.** Upon certif-
3 ication from the Chief Justice that any judge member who retired under paragraph (b) of this sub-
4 section has failed to perform the pro tem services required under this paragraph, and has not been
5 relieved of the obligations to perform those services in the manner provided by this paragraph, the
6 Public Employees Retirement Board shall recalculate the service retirement allowance of the non-
7 complying judge member as though the judge member elected to retire under paragraph (a) of this
8 subsection, and the noncomplying judge member shall receive only that recalculated amount there-
9 after. A judge may be relieved of the pro tem service obligation imposed by this paragraph if the
10 judge fails for good cause to complete the obligation. A retired judge member who is relieved of the
11 obligation to serve as a pro tem judge shall continue to receive the retirement allowance provided
12 in paragraph (b) of this subsection.

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

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

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

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

21 (iii) Death of a judge.

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

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

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

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

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

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

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

37 (3) As used in subsection (1) of this section, "number of years of service" means the number of
38 full years plus any remaining fraction of a year. In determining a remaining fraction, a full month
39 shall be considered as one-twelfth of a year and a major fraction of a month shall be considered as
40 a full month.

41 (4) For a judge who elects to become a judge member as provided in ORS 237.215 (3) (1989
42 Edition), the service retirement allowance under subsection (1) of this section on retirement at the
43 age of 70 years and either 12 years of service or two full six-year terms as a judge shall be at least
44 the equivalent of the retirement pay the judge would have received had the judge retired under ORS
45 1.314 to 1.390 (1989 Edition).

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

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

10 (7)(a) Notwithstanding subsection (1)(a) of this section, the maximum percentage used in calcu-
11 lating the annual amount of the life pension (nonrefund) for a judge who is a judge member on
12 September 27, 1987, or who elected to become a judge member in the manner provided by ORS
13 237.215 (3)(b) or (4)(b) (1989 Edition), shall be the percentage specified by paragraph (b) of this sub-
14 section if either:

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

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

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

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

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