

SENATE AMENDMENTS TO SENATE BILL 897

By COMMITTEE ON RULES

June 11

- 1 On page 1 of the printed bill, line 2, delete “238.630,”.
- 2 In line 3, delete “, 238A.050, 283.706 and 293.711” and insert “and 238A.050”.
- 3 Delete lines 8 through 24 and insert:
- 4 “**SECTION 1.** ORS 238.640 is amended to read:
- 5 “238.640. (1) All members of the Public Employees Retirement Board must be at least 21 years
- 6 of age, be citizens of the United States and have been residents of the state for at least two years
- 7 immediately preceding appointment to the board.
- 8 “(2) One member of the board must be:
- 9 “(a) An employee of the state in a management position at the time of appointment and
- 10 throughout the term of appointment; or
- 11 “(b) A person who holds an elective office, by election or appointment, in the governing body
- 12 of a participating public employer, other than the state.
- 13 “(3) One member **of the board** must be **either**:
- 14 “**(a) A retired member of the Public Employees Retirement System who retired from a**
- 15 **position in an appropriate bargaining unit as defined in ORS 243.650; or**
- 16 “**(b) A public employee, as defined in ORS 243.650, who is in an appropriate bargaining unit, as**
- 17 **defined in ORS 243.650, and who has an exclusive representative at the time of the member’s ap-**
- 18 **pointment and throughout the term of the member. Membership on the board does not affect the**
- 19 **status of the person as a public employee, as defined in ORS 243.650.**
- 20 “(4) Three members of the board must have experience in business management, pension man-
- 21 agement or investing. A member appointed under this subsection may not be a member of the Public
- 22 Employees Retirement System or a beneficiary of a member of the system, and may not have any
- 23 interest in benefits provided by the system.
- 24 “(5) Notwithstanding the qualifications established for members of the board under this section,
- 25 all members of the board have the same fiduciary duties and must exercise the same degree of in-
- 26 dependent judgment.
- 27 “(6) Any vacancy on the board shall be filled by appointment for the unexpired term of the
- 28 member replaced. Members of the board may be reappointed.
- 29 “(7) Except as provided in subsection (8) of this section, a member of the board is entitled to
- 30 compensation and expenses as provided in ORS 292.495 from the Public Employees Retirement Fund.
- 31 “(8) Any member of the board who is an active member of the system shall be released by the
- 32 participating public employer who employs the member for the purpose of conducting the official
- 33 business of the board. The wages or salary of the member shall not be reduced during periods that
- 34 the member is released from duty for the purpose of conducting the official business of the board.
- 35 The board shall reimburse a public employer for the cost of continuing the wages or salary of the

1 member while the member is released from duty under this subsection. A member who continues to
2 receive wages or salary under the provisions of this subsection shall not receive compensation under
3 ORS 292.495, but shall receive travel and other expenses provided for under ORS 292.495. The
4 provisions of this subsection do not apply to any person who is a member of the board and who
5 holds another office that is subject to the provisions of section 10, Article II of the Oregon Consti-
6 tution, prohibiting the holding of more than one lucrative office.”.

7 Delete pages 2 and 3.

8 On page 4, delete lines 1 through 12.

9 In line 16, delete “6” and insert “2” and delete “7” and insert “3”.

10 Delete lines 17 through 45 and insert:

11 **“SECTION 3. (1) Not earlier than two years before a member’s earliest service retire-**
12 **ment age, a member may request a verification of retirement data from the Public Employ-**
13 **ees Retirement Board. Upon receiving a request under this section, the board shall notify**
14 **all of the member’s participating public employers of the request. In a manner specified by**
15 **rules of the board, the board shall allow those employers a reasonable time to confirm the**
16 **records relating to the member that were provided to the board before the request was**
17 **made. The board shall thereafter provide a verification to the member that includes the fol-**
18 **lowing data, as reflected in the records of the Public Employees Retirement System:**

19 **“(a) The service information reported by the member’s employers and the number of**
20 **years and months of creditable service or retirement credit derived from that information,**
21 **determined as of a date specified in the verification.**

22 **“(b) The salary data reported by the member’s employers for each calendar year, and the**
23 **final average salary for the member derived from that data.**

24 **“(c) If applicable, the member’s regular account balance, and any variable account bal-**
25 **ance, as of the end of a calendar year specified in the verification.**

26 **“(d) If applicable, the total amount of unused sick leave accumulated by the member as**
27 **of a date specified in the verification.**

28 **“(2) A member of the system may dispute the accuracy of the data provided in the ver-**
29 **ification by filing a written notice of dispute with the board not more than 60 days after the**
30 **date on which the verification is provided to the member. Upon receiving a notice of dispute**
31 **under this subsection, the board shall determine the accuracy of the disputed data and make**
32 **a written decision based on its determination. The board shall provide to the member a copy**
33 **of the decision and a written explanation of any applicable statutes and rules. A member**
34 **may seek judicial review of the decision as provided in ORS 183.484 and rules of the board.**

35 **“(3) Except as provided in this section, when a member who receives a verification under**
36 **this section retires for service, the creditable service, retirement credit, final average salary,**
37 **member account balances and accumulated unused sick leave used in calculating the mem-**
38 **ber’s retirement allowance or pension may not be less than the amounts provided in the**
39 **verification, subject to adjustments for:**

40 **“(a) Creditable service or retirement credit accrued by the member after the date speci-**
41 **fied in the verification.**

42 **“(b) Salary attributable to periods of employment after the date specified in the verifi-**
43 **cation.**

44 **“(c) Earnings and losses credited to the member’s accounts from the end of the calendar**
45 **year specified in the verification to the member’s effective retirement date, in accordance**

1 with rules adopted by the board.

2 “(d) Sick leave used and accrued after the date specified in the verification.

3 “(4) The board may use creditable service, retirement credit, final average salary, mem-
4 ber account balances or accumulated unused sick leave in calculating a member’s service
5 retirement allowance that is less than the amounts provided in a verification received under
6 this section if the member knew that the amounts were not accurate at the time the verifi-
7 cation was provided and the member did not dispute the accuracy of the amounts as provided
8 in subsection (2) of this section.

9 “(5) A participating public employer may not modify information provided to the board
10 relating to a member’s creditable service, retirement credit, final average salary, employee
11 contributions or accumulated unused sick leave after the board provides the member with a
12 verification under this section that is based on that information except in response to the
13 board’s request for the purpose of a determination under subsection (2) or (4) of this section.

14 “(6)(a) Subject to paragraph (b) of this subsection, erroneous payments or overpayments
15 paid to or on account of a member based on a verification provided under this section may
16 not be recovered under ORS 238.715, but may be charged to the reserve account established
17 under ORS 238.670 (1), or charged as an administrative expense under ORS 238.610.

18 “(b) The board shall recover erroneous payments or overpayments paid to or on account
19 of a member based on a verification provided under this section if the board determines that
20 the recovery is required to maintain the status of the system and the Public Employees Re-
21 tirement Fund as a qualified governmental retirement plan and trust under the Internal
22 Revenue Code and under regulations adopted pursuant to the Internal Revenue Code.

23 “(7) A member may dispute the accuracy of data in a verification only as provided under
24 this section. A member may not dispute the accuracy of data in a verification in the manner
25 provided by ORS 238.450.

26 “(8) A member shall be provided with one verification under this section at no cost. The
27 board may establish procedures for recovering administrative costs from members for ser-
28 vices in providing additional verifications.

29 “**SECTION 4.** (1) Except as provided in this section, section 3 of this 2009 Act becomes
30 operative on July 1, 2011.

31 “(2) The requirement that the Public Employees Retirement Board provide verification
32 of the amount of a member’s accumulated unused sick leave under section 3 (1)(d) of this
33 2009 Act first applies to requests for verifications of retirement data received by the board
34 on or after July 1, 2012.”.

35 On page 5, delete lines 1 through 6.

36 In line 11, delete “8” and insert “5”.

37 In line 14, delete “Section 7” and insert “Sections 3 and 7”.

38 In line 33, delete “9” and insert “6” and delete “10” and insert “7”.

39 Delete lines 34 through 45 and insert:

40 “**SECTION 7.** (1) For the purpose of computing salary under this chapter and ORS chap-
41 ter 238A, salary includes retroactive payments of wages made to an employee to correct a
42 clerical error. Retroactive payments described in this subsection shall be allocated to and
43 deemed paid in the periods in which the work was done or in which the work would have been
44 done.

45 “(2) For the purpose of computing salary under this chapter and ORS chapter 238A, sal-

1 ary includes retroactive payments of wages made to an employee pursuant to a judgment,
2 administrative order, arbitration award, conciliation agreement or settlement agreement
3 that resolves a dispute or claim based on the employee’s rights under employment or wage
4 law or under a collective bargaining agreement. Retroactive payments described in this sub-
5 section shall be allocated to and deemed paid in the periods of the employee’s active or in-
6 active membership in which the work was done or in which the work would have been done.

7 “(3) If retroactive payments are included in the salary of an employee under this section,
8 the employee shall receive retirement credit for the periods to which the payment is allo-
9 cated.”.

10 On page 6, line 1, delete “11” and insert “8”.

11 On page 9, line 32, delete “10” and insert “7”.

12 On page 10, line 15, delete “12” and insert “9”.

13 On page 12, line 15, delete “10” and insert “7”.

14 On page 13, line 2, delete “13” and insert “10”.

15 In line 5, delete “14” and insert “11”.

16
