

House Bill 2115

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor John A. Kitzhaber 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**.

Modifies law that allows member of Public Employees Retirement System to request verification of retirement data before retirement. Eliminates provision that prohibits Public Employees Retirement Board from using creditable service, retirement credit, final average salary, member account balances or accumulated unused sick leave that is less than amount specified in verification for purposes of determining retirement benefits.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; amending section 3, chapter 1, Oregon Laws 2010; and de-
3 claring an emergency.

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

5 **SECTION 1.** Section 3, chapter 1, Oregon Laws 2010, is amended to read:

6 **Sec. 3.** (1) Not earlier than two years before a member's earliest service retirement age, a
7 member may request a verification of retirement data from the Public Employees Retirement Board.
8 Upon receiving a request under this section, the board shall notify all of the member's participating
9 public employers of the request. In a manner specified by rules of the board, the board shall allow
10 those employers a reasonable time to confirm the records relating to the member that were provided
11 to the board before the request was made. The board shall thereafter provide a verification to the
12 member that includes the following data, as reflected in the records of the Public Employees Re-
13 tirement System:

14 (a) The service information reported by the member's employers and the number of years and
15 months of creditable service or retirement credit derived from that information, determined as of a
16 date specified in the verification.

17 (b) The salary data reported by the member's employers for each calendar year, and the final
18 average salary for the member derived from that data.

19 (c) If applicable, the member's regular account balance, and any variable account balance, as
20 of the end of a calendar year specified in the verification.

21 (d) If applicable, the total amount of unused sick leave accumulated by the member as of a date
22 specified in the verification.

23 (2) A member of the system may dispute the accuracy of the data provided in the verification
24 by filing a written notice of dispute with the board not more than 60 days after the date on which
25 the verification is provided to the member. Upon receiving a notice of dispute under this subsection,
26 the board shall determine the accuracy of the disputed data and make a written decision based on
27 its determination. The board shall provide to the member a copy of the decision and a written ex-
28 planation of any applicable statutes and rules. A member may seek judicial review of the decision

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 as provided in ORS 183.484 and rules of the board.

2 [(3) *Except as provided in this section, when a member who receives a verification under this sec-*
 3 *tion retires for service, the creditable service, retirement credit, final average salary, member account*
 4 *balances and accumulated unused sick leave used in calculating the member's retirement allowance or*
 5 *pension may not be less than the amounts provided in the verification, subject to adjustments for:]*

6 [(a) *Creditable service or retirement credit accrued by the member after the date specified in the*
 7 *verification.*]

8 [(b) *Salary attributable to periods of employment after the date specified in the verification.*]

9 [(c) *Earnings and losses credited to the member's accounts from the end of the calendar year*
 10 *specified in the verification to the member's effective retirement date, in accordance with rules adopted*
 11 *by the board.*]

12 [(d) *Sick leave used and accrued after the date specified in the verification.*]

13 [(4) *The board may use creditable service, retirement credit, final average salary, member account*
 14 *balances or accumulated unused sick leave in calculating a member's service retirement allowance that*
 15 *is less than the amounts provided in a verification received under this section if the member knew that*
 16 *the amounts were not accurate at the time the verification was provided and the member did not dispute*
 17 *the accuracy of the amounts as provided in subsection (2) of this section.*]

18 [(5)] (3) A participating public employer may not modify information provided to the board re-
 19 lating to a member's creditable service, retirement credit, final average salary, employee contribu-
 20 tions or accumulated unused sick leave after the board provides the member with a verification
 21 under this section that is based on that information except in response to the board's request for
 22 the purpose of a determination under subsection (2) [or (4)] of this section.

23 [(6)(a)] (4)(a) Subject to paragraph (b) of this subsection, erroneous payments or overpayments
 24 paid to or on account of a member based on a verification provided under this section may not be
 25 recovered under ORS 238.715, but may be charged to the reserve account established under ORS
 26 238.670 (1), or charged as an administrative expense under ORS 238.610.

27 (b) The board shall recover erroneous payments or overpayments paid to or on account of a
 28 member based on a verification provided under this section if the board determines that the recov-
 29 ery is required to maintain the status of the system and the Public Employees Retirement Fund as
 30 a qualified governmental retirement plan and trust under the Internal Revenue Code and under
 31 regulations adopted pursuant to the Internal Revenue Code.

32 [(7)] (5) A member may dispute the accuracy of data in a verification only as provided under this
 33 section. A member may not dispute the accuracy of data in a verification in the manner provided
 34 by ORS 238.450.

35 [(8)] (6) A member shall be provided with one verification under this section at no cost. The
 36 board may establish procedures for recovering administrative costs from members for services in
 37 providing additional verifications.

38 **SECTION 2. This 2011 Act being necessary for the immediate preservation of the public**
 39 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 40 **on its passage.**