

House Bill 2445

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Rules)

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 laws governing cost-of-living increases for benefits paid by Public Employees Retirement System. Provides that cost-of-living increase or decrease in excess of maximum annual retirement allowance adjustment of two percent does not accumulate from year to year and Public Employees Retirement Board may not include excess in computation of increases or decreases in subsequent years.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to cost-of-living adjustments under the Public Employees Retirement System; creating new
3 provisions; amending ORS 238.360 and 238A.210; and declaring an emergency.

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

5 **SECTION 1.** ORS 238.360 is amended to read:

6 238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
7 Board shall determine the percentage increase or decrease in the cost-of-living for the previous
8 calendar year, based on the Consumer Price Index (Portland area-all items) as published by the
9 Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to
10 July 1 each year the allowance which the member or the member's beneficiary is receiving or is
11 entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure
12 determined, and the allowance for the next 12 months beginning July 1 adjusted to the resultant
13 amount.

14 (2) Such increase or decrease shall not exceed two percent of any monthly retirement allowance
15 in any year and no allowance shall be adjusted to an amount less than the amount to which the
16 recipient would be entitled if no cost-of-living adjustment were authorized.

17 (3) The amount of any cost-of-living increase or decrease in any year in excess of the maximum
18 annual retirement allowance adjustment of two percent [*shall be accumulated*] **does not accumulate**
19 from year to year and [*included*] **the board may not include the excess** in the computation of in-
20 creases or decreases in [*succeeding*] **subsequent** years.

21 (4) Any increase in the allowance shall be paid from contributions of the public employer under
22 ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form of a
23 credit against contributions of the employer under ORS 238.225.

24 **SECTION 2.** ORS 238A.210 is amended to read:

25 238A.210. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
26 Board shall determine the percentage increase or decrease in the cost of living for the previous
27 calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers
28 for All Items, as published by the Bureau of Labor Statistics of the United States Department of

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 Labor. Before July 1 each year, the board shall adjust every pension payable under ORS 238A.180,
 2 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit payable
 3 under ORS 238A.230 by multiplying the monthly payment by the percentage figure determined by the
 4 board. If a person has been receiving a pension or benefit for less than 12 months on July 1 of a
 5 calendar year, the board shall make a pro rata reduction of the adjustment based on the number
 6 of months that the pension or benefit was received before July 1 of the year. The adjustment shall
 7 be made for the payments payable on August 1 and thereafter.

8 (2) An increase or decrease in the benefit payments under this section may not exceed two
 9 percent in any year. A pension or death benefit may not be adjusted to an amount that is less than
 10 the amount that would have been payable if no cost-of-living adjustment had been made since the
 11 pension or death benefit first became payable.

12 (3) **The amount of any cost-of-living increase or decrease in any year in excess of the**
 13 **maximum annual retirement allowance adjustment of two percent does not accumulate from**
 14 **year to year, and the board may not include the excess in the computation of increases or**
 15 **decreases in subsequent years.**

16 **SECTION 3. (1) Jurisdiction is conferred on the Supreme Court to determine in the**
 17 **manner provided by this section whether this 2011 Act breaches any contract between**
 18 **members of the Public Employees Retirement System and their employers or violates any**
 19 **constitutional provision, including but not limited to impairment of contract rights of mem-**
 20 **bers of the Public Employees Retirement System under section 21, Article I of the Oregon**
 21 **Constitution, or clause 1, section 10, Article I of the United States Constitution.**

22 (2) A person who is or who will be adversely affected by this 2011 Act may institute a
 23 proceeding for review by filing with the Supreme Court a petition that meets the following
 24 requirements:

25 (a) The petition must be filed within 60 days after the effective date of this 2011 Act.

26 (b) The petition must include the following:

27 (A) A statement of the basis of the challenge; and

28 (B) A statement and supporting affidavit showing how the petitioner is or will be ad-
 29 versely affected.

30 (3) The petitioner shall serve a copy of the petition by registered or certified mail upon
 31 the Public Employees Retirement Board, the Attorney General and the Governor.

32 (4) Proceedings for review under this section shall be given priority over all other mat-
 33 ters before the Supreme Court.

34 (5) The Supreme Court shall allow public employers participating in the Public Employees
 35 Retirement System to intervene in any proceeding under this section.

36 (6) In the event the Supreme Court determines that there are factual issues in the peti-
 37 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
 38 commended findings of fact.

39 **SECTION 4. This 2011 Act being necessary for the immediate preservation of the public**
 40 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
 41 **on its passage.**