

House Bill 2987

Sponsored by Representative RICHARDSON (Presession filed.)

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 person appointed or elected as member of Legislative Assembly may not become member of Public Employees Retirement System.

Retains provision allowing person appointed or elected as member of Legislative Assembly to elect to become legislator member of state deferred compensation plan. Requires that Legislative Assembly make employer contributions to state deferred compensation plan on behalf of legislative member in amount that is equal to six percent of member's salary or amount that is equal to legislator member's contribution, whichever is less.

Applies only to service as member of the Legislative Assembly that is attributable to election or appointment that occurs on or after effective date of Act.

Confers jurisdiction on Supreme Court to review petition of any person aggrieved by Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to legislators; creating new provisions; amending ORS 237.655 and 238A.245; repealing ORS
3 237.650, 237.660 and 238A.475 and section 46b, chapter 733, Oregon Laws 2003; and declaring
4 an emergency.

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

6 **SECTION 1. A person who is appointed or elected as a member of the Legislative As-**
7 **sembly may not become a member of the Public Employees Retirement System for service**
8 **as a member of the Legislative Assembly that is performed by reason of that appointment**
9 **or election.**

10 **SECTION 2. ORS 237.655 is amended to read:**

11 237.655. (1) **All persons appointed or elected as members of the Legislative Assembly may**
12 **elect to become legislator members of the state deferred compensation plan. An election**
13 **under this section must be made within 30 days after a person takes office.**

14 [(1)] (2) *[If a person appointed or elected as a member of the Legislative Assembly elects under*
15 *ORS 237.650 to participate in the state deferred compensation plan as a legislator member,] The Leg-*
16 *islative Assembly shall make employer contributions to the **state deferred compensation plan on***
17 ***behalf of legislative members of the plan** in an amount that is equal to six percent of the*
18 *member's salary **or an amount that is equal to the legislator member's contribution, which-***
19 ***ever is less.** [A legislator member may make contributions to the plan in any amount that does not*
20 *exceed the maximum allowed by federal law governing the plan's tax qualification.]*

21 [(2)] (3) Any member of the Legislative Assembly who elects to become a legislator member of
22 the state deferred compensation plan may request that the Public Employees Retirement Board roll
23 over the amount in *[the]* **any** regular account maintained for the member under ORS 238.250 **or in**
24 **any individual account maintained for the member under ORS 238A.350,** into the state deferred
25 compensation plan.

26 (4) **If a person appointed or elected as a member of the Legislative Assembly elects under**

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 **this section to become a legislator member of the state deferred compensation plan for the**
 2 **purpose of service in the Legislative Assembly, and the person also participates in the state**
 3 **deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as other than**
 4 **a legislator member, the total of the contributions made to the plan by the person and by**
 5 **the employer may not exceed the maximum allowed by federal law governing the plan's tax**
 6 **qualification.**

7 [(3)] (5) Except for the contributions required by subsection [(1)] (2) of this section, the Legis-
 8 lative Assembly may not “pick-up,” assume or pay any contributions on behalf of a legislator mem-
 9 ber of the state deferred compensation plan.

10 **SECTION 3.** ORS 238A.245 is amended to read:

11 238A.245. (1) Except as provided in subsection (3) of this section, the Public Employees Retirement
 12 Board shall cease making pension payments to a retired member of the pension program who
 13 is reemployed by a participating public employer in a qualifying position. A retired member of the
 14 pension program who is employed in a qualifying position becomes an active member of the pension
 15 program without serving the probationary period provided for in ORS 238A.100.

16 (2) If a retired member of the pension program is reemployed under the provisions of this sec-
 17 tion, any option chosen by the member under ORS 238A.190 is canceled, and upon retiring thereafter
 18 the member may elect any option provided for in ORS 238A.180 and 238A.190. The board shall re-
 19 calculate the pension of the member upon subsequent retirement.

20 (3) A retired member of the pension program who becomes a member of the Legislative Assem-
 21 bly shall continue to receive the pension elected by the member. A retired member of the pension
 22 program who becomes a member of the Legislative Assembly may not elect [*under ORS 237.650*] to
 23 become an active member of the Oregon Public Service Retirement Plan [*or a legislator member of*
 24 *the state deferred compensation plan*].

25 **SECTION 4.** (1) ORS 237.650, 237.660 and 238A.475 are repealed.

26 (2) Section 46b, chapter 733, Oregon Laws 2003, as amended by section 4, chapter 769,
 27 Oregon Laws 2007, is repealed.

28 **SECTION 5.** The repeal of ORS 237.650, 237.660 and 238A.475 and section 46b, chapter 733,
 29 Oregon Laws 2003, by section 4 of this 2011 Act applies only to service as a member of the
 30 Legislative Assembly that is attributable to an election or appointment to that office that
 31 occurs on or after the effective date of this 2011 Act. A member of the Legislative Assembly
 32 who is serving on the effective date of this 2011 Act shall continue to accrue benefits under
 33 ORS 237.650, 237.655, 237.660 and 238A.475 and section 46b, chapter 733, Oregon Laws 2003,
 34 as in effect immediately before the effective date of this 2011 Act, during the term for which
 35 the person was appointed or elected. If a member of the Legislative Assembly who is serving
 36 on the effective date of this 2011 Act is subsequently reelected or appointed to serve as a
 37 member of the Legislative Assembly, the person is subject to section 1 of this 2011 Act and
 38 the amendments to ORS 237.655 by section 2 of this 2011 Act for service performed by reason
 39 of that reelection or appointment.

40 **SECTION 6.** (1) Jurisdiction is conferred on the Supreme Court to determine, in the
 41 manner provided by this section, whether the provisions of this 2011 Act violate any consti-
 42 tutional provision, including but not limited to violation of contract rights of members of the
 43 Public Employees Retirement System under section 21, Article I of the Oregon Constitution,
 44 or clause 1, section 10, Article I of the United States Constitution.

45 (2) Under the jurisdiction conferred in subsection (1) of this section, any person aggrieved

1 by this 2011 Act may petition the Supreme Court for review. The petition shall state the facts
2 showing how the petitioner is aggrieved and the constitutional grounds upon which the pe-
3 tition is based. The Supreme Court shall give priority on its docket to a petition for review
4 filed under this section and shall expedite a decision on the petition. Any and all petitions
5 filed under this section alleging a similar basis or bases of challenge may be consolidated by
6 the Supreme Court upon its own motion.

7 (3) A person petitioning for review under this section is not required to exhaust admin-
8 istrative remedies or file in any other court prior to filing a petition for review under this
9 section.

10 (4) A petition for review under this section must be filed before March 1, 2012.

11 (5) A petition for review under this section must present a justiciable controversy. The
12 petitioner must serve a copy of the petition on the Attorney General.

13 (6) The petition for review under this section is in addition to any other remedy or pro-
14 cedure that may be available to determine whether the provisions of this 2011 Act violate any
15 constitutional provision.

16 SECTION 7. This 2011 Act being necessary for the immediate preservation of the public
17 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
18 on its passage.