

# House Bill 3116

Sponsored by Representative JOHNSON

## 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**.

Prohibits public employer that participates in Public Employees Retirement System from reemploying retired member of system for period of one year after retirement. Applies only to members who retire on or after effective date of Act.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; amending ORS 238.078 and 238.082;  
3 and declaring an emergency.

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

5 **SECTION 1.** ORS 238.078 is amended to read:

6 238.078. (1)(a) **A member who is retired for service may not be reemployed by a partic-**  
7 **ipating public employer for a period of one year.** A member who has been retired for service for  
8 more than [*six consecutive calendar months*] **one year** may be reemployed by a participating public  
9 employer in the manner provided by this subsection.

10 (b) Any person reemployed as provided in this subsection shall resume making employee con-  
11 tributions, and the employer shall make contributions on behalf of the person as provided in ORS  
12 238.225. Except as provided in paragraph (c) of this subsection, payments of retirement allowance  
13 and other benefits received by the person, including lump sum or installment payments received by  
14 the person under ORS 238.305 (2) or (3), shall not be repaid into the retirement fund after the person  
15 reenters public employment. Upon reemployment under this subsection, the board shall cease mak-  
16 ing payments of retirement allowance and other benefits to the person, including installment pay-  
17 ments to the person under ORS 238.305 (4). The board shall reestablish the member account of the  
18 person and reduce the account by all payments of retirement allowance and other benefits, including  
19 installment payments, that were previously received by the person and that were derived from the  
20 member account. Amounts that were credited to the reserve established by the board for the pay-  
21 ment of the person's benefits that were not derived from the member account shall be credited pro  
22 rata to the funds from which the amounts were derived.

23 (c) Upon reemployment under this subsection, the former retirement of the reemployed person  
24 and any election of option for payment of retirement benefits made by the person shall be canceled.  
25 When the person again retires the person may elect any option for payment of retirement benefits  
26 authorized by this chapter, except that a person who elected to receive a service retirement benefit  
27 pursuant to ORS 238.305 (2) or (3) at the time of former retirement may not elect any other option  
28 at the time of subsequent retirement unless an amount equal to the lump sum and the interest that  
29 would have accumulated on the sum has been repaid by the employee to the fund. Upon such sub-  
30 sequent retirement any prior service pension due the employee shall be derived from the unused

**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 portion of the prior service credit reserve and shall be calculated on the basis of then attained age.

2 [(2) A member who has been retired for service for less than six consecutive calendar months may  
3 be reemployed by a participating public employer only upon immediate repayment in a lump sum by the  
4 member of the amount of retirement benefits drawn. The member account of the member shall be re-  
5 established just as it was at the time of former retirement after the lump sum repayment is made.]

6 [(3) If a member of the system who retired before August 21, 1981, is reemployed, as provided in  
7 subsection (1) or (2) of this section, beginning on or after August 21, 1981, the service retirement al-  
8 lowance received upon subsequent retirement by the member shall be:]

9 [(a) For service before August 21, 1981, an allowance including a current service pension computed  
10 on the basis of ORS 237.147 (2) (1979 Replacement Part).]

11 [(b) For service on or after August 21, 1981, an allowance including a current service pension  
12 computed on the basis of ORS 238.300 (2).]

13 [(4)] (2) A person may be reemployed by a public employer that is not participating in the sys-  
14 tem, or may be employed by a participating public employer in a position that is in a class of em-  
15 ployees that was not designated by the public employer under ORS 238.035 as a class of employees  
16 that become members of the system, without affecting the person's status as a retired member or the  
17 person's continued receipt of retirement benefits.

18 [(5)] (3) Subsection [(4)] (2) of this section does not apply to any member who retires under the  
19 provisions of ORS 238.280 (1), (2) or (3).

20 **SECTION 2.** ORS 238.082 is amended to read:

21 238.082. (1) Subject to the limitations in this section, any public employer may employ any  
22 member who [is] **has been** retired for service **for at least one year** if the administrative head of  
23 the public employer is satisfied that such employment is in the public interest.

24 (2) Except as provided in this section, the period or periods of employment by one or more  
25 public employers of a retired member who is reemployed under this section may not total 1,040  
26 hours or more in any calendar year.

27 (3) A retired member who is receiving old-age, survivors or disability insurance benefits under  
28 the federal Social Security Act may be employed under this section for the number of hours per-  
29 mitted by subsection (2) of this section, or for the number of hours for which the salary equals the  
30 maximum allowed for receipt of the full amount of those benefits to which the person is entitled,  
31 whichever is greater.

32 (4) Except as provided in subsection (9) of this section, the limitations on employment imposed  
33 by subsections (2) and (3) of this section do not apply to a retired member who is employed as a  
34 teacher or as an administrator, as those terms are defined in ORS 342.120, if the retired member is  
35 employed by a school district or community college district located within a county with a popu-  
36 lation of not more than 35,000 inhabitants according to the latest federal decennial census, or is  
37 employed by an education service district and the retired member's primary work duties are per-  
38 formed in a county with a population of not more than 35,000 inhabitants according to the latest  
39 federal decennial census. A retired member who is employed under this subsection as a teacher, as  
40 defined in ORS 342.120, by the same public employer that employed the member at the time of re-  
41 tirement remains in the same collective bargaining unit that included the member before retirement.

42 (5) Except as provided in subsection (9) of this section, the limitations on employment imposed  
43 by subsections (2) and (3) of this section do not apply to a retired member who is employed:

44 (a) By the sheriff of a county with a population of fewer than 75,000 inhabitants, according to  
45 the latest federal decennial census;

1 (b) By the municipal police department of a city with a population of fewer than 15,000 inhab-  
 2 itants, according to the latest federal decennial census;

3 (c) By the state or a county for work in a correctional institution located in a county with a  
 4 population of fewer than 75,000 inhabitants, according to the latest federal decennial census;

5 (d) By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service  
 6 District or the Sunriver Service District;

7 (e) By the Oregon State Police for work in a county with a population of fewer than 75,000 in-  
 8 habitants, according to the latest federal decennial census; or

9 (f) As a deputy director or assistant director of the Department of Human Services, if the Gov-  
 10 ernor approves the exemption for the person from the limitations on employment imposed in sub-  
 11 sections (2) and (3) of this section.

12 (6) Except as provided in subsection (9) of this section, the limitations on employment imposed  
 13 by subsections (2) and (3) of this section do not apply to a retired member who is employed to tem-  
 14 porarily replace an employee who serves in the National Guard or in a reserve component of the  
 15 Armed Forces of the United States and who is called to federal active duty.

16 (7) Except as provided in subsection (9) of this section, the limitations on employment imposed  
 17 by subsections (2) and (3) of this section do not apply to a retired member who is employed by a road  
 18 assessment district organized under ORS 371.405 to 371.535.

19 (8) Except as provided in subsection (9) of this section, the limitations on employment imposed  
 20 by subsections (2) and (3) of this section do not apply to a retired member who is a nurse and is  
 21 employed by a public employer as a nurse or for the purpose of teaching nursing during the period  
 22 in which a nursing workforce shortage declared by the Legislative Assembly or the Governor is in  
 23 effect.

24 (9)(a) Except as provided in paragraph (b) of this subsection, subsections (4) to (8) of this section  
 25 do not apply to any member who retires under the provisions of ORS 238.280 (1), (2) or (3).

26 (b) Subsection (4) of this section applies to a person who retires under the provisions of ORS  
 27 238.280 (1), (2) or (3) as long as the person's date of retirement is more than six months before the  
 28 date the person is employed under subsection (4) of this section.

29 (10) Employment under this section does not affect the status of a person as a retired member  
 30 of the system and a recipient of retirement benefits under this chapter.

31 (11) Hours worked by a person employed under subsections (4) to (8) of this section shall not  
 32 be counted for the purpose of the limitations on employment imposed by subsections (2) and (3) of  
 33 this section.

34 **SECTION 3. The amendments to ORS 238.078 and 238.082 by sections 1 and 2 of this 2011**  
 35 **Act apply only to members of the Public Employees Retirement System who retire on or**  
 36 **after the effective date of this 2011 Act.**

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