

House Bill 3540

Sponsored by Representatives PARRISH, SHEEHAN; Representatives CONGER, JOHNSON, MCLANE, WAND, Senator OLSEN

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 from agreeing to pay or provide retirement benefit to member of Public Employees Retirement System other than payments required or provided for in statutes governing retirement benefits of members of system.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238.229 and
3 238A.340; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 238.**

6 **SECTION 2. (1) A participating public employer may not agree to pay or provide any re-**
7 **retirement benefit to a member of the Public Employees Retirement System other than the**
8 **payments required or provided for in statutes governing retirement benefits of members.**

9 **The provisions of this section apply to agreements to pay or provide:**

10 (a) **Health insurance after retirement of an employee;**

11 (b) **Contributions to retirement accounts, annuities or other accounts established for the**
12 **purpose of providing benefits after retirement;**

13 (c) **Periodic payments after retirement of an employee; or**

14 (d) **Any other benefit that is intended to provide retirement benefits in addition to the**
15 **benefits provided by law.**

16 (2) **This section does not affect the ability of public employees to participate in deferred**
17 **compensation plans offered by a participating public employer, but a participating public**
18 **employer may not agree to make payments to a deferred compensation plan for or on behalf**
19 **of a member of the system.**

20 **SECTION 3. ORS 238A.340 is amended to read:**

21 238A.340. (1) A participating public employer may agree, by a written employment policy or
22 agreement, to make employer contributions for members of the individual account program employed
23 by the employer. The percentage of salary paid as employer contributions may not be less than one
24 percent of salary or more than six percent of salary, and must be a whole number. A participating
25 public employer may make an agreement under this section for specific groups of employees em-
26 ployed by the public employer.

27 (2) If a participating public employer makes employer contributions under this section and the
28 member for which the contributions are made fails to vest in the employer account under the pro-
29 visions of ORS 238A.320, the Public Employees Retirement Board shall apply the contributions in
30 the employer account against other obligations of the employer under the Oregon Public Service

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 Retirement Plan.

2 **(3) Employer contributions may not be made under this section on or after the effective**
 3 **date of this 2011 Act.**

4 **SECTION 4.** ORS 238.229 is amended to read:

5 238.229. (1) If a participating public employer is grouped with any other public employer for the
 6 purpose of computing employer contributions under ORS 238.225 and the individual public employer
 7 makes a lump sum payment that is in addition to the normal employer contribution of the public
 8 employer, the Public Employees Retirement Board shall adjust the amount of employer contributions
 9 to be made by the individual public employer to ensure that the benefit of the lump sum payment
 10 accrues only to the individual public employer making the payment. An individual public employer
 11 that makes a lump sum payment under the provisions of this subsection shall remain grouped with
 12 other public employers as provided by ORS 238.227 and 238A.220 for the purpose of all liabilities
 13 of the employer that are not paid under this subsection. The board by rule may establish a minimum
 14 lump sum payment that must be made by an individual public employer before adjusting employer
 15 contributions under this subsection. Notwithstanding any minimum lump sum payment established
 16 by the board, the board must allow an individual public employer to make a lump sum payment un-
 17 der this subsection if the payment is equal to the full amount of the individual public employer's
 18 accrued unfunded liabilities under this section and ORS chapter 238A.

19 (2) The board shall establish a separate account within the Public Employees Retirement Fund
 20 for each lump sum payment made under this section by an individual public employer. The board
 21 shall credit to each account all interest and other income received from investment of the account
 22 funds during the calendar year. Except as provided in subsection (3) of this section, the board may
 23 not collect any administrative expense or other charge from the account or from earnings on the
 24 account. Except as provided in subsections (5) and (6) of this section, the account shall be used to
 25 offset contributions to the system that the public employer would otherwise be required to make for
 26 the liabilities against which the lump sum payment is applied.

27 (3) The board may charge a participating public employer expenses for administration of an ac-
 28 count established under subsection (2) of this section in an amount not to exceed \$2,500 for the
 29 calendar year in which the account is established and for the immediately following two calendar
 30 years, and in an amount not to exceed \$1,000 per year for all subsequent years.

31 (4) If a participating public employer has any liabilities that are attributable to creditable ser-
 32 vice by employees of the employer before the participating public employer was grouped with other
 33 public employers under ORS 238.227, whether under this section or pursuant to board rule, any lump
 34 sum payment made under this section must be applied first against those liabilities, with the oldest
 35 liability being paid first. Any amounts remaining after application under this subsection must be
 36 deposited in a separate account established under subsection (2) of this section.

37 (5) Except as provided in subsection (6) of this section, if the board determines at any time after
 38 an actuarial study that the amounts in an account established under subsection (2) of this section
 39 exceed the amounts necessary to fund the employer's actuarial liabilities under the system, upon
 40 request of the employer, the board shall apply the excess amounts to offset contributions to the in-
 41 dividual account program that the employer has agreed to pay under ORS 238A.335 [or 238A.340].
 42 The board may apply excess amounts to offset contributions to the individual account program under
 43 this subsection only to the extent that the application will not result in the balance in the account
 44 being reduced to less than the outstanding principal balance owed on the bonds issued to fund the
 45 account. If the request is made by a school district, the school district must attach to the request

1 a copy of a resolution adopted by the district school board for the district authorizing the request.
2 The board shall adopt rules governing offsets under the provisions of this subsection.

3 (6) The board shall apply any excess amounts in an account established under subsection (2) of
4 this section to offset contributions to the individual account program pursuant to subsection (5) of
5 this section only if the board has determined that applying the excess amounts does not cause the
6 system or the Public Employees Retirement Fund to lose qualification as a qualified governmental
7 retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant
8 to the Internal Revenue Code.

9 **SECTION 5. This 2011 Act being necessary for the immediate preservation of the public**
10 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
11 **on its passage.**

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