

House Bill 3059

Sponsored by Representative HANNA

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 Employees Retirement Board from paying increased retirement benefits resulting from state income taxation of payments made by board if person receiving payments does not pay Oregon income tax on benefits. Removes limitations on prohibition relating to date of retirement and provides procedures for enforcing prohibition.

Imposes similar prohibition for certain public employers that provide retirement benefits for police officers and firefighters other than by participation in Public Employees Retirement System.

Provides for expedited review by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to payments made under Public Employees Retirement System that are not subject to
3 Oregon income tax; creating new provisions; amending ORS 237.635, 237.637, 238.372, 238.374,
4 238.376, 238.378 and 314.840; and declaring an emergency.

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

6 **SECTION 1.** ORS 238.372 is amended to read:

7 238.372. (1) Except as provided in ORS 238.372 to 238.384, the Public Employees Retirement
8 Board may not pay the increased [*benefit*] **benefits** provided by **chapter 796, Oregon Laws 1991,**
9 **or** chapter 569, Oregon Laws 1995, if the board receives notice under ORS 238.372 to 238.384 that
10 the payments made to the person under this chapter are not subject to Oregon personal income tax
11 under ORS 316.127 (9).

12 [*(2) The provisions of ORS 238.372 to 238.384 do not apply to:*]

13 [*(a) A retired member of the system who is receiving payments under this chapter and whose ef-*
14 *fective date of retirement is before January 1, 2012;*]

15 [*(b) A person who is receiving payments under this chapter by reason of the retirement of a member*
16 *whose effective date of retirement is before January 1, 2012; and]*

17 [*(c) Any other person who receives payments under this chapter that began before January 1,*
18 *2012.*]

19 [(3)] (2) The board shall give written notification of the provisions of ORS 238.372 to 238.384 to
20 all persons applying for or receiving payments under this chapter.

21 [(4)] (3) A person receiving payments under this chapter that are not increased under **chapter**
22 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384
23 has no right or claim to the increased benefit provided by **chapter 796, Oregon Laws 1991, or**
24 chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

25 **SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS 238.372 to**
26 **238.384.**

27 **SECTION 3. (1) On or before October 31, 2013, each person receiving payments under this**
28 **chapter shall provide the Public Employees Retirement Board with a written statement that**

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 indicates whether the payments received by the person are subject to Oregon personal in-
2 come tax.

3 (2) If a person receiving payments under this chapter does not notify the board on or
4 before October 31, 2013, that the payments are subject to Oregon personal income tax, the
5 board shall reduce any benefits payable to the person by the amount by which the benefits
6 were increased under chapter 796, Oregon Laws 1991, and chapter 569, Oregon Laws 1995.
7 The reduction in benefits becomes effective on January 1, 2014.

8 **SECTION 4.** Section 3 of this 2013 Act is repealed on December 31, 2014.

9 **SECTION 5.** ORS 238.374 is amended to read:

10 238.374. (1) A person applying for payments under this chapter shall give a written statement
11 to the Public Employees Retirement Board that indicates whether the payments will be subject to
12 Oregon personal income tax under ORS 316.127 (9). If the person fails to provide the statement re-
13 quired by this subsection, or the statement indicates that the payments will not be subject to Oregon
14 personal income tax under ORS 316.127 (9), the board may not pay the person the increased
15 [benefit] benefits provided by chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995.

16 (2) If a person is receiving payments under this chapter that have not been increased under
17 chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995, by reason of the provisions
18 of subsection (1) of this section, and thereafter the payments become subject to Oregon personal
19 income tax, the person shall promptly notify the Public Employees Retirement Board by written
20 statement that the payments are subject to Oregon personal income tax.

21 (3) If a person is receiving payments under this chapter that have not been increased under
22 chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995, by reason of the provisions
23 of subsection (1) of this section, and the board receives notice under subsection (2) of this section
24 that payments to the person under this chapter are subject to Oregon personal income tax, or de-
25 termines under ORS 238.378 that payments to the person under this chapter are subject to Oregon
26 personal income tax, the board shall initiate payment of the increased [benefit] benefits provided
27 by chapter 796, Oregon Laws 1991, and chapter 569, Oregon Laws 1995. The increase in benefits
28 becomes effective on the first day of the calendar year following receipt of notice by the board.

29 **SECTION 6.** ORS 238.376 is amended to read:

30 238.376. (1) If a person is receiving payments under this chapter, and after the payments com-
31 mence the payments cease to be subject to Oregon personal income tax under ORS 316.127 (9), the
32 person shall promptly notify the Public Employees Retirement Board by written statement that the
33 payments are no longer subject to Oregon personal income tax. The board shall reduce any benefits
34 payable to the person by the amount by which the benefits were increased under chapter 796,
35 Oregon Laws 1991, and chapter 569, Oregon Laws 1995. The reduction in benefits becomes effective
36 on the first day of the calendar year following receipt of notice by the board.

37 (2) If a person is receiving payments under this chapter that have been reduced [under the pro-
38 visions of subsection (1) of this section] because the payments are not subject to Oregon personal
39 income tax, and thereafter the payments become subject to Oregon personal income tax, the person
40 shall promptly notify the board by written statement that the payments are once again subject to
41 Oregon personal income tax.

42 (3) If a person is receiving payments under this chapter that have been reduced [under the pro-
43 visions of subsection (1) of this section] because the payments are not subject to Oregon personal
44 income tax, and the board receives notice under subsection (2) of this section that payments to the
45 person under this chapter are once again subject to Oregon personal income tax, or determines

1 under ORS 238.378 that payments to the person under this chapter are once again subject to Oregon
 2 personal income tax, the board shall resume payment of the increased [*benefit*] **benefits** provided
 3 by **chapter 796, Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The increase in benefits
 4 becomes effective on the first day of the calendar year following receipt of notice by the board.

5 **SECTION 7.** ORS 238.378 is amended to read:

6 238.378. (1) Not less than once each calendar year, the Public Employees Retirement Board shall
 7 provide to the Department of Revenue information identifying persons to whom payments have been
 8 made under this chapter. The Department of Revenue shall provide to the board such information
 9 on Oregon personal income tax returns as the board deems necessary to determine whether the
 10 payments made to the person under this chapter are subject to Oregon personal income tax under
 11 ORS 316.127 (9).

12 (2) If the board determines that the payments made to a person under this chapter are not
 13 subject to Oregon personal income tax under ORS 316.127 (9) based on information provided by the
 14 Department of Revenue under this section, and the person is receiving the increased benefit pro-
 15 vided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the board shall re-
 16 duce the benefits payable to the person as provided in ORS 238.376 (1).

17 (3) If the board determines that the payments made to a person under this chapter are subject
 18 to Oregon personal income tax based on information provided by the Department of Revenue under
 19 this section, and the person is not receiving the increased benefit provided by **chapter 796, Oregon**
 20 **Laws 1991, or** chapter 569, Oregon Laws 1995, the board shall increase the benefits payable to the
 21 person as provided in ORS 238.374 (3) or 238.376 (3).

22 **SECTION 8.** ORS 237.635 is amended to read:

23 237.635. (1) Any public employer that provides retirement benefits to its police officers and
 24 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 25 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
 26 employer, both active and retired, that are equal to the increases in retirement benefits that are
 27 provided for in this 1991 Act for active and retired police officers or firefighters who are members
 28 of the Public Employees Retirement System, or shall provide to those police officers and firefighters
 29 increases in retirement benefits that are the actuarial equivalent of the increases in retirement
 30 benefits that are provided for in this 1991 Act for police officers or firefighters who are members
 31 of the Public Employees Retirement System. No other retirement benefit or other benefit provided
 32 by those public employers shall be decreased by the employer by reason of the increases mandated
 33 by this section.

34 (2) The increased benefits provided for in this section apply only to police officers or firefighters
 35 who establish membership before July 14, 1995, in a retirement plan or system offered by a public
 36 employer in lieu of membership in the Public Employees Retirement System pursuant to the pro-
 37 visions of ORS 237.620.

38 (3) **A public employer that is subject to the requirements of this section shall cease**
 39 **paying increased retirement benefits under this section if the payments made to the person**
 40 **are not subject to Oregon personal income tax under ORS 316.127 (9). A public employer that**
 41 **is subject to the requirements of this section shall adopt procedures similar to those de-**
 42 **scribed in ORS 238.372 to 238.384 for the purpose of implementing this subsection. The De-**
 43 **partment of Revenue shall provide to a public employer that is subject to the requirements**
 44 **of this section the information regarding Oregon personal income tax returns that the public**
 45 **employer deems necessary to determine whether the retirement benefits paid to the person**

1 **by the public employer are subject to Oregon personal income tax under ORS 316.127 (9).**

2 **SECTION 9.** ORS 237.637 is amended to read:

3 237.637. (1) Any public employer that provides retirement benefits to its police officers and
 4 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 5 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
 6 employer, both active and retired, that are equal to the increases in retirement benefits that are
 7 provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters
 8 who are members of the Public Employees Retirement System, or the public employer shall provide
 9 to those police officers and firefighters increases in retirement benefits that are the actuarial
 10 equivalent of the increases in retirement benefits that are provided for in chapter 569, Oregon Laws
 11 1995, for police officers or firefighters who are members of the Public Employees Retirement System.
 12 Increases provided under this section shall be reduced by the amount of any benefit increase pro-
 13 vided by ORS 237.635 in the same manner that increases in retirement benefits that are provided for
 14 in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are
 15 members of the Public Employees Retirement System are reduced to reflect amounts paid to those
 16 members under the provisions of chapter 796, Oregon Laws 1991. No other retirement benefit or
 17 other benefit provided by those public employers shall be decreased by the employer by reason of
 18 the increases mandated by this section.

19 (2) A public employer that is subject to the requirements of this section shall cease paying in-
 20 creased **retirement** benefits under this section if the payments made to the person are not subject
 21 to Oregon personal income tax under ORS 316.127 (9). A public employer that is subject to the re-
 22 quirements of this section shall adopt procedures similar to those described in ORS 238.372 to
 23 238.384 for the purpose of implementing this subsection. The Department of Revenue shall provide
 24 to a public employer that is subject to the requirements of this section [*such*] **the** information re-
 25 garding Oregon personal income tax returns [*as*] **that** the public employer deems necessary to de-
 26 termine whether the retirement benefits paid to the person by the public employer are subject to
 27 Oregon personal income tax under ORS 316.127 (9).

28 [*(3) The provisions of subsection (2) of this section do not apply to:*]

29 [*(a) A retired police officer or firefighter who is receiving payments under the public employer's*
 30 *plan and whose effective date of retirement is before January 1, 2012;*]

31 [*(b) A person who is receiving payments under the public employer's plan by reason of the retire-*
 32 *ment of a police officer or firefighter whose effective date of retirement is before January 1, 2012;*
 33 *and]*

34 [*(c) Any other person who receives payments under the public employer's plan that began before*
 35 *January 1, 2012.]*

36 **SECTION 10.** ORS 314.840, as amended by section 11, chapter 107, Oregon Laws 2012, is
 37 amended to read:

38 314.840. (1) The Department of Revenue may:

39 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
 40 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
 41 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
 42 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
 43 any other information the department considers necessary.

44 (b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

45 (c) Publish statistics so classified as to prevent the identification of income or any particulars

1 contained in any report or return.

2 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
 3 Security number, employer identification number or other taxpayer identification number to the ex-
 4 tent necessary in connection with collection activities or the processing and mailing of correspond-
 5 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
 6 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
 7 come.

8 (2) The department also may disclose and give access to information described in ORS 314.835
 9 to:

10 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

11 (A) With respect to an individual who is designated as being under consideration for appoint-
 12 ment or reappointment to an office or for employment in the office of the Governor. The information
 13 disclosed shall be confined to whether the individual:

14 (i) Has filed returns with respect to the taxes imposed by ORS chapter 316 for those of not more
 15 than the three immediately preceding years for which the individual was required to file an Oregon
 16 individual income tax return.

17 (ii) Has failed to pay any tax within 30 days from the date of mailing of a deficiency notice or
 18 otherwise respond to a deficiency notice within 30 days of its mailing.

19 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature
 20 of the penalty.

21 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
 22 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose
 23 of making the appointment, reappointment or decision to employ or not to employ the individual in
 24 the office of the Governor.

25 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly
 26 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-
 27 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue
 28 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-
 29 mission to the Emergency Board or the Joint Interim Committee on Ways and Means, or if the
 30 Legislative Assembly is in session, to the Joint Committee on Ways and Means, and to the Legisla-
 31 tive Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The De-
 32 partment of Revenue shall disclose and give access to the information described in ORS 314.835 for
 33 the purposes of this subparagraph only if:

34 (i) The request for information is made in writing, specifies the purposes for which the request
 35 is made and is signed by an authorized representative of the Oregon Department of Administrative
 36 Services. The form for request for information shall be prescribed by the Oregon Department of
 37 Administrative Services and approved by the Director of the Department of Revenue.

38 (ii) The officer, employee or person receiving the information does not remove from the premises
 39 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-
 40 rate taxpayer.

41 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration
 42 and compliance purposes only.

43 (c) For tax administration and compliance purposes, the proper officer or authorized represen-
 44 tative of any of the following entities that has or is governed by a provision of law that meets the
 45 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

- 1 (A) A state;
- 2 (B) A city, county or other political subdivision of a state;
- 3 (C) The District of Columbia; or
- 4 (D) An association established exclusively to provide services to federal, state or local taxing
- 5 authorities.
- 6 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and
- 7 compliance purposes only. The Multistate Tax Commission may make the information available to
- 8 the Commissioner of Internal Revenue or the proper officer or authorized representative of any
- 9 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.
- 10 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal
- 11 representative of the State of Oregon, to the extent the department deems disclosure or access
- 12 necessary for the performance of the duties of advising or representing the department pursuant to
- 13 ORS 180.010 to 180.240 and the tax laws of this state.
- 14 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department
- 15 of Justice, to the extent the department deems disclosure or access necessary for such employees
- 16 to perform their duties under contracts or agreements between the department and any other de-
- 17 partment, agency or subdivision of the State of Oregon, in the department's administration of the
- 18 tax laws.
- 19 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to
- 20 the extent the department deems disclosure or access necessary for the performance of such others'
- 21 duties under contracts or agreements between the department and such legal entities, in the
- 22 department's administration of the tax laws.
- 23 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
- 24 173.850. Such officer or representative shall not remove from the premises of the department any
- 25 materials that would reveal the identity of any taxpayer or any other person.
- 26 (i) The Department of Consumer and Business Services, to the extent the department requires
- 27 such information to determine whether it is appropriate to adjust those workers' compensation
- 28 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or
- 29 earned income received by an individual.
- 30 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
- 31 or person to whom disclosure or access is given by state law and not otherwise referred to in this
- 32 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
- 33 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
- 34 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
- 35 attorney regarding cases for which they are providing support enforcement services under ORS
- 36 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
- 37 Accountancy, pursuant to ORS 673.415.
- 38 (k) The Director of the Department of Consumer and Business Services to determine that a
- 39 person complies with ORS chapter 656 and the Director of the Employment Department to determine
- 40 that a person complies with ORS chapter 657, the following employer information:
- 41 (A) Identification numbers.
- 42 (B) Names and addresses.
- 43 (C) Inception date as employer.
- 44 (D) Nature of business.
- 45 (E) Entity changes.

1 (F) Date of last payroll.

2 (L) The Director of Human Services to determine that a person has the ability to pay for care
3 that includes services provided by the Eastern Oregon Training Center or the Department of Human
4 Services to collect any unpaid cost of care as provided by ORS chapter 179.

5 (m) The Director of the Oregon Health Authority to determine that a person has the ability to
6 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon
7 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by
8 ORS chapter 179.

9 (n) Employees of the Employment Department to the extent the Department of Revenue deems
10 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary
11 to performance of their duties in administering the tax imposed by ORS chapter 657.

12 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and
13 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and
14 standard industrial classification, if available.

15 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
16 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
17 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
18 refund amount.

19 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement
20 agencies to assist in the investigation or prosecution of the following criminal activities:

21 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
22 to the stolen document, the name, address and taxpayer identification number of the payee, the
23 amount of the check and the date printed on the check.

24 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
25 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
26 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
27 dress and taxpayer identification number of the payee, the amount of the check, the date printed
28 on the check and the altered name and address.

29 (r) The United States Postal Inspection Service or a federal law enforcement agency, including
30 but not limited to the United States Department of Justice, to assist in the investigation of the fol-
31 lowing criminal activities:

32 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
33 to the stolen document, the name, address and taxpayer identification number of the payee, the
34 amount of the check and the date printed on the check.

35 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department
36 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information
37 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-
38 dress and taxpayer identification number of the payee, the amount of the check, the date printed
39 on the check and the altered name and address.

40 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-
41 scribed in ORS 305.612.

42 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in
43 the administration of a tax of the municipal corporation that is imposed on or measured by income,
44 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only
45 pursuant to a written agreement between the Department of Revenue and the municipal corporation

1 that ensures the confidentiality of the information disclosed.

2 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
3 314.843.

4 (v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes
5 of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the
6 purposes of ORS **237.635 (3) and 237.637 (2)**.

7 (3)(a) Each officer or employee of the department and each person described or referred to in
8 subsection (2)(a), (e) to (k) or (n) to (q) of this section to whom disclosure or access to the tax in-
9 formation is given under subsection (2) of this section or any other provision of state law, prior to
10 beginning employment or the performance of duties involving such disclosure or access, shall be
11 advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the vio-
12 lation of ORS 314.835, and shall as a condition of employment or performance of duties execute a
13 certificate for the department, in a form prescribed by the department, stating in substance that the
14 person has read these provisions of law, that the person has had them explained and that the person
15 is aware of the penalties for the violation of ORS 314.835.

16 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a
17 written agreement has been entered into between the Department of Revenue and the person de-
18 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is
19 given, providing that:

20 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-
21 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-
22 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of
23 this section;

24 (B) The information shall be protected as confidential under applicable federal and state laws;
25 and

26 (C) The United States Postal Inspection Service or the federal law enforcement agency shall
27 give notice to the Department of Revenue of any request received under the federal Freedom of In-
28 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

29 (4) The Department of Revenue may recover the costs of furnishing the information described
30 in subsection (2)(k) to (m) and (o) to (q) of this section from the respective agencies.

31 **SECTION 11. (1) Jurisdiction is conferred on the Supreme Court to determine in the**
32 **manner provided by this section whether the provisions of section 3 of this 2013 Act and the**
33 **amendments to ORS 237.635, 237.637, 238.372, 238.374, 238.376, 238.378 and 314.840 by sections**
34 **1 and 5 to 10 of this 2013 Act breach any contract between members of the Public Employees**
35 **Retirement System and their employers, violate the terms of the settlement agreement en-**
36 **tered into in the case of Stovall v. State, 324 Or. 92 (1996) or violate any constitutional pro-**
37 **vision, including but not limited to impairment of contract rights of members of the Public**
38 **Employees Retirement System under Article I, section 21, of the Oregon Constitution, or**
39 **Article I, section 10, clause 1, of the United States Constitution.**

40 (2) A person who is or who will be adversely affected by section 3 of this 2013 Act or the
41 amendments to ORS 237.635, 237.637, 238.372, 238.374, 238.376, 238.378 and 314.840 by sections
42 1 and 5 to 10 of this 2013 Act may institute a proceeding for review by filing with the Su-
43 preme Court a petition that meets the following requirements:

44 (a) The petition must be filed within 60 days after the effective date of this 2013 Act.

45 (b) The petition must include the following:

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

2 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
3 fected.

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

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

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

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

13 **SECTION 12.** Sections 2 to 4 of this 2013 Act and the amendments to ORS 237.635, 237.637,
14 238.372, 238.374, 238.376, 238.378 and 314.840 by sections 1 and 5 to 10 of this 2013 Act do not
15 affect any benefit paid under chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws
16 1995, before January 1, 2014.

17 **SECTION 13.** (1) The amendments to ORS 237.635, 237.637, 238.372, 238.374, 238.376, 238.378
18 and 314.840 by sections 1 and 5 to 10 of this 2013 Act become operative on January 1, 2014.

19 (2) The Public Employees Retirement Board may take any action before the operative
20 date specified in subsection (1) of this section to enable the board to exercise, on and after
21 the operative date specified in subsection (1) of this section, all the duties, functions and
22 powers conferred on the board by the amendments to ORS 237.635, 237.637, 238.372, 238.374,
23 238.376, 238.378 and 314.840 by sections 1 and 5 to 10 of this 2013 Act.

24 **SECTION 14.** This 2013 Act being necessary for the immediate preservation of the public
25 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
26 on its passage.