

House Bill 3148

Sponsored by COMMITTEE ON BUSINESS AND LABOR

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 law providing increased retirement benefits to members of Public Employees Retirement System in compensation for income taxation of retirement benefits. Provides that increased retirement benefits enacted in 1995 not be paid to retired member who does not pay Oregon income tax on benefits, without regard to person's date of retirement.

Imposes similar prohibition for certain public employers that provide retirement benefits to 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 237.637 and 238.372; and declaring
4 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 provided by chapter 569, Oregon Laws 1995, if the board
9 receives notice under ORS 238.372 to 238.384 that the payments made to the person under this
10 chapter are not subject to Oregon personal income tax under ORS 316.127 (9).

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

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

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

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

18 [(3)] (2) The board shall give written notification of the provisions of ORS 238.372 to 238.384 to
19 all persons applying for or receiving payments under this chapter.

20 [(4)] (3) A person receiving payments under this chapter that are not increased under chapter
21 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384 has no right or claim to the increased
22 benefit provided by chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

23 **SECTION 2.** Section 3 of this 2013 Act is added to and made a part of ORS 238.372 to
24 **238.384.**

25 **SECTION 3.** (1) On or before October 31, 2013, each person receiving payments under this
26 chapter shall provide the Public Employees Retirement Board with a written statement that
27 indicates whether the payments received by the person are subject to Oregon personal in-
28 come tax under ORS 316.127 (9).

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 **(2) If a person receiving payments under this chapter does not notify the board on or**
 2 **before October 31, 2013, that the payments are subject to Oregon personal income tax, or**
 3 **notifies the board that the payments are not subject to Oregon personal income tax, the**
 4 **board shall reduce any benefits payable to the person by the amount by which the benefits**
 5 **were increased under chapter 569, Oregon Laws 1995.**

6 **(3) The reduction in benefits first applies to an allowance payable on February 1, 2014, for**
 7 **the month of January 2014.**

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

9 **SECTION 5.** ORS 237.637 is amended to read:

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

26 (2) A public employer that is subject to the requirements of this section shall cease paying in-
 27 creased **retirement** benefits under this section if the payments made to the person are not subject
 28 to Oregon personal income tax under ORS 316.127 (9). A public employer that is subject to the re-
 29 quirements of this section shall adopt procedures similar to those described in ORS 238.372 to
 30 238.384 for the purpose of implementing this subsection. The Department of Revenue shall provide
 31 to a public employer that is subject to the requirements of this section [*such*] **the** information re-
 32 garding Oregon personal income tax returns [*as*] **that** the public employer deems necessary to de-
 33 termine whether the retirement benefits paid to the person by the public employer are subject to
 34 Oregon personal income tax under ORS 316.127 (9).

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

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

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

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

43 **SECTION 6. (1) Jurisdiction is conferred on the Supreme Court to determine in the**
 44 **manner provided by this section whether the provisions of section 3 of this 2013 Act and the**
 45 **amendments to ORS 237.637 and 238.372 by sections 1 and 5 of this 2013 Act breach any**

1 contract between members of the Public Employees Retirement System and their employers,
2 violate the terms of the settlement agreement entered into in the case of *Stovall v. State*
3 *of Oregon*, 324 Or. 92 (1996), or violate any constitutional provision, including but not limited
4 to impairment of contract rights of members of the Public Employees Retirement System
5 under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of
6 the United States Constitution.

7 (2) A person who is or who will be adversely affected by section 3 of this 2013 Act or the
8 amendments to ORS 237.637 and 238.372 by sections 1 and 5 of this 2013 Act may institute a
9 proceeding for review by filing with the Supreme Court a petition that meets the following
10 requirements:

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

12 (b) The petition must include the following:

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

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

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

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

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

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

25 **SECTION 7.** (1) Section 3 of this 2013 Act and the amendments to ORS 237.637 and 238.372
26 by sections 1 and 5 of this 2013 Act do not affect any benefit paid under chapter 569, Oregon
27 Laws 1995, before January 2, 2014.

28 (2) Section 3 of this 2013 Act and the amendments to ORS 237.637 and 238.372 by sections
29 1 and 5 of this 2013 Act do not affect any benefit provided by chapter 796, Oregon Laws 1991.

30 **SECTION 8.** (1) The amendments to ORS 237.637 and 238.372 by sections 1 and 5 of this
31 2013 Act become operative on January 1, 2014.

32 (2) The Public Employees Retirement Board may take any action before the operative
33 date specified in subsection (1) of this section to enable the board to exercise, on and after
34 the operative date specified in subsection (1) of this section, all the duties, functions and
35 powers conferred on the board by the amendments to ORS 237.637 and 238.372 by sections 1
36 and 5 of this 2013 Act.

37 **SECTION 9.** This 2013 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
39 on its passage.