

House Bill 3206

Sponsored by Representative CONGER

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 Tier 1 and Tier 2 members cease to be members of individual account program on effective date of Act. Allows member who is already member of individual account program to continue as member for purpose of amounts in employee account, but prohibits further employee contributions to account.

Directs board to establish new account for Tier 1 or Tier 2 employee. Requires that employee contributions and earnings on contributions in account be applied against costs of member's pension or other retirement benefits payable to member. Specifies rules for withdrawal of new account by inactive member.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238A.320; and de-
3 claring an emergency.

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

5 **SECTION 1. Sections 2, 3 and 4 of this 2013 Act are added to and made a part of ORS**
6 **chapter 238A.**

7 **SECTION 2. (1) A member who established membership in the Public Employees Retirement**
8 **System before August 29, 2003, as described in ORS 238A.025 (4), ceases to be a member**
9 **of the individual account program on the effective date of this 2013 Act.**

10 **(2) A member who established membership in the Public Employees Retirement System**
11 **before August 29, 2003, as described in ORS 238A.025 (4), and who is a member of the indi-**
12 **vidual account program on the effective date of this 2013 Act, continues to be a member for**
13 **the purpose of amounts in the employee account established for the member under ORS**
14 **238A.350 (2), and the Public Employees Retirement Board shall continue to make adjustments**
15 **to the account in the manner prescribed by ORS 238A.350 (1) on and after the effective date**
16 **of this 2013 Act, but no further employee contributions may be deposited in the account on**
17 **or after the effective date of this 2013 Act by reason of service by the member.**

18 **(3) Employee contributions under ORS 238A.330 made on or after the effective date of**
19 **this 2013 Act by or on behalf of a member who established membership in the Public Em-**
20 **ployees Retirement System before August 29, 2003, as described in ORS 238A.025 (4), may not**
21 **be deposited by the Public Employees Retirement Board in the employee account established**
22 **for the member under ORS 238A.350 (2), but shall instead be deposited in the account es-**
23 **tablished for the member under section 3 of this 2013 Act.**

24 **SECTION 3. (1) The Public Employees Retirement Board shall establish an account for**
25 **each active member of the Public Employees Retirement System who established member-**
26 **ship in the system before August 29, 2003, as described in ORS 238A.025 (4). Each account**
27 **shall be adjusted at least annually in accordance with rules adopted by the board to reflect**

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 any net earnings or losses on those contributions. The adjustments described in this sub-
 2 section shall continue until the account is withdrawn or applied against the costs of the
 3 pension or other retirement benefits payable to the member.

4 (2) Unless the amounts in an account created under this section are withdrawn under
 5 section 4 of this 2013 Act, the amounts in the account shall be applied by the board to pay
 6 the costs of the pension or other retirement benefits payable to or on behalf of the member.

7 **SECTION 4.** (1) An inactive member may elect to receive a distribution of the amounts
 8 in the member's account established under section 3 of this 2013 Act if the inactive member
 9 has separated from all service with participating public employers and with employers who
 10 are treated as part of a participating public employer's controlled group under the federal
 11 laws and rules governing the status of the Public Employees Retirement System and the
 12 Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

13 (2) A member who is vested in the pension program established under this chapter and
 14 who is eligible to withdraw from the pension program under ORS 238A.120 may make an
 15 election under this section only if the member also withdraws from the pension program.

16 **SECTION 5.** ORS 238A.320 is amended to read:

17 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 18 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 19 tablished.

20 (2) A member who makes rollover contributions becomes vested in the rollover account estab-
 21 lished for the member under ORS 238A.350 (4) on the date the rollover account is established.

22 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-
 23 butions for a member under ORS 238A.340 the member becomes vested in the employer account es-
 24 tablished under ORS 238A.350 (3) on the earliest of the following dates:

25 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 26 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 27 subsection (5) of this section.

28 (b) The date on which an active member reaches the normal retirement age for the member
 29 under ORS 238A.160.

30 (c) If the individual account program is terminated, the date on which termination becomes ef-
 31 fective, but only to the extent the account is then funded.

32 (d) The date on which an active member becomes disabled, as described in ORS 238A.155 (5).

33 (e) The date on which an active member dies.

34 (4) If on the date that a person becomes an active member the person has already reached the
 35 normal retirement age for the person under ORS 238A.160, and the employer makes employer con-
 36 tributions for the member under ORS 238A.340, the person is vested in the employer account es-
 37 tablished under ORS 238A.350 (3) on that date.

38 (5) If a member of the individual account program who is not vested in the employer account
 39 performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service
 40 performed before the first calendar year of the period of five consecutive calendar years shall be
 41 disregarded for purposes of determining whether the member is vested under subsection (3)(a) of this
 42 section.

43 (6) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this
 44 section, hours of service include creditable service, as defined in ORS 238.005, performed by the
 45 person before the person became an eligible employee, as long as the membership of the person

1 under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date
2 the person becomes an eligible employee.

3 **(7) A member becomes vested in the account established for the member under section**
4 **3 of this 2013 Act on the date the account is established under section 3 of this 2013 Act.**

5 **SECTION 6. (1) Jurisdiction is conferred on the Supreme Court to determine in the**
6 **manner provided by this section whether this 2013 Act breaches any contract between**
7 **members of the Public Employees Retirement System and their employers or violates any**
8 **constitutional provision, including but not limited to impairment of contract rights of mem-**
9 **bers of the Public Employees Retirement System under Article I, section 21, of the Oregon**
10 **Constitution, or Article I, section 10, clause 1, of the United States Constitution.**

11 **(2) A person who is adversely affected by this 2013 Act or who will be adversely affected**
12 **by this 2013 Act may institute a proceeding for review by filing with the Supreme Court a**
13 **petition that meets the following requirements:**

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

15 **(b) The petition must include the following:**

16 **(A) A statement of the basis of the challenge; and**

17 **(B) A statement and supporting affidavit showing how the petitioner is adversely af-**
18 **ected.**

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

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

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

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

28 **SECTION 7. This 2013 Act being necessary for the immediate preservation of the public**
29 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
30 **on its passage.**

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