

# Senate Bill 822

Sponsored by Senator DEVLIN, Representative BUCKLEY

## 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 cost-of-living adjustment under Public Employees Retirement System.

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. 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.

Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect savings attributable to Act.

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

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 237.635, 237.637, 238.360, 238.372, 238.374, 238.376, 238.378, 238.575, 238A.210 and 314.840; and declaring an emergency.

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

## COST-OF-LIVING ADJUSTMENT

### **SECTION 1.** ORS 238.360 is amended to read:

238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement Board shall determine the percentage increase or decrease in the cost-of-living for the previous calendar year, based on the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to July 1 each year the allowance which the member or the member's beneficiary is receiving or is entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure determined, and the allowance for the next 12 months beginning July 1 adjusted to the resultant amount.

(2) Such increase or decrease shall not exceed *[two]* **1.5** percent of any monthly retirement allowance in any year and no allowance shall be adjusted to an amount less than the amount to which the recipient would be entitled if no cost-of-living adjustment were authorized.

(3) The amount of any cost-of-living increase or decrease in any year in excess of the maximum annual retirement allowance adjustment of *[two]* **1.5** percent shall be accumulated from year to year and included in the computation of increases or decreases in succeeding years.

(4) Any increase in the allowance shall be paid from contributions of the public employer under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form of a credit against contributions of the employer under ORS 238.225.

### **SECTION 2.** The amendments to ORS 238.360 by section 1 of this 2013 Act apply to all

**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 **adjustments to allowances made under ORS 238.360 on and after July 1, 2013, and before July**  
 2 **1, 2014.**

3 **SECTION 3.** ORS 238.360, as amended by section 1 of this 2013 Act, is amended to read:

4 238.360. [(1) As soon as practicable after January 1 each year, the Public Employees Retirement  
 5 Board shall determine the percentage increase or decrease in the cost-of-living for the previous calendar  
 6 year, based on the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor  
 7 Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to July 1 each year  
 8 the allowance which the member or the member's beneficiary is receiving or is entitled to receive on  
 9 August 1 for the month of July shall be multiplied by the percentage figure determined, and the al-  
 10 lowance for the next 12 months beginning July 1 adjusted to the resultant amount.] **On July 1 of each**  
 11 **year, the Public Employees Retirement Board shall increase the yearly allowance that a**  
 12 **member or member's beneficiary receives or is entitled to receive, as provided in subsections**  
 13 **(2) and (3) of this section. The increase is first payable with the allowance that the member**  
 14 **or the member's beneficiary receives or is entitled to receive on August 1.**

15 [(2) Such increase or decrease shall not exceed 1.5 percent of any monthly retirement allowance in  
 16 any year and no allowance shall be adjusted to an amount less than the amount to which the recipient  
 17 would be entitled if no cost-of-living adjustment were authorized.]

18 [(3) The amount of any cost-of-living increase or decrease in any year in excess of the maximum  
 19 annual retirement allowance adjustment of 1.5 percent shall be accumulated from year to year and in-  
 20 cluded in the computation of increases or decreases in succeeding years.]

21 **(2)(a) If the member's or member's beneficiary's yearly allowance for the previous year**  
 22 **totaled \$20,000 or less, the allowance shall be increased by two percent.**

23 **(b) If the member's or member's beneficiary's yearly allowance for the previous year**  
 24 **totaled more than \$20,000 but not more than \$40,000, the allowance shall be increased by \$400**  
 25 **plus 1.5 percent of the amount of the yearly allowance exceeding \$20,000.**

26 **(c) If the member's or member's beneficiary's yearly allowance for the previous year**  
 27 **totaled more than \$40,000 but not more than \$60,000, the allowance shall be increased by \$700**  
 28 **plus one percent of the amount of the yearly allowance exceeding \$40,000.**

29 **(d) If the member's or member's beneficiary's yearly allowance for the previous year**  
 30 **totaled more than \$60,000, the allowance shall be increased by \$900 plus .25 percent of the**  
 31 **amount of the yearly allowance exceeding \$60,000.**

32 **(3) If a member or member's beneficiary has been receiving an allowance for less than**  
 33 **12 months on July 1 of any year, the board shall calculate the increase under subsection (2)**  
 34 **of this section on the basis of the yearly allowance the member or member's beneficiary**  
 35 **would have received if the member or member's beneficiary had received the monthly al-**  
 36 **lowance for 12 months.**

37 (4) Any increase in the allowance shall be paid from contributions of the public employer under  
 38 ORS 238.225. [Any decrease in the allowance shall be returned to the employer in the form of a credit  
 39 against contributions of the employer under ORS 238.225.]

40 **SECTION 4. The amendments to ORS 238.360 by section 3 of this 2013 Act apply to all**  
 41 **increases to allowances made under ORS 238.360 on and after July 1, 2014.**

42 **SECTION 5.** ORS 238A.210 is amended to read:

43 238A.210. (1) As soon as practicable after January 1 each year, the Public Employees Retirement  
 44 Board shall determine the percentage increase or decrease in the cost of living for the previous  
 45 calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers

1 for All Items, as published by the Bureau of Labor Statistics of the United States Department of  
 2 Labor. Before July 1 each year, the board shall adjust every pension payable under ORS 238A.180,  
 3 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit payable  
 4 under ORS 238A.230 by multiplying the monthly payment by the percentage figure determined by the  
 5 board. If a person has been receiving a pension or benefit for less than 12 months on July 1 of a  
 6 calendar year, the board shall make a pro rata reduction of the adjustment based on the number  
 7 of months that the pension or benefit was received before July 1 of the year. The adjustment shall  
 8 be made for the payments payable on August 1 and thereafter.

9 (2) An increase or decrease in the benefit payments under this section may not exceed *[two]* 1.5  
 10 percent in any year. A pension or death benefit may not be adjusted to an amount that is less than  
 11 the amount that would have been payable if no cost-of-living adjustment had been made since the  
 12 pension or death benefit first became payable.

13 **SECTION 6. The amendments to ORS 238A.210 by section 5 of this 2013 Act apply to all**  
 14 **adjustments to pensions or benefits made under ORS 238A.210 on and after July 1, 2013, and**  
 15 **before July 1, 2014.**

16 **SECTION 7.** ORS 238A.210, as amended by section 4 of this 2013 Act, is amended to read:

17 238A.210. *[(1) As soon as practicable after January 1 each year, the Public Employees Retirement*  
 18 *Board shall determine the percentage increase or decrease in the cost of living for the previous calendar*  
 19 *year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All*  
 20 *Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. Before*  
 21 *July 1 each year, the board shall adjust every pension payable under ORS 238A.180, 238A.185 and*  
 22 *238A.190, every disability benefit under ORS 238A.235 and every death benefit payable under ORS*  
 23 *238A.230 by multiplying the monthly payment by the percentage figure determined by the board. If a*  
 24 *person has been receiving a pension or benefit for less than 12 months on July 1 of a calendar year,*  
 25 *the board shall make a pro rata reduction of the adjustment based on the number of months that the*  
 26 *pension or benefit was received before July 1 of the year. The adjustment shall be made for the pay-*  
 27 *ments payable on August 1 and thereafter.]*

28 *[(2) An increase or decrease in the benefit payments under this section may not exceed 1.5 percent*  
 29 *in any year. A pension or death benefit may not be adjusted to an amount that is less than the amount*  
 30 *that would have been payable if no cost-of-living adjustment had been made since the pension or death*  
 31 *benefit first became payable.]*

32 **(1) On July 1 of each year, the board shall increase every pension payable under ORS**  
 33 **238A.180, 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death**  
 34 **benefit payable under ORS 238A.230 as provided in subsections (2) and (3) of this section. The**  
 35 **increase shall be made for the payments payable on August 1 and thereafter.**

36 **(2)(a) If a person's yearly pension or benefit for the previous year totaled \$20,000 or less,**  
 37 **the pension or benefit shall be increased by two percent.**

38 **(b) If a person's yearly pension or benefit for the previous year totaled more than \$20,000**  
 39 **but not more than \$40,000, the pension or benefit shall be increased by \$400 plus 1.5 percent**  
 40 **of the amount of the yearly pension or benefit exceeding \$20,000.**

41 **(c) If a person's yearly pension or benefit for the previous year totaled more than \$40,000**  
 42 **but not more than \$60,000, the pension or benefit shall be increased by \$700 plus one percent**  
 43 **of the amount of the yearly pension or benefit exceeding \$40,000.**

44 **(d) If a person's yearly pension or benefit for the previous year totaled more than \$60,000,**  
 45 **the pension or benefit shall be increased by \$900 plus .25 percent of the amount of the yearly**

1 **pension or benefit exceeding \$60,000.**

2 **(3) If a person has been receiving a pension or benefit for less than 12 months on July 1**  
 3 **of any year, the board shall calculate the increase under subsection (2) of this section on the**  
 4 **basis of the yearly allowance the person would have received if the person had received the**  
 5 **pension or benefit for 12 months.**

6 **SECTION 8. The amendments to ORS 238A.210 by section 7 of this 2013 Act apply to all**  
 7 **increases to pensions or benefits made under ORS 238A.210 on and after July 1, 2014.**

8 **SECTION 9. (1) The amendments to ORS 238.360 and 238A.210 by sections 3 and 7 of this**  
 9 **2013 Act become operative on July 1, 2014.**

10 **(2) The Public Employees Retirement Board may take any action before the operative**  
 11 **date specified in subsection (1) of this section to enable the board, on and after the operative**  
 12 **date specified in subsection (1) of this section, to exercise all the duties, functions and pow-**  
 13 **ers conferred on the board by the amendments to ORS 238.360 and 238A.210 by sections 3 and**  
 14 **7 of this 2013 Act.**

15 **SECTION 10. ORS 238.575 is amended to read:**

16 238.575. (1) Every monthly retirement allowance or pension payable to a judge member or sur-  
 17 viving spouse of a judge member under ORS 238.500 to 238.585 shall be adjusted annually *[to reflect*  
 18 *the percentage increase or decrease in the cost of living]* as provided in ORS 238.360.

19 (2) ORS 238.368 applies to judge members, and for that purpose the monthly retirement allow-  
 20 ance referred to in ORS 238.368 shall be the monthly retirement allowance payable to a judge  
 21 member or the monthly pension payable to the surviving spouse of a judge member under ORS  
 22 238.565 (3)(a).

## 23 **TAXATION OF OUT-OF-STATE RETIREES**

24  
 25  
 26 **SECTION 11. ORS 238.372 is amended to read:**

27 238.372. (1) Except as provided in ORS 238.372 to 238.384, the Public Employees Retirement  
 28 Board may not pay the increased *[benefit]* **benefits** provided by **chapter 796, Oregon Laws 1991,**  
 29 **or** chapter 569, Oregon Laws 1995, if the board receives notice under ORS 238.372 to 238.384 that  
 30 the payments made to the person under this chapter are not subject to Oregon personal income tax  
 31 under ORS 316.127 (9).

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

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

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

37 *[(c) Any other person who receives payments under this chapter that began before January 1,*  
 38 *2012.]*

39 *[(3)]* **(2)** The board shall give written notification of the provisions of ORS 238.372 to 238.384 to  
 40 all persons applying for or receiving payments under this chapter.

41 *[(4)]* **(3)** A person receiving payments under this chapter that are not increased under **chapter**  
 42 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384  
 43 has no right or claim to the increased benefit provided by **chapter 796, Oregon Laws 1991, or**  
 44 chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

45 **SECTION 12. ORS 238.374 is amended to read:**

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

7       (2) If a person is receiving payments under this chapter that have not been increased under  
 8 **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of the provisions  
 9 of subsection (1) of this section, and thereafter the payments become subject to Oregon personal  
 10 income tax **under ORS 316.127 (9)**, the person shall promptly notify the Public Employees Retire-  
 11 ment Board by written statement that the payments are subject to Oregon personal income tax  
 12 **under ORS 316.127 (9)**.

13       (3) If a person is receiving payments under this chapter that have not been increased under  
 14 **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of the provisions  
 15 of subsection (1) of this section, and the board receives notice under subsection (2) of this section  
 16 that payments to the person under this chapter are subject to Oregon personal income tax **under**  
 17 **ORS 316.127 (9)**, or determines under ORS 238.378 that payments to the person under this chapter  
 18 are subject to Oregon personal income tax **under ORS 316.127 (9)**, the board shall initiate payment  
 19 of the increased [benefit] **benefits** provided by **chapter 796, Oregon Laws 1991, or** chapter 569,  
 20 Oregon Laws 1995. The increase in benefits becomes effective on the first day of the calendar year  
 21 following receipt of notice by the board.

22       **SECTION 13.** ORS 238.376 is amended to read:

23       238.376. (1) If a person is receiving payments under this chapter, and after the payments com-  
 24 mence the payments cease to be subject to Oregon personal income tax under ORS 316.127 (9), the  
 25 person shall promptly notify the Public Employees Retirement Board by written statement that the  
 26 payments are no longer subject to Oregon personal income tax **under ORS 316.127 (9)**. The board  
 27 shall reduce any benefits payable to the person by the amount by which the benefits were increased  
 28 under **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995. The reduction in bene-  
 29 fits becomes effective on the first day of the calendar year following receipt of notice by the board.

30       (2) If a person is receiving payments under this chapter that have been reduced [*under the pro-*  
 31 *visions of subsection (1) of this section*] **because the payments are not subject to Oregon personal**  
 32 **income tax under ORS 316.127 (9)**, and thereafter the payments become subject to Oregon personal  
 33 income tax **under ORS 316.127 (9)**, the person shall promptly notify the board by written statement  
 34 that the payments are once again subject to Oregon personal income tax **under ORS 316.129 (9)**.

35       (3) If a person is receiving payments under this chapter that have been reduced [*under the pro-*  
 36 *visions of subsection (1) of this section*] **because the payments are not subject to Oregon personal**  
 37 **income tax under ORS 316.127 (9)**, and the board receives notice under subsection (2) of this sec-  
 38 tion that payments to the person under this chapter are once again subject to Oregon personal in-  
 39 come tax **under ORS 316.127 (9)**, or determines under ORS 238.378 that payments to the person  
 40 under this chapter are once again subject to Oregon personal income tax **under ORS 316.127 (9)**,  
 41 the board shall resume payment of the increased [benefit] **benefits** provided by **chapter 796, Oregon**  
 42 **Laws 1991, or** chapter 569, Oregon Laws 1995. The increase in benefits becomes effective on the  
 43 first day of the calendar year following receipt of notice by the board.

44       **SECTION 14.** ORS 238.378 is amended to read:

45       238.378. (1) Not less than once each calendar year, the Public Employees Retirement Board shall

1 provide to the Department of Revenue information identifying persons to whom payments have been  
2 made under this chapter. The Department of Revenue shall provide to the board such information  
3 on Oregon personal income tax returns as the board deems necessary to determine whether the  
4 payments made to the person under this chapter are subject to Oregon personal income tax under  
5 ORS 316.127 (9).

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

11 (3) If the board determines that the payments made to a person under this chapter are subject  
12 to Oregon personal income tax **under ORS 316.127 (9)** based on information provided by the De-  
13 partment of Revenue under this section, and the person is not receiving the increased benefit pro-  
14 vided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the board shall  
15 increase the benefits payable to the person as provided in ORS 238.374 (3) or 238.376 (3).

16 **SECTION 15.** ORS 237.635 is amended to read:

17 237.635. (1) Any public employer that provides retirement benefits to its police officers and  
18 firefighters other than by participation in the Public Employees Retirement System pursuant to the  
19 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public  
20 employer, both active and retired, that are equal to the increases in retirement benefits that are  
21 provided for in this 1991 Act for active and retired police officers or firefighters who are members  
22 of the Public Employees Retirement System, or shall provide to those police officers and firefighters  
23 increases in retirement benefits that are the actuarial equivalent of the increases in retirement  
24 benefits that are provided for in this 1991 Act for police officers or firefighters who are members  
25 of the Public Employees Retirement System. No other retirement benefit or other benefit provided  
26 by those public employers shall be decreased by the employer by reason of the increases mandated  
27 by this section.

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

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

41 **SECTION 16.** ORS 237.637 is amended to read:

42 237.637. (1) Any public employer that provides retirement benefits to its police officers and  
43 firefighters other than by participation in the Public Employees Retirement System pursuant to the  
44 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public  
45 employer, both active and retired, that are equal to the increases in retirement benefits that are

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

13 (2) A public employer that is subject to the requirements of this section shall cease paying in-  
 14 creased **retirement** benefits under this section if the payments made to the person are not subject  
 15 to Oregon personal income tax under ORS 316.127 (9). A public employer that is subject to the re-  
 16 quirements of this section shall adopt procedures similar to those described in ORS 238.372 to  
 17 238.384 for the purpose of implementing this subsection. The Department of Revenue shall provide  
 18 to a public employer that is subject to the requirements of this section [*such*] **the** information re-  
 19 garding Oregon personal income tax returns [*as*] **that** the public employer deems necessary to de-  
 20 termine whether the retirement benefits paid to the person by the public employer are subject to  
 21 Oregon personal income tax under ORS 316.127 (9).

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

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

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

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

30 **SECTION 17.** ORS 314.840, as amended by section 11, chapter 107, Oregon Laws 2012, is  
 31 amended to read:

32 314.840. (1) The Department of Revenue may:

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

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

39 (c) Publish statistics so classified as to prevent the identification of income or any particulars  
 40 contained in any report or return.

41 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social  
 42 Security number, employer identification number or other taxpayer identification number to the ex-  
 43 tent necessary in connection with collection activities or the processing and mailing of correspond-  
 44 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to  
 45 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-

1 come.

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

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

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

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

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

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

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

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

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

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

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

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

40 (A) A state;

41 (B) A city, county or other political subdivision of a state;

42 (C) The District of Columbia; or

43 (D) An association established exclusively to provide services to federal, state or local taxing  
44 authorities.

45 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and



1 compliance purposes only. The Multistate Tax Commission may make the information available to  
2 the Commissioner of Internal Revenue or the proper officer or authorized representative of any  
3 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

4 (e) The Attorney General, assistants and employees in the Department of Justice, or other legal  
5 representative of the State of Oregon, to the extent the department deems disclosure or access  
6 necessary for the performance of the duties of advising or representing the department pursuant to  
7 ORS 180.010 to 180.240 and the tax laws of this state.

8 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department  
9 of Justice, to the extent the department deems disclosure or access necessary for such employees  
10 to perform their duties under contracts or agreements between the department and any other de-  
11 partment, agency or subdivision of the State of Oregon, in the department's administration of the  
12 tax laws.

13 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to  
14 the extent the department deems disclosure or access necessary for the performance of such others'  
15 duties under contracts or agreements between the department and such legal entities, in the  
16 department's administration of the tax laws.

17 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS  
18 173.850. Such officer or representative shall not remove from the premises of the department any  
19 materials that would reveal the identity of any taxpayer or any other person.

20 (i) The Department of Consumer and Business Services, to the extent the department requires  
21 such information to determine whether it is appropriate to adjust those workers' compensation  
22 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or  
23 earned income received by an individual.

24 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency  
25 or person to whom disclosure or access is given by state law and not otherwise referred to in this  
26 section, including but not limited to the Secretary of State as Auditor of Public Accounts under  
27 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to  
28 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district  
29 attorney regarding cases for which they are providing support enforcement services under ORS  
30 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of  
31 Accountancy, pursuant to ORS 673.415.

32 (k) The Director of the Department of Consumer and Business Services to determine that a  
33 person complies with ORS chapter 656 and the Director of the Employment Department to determine  
34 that a person complies with ORS chapter 657, the following employer information:

35 (A) Identification numbers.

36 (B) Names and addresses.

37 (C) Inception date as employer.

38 (D) Nature of business.

39 (E) Entity changes.

40 (F) Date of last payroll.

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

44 (m) The Director of the Oregon Health Authority to determine that a person has the ability to  
45 pay for care that includes services provided by the Blue Mountain Recovery Center or the Oregon

1 State Hospital or the Oregon Health Authority to collect any unpaid cost of care as provided by  
2 ORS chapter 179.

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

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

9 (p) Employees of the Department of State Lands for the purposes of identifying, locating and  
10 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter  
11 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the  
12 refund amount.

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

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

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

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

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

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

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

36 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in  
37 the administration of a tax of the municipal corporation that is imposed on or measured by income,  
38 wages or net earnings from self-employment. Any disclosure under this paragraph may be made only  
39 pursuant to a written agreement between the Department of Revenue and the municipal corporation  
40 that ensures the confidentiality of the information disclosed.

41 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS  
42 314.843.

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

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

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

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

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

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

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

## 25 26 EMPLOYER CONTRIBUTION RATES

27  
28 **SECTION 18. (1) As soon as possible after the effective date of this 2013 Act, the Public**  
 29 **Employees Retirement Board shall recalculate the contribution rates of all employers, pur-**  
 30 **suant to ORS 238.225, to reflect the provisions of this 2013 Act.**

31 **(2) The board shall issue corrected contribution rate orders to employers affected by re-**  
 32 **calculated rates under this section within 90 days after the effective date of this 2013 Act.**  
 33 **The corrected rates are effective July 1, 2013.**

## 34 35 JUDICIAL REVIEW

36  
37 **SECTION 19. (1) Jurisdiction is conferred on the Supreme Court to determine in the**  
 38 **manner provided by this section whether this 2013 Act breaches any contract between**  
 39 **members of the Public Employees Retirement System and their employers, violates any**  
 40 **constitutional provision, including but not limited to impairment of contract rights of mem-**  
 41 **bers of the Public Employees Retirement System under Article I, section 21, of the Oregon**  
 42 **Constitution, or Article I, section 10, clause 1, of the United States Constitution, or is invalid**  
 43 **for any other reason.**

44 **(2) A person who is adversely affected by this 2013 Act or who will be adversely affected**  
 45 **by this 2013 Act may institute a proceeding for review by filing with the Supreme Court a**

1 **petition that meets the following requirements:**

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

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

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

5 (B) **A statement and supporting affidavit showing how the petitioner is adversely af-**  
6 **fected.**

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

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

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

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

16  
17 **CAPTIONS**

18  
19 **SECTION 20. The unit captions used in this 2013 Act are provided only for the conven-**  
20 **ience of the reader and do not become part of the statutory law of this state or express any**  
21 **legislative intent in the enactment of this 2013 Act.**

22  
23 **EMERGENCY CLAUSE**

24  
25 **SECTION 21. This 2013 Act being necessary for the immediate preservation of the public**  
26 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**  
27 **on its passage.**

28 \_\_\_\_\_