

A-Engrossed
Senate Bill 857

Ordered by the Senate June 29
Including Senate Amendments dated June 29

Sponsored by COMMITTEE ON FINANCE AND REVENUE

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.

[Creates Task Force on PERS Reform to study approaches to reforming Public Employees Retirement System and report to committee or interim committee of Legislative Assembly no later than October 1, 2014.]

[Sunsets task force on date of convening of 2015 regular session of Legislative Assembly.]

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

Directs Public Employees Retirement Board to report to Legislative Assembly at least once every five years on impact of changes in cost of living on purchasing power of pensions.

Directs board to adopt actuarial equivalency factor tables for computing money match benefit for certain members of system. Directs board to use annual interest rate based on rates published by Pension Benefit Guaranty Corporation in adopting tables.

Directs 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

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238.360 and
3 238A.210; and declaring an emergency.

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

5
6 **COST OF LIVING ADJUSTMENTS**

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8 **SECTION 1.** ORS 238.360, as amended by sections 1 and 3, chapter 53, Oregon Laws 2013 (En-
9 rolled Senate Bill 822), is amended to read:

10 238.360. (1) On July 1 of each year, the Public Employees Retirement Board shall increase the
11 yearly allowance that a member or member's beneficiary receives or is entitled to receive, as pro-
12 vided in *[subsections (2) and (3)]* **subsection (2)** of this section. The increase is first payable with
13 the allowance that the member or the member's beneficiary receives or is entitled to receive on
14 August 1.

15 (2)(a) If the member's or member's beneficiary's yearly allowance *[for the previous year totaled*
16 *\$20,000]* **is \$60,000** or less, the allowance shall be increased by *[two]* **1.25** percent.

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

20 *[(c) If the member's or member's beneficiary's yearly allowance for the previous year totaled more*

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 *than \$40,000 but not more than \$60,000, the allowance shall be increased by \$700 plus one percent of*
2 *the amount of the yearly allowance exceeding \$40,000.]*

3 *[(d)] (b) If the member's or member's beneficiary's yearly allowance [for the previous year*
4 *totaled] is more than \$60,000, the allowance shall be increased by [\$900 plus .25] **\$750 plus 0.15***
5 *percent of the amount of the yearly allowance exceeding \$60,000.*

6 *[(3) If a member or member's beneficiary has been receiving an allowance for less than 12 months*
7 *on July 1 of any year, the board shall calculate the increase under subsection (2) of this section on the*
8 *basis of the yearly allowance the member or member's beneficiary would have received if the member*
9 *or member's beneficiary had received the monthly allowance for 12 months.]*

10 *[(4)] (3) Any increase in the allowance shall be paid from contributions of the public employer*
11 *under ORS 238.225.*

12 **(4) As used in this section, "yearly allowance" means the monthly allowance that a**
13 **member or member's beneficiary is entitled to on July 1 of the year in which the board is**
14 **calculating the increase under subsection (1) of this section, multiplied by 12.**

15 **SECTION 2. The amendments to ORS 238.360 by section 1 of this 2013 Act apply to all**
16 **increases to allowances made under ORS 238.360 on and after July 1, 2014.**

17 **SECTION 3. ORS 238A.210, as amended by sections 5 and 7, chapter 53, Oregon Laws 2013**
18 **(Enrolled Senate Bill 822), is amended to read:**

19 238A.210. (1) On July 1 of each year, the board shall increase every pension payable under ORS
20 238A.180, 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death ben-
21 efit payable under ORS 238A.230 as provided in [*subsections (2) and (3)*] **subsection (2)** of this sec-
22 tion. The increase shall be made for the payments payable on August 1 and thereafter.

23 (2)(a) If a person's yearly pension or benefit [*for the previous year totaled \$20,000*] **is \$60,000 or**
24 **less, the pension or benefit shall be increased by [two] 1.25 percent.**

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

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

31 *[(d)] (b) If a person's yearly pension or benefit [for the previous year totaled] is more than*
32 *\$60,000, the pension or benefit shall be increased by [\$900 plus .25] **\$750 plus 0.15** percent of the*
33 *amount of the yearly pension or benefit exceeding \$60,000.*

34 *[(3) If a person has been receiving a pension or benefit for less than 12 months on July 1 of any*
35 *year, the board shall calculate the increase under subsection (2) of this section on the basis of the*
36 *yearly allowance the person would have received if the person had received the pension or benefit for*
37 *12 months.]*

38 **(3) As used in this section, "yearly pension or benefit" means the monthly pension or**
39 **benefit that a person is entitled to on July 1 of the year in which the board is calculating the**
40 **increase under subsection (1) of this section, multiplied by 12.**

41 **SECTION 4. The amendments to ORS 238A.210 by section 3 of this 2013 Act apply to all**
42 **increases to pensions or benefits made under ORS 238A.210 on and after July 1, 2014.**

43 **SECTION 5. (1) The amendments to ORS 238.360 and 238A.210 by sections 1 and 3 of this**
44 **2013 Act become operative on July 1, 2014.**

45 **(2) The Public Employees Retirement Board may take any action before the operative**

1 date specified in subsection (1) of this section to enable the board, on and after the operative
2 date specified in subsection (1) of this section, to exercise all the duties, functions and pow-
3 ers conferred on the board by the amendments to ORS 238.360 and 238A.210 by sections 1 and
4 3 of this 2013 Act.

5 **SECTION 6.** Section 7 of this 2013 Act is added to and made a part of ORS chapter 238.

6 **SECTION 7.** At least once every five years, the Public Employees Retirement Board shall
7 analyze the impact of increases or decreases in the cost of living on the purchasing power
8 of pensions payable under the Public Employees Retirement System and report to an appro-
9 priate committee or interim committee of the Legislative Assembly on:

10 (1) The results of the analysis; and

11 (2) Recommendations relating to the cost-of-living adjustment under the system.

12 **SECTION 8.** The Public Employees Retirement Board shall issue the first report under
13 section 7 of this 2013 Act on or before September 1, 2020.

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15 **ACTUARIAL EQUIVALENCY FACTOR TABLES FOR CERTAIN MEMBERS**

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17 **SECTION 9.** Sections 10 and 11 of this 2013 Act are added to and made a part of ORS
18 chapter 238.

19 **SECTION 10.** (1) In computing the service retirement allowance under ORS 238.300 (1)
20 and (2)(b)(A), the Public Employees Retirement Board shall use the actuarial equivalency
21 factor tables adopted under ORS 238.607 for a member who is an active member on the ef-
22 fective date of this 2013 Act.

23 (2) In computing the service retirement allowance under ORS 238.300 (1) and (2)(b)(A),
24 the Public Employees Retirement Board shall use the actuarial equivalency factor tables
25 adopted under ORS 238.607 for a member who:

26 (a) On the member's effective date of retirement, had at least 20 years of membership,
27 as defined in ORS 238.300 (2)(c);

28 (b) Retires as a police officer or firefighter; and

29 (c) Performed some period of service in a qualifying position on or after January 1, 2004,
30 and before the effective date of this 2013 Act.

31 (3) In computing the service retirement allowance under ORS 238.300 (1) and (2)(b)(A),
32 the Public Employees Retirement Board shall use the actuarial equivalency factor tables
33 adopted under ORS 238.607 for a member who:

34 (a) On the member's effective date of retirement, had at least 24 years of membership,
35 as defined in ORS 238.300 (2)(c);

36 (b) Retires as other than a police officer or firefighter; and

37 (c) Performed some period of service in a qualifying position on or after January 1, 2004,
38 and before the effective date of this 2013 Act.

39 (4) In computing the service retirement allowance under ORS 238.300 (1) and (2)(b)(A) for
40 a member who does not meet the requirements of subsections (1) to (3) of this section, the
41 board shall use the actuarial equivalency factor tables adopted under section 11 of this 2013
42 Act.

43 **SECTION 11.** (1) At the time the Public Employees Retirement Board adopts actuarial
44 equivalency factor tables under ORS 238.607, the board shall adopt actuarial equivalency
45 factor tables for the purpose of computing the service retirement allowance under ORS

1 238.300 (1) and (2)(b)(A) for a member who does not meet the requirements of section 10 (1)
2 to (3) of this 2013 Act. The tables may be adopted in conjunction with the system evaluation
3 required by ORS 238.605. Tables adopted under this section must use the best actuarial in-
4 formation on mortality available at the time the board adopts the tables, as provided by the
5 actuary engaged by the board.

6 (2) The board shall determine the annual interest rate to be used for tables adopted under
7 this section based on the current immediate and deferred annuity rates as published from
8 time to time by the Pension Benefit Guaranty Corporation at 29 C.F.R. part 4044, Appendix
9 B.

10 (3) The tables adopted under subsection (2) of this section shall be used as provided in
11 ORS 238.607 (1)(a) and (c).

12 (4) The board may not defer or delay implementation of the actuarial equivalency factor
13 tables adopted under this section.

14 **SECTION 12.** Notwithstanding section 11 (1) of this 2013 Act, the Public Employees Re-
15 tirement Board shall first adopt actuarial equivalency factor tables under section 11 of this
16 2013 Act as soon as possible after the effective date of this 2013 Act.

17 **SECTION 13.** The tables adopted under sections 11 and 12 of this 2013 Act apply only to
18 members of the Public Employees Retirement System whose effective date of retirement is
19 after September 1, 2013.

20 21 EMPLOYER CONTRIBUTION RATES

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23 **SECTION 14.** (1) As soon as possible after the effective date of this 2013 Act, the Public
24 Employees Retirement Board shall recalculate the contribution rates of all employers, pur-
25 suant to ORS 238.225, to reflect the provisions of this 2013 Act.

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

29 30 JUDICIAL REVIEW

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32 **SECTION 15.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
33 manner provided by this section whether this 2013 Act breaches any contract between
34 members of the Public Employees Retirement System and their employers, violates any
35 constitutional provision, including but not limited to impairment of contract rights of mem-
36 bers of the Public Employees Retirement System under Article I, section 21, of the Oregon
37 Constitution, or Article I, section 10, clause 1, of the United States Constitution, or is invalid
38 for any other reason.

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

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

43 (b) The petition must include the following:

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

45 (B) A statement and supporting affidavit showing how the petitioner is adversely af-

1 fected.

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

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

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

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

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12 **ACT DOES NOT CREATE CONTRACT RIGHTS**

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14 **SECTION 16. This 2013 Act does not constitute a statutory contractual promise.**

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16 **SEVERABILITY**

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18 **SECTION 17. It is the intent of the Legislative Assembly that all parts of this 2013 Act
19 are independent and that if any part of this 2013 Act is held unconstitutional, all remaining
20 parts shall remain in force.**

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22 **CAPTIONS**

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

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28 **EMERGENCY CLAUSE**

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30 **SECTION 19. This 2013 Act being necessary for the immediate preservation of the public
31 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
32 on its passage.**

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