

HB 2960-A16  
(LC 1320)  
5/13/15 (MNJ/ps)

**PROPOSED AMENDMENTS TO  
A-ENGROSSED HOUSE BILL 2960**

1 On page 1 of the printed A-engrossed bill, line 2, after the semicolon in-  
2 sert "creating new provisions; amending ORS 238.607 and 238A.320;"

3 Delete lines 4 through 21 and delete pages 2 through 6 and insert:  
4

5 **"ASSUMED INTEREST RATE**

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7 **"SECTION 1.** ORS 238.607 is amended to read:

8 "238.607. (1) **As often as is necessary to maintain actuarial equiv-**  
9 **alence, and no less than** once every two calendar years, the Public Em-  
10 ployees Retirement Board shall adopt actuarial equivalency factor tables for  
11 the purpose of computing the payments to be made to members and their  
12 beneficiaries, alternate payees and judge members and their spouses and  
13 beneficiaries. The tables may be adopted in conjunction with the system  
14 evaluation required by ORS 238.605. Tables adopted under this section must  
15 use the best actuarial information on mortality available at the time the  
16 board adopts the tables, as provided by the actuary engaged by the board.  
17 **The assumed interest rate used for tables adopted under this section**  
18 **must be equal to the current rate, at the time of adoption, for valuing**  
19 **annuity benefits as published from time to time by the federal Pension**  
20 **Benefit Guaranty Corporation.** Actuarial equivalency factor tables  
21 adopted under this section become effective [*on January 1 of the calendar*  
22 *year following*] **upon** adoption of the tables by the board **or on another date**

From the Desk of  
Senator Ted Ferrioli

1 **specified by the board.** All computations of payments must use the  
2 actuarial equivalency factor tables that are in effect on:

3 “(a) The effective date of retirement for any member, judge member or  
4 alternate payee;

5 “(b) The date that the first payment is due for any death beneficiary; or

6 “(c) The date that the first payment is due for any recalculation of pay-  
7 ments that is not attributable to error, including but not limited to recalcu-  
8 lations under ORS 238.465 (2).

9 “(2) The board may not defer or delay implementation of the actuarial  
10 equivalency factor tables adopted under this section.

11 **“SECTION 2. The Public Employees Retirement Board shall first**  
12 **adopt actuarial equivalency factor tables under ORS 238.607, as**  
13 **amended by section 1 of this 2015 Act, no later than January 1, 2016.**  
14 **The board shall use the tables first adopted under ORS 238.607, as**  
15 **amended by section 1 of this 2015 Act, to compute the retirement al-**  
16 **lowances of members, judge members and alternate payees for whom**  
17 **the effective date of retirement is on or after the effective date of this**  
18 **2015 Act but before January 1, 2016.**

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#### **“EMPLOYEE CONTRIBUTIONS**

21

22 **“SECTION 3. Sections 4, 5 and 6 of this 2015 Act are added to and**  
23 **made a part of ORS chapter 238A.**

24 **“SECTION 4. (1) A member of the system ceases to be a member**  
25 **of the individual account program on the effective date of this 2015**  
26 **Act. Notwithstanding ORS 238A.300, a person may not become a**  
27 **member of the individual account program on or after the effective**  
28 **date of this 2015 Act.**

29 **“(2) A member of the system who is a member of the individual**  
30 **account program on the effective date of this 2015 Act continues to**

1 be a member of the individual account program for the purpose of  
2 amounts in the employee account established for the member under  
3 ORS 238A.350 (2), but no further employee contributions may be de-  
4 posited in the account on or after the effective date of this 2015 Act  
5 by reason of service of the member.

6 “(3) Employee contributions under ORS 238A.330 made on or after  
7 the effective date of this 2015 Act by or on behalf of a member of the  
8 system may not be deposited by the Public Employees Retirement  
9 Board in the employee account established for the member under ORS  
10 238A.350 (2), but must instead be deposited in the account established  
11 for the member under section 5 of this 2015 Act.

12 “SECTION 5. (1) The Public Employees Retirement Board shall es-  
13 tablish an account for each active member of the system. Each ac-  
14 count shall be adjusted at least annually in accordance with rules  
15 adopted by the board to reflect any net earnings or losses on contri-  
16 butions to the account. The adjustments described in this subsection  
17 shall continue until the account is withdrawn or applied against the  
18 costs of the pension and other retirement benefits payable to the  
19 member.

20 “(2) Unless the amounts in an account created under this section  
21 are withdrawn under section 6 of this 2015 Act, the amounts in the  
22 account shall be applied by the board to pay the costs of the pension  
23 and other retirement benefits accrued on or after the effective date  
24 of this 2015 Act and payable to or on behalf of the member.

25 “(3) Any amount remaining in an account created under this sec-  
26 tion after the amounts in the account have been applied as described  
27 in subsection (2) of this section shall be distributed to the member.

28 “SECTION 6. (1) An inactive member may elect to receive a dis-  
29 tribution of the amounts in the member’s account established under  
30 section 5 of this 2015 Act if the inactive member has separated from

1 all service with participating public employers and with employers who  
2 are treated as part of a participating public employer's controlled  
3 group under the federal laws and rules governing the status of the  
4 Public Employees Retirement System and the Public Employees Re-  
5 tirement Fund as a qualified governmental retirement plan and trust.

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

10 “SECTION 7. ORS 238A.320 is amended to read:

11 “238A.320. (1) A member of the individual account program becomes  
12 vested in the employee account established for the member under ORS  
13 238A.350 (2) on the date the employee account is established.

14 “(2) A member who makes rollover contributions becomes vested in the  
15 rollover account established for the member under ORS 238A.350 (4) on the  
16 date the rollover account is established.

17 “(3) Except as provided in subsection (4) of this section, if an employer  
18 makes employer contributions for a member under ORS 238A.340 the member  
19 becomes vested in the employer account established under ORS 238A.350 (3)  
20 on the earliest of the following dates:

21 “(a) The date on which the member completes at least 600 hours of service  
22 in each of five calendar years. The five calendar years need not be consec-  
23 utive, but are subject to the provisions of subsection (5) of this section.

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

26 “(c) If the individual account program is terminated, the date on which  
27 termination becomes effective, but only to the extent the account is then  
28 funded.

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

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

2       “(4) If on the date that a person becomes an active member the person  
3 has already reached the normal retirement age for the person under ORS  
4 238A.160, and the employer makes employer contributions for the member  
5 under ORS 238A.340, the person is vested in the employer account established  
6 under ORS 238A.350 (3) on that date.

7       “(5) If a member of the individual account program who is not vested in  
8 the employer account performs fewer than 600 hours of service in each of five  
9 consecutive calendar years, hours of service performed before the first cal-  
10 endar year of the period of five consecutive calendar years shall be disre-  
11 garded for purposes of determining whether the member is vested under  
12 subsection (3)(a) of this section.

13       “(6) Solely for purposes of determining whether a member is vested under  
14 subsection (3)(a) of this section, hours of service include creditable service,  
15 as defined in ORS 238.005, performed by the person before the person became  
16 an eligible employee, as long as the membership of the person under ORS  
17 chapter 238 has not been terminated under the provisions of ORS 238.095 on  
18 the date the person becomes an eligible employee.

19       **“(7) A member becomes vested in the account established for the**  
20 **member under section 5 of this 2015 Act on the date the account is**  
21 **established under section 5 of this 2015 Act.**

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23                                   **“EMPLOYER CONTRIBUTION RATES**

24

25       **“SECTION 8. (1) As soon as practicable after the effective date of**  
26 **this 2015 Act, the Public Employees Retirement Board shall:**

27       **“(a) Determine the savings in employer contributions that are at-**  
28 **tributable to sections 4 to 6 of this 2015 Act and the amendments to**  
29 **ORS 238.607 and 238A.320 by sections 1 and 7 of this 2015 Act; and**

30       **“(b) Recalculate the contribution rates of all employers, pursuant**

1 to ORS 238.225, to reflect sections 4 to 6 of this 2015 Act and the  
2 amendments to ORS 238.607 and 238A.320 by sections 1 and 7 of this  
3 2015 Act.

4 “(2) The board shall issue corrected contribution rate orders to  
5 employers affected by rates recalculated under this section within 90  
6 days after the effective date of this 2015 Act. The corrected rates are  
7 effective July 1, 2015.

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9 **“EXPEDITED REVIEW BY SUPREME COURT**

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11 **“SECTION 9. (1) Jurisdiction is conferred on the Supreme Court to**  
12 **determine in the manner provided by this section whether this 2015**  
13 **Act breaches any contract between members of the Public Employees**  
14 **Retirement System and their employers or violates any constitutional**  
15 **provision, including but not limited to impairment of contract rights**  
16 **of members of the Public Employees Retirement System under Article**  
17 **I, section 21, of the Oregon Constitution, or Article I, section 10,**  
18 **clause 1, of the United States Constitution.**

19 “(2) A person who is adversely affected by this 2015 Act or who will  
20 be adversely affected by this 2015 Act may institute a proceeding for  
21 review by filing with the Supreme Court a petition that meets the  
22 following requirements:

23 “(a) The petition must be filed within 60 days after the effective  
24 date of this 2015 Act.

25 “(b) The petition must include the following:

26 “(A) A statement of the basis of the challenge; and

27 “(B) A statement and supporting affidavit showing how the  
28 petitioner is adversely affected.

29 “(3) The petitioner shall serve a copy of the petition by registered  
30 or certified mail upon the Public Employees Retirement Board, the

1 **Attorney General and the Governor.**

2 **“(4) Proceedings for review under this section shall be given priority**  
3 **over all other matters before the Supreme Court.**

4 **“(5) The Supreme Court shall allow public employers participating**  
5 **in the Public Employees Retirement System to intervene in any pro-**  
6 **ceeding under this section.**

7 **“(6)(a) The Supreme Court shall allow members of the Legislative**  
8 **Assembly to intervene in any proceeding relating to this 2015 Act. Af-**  
9 **ter a member intervenes in a proceeding relating to this 2015 Act, the**  
10 **member has standing to participate in the proceeding even if the**  
11 **member ceases to be a member of the Legislative Assembly.**

12 **“(b) A member of the Senate or House of Representatives who in-**  
13 **tervenes in a proceeding under this subsection may not use public**  
14 **funds to pay legal expenses incurred in intervening or participating in**  
15 **the proceeding.**

16 **“(7) In the event the Supreme Court determines that there are**  
17 **factual issues in the petition, the Supreme Court may appoint a special**  
18 **master to hear evidence and to prepare recommended findings of fact.**

19 **“(8) The Supreme Court may not award attorney fees to a petitioner**  
20 **in a proceeding under this section.**

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22 **“CAPTIONS**

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24 **“SECTION 10. The unit captions used in this 2015 Act are provided**  
25 **only for the convenience of the reader and do not become part of the**  
26 **statutory law of this state or express any legislative intent in the**  
27 **enactment of this 2015 Act.**

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29 **“EMERGENCY CLAUSE**

1        **SECTION 11. This 2015 Act being necessary for the immediate**  
2        **preservation of the public peace, health and safety, an emergency is**  
3        **declared to exist, and this 2015 Act takes effect on its passage.”.**

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