

# Senate Bill 615

Sponsored by Senators BEYER, ROBLAN, ROSENBAUM, Representatives WILLIAMSON, READ

## 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**.

Creates Oregon Retirement Savings Board in office of State Treasurer. Directs board to develop payroll deduction retirement plan for persons employed in Oregon so that employees can begin contributing to plan no later than June 16, 2017, unless board determines that plan qualifies as employee benefit plan under Employee Retirement Income Security Act of 1974.

Requires board to report to Governor and appropriate committee or interim committee of Legislative Assembly.

Establishes Oregon Retirement Savings Plan Administrative Fund. Continuously appropriates moneys in fund to board for purpose of administering plan.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to retirement investments; and declaring an emergency.

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

3 **SECTION 1. Oregon Retirement Savings Board. (1) The Oregon Retirement Savings**  
4 **Board is established in the office of the State Treasurer. The board consists of seven mem-**  
5 **bers as follows:**

6 (a) **The State Treasurer or the designee of the State Treasurer.**

7 (b) **The following members appointed by the Governor:**

8 (A) **A representative of employers.**

9 (B) **A representative with experience in the field of investments.**

10 (C) **A representative of an association representing employees.**

11 (D) **A public member who is retired.**

12 (c) **A member of the Senate appointed by the President of the Senate to be a nonvoting**  
13 **advisory member of the board.**

14 (d) **A member of the House of Representatives appointed by the Speaker of the House of**  
15 **Representatives to be a nonvoting advisory member of the board.**

16 (2) **Members of the board appointed by the Governor must be confirmed by the Senate**  
17 **in the manner prescribed in ORS 171.562 and 171.565.**

18 (3) **The term of office of each member of the board appointed by the Governor is four**  
19 **years, but a member serves at the pleasure of the Governor. A member is eligible for reap-**  
20 **pointment. If there is a vacancy for any cause, the Governor shall make an appointment to**  
21 **become immediately effective for the unexpired term.**

22 (4) **Each legislative member serves at the pleasure of the appointing authority and may**  
23 **serve as long as the member remains in the chamber of the Legislative Assembly from which**  
24 **the member was appointed.**

25 (5) **The State Treasurer or the designee appointed to the board under subsection (1) of**  
26 **this section shall serve as chairperson of the board.**  
27

**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 (6) A majority of the voting members of the board constitutes a quorum for the trans-  
2 action of business.

3 (7) A member of the board appointed by the Governor is entitled to compensation and  
4 expenses as provided in ORS 292.495. A legislative member shall receive compensation and  
5 expenses as provided in ORS 171.072.

6 (8) The office of the State Treasurer shall provide staff support to the board.

7 **SECTION 2. Powers and duties of Oregon Retirement Savings Board.** (1) The Oregon  
8 Retirement Savings Board shall develop a defined contribution retirement plan for persons  
9 employed for compensation in this state and conduct a market and legal analysis of the plan.

10 (2) The board shall have the following powers:

11 (a) To establish, implement and maintain the plan developed under this section.

12 (b) To adopt rules for the general administration of the plan as provided in section 4 of  
13 this 2015 Act.

14 (c) To direct the investment of the funds contributed to accounts in the plan consistent  
15 with the investment restrictions established by the board. The investment restrictions must  
16 be consistent with the objectives of the plan, and the board shall exercise the judgment and  
17 care then prevailing that persons of prudence, discretion and intelligence exercise in the  
18 management of their own affairs with due regard to the probable income and level of risk  
19 from certain types of investments of money, in accordance with the policies established by  
20 the board.

21 (d) To collect application, account or administrative fees to defray the costs of adminis-  
22 tering the plan.

23 (e) To make and enter into contracts, agreements or arrangements, and to retain, em-  
24 ploy and contract for any of the following considered necessary or desirable, for carrying out  
25 the purposes set forth in sections 1 to 9 of this 2015 Act:

26 (A) Services of private and public financial institutions, depositories, consultants, in-  
27 vestment advisers, investment administrators and third-party plan administrators.

28 (B) Research, technical and other services.

29 (C) Services of other state agencies to assist the board in its duties.

30 (f) To evaluate the need for, and procure as needed, pooled private insurance of the plan.

31 (g) To develop and implement an outreach plan to gain input and disseminate information  
32 regarding the plan and retirement savings in general.

33 **SECTION 3. Requirements for Oregon Retirement Savings Plan.** (1) The plan developed  
34 and established by the Oregon Retirement Savings Board under section 2 of this 2015 Act  
35 must:

36 (a) Allow eligible individuals employed for compensation in this state to contribute to an  
37 account established under the plan through payroll deduction.

38 (b) Require an employer to offer its employees the opportunity to contribute to the plan  
39 through payroll deductions unless the employer offers an alternative retirement plan to its  
40 employees that meets requirements prescribed by the board by rule.

41 (c) Provide for automatic enrollment of employees and allow employees to opt out of the  
42 plan.

43 (d) Have a default contribution rate set by the board by rule.

44 (e) Offer default escalation of contribution levels that can be increased or decreased by  
45 the employee within the limits allowed by the Internal Revenue Code.

1 (f) Provide for contributions to the plan to be deposited directly with the investment ad-  
 2 ministrator for the plan.

3 (g) Whenever possible, use existing employer and public infrastructure to facilitate con-  
 4 tributions to the plan.

5 (h) Qualify for the favorable federal tax treatment ordinarily accorded to individual re-  
 6 tirement accounts and comply with section 408 of the Internal Revenue Code and all other  
 7 relevant laws and regulations.

8 (i) Require no employer contributions to employee accounts.

9 (j) Require the maintenance of separate records and accounting for each employee ac-  
 10 count.

11 (k) Provide for reports on the status of employee accounts to be provided to employees  
 12 at least annually.

13 (L) Allow for account owners to maintain an account regardless of place of employment  
 14 and to roll over funds into other retirement accounts.

15 (m) Pool accounts established under the plan for investment.

16 (n) Be professionally managed.

17 (o) Provide that the State of Oregon and employers that participate in the plan have no  
 18 proprietary interest in the contributions to or earnings on amounts contributed to accounts  
 19 established under the plan.

20 (p) Provide that the Oregon Retirement Savings Board is the trustee of all contributions  
 21 and earnings on amounts contributed to accounts established under the plan.

22 (q) Not impose any duties under the Employee Retirement Income Security Act of 1974  
 23 (29 U.S.C. 1169) on employers.

24 (r) Keep administration fees in the plan low.

25 (s) Ensure that the earnings on contributions of enrollees are exempt from federal and  
 26 state income taxation until the moneys are disbursed to the account holder.

27 (t) Allow the use of private sector partnerships to administer and invest the contribu-  
 28 tions to the plan under the supervision and guidance of the board.

29 (2) The plan, the board, each board member and the State of Oregon may not guarantee  
 30 any rate of return or any interest rate on any contribution. The plan, the board, each board  
 31 member and the State of Oregon may not be liable for any loss incurred by any person as a  
 32 result of participating in the plan.

33 **SECTION 4. Rules for Oregon Retirement Savings Plan.** The Oregon Retirement Savings  
 34 Board shall adopt rules that:

35 (1) Establish the process for voluntary enrollment in the plan developed under section 2  
 36 of this 2015 Act, including procedures for automatic enrollment of employees and for em-  
 37 ployees to opt out of the plan.

38 (2) Establish the process for participants to make the default contributions to plan ac-  
 39 counts and to adjust the contribution levels.

40 (3) Establish the process for allowing employees to opt out of enrollment in the plan.

41 (4) Establish the process for employees to make nonpayroll contributions to plan ac-  
 42 counts.

43 (5) Set minimum, maximum and default contribution levels in accordance with limits  
 44 established by the Internal Revenue Code.

45 (6) Establish the process for withdrawals from plan accounts.

1 (7) Establish the process and requirements for an employer to obtain an exemption from  
 2 offering the plan if the employer offers an alternative retirement plan to its employees that  
 3 meets requirements prescribed by the board by rule.

4 (8) Mandate the contents and frequency of required disclosures to employees, employers  
 5 and other plan participants. These disclosures must include, but need not be limited to:

6 (a) The benefits and risks associated with making contributions to the plan;

7 (b) Instructions for making contributions to the plan;

8 (c) How to opt out of the plan;

9 (d) How to participate in the plan with a level of contributions other than the default  
 10 rate;

11 (e) The process for withdrawal of retirement savings;

12 (f) How to obtain additional information about the plan;

13 (g) That employees seeking financial advice should contact financial advisers, that par-  
 14 ticipating employers are not in a position to provide financial advice and that participating  
 15 employers are not liable for decisions employees make pursuant to sections 1 to 9 of this 2015  
 16 Act;

17 (h) That the plan is not an employer-sponsored retirement plan; and

18 (i) That the plan accounts and rate of return are not guaranteed by the state.

19 **SECTION 5. Confidentiality of account information.** Individual account information for  
 20 accounts under the plan developed under section 2 of this 2015 Act, including but not limited  
 21 to names, addresses, telephone numbers, personal identification information, amounts con-  
 22 tributed and earnings on amounts contributed, is confidential and must be maintained as  
 23 confidential:

24 (1) Except to the extent necessary to administer the plan developed under section 2 of  
 25 this 2015 Act in a manner consistent with sections 1 to 9 of this 2015 Act, the tax laws of this  
 26 state and the Internal Revenue Code; or

27 (2) Unless the person who provides the information or is the subject of the information  
 28 expressly agrees in writing that the information may be disclosed.

29 **SECTION 6. Oregon Retirement Savings Plan Administrative Fund.** (1) The Oregon Re-  
 30 tirement Savings Plan Administrative Fund is established in the State Treasury, separate  
 31 and distinct from the General Fund. Interest earned by the Oregon Retirement Savings Plan  
 32 Administrative Fund shall be credited to the fund. Moneys in the fund are continuously ap-  
 33 propriated to the Oregon Retirement Savings Board.

34 (2) The Oregon Retirement Savings Plan Administrative Fund consists of:

35 (a) Moneys appropriated to the fund by the Legislative Assembly;

36 (b) Moneys transferred to the fund from the federal government, other state agencies  
 37 or local governments;

38 (c) Moneys from the payment of fees and the payment of other moneys due the board;

39 (d) Any gifts or donations made to the State of Oregon for deposit in the fund; and

40 (e) Earnings on moneys in the fund.

41 (3) The board may use the moneys in the fund to pay the administrative costs and ex-  
 42 penses of the board and the plan developed under section 2 of this 2015 Act and for any other  
 43 purpose described in sections 1 to 9 of this 2015 Act.

44 **SECTION 7. Prerequisites to establishment of Oregon Retirement Savings Plan.** (1) Be-  
 45 fore establishing a plan developed under section 2 of this 2015 Act, the Oregon Retirement

1 Savings Board shall:

2 (a) Conduct a market analysis to determine:

3 (A) The feasibility of the plan.

4 (B) Whether and to what extent plans with the characteristics described in section 3 of  
5 this 2015 Act currently exist in the private market.

6 (b) Obtain legal advice regarding the applicability of the Employee Retirement Income  
7 Security Act of 1974 (29 U.S.C. 1169) and the Internal Revenue Code to the plan.

8 (c) Investigate whether employers that are not required to participate in the plan can  
9 make the plan available to their employees.

10 (d) Investigate how to allow individuals who are not automatically enrolled in the plan  
11 to opt in to the plan and make contributions to an account, either through payroll contri-  
12 butions or another method of contribution.

13 (2) The board shall coordinate with the efforts of other states as those states pursue le-  
14 gal guidance for similar retirement savings programs.

15 SECTION 8. Annual reports. The Oregon Retirement Savings Board shall report in each  
16 calendar year to the Governor and to an appropriate committee or interim committee of the  
17 Legislative Assembly detailing the board's activities.

18 SECTION 9. Assistance from Department of Revenue. The Department of Revenue shall  
19 assist the Oregon Retirement Savings Board in arranging for contributions to the retirement  
20 plan developed by the board under section 2 of this 2015 Act to be withheld from the wages  
21 of eligible employees and deposited in plan accounts.

22 SECTION 10. The Oregon Retirement Savings Board shall report to a committee or in-  
23 terim committee of the Legislative Assembly related to retirement investments on or before  
24 December 31, 2016. The report must include:

25 (1) The results of the market analysis sought by the board under section 7 of this 2015  
26 Act.

27 (2) The findings from legal advice obtained by the board under section 7 of this 2015 Act.

28 (3) An analysis of potential costs to employers, including administrative costs, associated  
29 with providing automatic payroll deductions for participation in the plan, and recommen-  
30 dations on how to eliminate or reduce those costs through incentives, tax credits or other  
31 means.

32 (4) A draft of the request for proposals to solicit bids from plan administrators.

33 (5) A timeline for implementation of the plan developed under section 2 of this 2015 Act.

34 (6) An overview of any contracts entered into by the board in the performance of its  
35 duties.

36 (7) Recommendations to the Legislative Assembly regarding ways to increase financial  
37 literacy in this state.

38 SECTION 11. (1) Except as provided in subsection (2) of this section, the Oregon Retire-  
39 ment Savings Board shall establish the retirement plan developed under section 2 of this 2015  
40 Act so that individuals may begin making contributions to the plan no later than June 16,  
41 2017.

42 (2) If the board determines that the plan developed by the board under section 2 of this  
43 2015 Act would qualify as an employee benefit plan under the Employee Retirement Income  
44 Security Act of 1974 (29 U.S.C. 1169), the board may not establish the plan.

45 SECTION 12. (1) The Governor, the President of the Senate and the Speaker of the House

1 of Representatives shall first make appointments to the Oregon Retirement Savings Board  
2 for terms of office beginning on September 1, 2015.

3 (2) Notwithstanding the term of office specified by section 1 of this 2015 Act, of the  
4 members first appointed to the Oregon Retirement Savings Board by the Governor:

5 (a) One shall serve for a term ending August 31, 2017.

6 (b) One shall serve for a term ending August 31, 2018.

7 (c) Two shall serve for a term ending August 31, 2019.

8 SECTION 13. The section captions used in this 2015 Act are provided only for the con-  
9 venience of the reader and do not become part of the statutory law of this state or express  
10 any legislative intent in the enactment of this 2015 Act.

11 SECTION 14. This 2015 Act being necessary for the immediate preservation of the public  
12 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
13 on its passage.

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