

**PROPOSED AMENDMENTS TO  
HOUSE BILL 3495**

1 On page 1 of the printed bill, line 3, after “238A.100” insert “, 238A.320”.

2 On page 2, after line 8, insert:

3 **“SECTION 4. Sections 5, 6 and 7 of this 2015 Act are added to and**  
4 **made a part of ORS chapter 238A.**

5 **“SECTION 5. (1) A member of the pension program ceases to be a**  
6 **member of the individual account program on the effective date of this**  
7 **2015 Act. Notwithstanding ORS 238A.300, a person may not become a**  
8 **member of the individual account program on or after the effective**  
9 **date of this 2015 Act.**

10 **“(2) A member of the pension program who is a member of the in-**  
11 **dividual account program on the effective date of this 2015 Act con-**  
12 **tinues to be a member of the individual account program for the**  
13 **purpose of amounts in the employee account established for the**  
14 **member under ORS 238A.350 (2), but no further employee contributions**  
15 **may be deposited in the account on or after the effective date of this**  
16 **2015 Act by reason of service of the member.**

17 **“(3) Employee contributions under ORS 238A.330 made on or after**  
18 **the effective date of this 2015 Act by or on behalf of a member of the**  
19 **pension program may not be deposited by the Public Employees Re-**  
20 **tirement Board in the employee account established for the member**  
21 **under ORS 238A.350 (2), but must instead be deposited in the account**  
22 **established for the member under section 6 of this 2015 Act.**

1       **“SECTION 6. (1) The Public Employees Retirement Board shall es-**  
2 **tablish an account for each active member of the pension program.**  
3 **Each account shall be adjusted at least annually in accordance with**  
4 **rules adopted by the board to reflect any net earnings or losses on**  
5 **contributions to the account. The adjustments described in this sub-**  
6 **section shall continue until the account is withdrawn or applied**  
7 **against the costs of the pension and other retirement benefits payable**  
8 **to the member.**

9       **“(2) Unless the amounts in an account created under this section**  
10 **are withdrawn under section 7 of this 2015 Act, the amounts in the**  
11 **account shall be applied by the board to pay the costs of the pension**  
12 **and other retirement benefits payable to or on behalf of the member.**

13       **“SECTION 7. (1) An inactive member of the pension program may**  
14 **elect to receive a distribution of the amounts in the member’s account**  
15 **established under section 6 of this 2015 Act if the inactive member has**  
16 **separated from all service with participating public employers and**  
17 **with employers who are treated as part of a participating public**  
18 **employer’s controlled group under the federal laws and rules govern-**  
19 **ing the status of the Public Employees Retirement System and the**  
20 **Public Employees Retirement Fund as a qualified governmental re-**  
21 **tirement plan and trust.**

22       **“(2) A member who is vested in the pension program established**  
23 **under this chapter and who is eligible to withdraw from the pension**  
24 **program under ORS 238A.120 may make an election under this section**  
25 **only if the member also withdraws from the pension program.**

26       **“SECTION 8. ORS 238A.320 is amended to read:**

27       **“238A.320. (1) A member of the individual account program becomes**  
28 **vested in the employee account established for the member under ORS**  
29 **238A.350 (2) on the date the employee account is established.**

30       **“(2) A member who makes rollover contributions becomes vested in the**

1 rollover account established for the member under ORS 238A.350 (4) on the  
2 date the rollover account is established.

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

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

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

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

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

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

18 “(4) If on the date that a person becomes an active member the person  
19 has already reached the normal retirement age for the person under ORS  
20 238A.160, and the employer makes employer contributions for the member  
21 under ORS 238A.340, the person is vested in the employer account established  
22 under ORS 238A.350 (3) on that date.

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

29 “(6) Solely for purposes of determining whether a member is vested under  
30 subsection (3)(a) of this section, hours of service include creditable service,

1 as defined in ORS 238.005, performed by the person before the person became  
2 an eligible employee, as long as the membership of the person under ORS  
3 chapter 238 has not been terminated under the provisions of ORS 238.095 on  
4 the date the person becomes an eligible employee.

5 **“(7) A member becomes vested in the account established for the**  
6 **member under section 6 of this 2015 Act on the date the account is**  
7 **established under section 6 of this 2015 Act.**

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

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

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

22 **“(b) The petition must include the following:**

23 **“(A) A statement of the basis of the challenge; and**

24 **“(B) A statement and supporting affidavit showing how the**  
25 **petitioner is adversely affected.**

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

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

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

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

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

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

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

18

\_\_\_\_\_