

D R A F T

SUMMARY

Eliminates limitations on hours that may be worked by retired member of Public Employees Retirement System without suspension of retirement benefits.

A BILL FOR AN ACT

Relating to reemployment of retired members of the Public Employees Retirement System; creating new provisions; amending ORS 238.082, 238.092, 238A.245, 243.163 and 399.075; and repealing sections 2 and 3, chapter 499, Oregon Laws 2007, sections 3 and 4, chapter 774, Oregon Laws 2007, sections 2 and 3, chapter 475, Oregon Laws 2015, and sections 2, 3 and 4, chapter 6, Oregon Laws 2016.

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

SECTION 1. ORS 238.082 is amended to read:

238.082. (1) Subject to the limitations in this section, *[any]* a public employer may employ *[any]* a member who is retired for service if the administrative head of the public employer is satisfied that *[such]* **the** employment is in the public interest.

[(2) Except as provided in this section, the period or periods of employment by one or more public employers of a retired member who is reemployed under this section may not total 1,040 hours or more in any calendar year.]

[(3)] **(2)** A retired member who is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act may be employed under this section *[for the number of hours permitted by subsection (2) of this section, or]* for **no more than** the number of hours for which the salary

1 equals the maximum allowed for receipt of the full amount of those benefits
2 to which the person is entitled[, *whichever is greater*].

3 **(3) A person who retires under the provisions of ORS 238.280 (1), (2)**
4 **or (3) may be employed under this section only if the person's date of**
5 **retirement is more than six months before the date the person is em-**
6 **ployed under this section.**

7 **(4) Employment under this section does not affect the status of a**
8 **person as a retired member of the system and a recipient of retirement**
9 **benefits under this chapter.**

10 *[(4) Except as provided in subsection (9) of this section, the limitations on*
11 *employment imposed by subsections (2) and (3) of this section do not apply to*
12 *a retired member who is employed as a teacher or as an administrator, as those*
13 *terms are defined in ORS 342.120, if the retired member is employed by a*
14 *school district or community college district located within a county with a*
15 *population of not more than 35,000 inhabitants according to the latest federal*
16 *decennial census, or is employed by an education service district and the re-*
17 *tired member's primary work duties are performed in a county with a popu-*
18 *lation of not more than 35,000 inhabitants according to the latest federal*
19 *decennial census. A retired member who is employed under this subsection as*
20 *a teacher, as defined in ORS 342.120, by the same public employer that em-*
21 *ployed the member at the time of retirement remains in the same collective*
22 *bargaining unit that included the member before retirement.]*

23 *[(5) Except as provided in subsection (9) of this section, the limitations on*
24 *employment imposed by subsections (2) and (3) of this section do not apply to*
25 *a retired member who is employed:]*

26 *[(a) By the sheriff of a county with a population of fewer than 75,000 in-*
27 *habitants, according to the latest federal decennial census;]*

28 *[(b) By the municipal police department of a city with a population of fewer*
29 *than 15,000 inhabitants, according to the latest federal decennial census;]*

30 *[(c) By the state or a county for work in a correctional institution located*
31 *in a county with a population of fewer than 75,000 inhabitants, according to*

1 *the latest federal decennial census;]*

2 *[(d) By the Black Butte Ranch Rural Fire Protection District, the Black*
3 *Butte Ranch Service District or the Sunriver Service District;]*

4 *[(e) By the Oregon State Police for work in a county with a population of*
5 *fewer than 75,000 inhabitants, according to the latest federal decennial*
6 *census;]*

7 *[(f) As a deputy director or assistant director of the Department of Human*
8 *Services, if the Governor approves the exemption for the person from the limi-*
9 *tations on employment imposed in subsections (2) and (3) of this section; or]*

10 *[(g) As a deputy director or assistant director of the Oregon Health Au-*
11 *thority, if the Governor approves the exemption for the person from the limi-*
12 *tations on employment imposed in subsections (2) and (3) of this section.]*

13 *[(6) Except as provided in subsection (9) of this section, the limitations on*
14 *employment imposed by subsections (2) and (3) of this section do not apply to*
15 *a retired member who is employed to temporarily replace an employee who*
16 *serves in the National Guard or in a reserve component of the Armed Forces*
17 *of the United States and who is called to federal active duty.]*

18 *[(7) Except as provided in subsection (9) of this section, the limitations on*
19 *employment imposed by subsections (2) and (3) of this section do not apply to*
20 *a retired member who is employed by a road assessment district organized*
21 *under ORS 371.405 to 371.535.]*

22 *[(8) Except as provided in subsection (9) of this section, the limitations on*
23 *employment imposed by subsections (2) and (3) of this section do not apply to*
24 *a retired member who is a nurse and is employed by a public employer as a*
25 *nurse or for the purpose of teaching nursing during the period in which a*
26 *nursing workforce shortage declared by the Legislative Assembly or the Gov-*
27 *ernor is in effect.]*

28 *[(9)(a) Except as provided in paragraph (b) of this subsection, subsections*
29 *(4) to (8) of this section do not apply to any member who retires under the*
30 *provisions of ORS 238.280 (1), (2) or (3).]*

31 *[(b) Subsection (4) of this section applies to a person who retires under the*

1 *provisions of ORS 238.280 (1), (2) or (3) as long as the person's date of retire-*
2 *ment is more than six months before the date the person is employed under*
3 *subsection (4) of this section.]*

4 *[(10) Employment under this section does not affect the status of a person*
5 *as a retired member of the system and a recipient of retirement benefits under*
6 *this chapter.]*

7 *[(11) Hours worked by a person employed under subsections (4) to (8) of this*
8 *section shall not be counted for the purpose of the limitations on employment*
9 *imposed by subsections (2) and (3) of this section.]*

10 **SECTION 2.** ORS 238A.245 is amended to read:

11 *238A.245. [(1) Except as provided in ORS 237.650 and 238A.250, the Public*
12 *Employees Retirement Board shall cease making pension payments to a retired*
13 *member of the pension program who is reemployed by a participating public*
14 *employer in a qualifying position. A retired member of the pension program*
15 *who is employed in a qualifying position becomes an active member of the*
16 *pension program without serving the probationary period provided for in ORS*
17 *238A.100.]*

18 *[(2) If a retired member of the pension program is reemployed under the*
19 *provisions of this section, any option chosen by the member under ORS*
20 *238A.190 is canceled, and upon retiring thereafter the member may elect any*
21 *option provided for in ORS 238A.180 and 238A.190. The board shall recalcu-*
22 *late the pension of the member upon subsequent retirement.]*

23 **(1) Subject to the limitations in this section, a participating public**
24 **employer may employ any retired member if the administrative head**
25 **of the public employer is satisfied that the employment is in the public**
26 **interest.**

27 **(2) A retired member who is receiving old-age, survivors or disabili-**
28 **ty insurance benefits under the federal Social Security Act may be**
29 **employed under this section for no more than the number of hours for**
30 **which the salary equals the maximum allowed for receipt of the full**
31 **amount of those benefits to which the person is entitled.**

1 **(3) A person who retires under the provisions of ORS 238A.125 may**
2 **be employed under this section only if the person's date of retirement**
3 **is more than six months before the date the person is employed under**
4 **this section.**

5 **(4) Employment under this section does not affect the status of a**
6 **person as a retired member of the system and a recipient of retirement**
7 **benefits under this chapter.**

8 **SECTION 3.** ORS 238.092 is amended to read:

9 238.092. *[(1)]* Notwithstanding any other provision of this chapter:

10 *[(a)]* **(1)** A retired member of the Public Employees Retirement System
11 who has retired as other than a member of the Legislative Assembly and who
12 is thereafter appointed or elected as a member of the Legislative Assembly
13 may elect, by giving the Public Employees Retirement Board written notice,
14 to receive the pension and annuity provided by this chapter for service as
15 other than a member of the Legislative Assembly, and be an active member
16 of the system as a member of the Legislative Assembly for the purpose of
17 service in the Legislative Assembly. A person may make an election under
18 this *[paragraph]* **subsection** only if the person becomes an active member
19 of the system under this chapter for the purpose of service in the Legislative
20 Assembly as provided in ORS 237.650 (3). Notice of an election under this
21 *[paragraph]* **subsection** must be given by the person not more than 30 days
22 after the person takes office.

23 *[(b)]* **(2)** A member of the Legislative Assembly who is a member of the
24 system as a member of the Legislative Assembly and who becomes eligible
25 to retire by reason of service as other than a member of the Legislative As-
26 sembly, without regard to when that service was performed, may elect, by
27 giving the board written notice, to retire and receive the pension and annu-
28 ity provided by this chapter for service as other than a member of the Leg-
29 islative Assembly, and to continue, for the purpose of service in the
30 Legislative Assembly, as an active member of the system as a member of the
31 Legislative Assembly.

1 [(c)] **(3)** Upon receipt of the notice provided for in [*paragraphs (a) and (b)*
 2 *of this subsection*] **subsections (1) and (2) of this section**, the board shall
 3 determine that portion of the accumulated contributions, if any, of the
 4 member and interest thereon attributable to service as other than a member
 5 of the Legislative Assembly, which shall be used in determining the amount
 6 of the annuity the member shall receive for that service. The portion of the
 7 accumulated contributions, if any, of the member and interest thereon at-
 8 tributable to service as a member of the Legislative Assembly shall remain
 9 in the member account of the member and, together with any subsequent
 10 contributions and interest thereon, be used in determining the amount of the
 11 additional annuity the member shall receive for that service upon subsequent
 12 retirement. If the member does not have a member account, the board shall
 13 determine the member's retirement allowance for nonlegislative service based
 14 on the number of years of nonlegislative service, and shall determine any
 15 additional benefit to be received after the member subsequently retires based
 16 on the number of years of service in the Legislative Assembly.

17 [(2) *If a retired member of the system is employed by the Legislative As-*
 18 *sembly, or by the Oregon State Police, for the purpose of service during a*
 19 *regular or special session of the Legislative Assembly, the hours worked dur-*
 20 *ing the session shall not be counted for the purpose of the limitations on em-*
 21 *ployment imposed by ORS 238.082 (2) and (3).]*

22 **SECTION 4.** ORS 243.163 is amended to read:

23 243.163. A member of the Legislative Assembly who is receiving a pension
 24 or annuity under ORS 238.092 (1)[(a)] or 238A.250 (1) shall be eligible to
 25 participate as a retired state officer in one of the group benefit plans de-
 26 scribed in ORS 243.135 after the member ceases to be a member of the Leg-
 27 islative Assembly if the member applies to the Public Employees' Benefit
 28 Board within 60 days after the member ceases to be a member of the Legis-
 29 lative Assembly.

30 **SECTION 5.** ORS 399.075 is amended to read:

31 399.075. (1) The Adjutant General, with the approval of the Governor, may

1 order members of the organized militia to state active duty as defined in the
2 Oregon Code of Military Justice. Members, while on state active duty, shall
3 receive not less than the pay and allowances of their corresponding grades
4 in the Armed Forces of the United States in accordance with a schedule
5 approved by the Adjutant General for the period of time in state active duty.
6 State active duty under this subsection includes, but is not limited to, sup-
7 port of federal, state and local drug eradication, interdiction and other
8 counterdrug operations under a counterdrug support plan approved by the
9 Governor, and reasons related to homeland security. When participating in
10 such support operations, and to the extent authorized by 32 U.S.C. 112, ap-
11 plicable regulations of the National Guard Bureau and the Oregon Counter-
12 drug Support Plan, the Oregon Military Department is designated as a law
13 enforcement agency for the purpose of carrying out federal asset forfeiture
14 laws only.

15 (2) Members of the organized militia serving on courts-martial, courts of
16 inquiry, efficiency boards, medical boards or other special duty requiring
17 absence from their stations or business under competent orders may be re-
18 imbursed for necessary expenses incurred at the rate established for state
19 employees under appropriate travel regulations issued by the Oregon De-
20 partment of Administrative Services.

21 (3) In lieu of other provisions of this chapter, a medical examiner may
22 be paid for services and necessary disbursements and a properly appointed
23 judge advocate may be paid for legal services and necessary disbursements
24 in any suit, action or proceeding, such amounts as shall be approved by the
25 Governor.

26 (4) Members of the organized militia shall not receive from the state the
27 pay or the pay and allowances provided for by this section when eligible for
28 such pay and allowances from federal funds.

29 (5) Notwithstanding any of the provisions of this chapter, members of the
30 organized militia may with their consent perform without pay or without pay
31 and allowances any of the types of military duty prescribed in this chapter

1 and ORS chapters 396 and 398 pursuant to orders issued by competent mili-
2 tary authority; provided however, that necessary traveling expenses,
3 subsistence and per diem allowances may be furnished such members within
4 the discretion of the Adjutant General and within the amount appropriated
5 therefor.

6 (6) All pay and allowances provided for by this chapter, except per diem,
7 mileage and expenses while traveling under orders shall be subject to be
8 applied to the payment of penalties and fines imposed by military courts, and
9 to the payment of any shortage of or injury to state or United States prop-
10 erty or funds for which a member of the organized militia is responsible or
11 accountable where such responsibility has been fixed by competent authority.

12 (7)(a) Except as provided in paragraph (b) of this subsection, members of
13 the organized militia who are ordered to state active duty shall be considered
14 temporary employees of the military department.

15 (b) Members of the organized militia who are ordered to state active duty
16 are not subject to ORS chapter 240 and ORS 243.650 to 243.782.

17 *[(8) The limitations on employment imposed by ORS 238.082 (2) and (3) do*
18 *not apply to a retired member of the Public Employees Retirement System who*
19 *has attained normal retirement age and is on state active duty. Hours served*
20 *by a person under this subsection shall not be counted for the purpose of the*
21 *limitations on employment imposed by ORS 238.082 (2) and (3).]*

22 **SECTION 6. (1) Section 2, chapter 499, Oregon Laws 2007, as**
23 **amended by sections 3 and 10, chapter 390, Oregon Laws 2009, is re-**
24 **pealed.**

25 **(2) Section 3, chapter 499, Oregon Laws 2007, as amended by section**
26 **1, chapter 108, Oregon Laws 2015, is repealed.**

27 **(3) Sections 2 and 3, chapter 475, Oregon Laws 2015, and sections 2,**
28 **3 and 4, chapter 6, Oregon Laws 2016, are repealed.**

29 **SECTION 7. The amendments to ORS 238.082, 238.092, 238A.245,**
30 **243.163 and 399.075 by sections 1 to 5 of this 2017 Act and the repeal of**
31 **sections 2 and 3, chapter 499, Oregon Laws 2007, sections 2 and 3,**

1 **chapter 475, Oregon Laws 2015, and sections 2, 3 and 4, chapter 6,**
2 **Oregon Laws 2016, by section 6 of this 2017 Act apply only to retired**
3 **members of the Public Employees Retirement System who perform**
4 **services for a public employer on or after the effective date of this 2017**
5 **Act.**

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