

# Senate Bill 791

Sponsored by COMMITTEE ON WORKFORCE

## 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**.

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

1  
2 Relating to reemployment of retired members of the Public Employees Retirement System; creating  
3 new provisions; amending ORS 238.082, 238.092, 238A.245, 243.163 and 399.075; and repealing  
4 sections 2 and 3, chapter 499, Oregon Laws 2007, sections 2 and 3, chapter 475, Oregon Laws  
5 2015, and sections 2, 3 and 4, chapter 6, Oregon Laws 2016.

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

7 **SECTION 1.** ORS 238.082 is amended to read:

8 238.082. (1) Subject to the limitations in this section, [*any*] **a** public employer may employ [*any*]  
9 **a** member who is retired for service if the administrative head of the public employer is satisfied  
10 that [*such*] **the** employment is in the public interest.

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

14 [(3)] **(2)** A retired member who is receiving old-age, survivors or disability insurance benefits  
15 under the federal Social Security Act may be employed under this section [*for the number of hours*  
16 *permitted by subsection (2) of this section, or*] for **no more than** the number of hours for which the  
17 salary equals the maximum allowed for receipt of the full amount of those benefits to which the  
18 person is entitled[, *whichever is greater*].

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

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

24 [(4) *Except as provided in subsection (9) of this section, the limitations on employment imposed by*  
25 *subsections (2) and (3) of this section do not apply to a retired member who is employed as a teacher*  
26 *or as an administrator, as those terms are defined in ORS 342.120, if the retired member is employed*  
27 *by a school district or community college district located within a county with a population of not more*  
28 *than 35,000 inhabitants according to the latest federal decennial census, or is employed by an education*  
29 *service district and the retired member's primary work duties are performed in a county with a popu-*  
30 *lation of not more than 35,000 inhabitants according to the latest federal decennial census. A retired*  
31 *member who is employed under this subsection as a teacher, as defined in ORS 342.120, by the same*

**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 *public employer that employed the member at the time of retirement remains in the same collective*  
 2 *bargaining unit that included the member before retirement.]*

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

5 *[(a) By the sheriff of a county with a population of fewer than 75,000 inhabitants, according to the*  
 6 *latest federal decennial census;]*

7 *[(b) By the municipal police department of a city with a population of fewer than 15,000 inhabit-*  
 8 *ants, according to the latest federal decennial census;]*

9 *[(c) By the state or a county for work in a correctional institution located in a county with a pop-*  
 10 *ulation of fewer than 75,000 inhabitants, according to the latest federal decennial census;]*

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

13 *[(e) By the Oregon State Police for work in a county with a population of fewer than 75,000 in-*  
 14 *habitants, according to the latest federal decennial census;]*

15 *[(f) As a deputy director or assistant director of the Department of Human Services, if the Governor*  
 16 *approves the exemption for the person from the limitations on employment imposed in subsections (2)*  
 17 *and (3) of this section; or]*

18 *[(g) As a deputy director or assistant director of the Oregon Health Authority, if the Governor*  
 19 *approves the exemption for the person from the limitations on employment imposed in subsections (2)*  
 20 *and (3) of this section.]*

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

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

28 *[(8) Except as provided in subsection (9) of this section, the limitations on employment imposed by*  
 29 *subsections (2) and (3) of this section do not apply to a retired member who is a nurse and is employed*  
 30 *by a public employer as a nurse or for the purpose of teaching nursing during the period in which a*  
 31 *nursing workforce shortage declared by the Legislative Assembly or the Governor is in effect.]*

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

34 *[(b) Subsection (4) of this section applies to a person who retires under the provisions of ORS*  
 35 *238.280 (1), (2) or (3) as long as the person's date of retirement is more than six months before the date*  
 36 *the person is employed under subsection (4) of this section.]*

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

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

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

43 238A.245. *[(1) Except as provided in ORS 237.650 and 238A.250, the Public Employees Retirement*  
 44 *Board shall cease making pension payments to a retired member of the pension program who is reem-*  
 45 *ployed by a participating public employer in a qualifying position. A retired member of the pension*

1 *program who is employed in a qualifying position becomes an active member of the pension program*  
 2 *without serving the probationary period provided for in ORS 238A.100.]*

3 *[(2) If a retired member of the pension program is reemployed under the provisions of this section,*  
 4 *any option chosen by the member under ORS 238A.190 is canceled, and upon retiring thereafter the*  
 5 *member may elect any option provided for in ORS 238A.180 and 238A.190. The board shall recalculate*  
 6 *the pension of the member upon subsequent retirement.]*

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

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

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

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

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

20 238.092. *[(1)]* Notwithstanding any other provision of this chapter:

21 *[(a)]* **(1)** A retired member of the Public Employees Retirement System who has retired as other  
 22 than a member of the Legislative Assembly and who is thereafter appointed or elected as a member  
 23 of the Legislative Assembly may elect, by giving the Public Employees Retirement Board written  
 24 notice, to receive the pension and annuity provided by this chapter for service as other than a  
 25 member of the Legislative Assembly, and be an active member of the system as a member of the  
 26 Legislative Assembly for the purpose of service in the Legislative Assembly. A person may make  
 27 an election under this *[paragraph]* **subsection** only if the person becomes an active member of the  
 28 system under this chapter for the purpose of service in the Legislative Assembly as provided in ORS  
 29 237.650 (3). Notice of an election under this *[paragraph]* **subsection** must be given by the person  
 30 not more than 30 days after the person takes office.

31 *[(b)]* **(2)** A member of the Legislative Assembly who is a member of the system as a member of  
 32 the Legislative Assembly and who becomes eligible to retire by reason of service as other than a  
 33 member of the Legislative Assembly, without regard to when that service was performed, may elect,  
 34 by giving the board written notice, to retire and receive the pension and annuity provided by this  
 35 chapter for service as other than a member of the Legislative Assembly, and to continue, for the  
 36 purpose of service in the Legislative Assembly, as an active member of the system as a member of  
 37 the Legislative Assembly.

38 *[(c)]* **(3)** Upon receipt of the notice provided for in *[paragraphs (a) and (b) of this subsection]*  
 39 **subsections (1) and (2) of this section**, the board shall determine that portion of the accumulated  
 40 contributions, if any, of the member and interest thereon attributable to service as other than a  
 41 member of the Legislative Assembly, which shall be used in determining the amount of the annuity  
 42 the member shall receive for that service. The portion of the accumulated contributions, if any, of  
 43 the member and interest thereon attributable to service as a member of the Legislative Assembly  
 44 shall remain in the member account of the member and, together with any subsequent contributions  
 45 and interest thereon, be used in determining the amount of the additional annuity the member shall

1 receive for that service upon subsequent retirement. If the member does not have a member account,  
 2 the board shall determine the member's retirement allowance for nonlegislative service based on the  
 3 number of years of nonlegislative service, and shall determine any additional benefit to be received  
 4 after the member subsequently retires based on the number of years of service in the Legislative  
 5 Assembly.

6 *[(2) If a retired member of the system is employed by the Legislative Assembly, or by the Oregon  
 7 State Police, for the purpose of service during a regular or special session of the Legislative Assembly,  
 8 the hours worked during the session shall not be counted for the purpose of the limitations on em-  
 9 ployment imposed by ORS 238.082 (2) and (3).]*

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

11 243.163. A member of the Legislative Assembly who is receiving a pension or annuity under ORS  
 12 238.092 (1)[(a)] or 238A.250 (1) shall be eligible to participate as a retired state officer in one of the  
 13 group benefit plans described in ORS 243.135 after the member ceases to be a member of the Leg-  
 14 islative Assembly if the member applies to the Public Employees' Benefit Board within 60 days after  
 15 the member ceases to be a member of the Legislative Assembly.

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

17 399.075. (1) The Adjutant General, with the approval of the Governor, may order members of the  
 18 organized militia to state active duty as defined in the Oregon Code of Military Justice. Members,  
 19 while on state active duty, shall receive not less than the pay and allowances of their corresponding  
 20 grades in the Armed Forces of the United States in accordance with a schedule approved by the  
 21 Adjutant General for the period of time in state active duty. State active duty under this subsection  
 22 includes, but is not limited to, support of federal, state and local drug eradication, interdiction and  
 23 other counterdrug operations under a counterdrug support plan approved by the Governor, and  
 24 reasons related to homeland security. When participating in such support operations, and to the  
 25 extent authorized by 32 U.S.C. 112, applicable regulations of the National Guard Bureau and the  
 26 Oregon Counterdrug Support Plan, the Oregon Military Department is designated as a law enforce-  
 27 ment agency for the purpose of carrying out federal asset forfeiture laws only.

28 (2) Members of the organized militia serving on courts-martial, courts of inquiry, efficiency  
 29 boards, medical boards or other special duty requiring absence from their stations or business under  
 30 competent orders may be reimbursed for necessary expenses incurred at the rate established for  
 31 state employees under appropriate travel regulations issued by the Oregon Department of Adminis-  
 32 trative Services.

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

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

40 (5) Notwithstanding any of the provisions of this chapter, members of the organized militia may  
 41 with their consent perform without pay or without pay and allowances any of the types of military  
 42 duty prescribed in this chapter and ORS chapters 396 and 398 pursuant to orders issued by compe-  
 43 tent military authority; provided however, that necessary traveling expenses, subsistence and per  
 44 diem allowances may be furnished such members within the discretion of the Adjutant General and  
 45 within the amount appropriated therefor.

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

6 (7)(a) Except as provided in paragraph (b) of this subsection, members of the organized militia  
 7 who are ordered to state active duty shall be considered temporary employees of the military de-  
 8 partment.

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

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

15 **SECTION 6. (1) Section 2, chapter 499, Oregon Laws 2007, as amended by sections 3 and**  
 16 **10, chapter 390, Oregon Laws 2009, is repealed.**

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

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

21 **SECTION 7. The amendments to ORS 238.082, 238.092, 238A.245, 243.163 and 399.075 by**  
 22 **sections 1 to 5 of this 2017 Act and the repeal of sections 2 and 3, chapter 499, Oregon Laws**  
 23 **2007, sections 2 and 3, chapter 475, Oregon Laws 2015, and sections 2, 3 and 4, chapter 6,**  
 24 **Oregon Laws 2016, by section 6 of this 2017 Act apply only to retired members of the Public**  
 25 **Employees Retirement System who perform services for a public employer on or after the**  
 26 **effective date of this 2017 Act.**