

Requested by Senator KNOPP

**PROPOSED AMENDMENTS TO  
SENATE BILL 560**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the  
2 line and delete line 3 and insert “238A.005, 238A.115, 238A.145 and 23A.320;  
3 and”.

4 Delete lines 6 through 26 and delete pages 2 through 16 and insert:

5 **“SECTION 1.** ORS 238A.005, as amended by section 2, chapter 33, Oregon  
6 Laws 2016, is amended to read:

7 “238A.005. For the purposes of this chapter:

8 “(1) ‘Active member’ means a member of the pension program or the in-  
9 dividual account program of the Oregon Public Service Retirement Plan who  
10 is actively employed in a qualifying position.

11 “(2) ‘Actuarial equivalent’ means a payment or series of payments having  
12 the same value as the payment or series of payments replaced, computed on  
13 the basis of interest rate and mortality assumptions adopted by the board.

14 “(3) ‘Board’ means the Public Employees Retirement Board.

15 “(4) ‘Eligible employee’ means a person who performs services for a par-  
16 ticipating public employer, including elected officials other than judges. ‘El-  
17 igible employee’ does not include:

18 “(a) Persons engaged as independent contractors;

19 “(b) Aliens working under a training or educational visa;

20 “(c) Persons provided sheltered employment or make-work by a public  
21 employer;

1 “(d) Persons categorized by a participating public employer as student  
2 employees;

3 “(e) Any person who is an inmate of a state institution;

4 “(f) Employees of foreign trade offices of the Oregon Business Develop-  
5 ment Department who live and perform services in foreign countries under  
6 the provisions of ORS 285A.075 (1)(g);

7 “(g) An employee actively participating in an alternative retirement pro-  
8 gram established under ORS 353.250 or an optional retirement plan estab-  
9 lished under ORS 341.551;

10 “(h) Employees of a public university listed in ORS 352.002 who are ac-  
11 tively participating in an optional retirement plan offered under ORS 243.800;

12 “(i) Any employee who belongs to a class of employees that was not eli-  
13 gible on August 28, 2003, for membership in the system under the provisions  
14 of ORS chapter 238 or other law;

15 “(j) Any person who belongs to a class of employees who are not eligible  
16 to become members of the Oregon Public Service Retirement Plan under the  
17 provisions of ORS 238A.070 (2);

18 “(k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS  
19 chapter 238 and who continues to receive retirement benefits while employed;  
20 and

21 “(L) Judges.

22 “(5) ‘Firefighter’ means:

23 “(a) A person employed by a local government, as defined in ORS 174.116,  
24 whose primary job duties include the fighting of fires;

25 “(b) The State Fire Marshal, the chief deputy state fire marshal and  
26 deputy state fire marshals; and

27 “(c) An employee of the State Forestry Department who is certified by the  
28 State Forester as a professional wildland firefighter and whose primary du-  
29 ties include the abatement of uncontrolled fires as described in ORS 477.064.

30 “(6) ‘Fund’ means the Public Employees Retirement Fund.

1 “(7)(a) ‘Hour of service’ means:

2 “(A) An hour for which an eligible employee is directly or indirectly paid  
3 or entitled to payment by a participating public employer for performance  
4 of duties in a qualifying position; and

5 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military  
6 duty or authorized leave during which an employee does not perform duties  
7 but for which the employee is directly or indirectly paid or entitled to pay-  
8 ment by a participating public employer for services in a qualifying position,  
9 as long as the hour is within the number of hours regularly scheduled for  
10 the performance of duties during the period of vacation, holiday, illness, in-  
11 capacity, jury duty, military duty or authorized leave.

12 “(b) ‘Hour of service’ does not include any hour for which payment is  
13 made or due under a plan maintained solely for the purpose of complying  
14 with applicable workers’ compensation laws or unemployment compensation  
15 laws.

16 “(8) ‘Inactive member’ means a member of the pension program or the  
17 individual account program of the Oregon Public Service Retirement Plan  
18 whose membership has not been terminated, who is not a retired member and  
19 who is not employed in a qualifying position.

20 “(9) ‘Individual account program’ means the defined contribution individ-  
21 ual account program of the Oregon Public Service Retirement Plan estab-  
22 lished under ORS 238A.025.

23 “(10) ‘Institution of higher education’ means a public university listed in  
24 ORS 352.002, the Oregon Health and Science University or a community  
25 college, as defined in ORS 341.005.

26 “(11) ‘Member’ means an eligible employee who has established member-  
27 ship in the pension program or the individual account program of the Oregon  
28 Public Service Retirement Plan and whose membership has not been termi-  
29 nated under ORS 238A.110 or 238A.310.

30 “(12) ‘Participating public employer’ means a public employer as defined

1 in ORS 238.005 that provides retirement benefits for employees of the public  
2 employer under the system.

3 “(13) ‘Pension program’ means the defined benefit pension program of the  
4 Oregon Public Service Retirement Plan established under ORS 238A.025.

5 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

6 “(15) ‘Qualifying position’ means:

7 **“(a) For an eligible employee who establishes membership in the**  
8 **system before the effective date of this 2017 Act,** one or more jobs with  
9 one or more participating public employers in which [*an*] **the** eligible em-  
10 ployee performs 600 or more hours of service in a calendar year, excluding  
11 any service in a job for which benefits are not provided under the Oregon  
12 Public Service Retirement Plan pursuant to ORS 238A.070 (2).

13 **“(b) For an eligible employee who establishes membership in the**  
14 **system on or after the effective date of this 2017 Act, one or more jobs**  
15 **with one or more participating public employers in which the eligible**  
16 **employee performs 1,000 or more hours of service in a calendar year,**  
17 **excluding any service in a job for which benefits are not provided un-**  
18 **der the Oregon Public Service Retirement Plan pursuant to ORS**  
19 **238A.070 (2).**

20 “(16) ‘Retired member’ means a pension program member who is receiving  
21 a pension as provided in ORS 238A.180 to 238A.195.

22 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-  
23 turn for services to the participating public employer, including  
24 remuneration in the form of living quarters, board or other items of value,  
25 to the extent the remuneration is includable in the employee’s taxable in-  
26 come under Oregon law. ‘Salary’ includes the additional amounts specified  
27 in paragraph (b) of this subsection, but does not include the amounts speci-  
28 fied in paragraph (c) of this subsection, regardless of whether those amounts  
29 are includable in taxable income.

30 “(b) ‘Salary’ includes the following amounts:

1       “(A) Payments of employee and employer money into a deferred compen-  
2 sation plan that are made at the election of the employee.

3       “(B) Contributions to a tax-sheltered or deferred annuity that are made  
4 at the election of the employee.

5       “(C) Any amount that is contributed to a cafeteria plan or qualified  
6 transportation fringe benefit plan by the employer at the election of the  
7 employee and that is not includable in the taxable income of the employee  
8 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2015.

9       “(D) Any amount that is contributed to a cash or deferred arrangement  
10 by the employer at the election of the employee and that is not included in  
11 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in  
12 effect on December 31, 2015.

13       “(E) Retroactive payments described in ORS 238.008.

14       “(F) The amount of an employee contribution to the individual account  
15 program that is paid by the employer and deducted from the compensation  
16 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

17       “(G) The amount of an employee contribution to the individual account  
18 program that is not paid by the employer under ORS 238A.335.

19       “(H) Wages of a deceased member paid to a surviving spouse or dependent  
20 children under ORS 652.190.

21       “(c) ‘Salary’ does not include the following amounts:

22       “(A) Travel or any other expenses incidental to employer’s business which  
23 is reimbursed by the employer.

24       “(B) Payments made on account of an employee’s death.

25       “(C) Any lump sum payment for accumulated unused sick leave, vacation  
26 leave or other paid leave.

27       “(D) Any severance payment, accelerated payment of an employment  
28 contract for a future period or advance against future wages.

29       “(E) Any retirement incentive, retirement bonus or retirement gratuitous  
30 payment.

1 “(F) Payment for a leave of absence after the date the employer and em-  
2 ployee have agreed that no future services in a qualifying position will be  
3 performed.

4 “(G) Payments for instructional services rendered to public universities  
5 listed in ORS 352.002 or the Oregon Health and Science University when  
6 those services are in excess of full-time employment subject to this chapter.  
7 A person employed under a contract for less than 12 months is subject to this  
8 subparagraph only for the months covered by the contract.

9 “(H) The amount of an employee contribution to the individual account  
10 program that is paid by the employer and is not deducted from the compen-  
11 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

12 “(I) Any amount in excess of \$200,000 for a calendar year. If any period  
13 over which salary is determined is less than 12 months, the \$200,000 limita-  
14 tion for that period shall be multiplied by a fraction, the numerator of which  
15 is the number of months in the determination period and the denominator  
16 of which is 12. The board shall adopt rules adjusting this dollar limit to in-  
17 corporate cost-of-living adjustments authorized by the Internal Revenue Ser-  
18 vice.

19 “(18) ‘System’ means the Public Employees Retirement System.

20 “**SECTION 2.** ORS 238A.115 is amended to read:

21 “238A.115. (1) Except as provided in subsection (2) of this section, a  
22 member of the pension program becomes vested in the pension program on  
23 the earliest of the following dates:

24 “(a)(A) **For a member who establishes membership in the pension**  
25 **program before the effective date of this 2017 Act**, the date on which the  
26 member completes at least 600 hours of service in each of five calendar years.  
27 The five calendar years need not be consecutive, but are subject to the pro-  
28 visions of subsection (3) of this section.

29 “(B) **For a member who establishes membership in the pension**  
30 **program on or after the effective date of this 2017 Act, the date on**

1 **which the member completes at least 1,000 hours of service in each of**  
2 **five calendar years. The five calendar years need not be consecutive,**  
3 **but are subject to the provisions of subsection (3) of this section.**

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

6 “(c) If the pension program is terminated, the date on which termination  
7 becomes effective, but only to the extent the pension program is then funded.

8 “(2) If on the date that a person becomes an active member the person  
9 has already reached the normal retirement age for the person under ORS  
10 238A.160, the person is vested in the pension program on that date.

11 “(3)(a) If a member of the pension program **who establishes member-**  
12 **ship in the pension program before the effective date of this 2017 Act**  
13 **and** who is not vested in the pension program performs fewer than 600 hours  
14 of service in each of five consecutive calendar years, hours of service per-  
15 formed before the first calendar year of the period of five consecutive cal-  
16 endar years shall be disregarded for purposes of determining whether the  
17 member is vested under subsection (1)(a) of this section.

18 “(b) **If a member of the pension program who establishes member-**  
19 **ship in the pension program on or after the effective date of this 2017**  
20 **Act and who is not vested in the pension program performs fewer than**  
21 **1,000 hours of service in each of five consecutive calendar years, hours**  
22 **of service performed before the first calendar year of the period of five**  
23 **consecutive calendar years shall be disregarded for purposes of deter-**  
24 **mining whether the member is vested under subsection (1)(a) of this**  
25 **section.**

26 “(4) Solely for purposes of determining whether a member is vested under  
27 this section, hours of service include creditable service, as defined in ORS  
28 238.005, performed by the person before the person became an eligible em-  
29 ployee, as long as the membership of the person under ORS chapter 238 has  
30 not been terminated under the provisions of ORS 238.095 on the date the

1 person becomes an eligible employee.

2 **“SECTION 3.** ORS 238A.145 is amended to read:

3 “238A.145. (1)(a) A pension program member **who establishes member-**  
4 **ship in the pension program before the effective date of this 2017 Act**  
5 **and** who is not vested forfeits all retirement credit if the member performs  
6 fewer than 600 hours of service in each of five consecutive calendar years.  
7 A forfeiture under this section takes effect at the end of the fifth calendar  
8 year.

9 **“(b) A pension program member who establishes membership in the**  
10 **pension program on or after the effective date of this 2017 Act and who**  
11 **is not vested forfeits all retirement credit if the member performs**  
12 **fewer than 1,000 hours of service in each of five consecutive calendar**  
13 **years. A forfeiture under this section takes effect at the end of the**  
14 **fifth calendar year.**

15 “(2) If a pension program member forfeits retirement credit under this  
16 section and is subsequently reemployed by a participating public employer:

17 “(a) The person may acquire retirement credit under the pension program  
18 only for the purpose of service performed after the person is reemployed; and

19 “(b) Any service performed before the forfeiture may not be credited to-  
20 ward the period of service required by ORS 238A.100 or 238A.115, or toward  
21 the accrual of retirement credit under ORS 238A.140, 238A.150 or 238A.155.

22 **“SECTION 4.** ORS 238A.320 is amended to read:

23 “238A.320. (1) A member of the individual account program becomes  
24 vested in the employee account established for the member under ORS  
25 238A.350 (2) on the date the employee account is established.

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

29 “(3) Except as provided in subsection (4) of this section, if an employer  
30 makes employer contributions for a member under ORS 238A.340 the member



1 becomes vested in the employer account established under ORS 238A.350 (3)  
2 on the earliest of the following dates:

3       “(a)(A) **For a member who establishes membership in the individual**  
4 **account program before the effective date of this 2017 Act**, the date on  
5 which the member completes at least 600 hours of service in each of five  
6 calendar years. The five calendar years need not be consecutive, but are  
7 subject to the provisions of subsection (5) of this section.

8       “(B) **For a member who establishes membership in the individual**  
9 **account program on or after the effective date of this 2017 Act, the**  
10 **date on which the member completes at least 1,000 hours of service in**  
11 **each of five calendar years. The five calendar years need not be con-**  
12 **secutive, but are subject to the provisions of subsection (5) of this**  
13 **section.**

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

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

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

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

22       “(4) If on the date that a person becomes an active member the person  
23 has already reached the normal retirement age for the person under ORS  
24 238A.160, and the employer makes employer contributions for the member  
25 under ORS 238A.340, the person is vested in the employer account established  
26 under ORS 238A.350 (3) on that date.

27       “(5)(a) If a member of the individual account program **who establishes**  
28 **membership in the individual account program before the effective**  
29 **date of this 2017 Act and** who is not vested in the employer account per-  
30 forms fewer than 600 hours of service in each of five consecutive calendar

1 years, hours of service performed before the first calendar year of the period  
2 of five consecutive calendar years shall be disregarded for purposes of de-  
3 termining whether the member is vested under subsection (3)(a) of this sec-  
4 tion.

5 **“(b) If a member of the individual account program who establishes**  
6 **membership in the individual account program before the effective**  
7 **date of this 2017 Act and who is not vested in the employer account**  
8 **performs fewer than 1,000 hours of service in each of five consecutive**  
9 **calendar years, hours of service performed before the first calendar**  
10 **year of the period of five consecutive calendar years shall be disre-**  
11 **garded for purposes of determining whether the member is vested un-**  
12 **der 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 **“SECTION 5. (1) As soon as practicable after the effective date of**  
20 **this 2017 Act, the Public Employees Retirement Board shall:**

21 **“(a) Determine the amount of savings in employer contributions**  
22 **that are attributable to the provisions of this 2017 Act; and**

23 **“(b) Recalculate the contribution rates of all employers, pursuant**  
24 **to ORS 238.225, to reflect the provisions of this 2017 Act.**

25 **“(2) The board shall issue corrected contribution rate orders to**  
26 **employers affected by rates recalculated under this section as soon as**  
27 **is practicable after the effective date of this 2017 Act. The corrected**  
28 **rates are effective on July 1, 2017.**

29 **“SECTION 6. This 2017 Act being necessary for the immediate**  
30 **preservation of the public peace, health and safety, an emergency is**

1 **declared to exist, and this 2017 Act takes effect on its passage.”.**

2

---