

SB 712-3
(LC 4143)
3/9/17 (MNJ/ps)

Requested by SENATE COMMITTEE ON WORKFORCE

**PROPOSED AMENDMENTS TO
SENATE BILL 712**

1 On page 1 of the printed bill, line 3, delete “, 238A.120 and 238A.145” and
2 insert “and 238A.155”.

3 Delete lines 6 through 30 and delete pages 2 through 5 and insert:

4 **“SECTION 1.** ORS 238A.155 is amended to read:

5 “238A.155. (1) Notwithstanding any other provision of ORS 238A.100 to
6 238A.250, an active member of the pension program described in subsection
7 (2) of this section who becomes disabled shall accrue retirement credit and
8 hours of service credit for vesting purposes for the period during which the
9 member is disabled.

10 “(2) The provisions of this section apply only to:

11 “(a) A member who has accrued 10 years or more of retirement credit
12 before the member becomes disabled; or

13 “(b) A member who becomes disabled by reason of injury or disease sus-
14 tained while in the actual performance of duty.

15 “(3) Retirement credit accrues under this section only for as long as the
16 member remains disabled or until the member reaches the normal retirement
17 age under ORS 238A.160.

18 “(4) If a disabled member does not return to employment with a partic-
19 ipating public employer after the period of disability, the member shall re-
20 ceive a pension under ORS 238A.180, 238A.185 or 238A.190 upon retirement
21 based on an adjusted salary. The adjusted salary shall be the salary paid to

1 the disabled member on the date the member left active employment with the
2 participating public employer by reason of disability, adjusted for each year
3 after the member left employment and before the member's effective date of
4 retirement to reflect cost-of-living changes, based on the Portland-Salem,
5 OR-WA, Consumer Price Index for All Urban Consumers for All Items, as
6 published by the Bureau of Labor Statistics of the United States Department
7 of Labor. Adjustments under this subsection may not exceed a two percent
8 increase or decrease for any year. An adjustment shall be made under this
9 subsection only for calendar years in which the member is disabled for at
10 least six months during the year.

11 “(5) A pension program member is considered to be disabled for the pur-
12 pose of this section if:

13 “(a) The member is found, after being examined by one or more physi-
14 cians selected by the Public Employees Retirement Board, to be mentally or
15 physically incapacitated for an extended duration and unable to perform any
16 work for which qualified, by reason of injury or disease that was not inten-
17 tionally self-inflicted[.]; or

18 “(b) **The member receives workers' compensation benefits by reason**
19 **of injury or disease that was sustained while in actual performance**
20 **of duty with a participating public employer and that was not inten-**
21 **tionally self-inflicted and returns to employment with a participating**
22 **public employer after the period of disability.**

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

25 “238A.005. For the purposes of this chapter:

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

29 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
30 the same value as the payment or series of payments replaced, computed on

1 the basis of interest rate and mortality assumptions adopted by the board.

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

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

6 “(a) Persons engaged as independent contractors;

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

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

10 “(d) Persons categorized by a participating public employer as student
11 employees;

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

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

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

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

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

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

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

30 “(L) Judges.

1 “(5) ‘Firefighter’ means:

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

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

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

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

10 “(7)(a) ‘Hour of service’ means:

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

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

21 “(b) ‘Hour of service’ does not include any hour for which payment is
22 made or due under a plan maintained solely for the purpose of complying
23 with applicable [*workers’ compensation laws or*] unemployment compensation
24 laws.

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

29 “(9) ‘Individual account program’ means the defined contribution individ-
30 ual account program of the Oregon Public Service Retirement Plan estab-

1 lished under ORS 238A.025.

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

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

9 “(12) ‘Participating public employer’ means a public employer as defined
10 in ORS 238.005 that provides retirement benefits for employees of the public
11 employer under the system.

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

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

15 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
16 ticipating public employers in which an eligible employee performs 600 or
17 more hours of service in a calendar year, excluding any service in a job for
18 which benefits are not provided under the Oregon Public Service Retirement
19 Plan pursuant to ORS 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 “(19) **‘Workers’ compensation benefits’ means:**

21 **“(a) Payments made under ORS chapter 656; or**

22 **“(b) Payments provided in lieu of workers’ compensation benefits**
23 **under ORS 656.027 (6).**

24 **“SECTION 3. (1) The amendments to ORS 238A.005 and 238A.155 by**
25 **sections 1 and 2 of this 2017 Act apply to members of the Public Em-**
26 **ployees Retirement System receiving workers’ compensation benefits**
27 **on or after the effective date of this 2017 Act and whose effective date**
28 **of retirement is on or after the effective date of this 2017 Act.**

29 **“(2) A member of the Public Employees Retirement System who is**
30 **receiving workers’ compensation benefits due to an injury or disease**

1 on the effective date of this 2017 Act shall accrue retirement credit and
2 hours of service credit for vesting purposes for the entire period during
3 which the member receives workers' compensation benefits for the
4 injury or disease, whether received before, on or after the effective
5 date of this 2017 Act.

6 SECTION 4. This 2017 Act being necessary for the immediate
7 preservation of the public peace, health and safety, an emergency is
8 declared to exist, and this 2017 Act takes effect on its passage.”

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