

A-Engrossed
House Bill 4115

Ordered by the House February 16
Including House Amendments dated February 16

Sponsored by Representatives NOBLE, BUEHLER; Representatives BARRETO, ESQUIVEL, HELFRICH, LEWIS, NEARMAN, POST, RESCHKE, SMITH DB, STARK, VIAL, WHISNANT, WILSON, Senators BOQUIST, JOHNSON (Presession filed.)

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.

[Prohibits statewide elected official, judge of Supreme Court or Court of Appeals or legislator from becoming member of Public Employees Retirement System on or after July 1, 2018, for purpose of service as statewide elected official, judge or legislator.]

[Provides that statewide elected official, judge of Supreme Court or Court of Appeals or legislator may not accrue benefits under Public Employees Retirement System for purpose of service as statewide elected official, judge or legislator on or after July 1, 2018.]

Modifies retirement plan options of persons elected or appointed as statewide elected officials or judges.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the retirement benefits of state officers; creating new provisions; amending ORS 238.505,
3 238A.245 and 238A.350; and declaring an emergency.

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

5
6 **STATEWIDE ELECTED OFFICIALS**

7
8 **SECTION 1.** (1) As used in this section and section 2 of this 2018 Act, "statewide elected
9 official" means the Governor, the Secretary of State, the State Treasurer, the Attorney
10 General and the Commissioner of the Bureau of Labor and Industries.

11 (2) Except as provided in this section, a person who is appointed or elected as a statewide
12 elected official may make a retirement plan election in the manner provided in this section.
13 If a person who is permitted to make an election under this section does not make a retire-
14 ment plan election under subsection (3), (4), (5), (6) or (7) of this section, the person is
15 deemed to have to have elected a retirement plan as provided in subsection (8) of this sec-
16 tion.

17 (3) An active or inactive member of the Public Employees Retirement System who is
18 appointed or elected as a statewide elected official, and who established membership in the
19 system before August 29, 2003, as described in ORS 238A.025, may:

20 (a) Elect to remain a member of the system under ORS chapter 238 for the purpose of
21 service as a statewide elected official;

22 (b) Decline to remain a member of the system under ORS chapter 238 and elect to be-
23 come a statewide elected official member of the state deferred compensation plan under

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 section 2 of this 2018 Act for the purpose of service as a statewide elected official; or

2 (c) Decline to remain a member of the system under ORS chapter 238 or to become a
3 statewide elected official member of the state deferred compensation plan under section 2
4 of this 2018 Act for the purpose of service as a statewide elected official.

5 (4) A retired member of the Public Employees Retirement System who is appointed or
6 elected as a statewide elected official, and who established membership in the system before
7 August 29, 2003, as described in ORS 238A.025, may:

8 (a) Elect to become an active member of the system under ORS chapter 238 for the
9 purpose of service as a statewide elected official;

10 (b) Decline to become an active member of the system under ORS chapter 238 and elect
11 to become a statewide elected official member of the state deferred compensation plan under
12 section 2 of this 2018 Act for the purpose of service as a statewide elected official; or

13 (c) Decline to become an active member of the system under ORS chapter 238 or to be-
14 come a statewide elected official member of the state deferred compensation plan under
15 section 2 of this 2018 Act for the purpose of service as a statewide elected official.

16 (5) An active or inactive member of the Public Employees Retirement System who is
17 appointed or elected as a statewide elected official, and who established membership in the
18 system on or after August 29, 2003, as described in ORS 238A.025, may:

19 (a) Elect to remain a member of the system under ORS chapter 238A for the purpose of
20 service as a statewide elected official;

21 (b) Decline to remain a member of the system under ORS chapter 238A and elect to be-
22 come a statewide elected official member of the state deferred compensation plan under
23 section 2 of this 2018 Act for the purpose of service as a statewide elected official; or

24 (c) Decline to remain a member of the system under ORS chapter 238A or to become a
25 statewide elected official member of the state deferred compensation plan under section 2
26 of this 2018 Act for the purpose of service as a statewide elected official.

27 (6) A retired member of the Public Employees Retirement System who is appointed or
28 elected as a statewide elected official, and who established membership in the system on or
29 after August 29, 2003, as described in ORS 238A.025, may:

30 (a) Elect to become an active member of the system under ORS chapter 238A for the
31 purpose of service as a statewide elected official;

32 (b) Decline to become an active member of the system under ORS chapter 238A and elect
33 to become a statewide elected official member of the state deferred compensation plan under
34 section 2 of this 2018 Act for the purpose of service as a statewide elected official; or

35 (c) Decline to become an active member of the system under ORS chapter 238A or to
36 become a statewide elected official member of the state deferred compensation plan under
37 section 2 of this 2018 Act for the purpose of service as a statewide elected official.

38 (7) A person who is appointed or elected as a statewide elected official and who is not a
39 member of the Public Employees Retirement System at the time the person takes office may:

40 (a) Elect to become a member of the Oregon Public Service Retirement Plan established
41 under ORS chapter 238A for the purpose of service as a statewide elected official;

42 (b) Decline to become a member of the Oregon Public Service Retirement Plan and elect
43 to become a statewide elected official member of the state deferred compensation plan under
44 section 2 of this 2018 Act for the purpose of service as a statewide elected official; or

45 (c) Decline to become a member of the Oregon Public Service Retirement Plan or to be-

1 come a statewide elected official member of the state deferred compensation plan under
2 section 2 of this 2018 Act for the purpose of service as a statewide elected official.

3 (8) Written notice of an election under subsection (3), (4), (5), (6) or (7) of this section
4 must be given to the Public Employees Retirement Board not more than 30 days after the
5 person takes office. If the board does not receive written notice of the election within 30 days
6 after the person takes office:

7 (a) A person described in subsection (3) of this section is deemed to have elected to re-
8 main a member of the Public Employees Retirement System under ORS chapter 238 for the
9 purpose of service as a statewide elected official.

10 (b) A person described in subsection (4) of this section is deemed to have declined to be-
11 come an active member of the system under ORS chapter 238 or to become a statewide
12 elected official member of the state deferred compensation plan under section 2 of this 2018
13 Act and remains a retired member of the system under ORS chapter 238 for the purpose of
14 service as a statewide elected official.

15 (c) A person described in subsection (5) of this section is deemed to have elected to re-
16 main a member of the Public Employees Retirement System under ORS chapter 238A for the
17 purpose of service as a statewide elected official.

18 (d) A person described in subsection (6) of this section is deemed to have declined to be-
19 come an active member of the system under ORS chapter 238A or to become a statewide
20 elected official member of the state deferred compensation plan under section 2 of this 2018
21 Act and remains a retired member of the system under ORS chapter 238A for the purpose
22 of service as a statewide elected official.

23 (e) A person described in subsection (7) of this section is deemed to have elected to be-
24 come a member of the Oregon Public Service Retirement Plan under ORS chapter 238A for
25 the purpose of service as a statewide elected official.

26 (9) An election under subsection (4)(b) or (c) or (6)(b) or (c) of this section does not affect
27 the status of a person as a retired member of the Public Employees Retirement System and
28 a recipient of retirement benefits under ORS chapter 238 or 238A.

29 (10) An election under this section does not affect the ability of a person appointed or
30 elected as a statewide elected official to participate in the state deferred compensation plan
31 in the manner provided by ORS 243.401 to 243.507 as other than a statewide elected official
32 member under section 2 of this 2018 Act.

33 **SECTION 2.** (1)(a) If a person appointed or elected as a statewide elected official elects
34 under section 1 of this 2018 Act to become a statewide elected official member of the state
35 deferred compensation plan for the purpose of service as a statewide elected official, the
36 state shall make employer contributions to the plan in an amount that is equal to six percent
37 of the official's salary, as defined in ORS 238.005, plus the percentage of the official's salary
38 that would have been contributed to the Public Employees Retirement Board for the official's
39 normal cost under ORS 238A.220, as determined by the actuary under ORS 238.605.

40 (b) Notwithstanding paragraph (a) of this subsection, contributions made to the plan by
41 the state under this subsection may not exceed the maximum allowed by federal law.

42 (2) If a person appointed or elected as a statewide elected official elects under section 1
43 of this 2018 Act to become a statewide elected official member of the state deferred com-
44 pensation plan for the purpose of service as a statewide elected official, and the official also
45 participates in the state deferred compensation plan in the manner provided by ORS 243.401

1 to 243.507 as other than a statewide elected official member, the total contributions made to
 2 the plan by the state under subsection (1) of this section and by the official may not exceed
 3 the maximum allowed by federal law governing the plan's tax qualification.

4 (3) Except for the contributions required by subsection (1) of this section, the state may
 5 not pick-up, assume or pay any contributions on behalf of a statewide elected official member
 6 of the state deferred compensation plan.

7 **SECTION 3.** ORS 238A.245 is amended to read:

8 238A.245. (1) Except as provided in ORS 237.650 and 238A.250 and section 1 of this 2018 Act,
 9 the Public Employees Retirement Board shall cease making pension payments to a retired member
 10 of the pension program who is reemployed by a participating public employer in a qualifying posi-
 11 tion. A retired member of the pension program who is employed in a qualifying position becomes
 12 an active member of the pension program without serving the probationary period provided for in
 13 ORS 238A.100.

14 (2) If a retired member of the pension program is reemployed under the provisions of this sec-
 15 tion, any option chosen by the member under ORS 238A.190 is canceled, and upon retiring thereafter
 16 the member may elect any option provided for in ORS 238A.180 and 238A.190. The board shall re-
 17 calculate the pension of the member upon subsequent retirement.

18 **SECTION 4.** ORS 238A.350 is amended to read:

19 238A.350. (1) Upon any contributions being made to the individual account program by or on
 20 behalf of a member of the program, the Public Employees Retirement Board shall create the account
 21 or accounts described in this section. Each account shall be adjusted at least annually in accordance
 22 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
 23 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
 24 the assets of the program are insufficient to pay those costs. The adjustments described in this
 25 subsection shall continue until the account is distributed to the member or forfeited.

26 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 27 tributions made by or on behalf of the member as adjusted under subsection (1) of this section.

28 (b) The board shall create a separate employee account for a member who becomes an active
 29 member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall
 30 consist of the employee contributions made by or on behalf of the member that are attributable to
 31 the member's legislative service, as adjusted under subsection (1) of this section.

32 (c) **The board shall create a separate employee account for a member who becomes an**
 33 **active member for the purpose of service as a statewide elected official under section 1 of**
 34 **this 2018 Act, which shall consist of the employee contributions made by or on behalf of the**
 35 **member that are attributable to the member's service as a statewide elected official, as ad-**
 36 **justed under subsection (1) of this section.**

37 (3) If the public employer agrees to make employer contributions under ORS 238A.340, the board
 38 shall establish an employer account, which shall consist of the employer contributions made on be-
 39 half of the member as adjusted under subsection (1) of this section.

40 (4) If the board accepts rollover contributions on behalf of the member, the board shall establish
 41 a rollover account, which shall consist of the rollover contributions made by the member as adjusted
 42 under subsection (1) of this section. Contributions and the earnings attributable to the contributions
 43 must be accounted for separately.

44 (5) The board shall provide an annual statement to each active and inactive member of the
 45 program that reflects the amount credited to the accounts established under this section. The

1 statement shall reflect whether the member is vested in the employer account under the provisions
2 of ORS 238A.320.

3 **SECTION 5.** Sections 1 and 2 of this 2018 Act and the amendments to ORS 238A.245 and
4 238A.350 by sections 3 and 4 of this 2018 Act apply to a statewide elected official who takes
5 office on or after the effective date of this 2018 Act.

6
7 **JUDGES**
8

9 **SECTION 6.** Sections 7 and 8 of this 2018 Act are added to and made a part of ORS 238.500
10 to 238.585.

11 **SECTION 7.** (1) Upon taking office, a judge may:

12 (a) Decline to become or remain a judge member of the Public Employees Retirement
13 System as provided in ORS 238.500 to 238.585 and elect to become or remain a judge member
14 of the state deferred compensation plan under section 8 of this 2018 Act for the purpose of
15 occupation of the office of judge; or

16 (b) Decline to become or remain a judge member of the system as provided in ORS
17 238.500 to 238.585 or to become or remain a judge member of the state deferred compensation
18 plan under section 8 of this 2018 Act for the purpose of occupation of the office of judge.

19 (2) Written notice of an election under subsection (1) of this section must be given to the
20 Public Employees Retirement Board not more than 30 days after the judge takes office. If
21 the board does not receive written notice of the election within 30 days after the judge takes
22 office, the judge becomes or remains a judge member of the Public Employees Retirement
23 System as provided in ORS 238.500 to 238.585.

24 (3) An election under this section does not affect the ability of a judge to participate in
25 the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as
26 other than a judge member under section 8 of this 2018 Act.

27 **SECTION 8.** (1)(a) If a person appointed or elected as a judge elects under section 7 of
28 this 2018 Act to become a judge member of the state deferred compensation plan for the
29 purpose of occupation of the office of judge, the state shall make employer contributions to
30 the plan in an amount that is equal to seven percent of the judge's salary plus the percentage
31 of the judge's salary that would have been contributed to the Public Employees Retirement
32 Board for the judge's normal cost under ORS 238A.220, as determined by the actuary under
33 ORS 238.605.

34 (b) Notwithstanding paragraph (a) of this subsection, contributions made to the plan by
35 the state under this subsection may not exceed the maximum allowed by federal law.

36 (2) If a person appointed or elected as a judge elects under section 7 of this 2018 Act to
37 become a judge member of the state deferred compensation plan for the purpose of occupa-
38 tion of the office of judge, and the judge also participates in the state deferred compensation
39 plan in the manner provided by ORS 243.401 to 243.507 as other than a judge member, the
40 total contributions made to the plan by the state under subsection (1) of this section and by
41 the judge may not exceed the maximum allowed by federal law governing the plan's tax
42 qualification.

43 (3) Except for the contributions required by subsection (1) of this section, the state may
44 not pick-up, assume or pay any contributions on behalf of a judge member of the state de-
45 ferred compensation plan.

1 **SECTION 9.** ORS 238.505 is amended to read:

2 238.505. (1) Except as provided in subsection (2) of this section **and section 7 of this 2018**
3 **Act**, a person who is not a judge on December 31, 1983, and who is elected or appointed to the office
4 of judge on or after January 1, 1984, shall become a judge member on the date the person takes the
5 office.

6 (2) A person who, by reason of the age at which becoming a judge, could not make contributions
7 to the Public Employees Retirement Fund during each of five calendar years as a judge member at
8 or before attaining the age of 75 years [*shall*] **may** not become a judge member.

9 **SECTION 10.** Sections 7 and 8 of this 2018 Act and the amendments to ORS 238.505 by
10 **section 9 of this 2018 Act apply to a judge who takes office on or after the effective date of**
11 **this 2018 Act.**

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CAPTIONS

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15 **SECTION 11.** The unit captions used in this 2018 Act are provided only for the conven-
16 **ience of the reader and do not become part of the statutory law of this state or express any**
17 **legislative intent in the enactment of this 2018 Act.**

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19

EFFECTIVE DATE

20

21 **SECTION 12.** This 2018 Act being necessary for the immediate preservation of the public
22 **peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect**
23 **on its passage.**

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