

## HOUSE AMENDMENTS TO HOUSE BILL 4115

By COMMITTEE ON BUSINESS AND LABOR

February 16

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the line and delete lines 3  
2 and 4 and insert “238.505, 238A.245 and 238A.350; and declaring an emergency.”.

3 Delete lines 6 through 27 and delete pages 2 through 8 and insert:  
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### “STATEWIDE ELECTED OFFICIALS

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

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

16 “(3) 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 before August 29, 2003, as described in ORS 238A.025, may:

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

21 “(b) Decline to remain a member of the system under ORS chapter 238 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 238 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 “(4) 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 before  
29 August 29, 2003, as described in ORS 238A.025, may:

30 “(a) Elect to become an active member of the system under ORS chapter 238 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 238 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 238 or to

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

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

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

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

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

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

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

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

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

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

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

33 “(c) Decline to become a member of the Oregon Public Service Retirement Plan or to  
34 become a statewide elected official member of the state deferred compensation plan under  
35 section 2 of this 2018 Act for the purpose of service as a statewide elected official.

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

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

43 “(b) A person described in subsection (4) of this section is deemed to have declined to  
44 become an active member of the system under ORS chapter 238 or to become a statewide  
45 elected official member of the state deferred compensation plan under section 2 of this 2018

1 Act and remains a retired member of the system under ORS chapter 238 for the purpose of  
2 service as a statewide elected official.

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

6 “(d) A person described in subsection (6) of this section is deemed to have declined to  
7 become an active member of the system under ORS chapter 238A or to become a statewide  
8 elected official member of the state deferred compensation plan under section 2 of this 2018  
9 Act and remains a retired member of the system under ORS chapter 238A for the purpose  
10 of service as a statewide elected official.

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

14 “(9) An election under subsection (4)(b) or (c) or (6)(b) or (c) of this section does not af-  
15 fect the status of a person as a retired member of the Public Employees Retirement System  
16 and a recipient of retirement benefits under ORS chapter 238 or 238A.

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

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

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

30 “(2) If a person appointed or elected as a statewide elected official elects under section  
31 1 of this 2018 Act to become a statewide elected official member of the state deferred com-  
32 pensation plan for the purpose of service as a statewide elected official, and the official also  
33 participates in the state deferred compensation plan in the manner provided by ORS 243.401  
34 to 243.507 as other than a statewide elected official member, the total contributions made to  
35 the plan by the state under subsection (1) of this section and by the official may not exceed  
36 the maximum allowed by federal law governing the plan’s tax qualification.

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

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

41 “238A.245. (1) Except as provided in ORS 237.650 and 238A.250 and section 1 of this 2018  
42 Act, the Public Employees Retirement Board shall cease making pension payments to a retired  
43 member of the pension program who is reemployed by a participating public employer in a qualifying  
44 position. A retired member of the pension program who is employed in a qualifying position becomes  
45 an active member of the pension program without serving the probationary period provided for in

1 ORS 238A.100.

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

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

7 “238A.350. (1) Upon any contributions being made to the individual account program by or on  
8 behalf of a member of the program, the Public Employees Retirement Board shall create the account  
9 or accounts described in this section. Each account shall be adjusted at least annually in accordance  
10 with rules adopted by the board to reflect any net earnings or losses on those contributions and to  
11 pay the reasonable administrative costs of maintaining the program to the extent the earnings on  
12 the assets of the program are insufficient to pay those costs. The adjustments described in this  
13 subsection shall continue until the account is distributed to the member or forfeited.

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

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

20 “(c) **The board shall create a separate employee account for a member who becomes an**  
21 **active member for the purpose of service as a statewide elected official under section 1 of**  
22 **this 2018 Act, which shall consist of the employee contributions made by or on behalf of the**  
23 **member that are attributable to the member’s service as a statewide elected official, as ad-**  
24 **justed under subsection (1) of this section.**

25 “(3) If the public employer agrees to make employer contributions under ORS 238A.340, the  
26 board shall establish an employer account, which shall consist of the employer contributions made  
27 on behalf of the member as adjusted under subsection (1) of this section.

28 “(4) If the board accepts rollover contributions on behalf of the member, the board shall estab-  
29 lish a rollover account, which shall consist of the rollover contributions made by the member as  
30 adjusted under subsection (1) of this section. Contributions and the earnings attributable to the  
31 contributions must be accounted for separately.

32 “(5) The board shall provide an annual statement to each active and inactive member of the  
33 program that reflects the amount credited to the accounts established under this section. The  
34 statement shall reflect whether the member is vested in the employer account under the provisions  
35 of ORS 238A.320.

36 “**SECTION 5. Sections 1 and 2 of this 2018 Act and the amendments to ORS 238A.245 and**  
37 **238A.350 by sections 3 and 4 of this 2018 Act apply to a statewide elected official who takes**  
38 **office on or after the effective date of this 2018 Act.**

39  
40 “JUDGES

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42 “**SECTION 6. Sections 7 and 8 of this 2018 Act are added to and made a part of ORS**  
43 **238.500 to 238.585.**

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

45 “(a) **Decline to become or remain a judge member of the Public Employees Retirement**

1 System as provided in ORS 238.500 to 238.585 and elect to become or remain a judge member  
2 of the state deferred compensation plan under section 8 of this 2018 Act for the purpose of  
3 occupation of the office of judge; or

4 “(b) Decline to become or remain a judge member of the system as provided in ORS  
5 238.500 to 238.585 or to become or remain a judge member of the state deferred compensation  
6 plan under section 8 of this 2018 Act for the purpose of occupation of the office of judge.

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

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

15 “SECTION 8. (1)(a) If a person appointed or elected as a judge elects under section 7 of  
16 this 2018 Act to become a judge member of the state deferred compensation plan for the  
17 purpose of occupation of the office of judge, the state shall make employer contributions to  
18 the plan in an amount that is equal to seven percent of the judge’s salary plus the percentage  
19 of the judge’s salary that would have been contributed to the Public Employees Retirement  
20 Board for the judge’s normal cost under ORS 238A.220, as determined by the actuary under  
21 ORS 238.605.

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

24 “(2) If a person appointed or elected as a judge elects under section 7 of this 2018 Act to  
25 become a judge member of the state deferred compensation plan for the purpose of occupa-  
26 tion of the office of judge, and the judge also participates in the state deferred compensation  
27 plan in the manner provided by ORS 243.401 to 243.507 as other than a judge member, the  
28 total contributions made to the plan by the state under subsection (1) of this section and by  
29 the judge may not exceed the maximum allowed by federal law governing the plan’s tax  
30 qualification.

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

34 “SECTION 9. ORS 238.505 is amended to read:

35 “238.505. (1) Except as provided in subsection (2) of this section **and section 7 of this 2018**  
36 **Act**, a person who is not a judge on December 31, 1983, and who is elected or appointed to the office  
37 of judge on or after January 1, 1984, shall become a judge member on the date the person takes the  
38 office.

39 “(2) A person who, by reason of the age at which becoming a judge, could not make contribu-  
40 tions to the Public Employees Retirement Fund during each of five calendar years as a judge mem-  
41 ber at or before attaining the age of 75 years [*shall*] **may** not become a judge member.

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

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**“CAPTIONS**

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

**“EFFECTIVE DATE**

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

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