

Requested by Representative NOBLE

**PROPOSED AMENDMENTS TO
HOUSE BILL 4115**

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

4 Delete lines 6 through 27 and delete pages 2 through 8 and insert:
5

6 **“STATEWIDE ELECTED OFFICIALS**
7

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

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

19 **“(3) An active or inactive member of the Public Employees Retire-**
20 **ment System who is appointed or elected as a statewide elected offi-**
21 **cial, and who established membership in the system before August 29,**

1 2003, as described in ORS 238A.025, may:

2 “(a) Elect to remain a member of the system under ORS chapter
3 238 for the purpose of service as a statewide elected official;

4 “(b) Decline to remain a member of the system under ORS chapter
5 238 and elect to become a statewide elected official member of the
6 state deferred compensation plan under section 2 of this 2018 Act for
7 the purpose of service as a statewide elected official; or

8 “(c) Decline to remain a member of the system under ORS chapter
9 238 or to become a statewide elected official member of the state de-
10 ferred compensation plan under section 2 of this 2018 Act for the pur-
11 pose of service as a statewide elected official.

12 “(4) A retired member of the Public Employees Retirement System
13 who is appointed or elected as a statewide elected official, and who
14 established membership in the system before August 29, 2003, as de-
15 scribed in ORS 238A.025, may:

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

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

26 “(5) An active or inactive member of the Public Employees Retire-
27 ment System who is appointed or elected as a statewide elected offi-
28 cial, and who established membership in the system on or after August
29 29, 2003, as described in ORS 238A.025, may:

30 “(a) Elect to remain a member of the system under ORS chapter

1 **238A for the purpose of service as a statewide elected official;**

2 **“(b) Decline to remain a member of the system under ORS chapter**
3 **238A and elect to become a statewide elected official member of the**
4 **state deferred compensation plan under section 2 of this 2018 Act for**
5 **the purpose of service as a statewide elected official; or**

6 **“(c) Decline to remain a member of the system under ORS chapter**
7 **238A or to become a statewide elected official member of the state**
8 **deferred compensation plan under section 2 of this 2018 Act for the**
9 **purpose of service as a statewide elected official.**

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

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

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

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

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

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

30 **“(b) Decline to become a member of the Oregon Public Service Re-**

1 **irement Plan and elect to become a statewide elected official member**
2 **of the state deferred compensation plan under section 2 of this 2018**
3 **Act for the purpose of service as a statewide elected official; or**

4 **“(c) Decline to become a member of the Oregon Public Service Re-**
5 **irement Plan or to become a statewide elected official member of the**
6 **state deferred compensation plan under section 2 of this 2018 Act for**
7 **the purpose of service as a statewide elected official.**

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

13 **“(a) A person described in subsection (3) of this section is deemed**
14 **to have elected to remain a member of the Public Employees Retire-**
15 **ment System under ORS chapter 238 for the purpose of service as a**
16 **statewide elected official.**

17 **“(b) A person described in subsection (4) of this section is deemed**
18 **to have declined to become an active member of the system under ORS**
19 **chapter 238 or to become a statewide elected official member of the**
20 **state deferred compensation plan under section 2 of this 2018 Act and**
21 **remains a retired member of the system under ORS chapter 238 for the**
22 **purpose of service as a statewide elected official.**

23 **“(c) A person described in subsection (5) of this section is deemed**
24 **to have elected to remain a member of the Public Employees Retire-**
25 **ment System under ORS chapter 238A for the purpose of service as a**
26 **statewide elected official.**

27 **“(d) A person described in subsection (6) of this section is deemed**
28 **to have declined to become an active member of the system under ORS**
29 **chapter 238A or to become a statewide elected official member of the**
30 **state deferred compensation plan under section 2 of this 2018 Act and**

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

3 “(e) A person described in subsection (7) of this section is deemed
4 to have elected to become a member of the Oregon Public Service
5 Retirement Plan under ORS chapter 238A for the purpose of service
6 as a statewide elected official.

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

11 “(10) An election under this section does not affect the ability of a
12 person appointed or elected as a statewide elected official to partic-
13 ipate in the state deferred compensation plan in the manner provided
14 by ORS 243.401 to 243.507 as other than a statewide elected official
15 member under section 2 of this 2018 Act.

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

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

29 “(2) If a person appointed or elected as a statewide elected official
30 elects under section 1 of this 2018 Act to become a statewide elected

1 **official member of the state deferred compensation plan for the pur-**
2 **pose of service as a statewide elected official, and the official also**
3 **participates in the state deferred compensation plan in the manner**
4 **provided by ORS 243.401 to 243.507 as other than a statewide elected**
5 **official member, the total contributions made to the plan by the state**
6 **under subsection (1) of this section and by the official may not exceed**
7 **the maximum allowed by federal law governing the plan’s tax quali-**
8 **fication.**

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

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

14 “238A.245. (1) Except as provided in ORS 237.650 and 238A.250 **and sec-**
15 **tion 1 of this 2018 Act,** the Public Employees Retirement Board shall cease
16 making pension payments to a retired member of the pension program who
17 is reemployed by a participating public employer in a qualifying position. A
18 retired member of the pension program who is employed in a qualifying po-
19 sition becomes an active member of the pension program without serving the
20 probationary period provided for in ORS 238A.100.

21 “(2) If a retired member of the pension program is reemployed under the
22 provisions of this section, any option chosen by the member under ORS
23 238A.190 is canceled, and upon retiring thereafter the member may elect any
24 option provided for in ORS 238A.180 and 238A.190. The board shall recalcu-
25 late the pension of the member upon subsequent retirement.

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

27 “238A.350. (1) Upon any contributions being made to the individual ac-
28 count program by or on behalf of a member of the program, the Public Em-
29 ployees Retirement Board shall create the account or accounts described in
30 this section. Each account shall be adjusted at least annually in accordance

1 with rules adopted by the board to reflect any net earnings or losses on those
2 contributions and to pay the reasonable administrative costs of maintaining
3 the program to the extent the earnings on the assets of the program are in-
4 sufficient to pay those costs. The adjustments described in this subsection
5 shall continue until the account is distributed to the member or forfeited.

6 “(2)(a) The board shall establish an employee account, which shall consist
7 of the employee contributions made by or on behalf of the member as ad-
8 justed under subsection (1) of this section.

9 “(b) The board shall create a separate employee account for a member
10 who becomes an active member for the purpose of service in the Legislative
11 Assembly under ORS 237.650, which shall consist of the employee contribu-
12 tions made by or on behalf of the member that are attributable to the
13 member’s legislative service, as adjusted under subsection (1) of this section.

14 **“(c) The board shall create a separate employee account for a**
15 **member who becomes an active member for the purpose of service as**
16 **a statewide elected official under section 1 of this 2018 Act, which shall**
17 **consist of the employee contributions made by or on behalf of the**
18 **member that are attributable to the member’s service as a statewide**
19 **elected official, as adjusted under subsection (1) of this section.**

20 “(3) If the public employer agrees to make employer contributions under
21 ORS 238A.340, the board shall establish an employer account, which shall
22 consist of the employer contributions made on behalf of the member as ad-
23 justed under subsection (1) of this section.

24 “(4) If the board accepts rollover contributions on behalf of the member,
25 the board shall establish a rollover account, which shall consist of the
26 rollover contributions made by the member as adjusted under subsection (1)
27 of this section. Contributions and the earnings attributable to the contribu-
28 tions must be accounted for separately.

29 “(5) The board shall provide an annual statement to each active and in-
30 active member of the program that reflects the amount credited to the ac-

1 counts established under this section. The statement shall reflect whether
2 the member is vested in the employer account under the provisions of ORS
3 238A.320.

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

8

9

“JUDGES

10

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

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

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

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

23 **“(2) Written notice of an election under subsection (1) of this sec-**
24 **tion must be given to the Public Employees Retirement Board not**
25 **more than 30 days after the judge takes office. If the board does not**
26 **receive written notice of the election within 30 days after the judge**
27 **takes office, the judge becomes or remains a judge member of the**
28 **Public Employees Retirement System as provided in ORS 238.500 to**
29 **238.585.**

30 **“(3) An election under this section does not affect the ability of a**

1 judge to participate in the state deferred compensation plan in the
2 manner provided by ORS 243.401 to 243.507 as other than a judge
3 member under section 8 of this 2018 Act.

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

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

15 **“(2) If a person appointed or elected as a judge elects under section**
16 **7 of this 2018 Act to become a judge member of the state deferred**
17 **compensation plan for the purpose of occupation of the office of judge,**
18 **and the judge also participates in the state deferred compensation plan**
19 **in the manner provided by ORS 243.401 to 243.507 as other than a judge**
20 **member, the total contributions made to the plan by the state under**
21 **subsection (1) of this section and by the judge may not exceed the**
22 **maximum allowed by federal law governing the plan’s tax qualifica-**
23 **tion.**

24 **“(3) Except for the contributions required by subsection (1) of this**
25 **section, the state may not pick-up, assume or pay any contributions**
26 **on behalf of a judge member of the state deferred compensation plan.**

27 **“SECTION 9. ORS 238.505 is amended to read:**

28 **“238.505. (1) Except as provided in subsection (2) of this section and**
29 **section 7 of this 2018 Act, a person who is not a judge on December 31,**
30 **1983, and who is elected or appointed to the office of judge on or after Jan-**

1 uary 1, 1984, shall become a judge member on the date the person takes the
2 office.

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

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

10

11

“CAPTIONS

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

17

18

“EFFECTIVE DATE

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

23
