

# House Bill 2993

Sponsored by Representative NOBLE

## 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 **as introduced**.

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:**

## STATEWIDE ELECTED OFFICIALS

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8 **SECTION 1.** (1) **As used in this section and section 2 of this 2019 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**  
24 **section 2 of this 2019 Act for the purpose of service as a statewide elected official; or**

25 (c) **Decline to remain a member of the system under ORS chapter 238 or to become a**  
26 **statewide elected official member of the state deferred compensation plan under section 2**  
27 **of this 2019 Act for the purpose of service as a statewide elected official.**

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

31 (a) **Elect to become an active member of the system under ORS chapter 238 for the**

**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 **purpose of service as a statewide elected official;**

2 **(b) Decline to become an active member of the system under ORS chapter 238 and elect**  
 3 **to become a statewide elected official member of the state deferred compensation plan under**  
 4 **section 2 of this 2019 Act for the purpose of service as a statewide elected official; or**

5 **(c) Decline to become an active member of the system under ORS chapter 238 or to be-**  
 6 **come a statewide elected official member of the state deferred compensation plan under**  
 7 **section 2 of this 2019 Act for the purpose of service as a statewide elected official.**

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

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

13 **(b) Decline to remain a member of the system under ORS chapter 238A and elect to be-**  
 14 **come a statewide elected official member of the state deferred compensation plan under**  
 15 **section 2 of this 2019 Act for the purpose of service as a statewide elected official; or**

16 **(c) Decline to remain a member of the system under ORS chapter 238A or to become a**  
 17 **statewide elected official member of the state deferred compensation plan under section 2**  
 18 **of this 2019 Act for the purpose of service as a statewide elected official.**

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

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

24 **(b) Decline to become an active member of the system under ORS chapter 238A and elect**  
 25 **to become a statewide elected official member of the state deferred compensation plan under**  
 26 **section 2 of this 2019 Act for the purpose of service as a statewide elected official; or**

27 **(c) Decline to become an active member of the system under ORS chapter 238A or to**  
 28 **become a statewide elected official member of the state deferred compensation plan under**  
 29 **section 2 of this 2019 Act for the purpose of service as a statewide elected official.**

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

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

34 **(b) Decline to become a member of the Oregon Public Service Retirement Plan and elect**  
 35 **to become a statewide elected official member of the state deferred compensation plan under**  
 36 **section 2 of this 2019 Act for the purpose of service as a statewide elected official; or**

37 **(c) Decline to become a member of the Oregon Public Service Retirement Plan or to be-**  
 38 **come a statewide elected official member of the state deferred compensation plan under**  
 39 **section 2 of this 2019 Act for the purpose of service as a statewide elected official.**

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

44 **(a) A person described in subsection (3) of this section is deemed to have elected to re-**  
 45 **main a member of the Public Employees Retirement System under ORS chapter 238 for the**

1 purpose of service as a statewide elected official.

2 (b) A person described in subsection (4) of this section is deemed to have declined to be-  
 3 come an active member of the system under ORS chapter 238 or to become a statewide  
 4 elected official member of the state deferred compensation plan under section 2 of this 2019  
 5 Act and remains a retired member of the system under ORS chapter 238 for the purpose of  
 6 service as a statewide elected official.

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

10 (d) A person described in subsection (6) of this section is deemed to have declined to be-  
 11 come an active member of the system under ORS chapter 238A or to become a statewide  
 12 elected official member of the state deferred compensation plan under section 2 of this 2019  
 13 Act and remains a retired member of the system under ORS chapter 238A for the purpose  
 14 of service as a statewide elected official.

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

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

21 (10) An election under this section does not affect the ability of a person appointed or  
 22 elected as a statewide elected official to participate in the state deferred compensation plan  
 23 in the manner provided by ORS 243.401 to 243.507 as other than a statewide elected official  
 24 member under section 2 of this 2019 Act.

25 **SECTION 2.** (1)(a) If a person appointed or elected as a statewide elected official elects  
 26 under section 1 of this 2019 Act to become a statewide elected official member of the state  
 27 deferred compensation plan for the purpose of service as a statewide elected official, the  
 28 state shall make employer contributions to the plan in an amount that is equal to six percent  
 29 of the official's salary, as defined in ORS 238.005, plus the percentage of the official's salary  
 30 that would have been contributed to the Public Employees Retirement Board for the official's  
 31 normal cost under ORS 238A.220, as determined by the actuary under ORS 238.605.

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

34 (2) If a person appointed or elected as a statewide elected official elects under section 1  
 35 of this 2019 Act to become a statewide elected official member of the state deferred com-  
 36 pensation plan for the purpose of service as a statewide elected official, and the official also  
 37 participates in the state deferred compensation plan in the manner provided by ORS 243.401  
 38 to 243.507 as other than a statewide elected official member, the total contributions made to  
 39 the plan by the state under subsection (1) of this section and by the official may not exceed  
 40 the maximum allowed by federal law governing the plan's tax qualification.

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

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

45 238A.245. (1) Except as provided in ORS 237.650 and 238A.250 and section 1 of this 2019 Act,

1 the Public Employees Retirement Board shall cease making pension payments to a retired member  
 2 of the pension program who is reemployed by a participating public employer in a qualifying posi-  
 3 tion. A retired member of the pension program who is employed in a qualifying position becomes  
 4 an active member of the pension program without serving the probationary period provided for in  
 5 ORS 238A.100.

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

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

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

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

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

24 **(c) The board shall create a separate employee account for a member who becomes an**  
 25 **active member for the purpose of service as a statewide elected official under section 1 of**  
 26 **this 2019 Act, which shall consist of the employee contributions made by or on behalf of the**  
 27 **member that are attributable to the member's service as a statewide elected official, as ad-**  
 28 **justed under subsection (1) of this section.**

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

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

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

40 **SECTION 5. Sections 1 and 2 of this 2019 Act and the amendments to ORS 238A.245 and**  
 41 **238A.350 by sections 3 and 4 of this 2019 Act apply to a statewide elected official who takes**  
 42 **office on or after the effective date of this 2019 Act.**

43  
 44 **JUDGES**  
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1       **SECTION 6.** Sections 7 and 8 of this 2019 Act are added to and made a part of ORS 238.500  
 2 to 238.585.

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

4       (a) Decline to become or remain a judge member of the Public Employees Retirement  
 5 System as provided in ORS 238.500 to 238.585 and elect to become or remain a judge member  
 6 of the state deferred compensation plan under section 8 of this 2019 Act for the purpose of  
 7 occupation of the office of judge; or

8       (b) Decline to become or remain a judge member of the system as provided in ORS  
 9 238.500 to 238.585 or to become or remain a judge member of the state deferred compensation  
 10 plan under section 8 of this 2019 Act for the purpose of occupation of the office of judge.

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

16       (3) An election under this section does not affect the ability of a judge to participate in  
 17 the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as  
 18 other than a judge member under section 8 of this 2019 Act.

19       **SECTION 8.** (1)(a) If a person appointed or elected as a judge elects under section 7 of  
 20 this 2019 Act to become a judge member of the state deferred compensation plan for the  
 21 purpose of occupation of the office of judge, the state shall make employer contributions to  
 22 the plan in an amount that is equal to seven percent of the judge's salary plus the percentage  
 23 of the judge's salary that would have been contributed to the Public Employees Retirement  
 24 Board for the judge's 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 made to the plan by  
 27 the state under this subsection may not exceed the maximum allowed by federal law.

28       (2) If a person appointed or elected as a judge elects under section 7 of this 2019 Act to  
 29 become a judge member of the state deferred compensation plan for the purpose of occupa-  
 30 tion of the office of judge, and the judge also participates in the state deferred compensation  
 31 plan in the manner provided by ORS 243.401 to 243.507 as other than a judge member, the  
 32 total contributions made to the plan by the state under subsection (1) of this section and by  
 33 the judge may not exceed the maximum allowed by federal law governing the plan's tax  
 34 qualification.

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

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

39       238.505. (1) Except as provided in subsection (2) of this section **and section 7 of this 2019**  
 40 **Act**, a person who is not a judge on December 31, 1983, and who is elected or appointed to the office  
 41 of judge on or after January 1, 1984, shall become a judge member on the date the person takes the  
 42 office.

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

