

HB 4108-1
(LC 29)
2/7/20 (MNJ/CMT/ps)

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR (at the request of Representative
Jeff Barker)

**PROPOSED AMENDMENTS TO
HOUSE BILL 4108**

1 In line 2 of the printed bill, after “System” insert “; creating new pro-
2 visions; and amending ORS 238A.005”.

3 Delete lines 4 through 12 and insert:

4 **“SECTION 1.** ORS 238A.005 is amended to read:

5 “238A.005. For the purposes of this chapter:

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

9 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
10 the same value as the payment or series of payments replaced, computed on
11 the basis of interest rate and mortality assumptions adopted by the board.

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

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

16 “(a) Persons engaged as independent contractors;

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

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

20 “(d) Persons categorized by a participating public employer as student
21 employees;

1 “(e) Any person who is in custody in a state institution;

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

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

8 “(h) Employees of a public university listed in ORS 352.002 who are ac-
9 tively participating in an optional retirement plan offered under ORS 243.815;

10 “(i) Persons employed in positions classified as post-doctoral scholar po-
11 sitions by a public university listed in ORS 352.002, or by the Oregon Health
12 and Science University, under ORS 350.370;

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

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

19 “(L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
20 chapter 238 and who continues to receive retirement benefits while employed;
21 and

22 “(m) Judges.

23 “(5) ‘Firefighter’ means:

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

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

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

1 and

2 “(d) An employee of the Oregon Military Department whose primary du-
3 ties include fighting structural, aircraft, wildland or other fires.

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

5 “(7)(a) ‘Hour of service’ means:

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

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

16 “(b) ‘Hour of service’ does not include any hour for which payment is
17 made or due under a plan maintained solely for the purpose of complying
18 with applicable unemployment compensation laws.

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

23 “(9) ‘Individual account program’ means the defined contribution individ-
24 ual account program of the Oregon Public Service Retirement Plan estab-
25 lished under ORS 238A.025.

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

29 “(11) ‘Member’ means an eligible employee who has established member-
30 ship in the pension program or the individual account program of the Oregon

1 Public Service Retirement Plan and whose membership has not been termi-
2 nated under ORS 238A.110 or 238A.310.

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

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

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

9 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
10 ticipating public employers in which an eligible employee performs 600 or
11 more hours of service in a calendar year, excluding any service in a job for
12 which benefits are not provided under the Oregon Public Service Retirement
13 Plan pursuant to ORS 238A.070 (2).

14 “(16) ‘Retired member’ means a pension program member who is receiving
15 a pension as provided in ORS 238A.180 to 238A.195.

16 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
17 turn for services to the participating public employer, including
18 remuneration in the form of living quarters, board or other items of value,
19 to the extent the remuneration is includable in the employee’s taxable in-
20 come under Oregon law. ‘Salary’ includes the additional amounts specified
21 in paragraph (b) of this subsection, but does not include the amounts speci-
22 fied in paragraph [(c)] **(d)** of this subsection, regardless of whether those
23 amounts are includable in taxable income.

24 “(b) ‘Salary’ includes the following amounts:

25 “(A) Payments of employee and employer money into a deferred compen-
26 sation plan that are made at the election of the employee.

27 “(B) Contributions to a tax-sheltered or deferred annuity that are made
28 at the election of the employee.

29 “(C) Any amount that is contributed to a cafeteria plan or qualified
30 transportation fringe benefit plan by the employer at the election of the

1 employee and that is not includable in the taxable income of the employee
2 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2018.

3 “(D) Any amount that is contributed to a cash or deferred arrangement
4 by the employer at the election of the employee and that is not included in
5 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
6 effect on December 31, 2018.

7 “(E) Retroactive payments described in ORS 238.008.

8 “(F) The amount of an employee contribution to the individual account
9 program that is paid by the employer and deducted from the compensation
10 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

11 “(G) The amount of an employee contribution to the individual account
12 program that is not paid by the employer under ORS 238A.335.

13 “(H) Wages of a deceased member paid to a surviving spouse or dependent
14 children under ORS 652.190.

15 “(c) **‘Salary’ includes a housing allowance paid to a member in ex-**
16 **change for services, as a prison chaplain, rendered to a participating**
17 **public employer.**

18 “[*(c)*] (d) ‘Salary’ does not include the following amounts:

19 “(A) Travel or any other expenses incidental to employer’s business which
20 is reimbursed by the employer.

21 “(B) Payments made on account of an employee’s death.

22 “(C) Any lump sum payment for accumulated unused sick leave, vacation
23 leave or other paid leave.

24 “(D) Any severance payment, accelerated payment of an employment
25 contract for a future period or advance against future wages.

26 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
27 payment.

28 “(F) Payment for a leave of absence after the date the employer and em-
29 ployee have agreed that no future services in a qualifying position will be
30 performed.

1 “(G) Payments for instructional services rendered to public universities
2 listed in ORS 352.002 or the Oregon Health and Science University when
3 those services are in excess of full-time employment subject to this chapter.
4 A person employed under a contract for less than 12 months is subject to this
5 subparagraph only for the months covered by the contract.

6 “(H) The amount of an employee contribution to the individual account
7 program that is paid by the employer and is not deducted from the compen-
8 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

9 “(I) Compensation described and authorized under ORS 341.556 that is not
10 paid by the community college employing the faculty member.

11 “(J) Compensation described and authorized under ORS 352.232 that is not
12 paid by the public university employing the officer or employee.

13 “(K) Compensation described and authorized under ORS 353.270 that is
14 not paid by Oregon Health and Science University.

15 “(L) For years before 2020, any amount in excess of \$200,000 for a calen-
16 dar year. If any period over which salary is determined is less than 12
17 months, the \$200,000 limitation for that period shall be multiplied by a frac-
18 tion, the numerator of which is the number of months in the determination
19 period and the denominator of which is 12. The board shall adopt rules ad-
20 justing this dollar limit to incorporate cost-of-living adjustments authorized
21 by the Internal Revenue Service.

22 “(M) For years beginning on or after January 1, 2020, any amount in ex-
23 cess of \$195,000 for a calendar year. If any period over which salary is de-
24 termined is less than 12 months, the \$195,000 limitation for that period shall
25 be multiplied by a fraction, the numerator of which is the number of months
26 in the determination period and the denominator of which is 12. On January
27 1 of each year, the board shall adjust the dollar limit provided by this sub-
28 paragraph to reflect any percentage changes in the Consumer Price Index for
29 All Urban Consumers, West Region (All Items), as published by the Bureau
30 of Labor Statistics of the United States Department of Labor.

1 “(18) ‘System’ means the Public Employees Retirement System.

2 “(19) ‘Workers’ compensation benefits’ means:

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

4 “(b) Payments provided in lieu of workers’ compensation benefits under
5 ORS 656.027 (6).

6 **“SECTION 2. (1) Except as provided in subsection (2) of this section,
7 the amendments to ORS 238A.005 by section 1 of this 2020 Act apply
8 to housing allowances paid before, on and after the effective date of
9 this 2020 Act.**

10 **“(2) The amendments to ORS 238A.005 by section 1 of this 2020 Act
11 apply only to members whose effective date of retirement is on or after
12 the effective date of this 2020 Act.”.**

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