House Bill 2750

Sponsored by Representative NOBLE (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 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

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

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

STATEWIDE ELECTED OFFICIALS

SECTION 1. (1) As used in this section and section 2 of this 2021 Act, “statewide elected official” means the Governor, the Secretary of State, the State Treasurer, the Attorney General and the Commissioner of the Bureau of Labor and Industries.

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

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

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

(b) Decline to remain a member of the system under ORS chapter 238 and elect to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official; or

(c) Decline to remain a member of the system under ORS chapter 238 or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official.

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

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

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.

LC 2812
(b) Decline to become an active member of the system under ORS chapter 238 and elect to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official; or
(c) Decline to become an active member of the system under ORS chapter 238 or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official.

(5) An active or inactive member of the Public Employees Retirement System who is appointed or elected as a statewide elected official, and who established membership in the system on or after August 29, 2003, as described in ORS 238A.025, may:
(a) Elect to remain a member of the system under ORS chapter 238A for the purpose of service as a statewide elected official;
(b) Decline to remain a member of the system under ORS chapter 238A and elect to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official; or
(c) Decline to remain a member of the system under ORS chapter 238A or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official.

(6) A retired member of the Public Employees Retirement System who is appointed or elected as a statewide elected official, and who established membership in the system on or after August 29, 2003, as described in ORS 238A.025, may:
(a) Elect to become an active member of the system under ORS chapter 238A for the purpose of service as a statewide elected official;
(b) Decline to become an active member of the system under ORS chapter 238A and elect to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official; or
(c) Decline to become an active member of the system under ORS chapter 238A or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official.

(7) A person who is appointed or elected as a statewide elected official and who is not a member of the Public Employees Retirement System at the time the person takes office may:
(a) Elect to become a member of the Oregon Public Service Retirement Plan established under ORS chapter 238A for the purpose of service as a statewide elected official;
(b) Decline to become a member of the Oregon Public Service Retirement Plan and elect to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official; or
(c) Decline to become a member of the Oregon Public Service Retirement Plan or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act for the purpose of service as a statewide elected official.

(8) Written notice of an election under subsection (3), (4), (5), (6) or (7) of this section must be given to the Public Employees Retirement Board not more than 30 days after the person takes office. If the board does not receive written notice of the election within 30 days after the person takes office:
(a) A person described in subsection (3) of this section is deemed to have elected to remain a member of the Public Employees Retirement System under ORS chapter 238 for the purpose of service as a statewide elected official.
(b) A person described in subsection (4) of this section is deemed to have declined to become an active member of the system under ORS chapter 238 or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act and remains a retired member of the system under ORS chapter 238 for the purpose of service as a statewide elected official.

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

(d) A person described in subsection (6) of this section is deemed to have declined to become an active member of the system under ORS chapter 238A or to become a statewide elected official member of the state deferred compensation plan under section 2 of this 2021 Act and remains a retired member of the system under ORS chapter 238A for the purpose of service as a statewide elected official.

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

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

(10) An election under this section does not affect the ability of a person appointed or elected as a statewide elected official to participate in the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as other than a statewide elected official member under section 2 of this 2021 Act.

SECTION 2. (1)(a) If a person appointed or elected as a statewide elected official elects under section 1 of this 2021 Act to become a statewide elected official member of the state deferred compensation plan for the purpose of service as a statewide elected official, the state shall make employer contributions to the plan in an amount that is equal to six percent of the official's salary, as defined in ORS 238.005, plus the percentage of the official's salary that would have been contributed to the Public Employees Retirement Board for the official's normal cost under ORS 238A.220, as determined by the actuary under ORS 238.605.

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

(2) If a person appointed or elected as a statewide elected official elects under section 1 of this 2021 Act to become a statewide elected official member of the state deferred compensation plan for the purpose of service as a statewide elected official, the state shall make employer contributions to the plan in an amount that is equal to six percent of the official's salary, as defined in ORS 238.005, plus the percentage of the official's salary that would have been contributed to the Public Employees Retirement Board for the official's normal cost under ORS 238A.220, as determined by the actuary under ORS 238.605.

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

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

238A.245. (1) Except as provided in ORS 237.650 and 238A.250 and section 1 of this 2021 Act, the Public Employees Retirement Board shall cease making pension payments to a retired member
of the pension program who is reemployed by a participating public employer in a qualifying posi-
tion. A retired member of the pension program who is employed in a qualifying position becomes
an active member of the pension program without serving the probationary period provided for in
ORS 238A.100.

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

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

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

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

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

(c) The board shall create a separate employee account for a member who becomes an
active member for the purpose of service as a statewide elected official under section 1 of
this 2021 Act, which shall consist of the employee contributions made by or on behalf of the
member that are attributable to the member’s service as a statewide elected official, as ad-
justed under subsection (1) of this section.

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

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

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

SECTION 5. Sections 1 and 2 of this 2021 Act and the amendments to ORS 238A.245 and
238A.350 by sections 3 and 4 of this 2021 Act apply to a statewide elected official who takes
office on or after the effective date of this 2021 Act.

JUDGES

SECTION 6. Sections 7 and 8 of this 2021 Act are added to and made a part of ORS 238.500
SECTION 7. (1) Upon taking office, a judge may:
   (a) Decline to become or remain a judge member of the Public Employees Retirement System as provided in ORS 238.500 to 238.585 and elect to become or remain a judge member of the state deferred compensation plan under section 8 of this 2021 Act for the purpose of occupation of the office of judge; or
   (b) Decline to become or remain a judge member of the system as provided in ORS 238.500 to 238.585 or to become or remain a judge member of the state deferred compensation plan under section 8 of this 2021 Act for the purpose of occupation of the office of judge.
   (2) Written notice of an election under subsection (1) of this section must be given to the Public Employees Retirement Board not more than 30 days after the judge takes office. If the board does not receive written notice of the election within 30 days after the judge takes office, the judge becomes or remains a judge member of the Public Employees Retirement System as provided in ORS 238.500 to 238.585.
   (3) An election under this section does not affect the ability of a judge to participate in the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as other than a judge member under section 8 of this 2021 Act.

SECTION 8. (1)(a) If a person appointed or elected as a judge elects under section 7 of this 2021 Act to become a judge member of the state deferred compensation plan for the purpose of occupation of the office of judge, the state shall make employer contributions to the plan in an amount that is equal to seven percent of the judge's salary plus the percentage of the judge's salary that would have been contributed to the Public Employees Retirement Board for the judge's normal cost under ORS 238A.220, as determined by the actuary under ORS 238.605.
   (b) Notwithstanding paragraph (a) of this subsection, contributions made to the plan by the state under subsection (1) of this section may not exceed the maximum allowed by federal law.
   (2) If a person appointed or elected as a judge elects under section 7 of this 2021 Act to become a judge member of the state deferred compensation plan for the purpose of occupation of the office of judge, and the judge also participates in the state deferred compensation plan in the manner provided by ORS 243.401 to 243.507 as other than a judge member, the total contributions made to the plan by the state under subsection (1) of this section and by the judge may not exceed the maximum allowed by federal law governing the plan's tax qualification.
   (3) Except for the contributions required by subsection (1) of this section, the state may not pick-up, assume or pay any contributions on behalf of a judge member of the state deferred compensation plan.

SECTION 9. ORS 238.505 is amended to read:
   238.505. (1) Except as provided in subsection (2) of this section and section 7 of this 2021 Act, a person who is not a judge on December 31, 1983, and who is elected or appointed to the office of judge on or after January 1, 1984, shall become a judge member on the date the person takes the office.
   (2) A person who, by reason of the age at which becoming a judge, could not make contributions to the Public Employees Retirement Fund during each of five calendar years as a judge member at or before attaining the age of 75 years shall may not become a judge member.

SECTION 10. Sections 7 and 8 of this 2021 Act and the amendments to ORS 238.505 by
section 9 of this 2021 Act apply to a judge who takes office on or after the effective date of this 2021 Act.

CAPTIONS

SECTION 11. The unit captions used in this 2021 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 2021 Act.

EFFECTIVE DATE

SECTION 12. This 2021 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect on its passage.