

House Bill 2296

Sponsored by Representative GRAYBER (Pre-session 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**.

Makes permanent provisions allowing retired member of Public Employees Retirement System to be reemployed by participating public employer for unlimited number of hours without reduction in pension benefits.

A BILL FOR AN ACT

1
2 Relating to reemployment of retired members of the Public Employees Retirement System; amending
3 ORS 238.088, 238.092, 238.580, 243.163, 399.075 and 431A.183 and section 3, chapter 499, Oregon
4 Laws 2007, section 3, chapter 475, Oregon Laws 2015, section 4, chapter 6, Oregon Laws 2016,
5 and sections 35 and 37, chapter 355, Oregon Laws 2019; and repealing ORS 238.082 and 238A.245
6 and section 38, chapter 355, Oregon Laws 2019.

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

7
8 **SECTION 1.** Section 35, chapter 355, Oregon Laws 2019, as amended by section 2, chapter 135,
9 Oregon Laws 2021, is amended to read:

10 **Sec. 35.** (1) *[Notwithstanding ORS 237.650 and any provision of this chapter and]* Subject to the
11 limitations in this section, *[during calendar year 2020, 2021, 2022, 2023 or 2024,]* a participating
12 public employer may employ any retired member without limitation on the hours worked by the re-
13 tired member if the administrative head of the public employer is satisfied that the employment is
14 in the public interest.

15 (2) A public employer that employs a retired member *[during calendar year 2020, 2021, 2022, 2023*
16 *or 2024]* shall contribute to the Public Employees Retirement Board the percentage of the member's
17 wages that would have been contributed to the board under ORS 238.225 if the member were an
18 active member of the Public Employees Retirement System. Employer contributions made under this
19 section are in addition to employer contributions made under ORS 238.225. The board shall apply
20 contributions made by a public employer under this subsection against the liabilities of the public
21 employer. The board shall adopt rules governing payments made under this subsection.

22 (3) This section does not apply to any member who retires under the provisions of ORS 238.280
23 (1), (2) or (3), unless the person is absent from employment with all participating public employers
24 for at least six months before the date the person is employed under this section.

25 (4) Employment under this section does not affect the status of a person as a retired member
26 of the system and a recipient of retirement benefits under this chapter.

27 **SECTION 2.** Section 37, chapter 355, Oregon Laws 2019, as amended by section 3, chapter 135,
28 Oregon Laws 2021, is amended to read:

29 **Sec. 37.** (1) Notwithstanding *[ORS 237.650 and any provision of this chapter and]* Subject to the
30 limitations in this section, *[during calendar year 2020, 2021, 2022, 2023 or 2024,]* a participating
31 public employer may employ any retired member without limitation on the hours worked by the re-

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 tired member if the administrative head of the public employer is satisfied that the employment is
2 in the public interest. The Public Employees Retirement Board shall continue making pension pay-
3 ments to a retired member of the pension program who is reemployed under this section.

4 (2) A public employer that employs a retired member [*during calendar year 2020, 2021, 2022, 2023*
5 *or 2024*] shall contribute to the board the percentage of the member's wages that would have been
6 contributed to the board under ORS 238A.220 if the member were an active member of the Public
7 Employees Retirement System. Employer contributions made under this section are in addition to
8 employer contributions made under ORS 238A.220. The board shall apply contributions made by a
9 public employer under this subsection against the liabilities of the public employer. The board shall
10 adopt rules governing payments made under this subsection.

11 (3) This section does not apply to any member who retires under the provisions of ORS 238A.185,
12 unless the person is absent from employment with all participating public employers for at least six
13 months before the date the person is employed under this section.

14 (4) Employment under this section does not affect the status of a person as a retired member
15 of the pension program and a recipient of retirement benefits under this chapter.

16 **SECTION 3.** ORS 238.088 is amended to read:

17 238.088. (1) Except as provided in subsection (2) of this section, a person who is elected to a
18 full-time salaried office of the state or one of the participating political subdivisions thereof, or who
19 is appointed to a full-time salaried office having a term fixed by statute or charter, whether or not
20 the person has been retired, does not forfeit any rights accrued or accruing to the person under this
21 chapter. However, **notwithstanding section 35, chapter 355, Oregon Laws 2019**, for the period
22 that such person holds such office the person is not entitled to any pension or annuity provided by
23 this chapter. Upon ceasing to hold such office, benefits shall be computed or recomputed by the
24 Public Employees Retirement Board on the basis of age then attained.

25 (2) If a person is elected or appointed to the office of sheriff or county judge or commissioner
26 in a county with a population of fewer than 75,000 inhabitants, according to the latest federal
27 decennial census, and the person does not elect to become an active member of the system under
28 ORS 238.015 (5), the person shall continue to be a retired member and to receive retirement benefits
29 **as provided in section 35, chapter 355, Oregon Laws 2019**, for as long as the person holds the
30 office.

31 (3) Subsection (2) of this section does not apply to any member who retires under the provisions
32 of ORS 238.280 (1), (2) or (3).

33 **SECTION 4.** ORS 238.092 is amended to read:

34 238.092. [(1)] Notwithstanding any other provision of this chapter:

35 [(a)] (1) A retired member of the Public Employees Retirement System who has retired as other
36 than a member of the Legislative Assembly and who is thereafter appointed or elected as a member
37 of the Legislative Assembly may elect, by giving the Public Employees Retirement Board written
38 notice, to receive the pension and annuity provided by this chapter for service as other than a
39 member of the Legislative Assembly, and be an active member of the system as a member of the
40 Legislative Assembly for the purpose of service in the Legislative Assembly. A person may make
41 an election under this paragraph only if the person becomes an active member of the system under
42 this chapter for the purpose of service in the Legislative Assembly as provided in ORS 237.650 (3).
43 Notice of an election under this paragraph must be given by the person not more than 30 days after
44 the person takes office.

45 [(b)] (2) A member of the Legislative Assembly who is a member of the system as a member of

1 the Legislative Assembly and who becomes eligible to retire by reason of service as other than a
 2 member of the Legislative Assembly, without regard to when that service was performed, may elect,
 3 by giving the board written notice, to retire and receive the pension and annuity provided by this
 4 chapter for service as other than a member of the Legislative Assembly, and to continue, for the
 5 purpose of service in the Legislative Assembly, as an active member of the system as a member of
 6 the Legislative Assembly.

7 [(c)] (3) Upon receipt of the notice provided for in [paragraphs (a) and (b) of this subsection]
 8 **subsections (1) and (2) of this section**, the board shall determine that portion of the accumulated
 9 contributions, if any, of the member and interest thereon attributable to service as other than a
 10 member of the Legislative Assembly, which shall be used in determining the amount of the annuity
 11 the member shall receive for that service. The portion of the accumulated contributions, if any, of
 12 the member and interest thereon attributable to service as a member of the Legislative Assembly
 13 shall remain in the member account of the member and, together with any subsequent contributions
 14 and interest thereon, be used in determining the amount of the additional annuity the member shall
 15 receive for that service upon subsequent retirement. If the member does not have a member account,
 16 the board shall determine the member's retirement allowance for nonlegislative service based on the
 17 number of years of nonlegislative service, and shall determine any additional benefit to be received
 18 after the member subsequently retires based on the number of years of service in the Legislative
 19 Assembly.

20 [(2) If a retired member of the system is employed by the Legislative Assembly, or by the Oregon
 21 State Police, for the purpose of service during a regular or special session of the Legislative Assembly,
 22 the hours worked during the session shall not be counted for the purpose of the limitations on em-
 23 ployment imposed by ORS 238.082 (2) and (3).]

24 **SECTION 5.** ORS 238.580 is amended to read:

25 238.580. (1) Except as provided in subsection (3) of this section, ORS 238.005 (4) and (26), 238.025,
 26 238.078, [238.082,] 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.364, 238.410, 238.415,
 27 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635,
 28 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 **and section 35, chapter 355, Oregon**
 29 **Laws 2019**, and the increases provided by ORS 238.366 for members of the system who are serving
 30 as other than police officers or firefighters apply in respect to service as a judge member.

31 (2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to
 32 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

33 (3) ORS 238.005 (26)(c)(M) does not apply in respect to service as a judge member.

34 **SECTION 6.** ORS 243.163 is amended to read:

35 243.163. A member of the Legislative Assembly who is receiving a pension or annuity under ORS
 36 238.092 (1)[(a)] or 238A.250 (1) shall be eligible to participate as a retired state officer in one of the
 37 group benefit plans described in ORS 243.135 after the member ceases to be a member of the Leg-
 38 islative Assembly if the member applies to the Public Employees' Benefit Board within 60 days after
 39 the member ceases to be a member of the Legislative Assembly.

40 **SECTION 7.** ORS 399.075 is amended to read:

41 399.075. (1) The Adjutant General, with the approval of the Governor, may order members of the
 42 organized militia to state active duty as defined in the Oregon Code of Military Justice. Members,
 43 while on state active duty, shall receive not less than the pay and allowances of their corresponding
 44 grades in the Armed Forces of the United States in accordance with a schedule approved by the
 45 Adjutant General for the period of time in state active duty. State active duty under this subsection

1 includes, but is not limited to, support of federal, state and local drug eradication, interdiction and
 2 other counterdrug operations under a counterdrug support plan approved by the Governor, and
 3 reasons related to homeland security. When participating in such support operations, and to the
 4 extent authorized by 32 U.S.C. 112, applicable regulations of the National Guard Bureau and the
 5 Oregon Counterdrug Support Plan, the Oregon Military Department is designated as a law enforce-
 6 ment agency for the purpose of carrying out federal asset forfeiture laws only.

7 (2) Members of the organized militia serving on courts-martial, courts of inquiry, efficiency
 8 boards, medical boards or other special duty requiring absence from their stations or business under
 9 competent orders may be reimbursed for necessary expenses incurred at the rate established for
 10 state employees under appropriate travel regulations issued by the Oregon Department of Adminis-
 11 trative Services.

12 (3) In lieu of other provisions of this chapter, a medical examiner may be paid for services and
 13 necessary disbursements and a properly appointed judge advocate may be paid for legal services and
 14 necessary disbursements in any suit, action or proceeding, such amounts as shall be approved by the
 15 Governor.

16 (4) Members of the organized militia shall not receive from the state the pay or the pay and
 17 allowances provided for by this section when eligible for such pay and allowances from federal
 18 funds.

19 (5) Notwithstanding any of the provisions of this chapter, members of the organized militia may
 20 with their consent perform without pay or without pay and allowances any of the types of military
 21 duty prescribed in this chapter and ORS chapters 396 and 398 pursuant to orders issued by compe-
 22 tent military authority; provided however, that necessary traveling expenses, subsistence and per
 23 diem allowances may be furnished such members within the discretion of the Adjutant General and
 24 within the amount appropriated therefor.

25 (6) All pay and allowances provided for by this chapter, except per diem, mileage and expenses
 26 while traveling under orders shall be subject to be applied to the payment of penalties and fines
 27 imposed by military courts, and to the payment of any shortage of or injury to state or United States
 28 property or funds for which a member of the organized militia is responsible or accountable where
 29 such responsibility has been fixed by competent authority.

30 (7)(a) Except as provided in paragraph (b) of this subsection, members of the organized militia
 31 who are ordered to state active duty shall be considered temporary employees of the military de-
 32 partment.

33 (b) Members of the organized militia who are ordered to state active duty are not subject to
 34 ORS chapter 240 and ORS 243.650 to 243.809.

35 *[(8) The limitations on employment imposed by ORS 238.082 (2) and (3) do not apply to a retired*
 36 *member of the Public Employees Retirement System who has attained normal retirement age and is on*
 37 *state active duty. Hours served by a person under this subsection shall not be counted for the purpose*
 38 *of the limitations on employment imposed by ORS 238.082 (2) and (3).]*

39 **SECTION 8.** ORS 431A.183 is amended to read:

40 431A.183. (1)(a) The Oregon Health Authority may enter into an agreement with federal agencies
 41 to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco
 42 products or inhalant delivery systems.

43 (b) The authority may commission employees of the authority as federal officers for the purpose
 44 of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this
 45 subsection.

1 (c) The authority may adopt rules and take any action necessary to carry out the authority's
 2 duties as established under an agreement entered into under paragraph (a) of this subsection.

3 (2)(a) The authority may enter into an agreement with federal, state and local government
 4 agencies, including federal, state and local law enforcement agencies, to assist the authority in
 5 carrying out the authority's duties under ORS 431A.175 and to conduct random, unannounced in-
 6 spections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure
 7 compliance with the laws of this state designed to discourage the use of tobacco products and
 8 inhalant delivery systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760,
 9 167.765, 167.775, 167.780 and 431A.175.

10 (b) The authority shall ensure that a retailer is inspected as described in this subsection at least
 11 once each year. A retailer that is found to be out of compliance with the laws described in para-
 12 graph (a) of this subsection may be reinspected as the authority determines necessary.

13 (c) The authority may adopt rules to carry out paragraph (b) of this subsection.

14 (3)(a) If the authority enters into an agreement with the Department of State Police under sub-
 15 section (2) of this section, the department may employ retired state police officers who are active
 16 reserve officers. Service by a retired state police officer under this paragraph is subject to [ORS
 17 238.082] **sections 35 and 37, chapter 355, Oregon Laws 2019.**

18 (b) The department may not use the services of a retired state police officer to displace an ac-
 19 tive state police member.

20 (4)(a) The authority may apply for and accept moneys from the federal government or other
 21 public or private sources and, in accordance with any federal restrictions or other funding source
 22 restrictions, use those moneys to carry out the duties and functions related to preventing the use
 23 of tobacco products or inhalant delivery systems by persons who are not of the minimum age to
 24 purchase tobacco products or inhalant delivery systems.

25 (b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited
 26 in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal
 27 restriction or other funding source restriction must be accounted for separately from other fund
 28 moneys.

29 (5)(a) The authority shall submit a written report each biennium to the Governor and to the
 30 appropriate committee or interim committee of the Legislative Assembly to which matters of public
 31 health are assigned.

32 (b) The report submitted under this subsection must contain information describing:

33 (A) The activities carried out to enforce the laws listed in subsection (2) of this section during
 34 the previous biennium;

35 (B) The extent of success achieved in reducing the availability of tobacco products and inhalant
 36 delivery systems to persons under 21 years of age; and

37 (C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section
 38 during the biennium following the report.

39 (6) The authority shall adopt rules for conducting random inspections of establishments that
 40 distribute or sell tobacco products or inhalant delivery systems. The rules shall provide that in-
 41 spections may take place:

42 (a) Only in areas open to the public;

43 (b) Only during the hours that tobacco products or inhalant delivery systems are distributed or
 44 sold; and

45 (c) No more frequently than once a month in any single establishment unless a compliance

1 problem exists or is suspected.

2 **SECTION 9.** Section 3, chapter 499, Oregon Laws 2007, as amended by section 1, chapter 108,
3 Oregon Laws 2015, is amended to read:

4 **Sec. 3.** Section 2, chapter 499, Oregon Laws 2007, is repealed [*January 2, 2026*] **on the effective**
5 **date of this 2023 Act.**

6 **SECTION 10.** Section 4, chapter 6, Oregon Laws 2016, is amended to read:

7 **Sec. 4.** Section 2 [*of this 2016 Act is repealed January 2, 2026*], **chapter 6, Oregon Laws 2016,**
8 **is repealed on the effective date of this 2023 Act.**

9 **SECTION 11.** Section 3, chapter 475, Oregon Laws 2015, as amended by section 1, chapter 48,
10 Oregon Laws 2018, is amended to read:

11 **Sec. 3.** Section 2, chapter 475, Oregon Laws 2015, is repealed on [*June 30, 2023*] **the effective**
12 **date of this 2023 Act.**

13 **SECTION 12.** **ORS 238.082 and 238A.245 and section 38, chapter 355, Oregon Laws 2019,**
14 **are repealed.**

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