

House Bill 3407

Sponsored by COMMITTEE ON JUDICIARY

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 number of hours that member of Public Employees Retirement System may work after retirement without loss of benefits. Eliminates exceptions to limitations on number of hours that member of system may work after retirement without loss of benefits.

Allows retired member of Public Employees Retirement System to be employed without limitation on number of hours in two calendar years after retirement. Provides that allowed calendar years may include only year in which member retires, or any of immediately following four calendar years.

Allows retired member to be employed without limitation on number of hours in any position that pays less than \$2,500 per month.

Applies to calendar year 2012 and subsequent calendar years. Applies only to members with effective retirement date on or after effective date of Act.

A BILL FOR AN ACT

1
2 Relating to reemployment of retired members of the Public Employees Retirement System; creating
3 new provisions; amending ORS 238.082, 238.088, 238.092, 238.580, 243.163 and 399.075 and section
4 3, chapter 499, Oregon Laws 2007, and section 4, chapter 774, Oregon Laws 2007.

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

6 **SECTION 1. Section 2 of this 2011 Act is added to and made a part of ORS chapter 238.**

7 **SECTION 2. (1) Subject to the limitations of this section, any public employer may em-**
8 **ploy any member who is retired for service if the administrative head of the public employer**
9 **is satisfied that such employment is in the public interest.**

10 **(2) Except as otherwise provided in this section, the period or periods of employment by**
11 **one or more public employers of a retired member who is reemployed under this section may**
12 **not total 600 hours or more in any calendar year.**

13 **(3) A retired member may be employed without limitation on the number of hours in two**
14 **calendar years. The calendar years may include only the year in which the member retires**
15 **or any of the immediately following four calendar years.**

16 **(4) A retired member may be employed without limitation on the number of hours in any**
17 **position that pays less than \$2,500 per month.**

18 **(5) Subsections (2) and (3) of this section do not apply to any member who retires under**
19 **the provisions of ORS 238.280 (1), (2) or (3).**

20 **(6) Employment under this section does not affect the status of a person as a retired**
21 **member of the system and a recipient of retirement benefits under this chapter.**

22 **(7) This section applies only to members of the system whose effective date of retirement**
23 **is on or after the effective date of this 2011 Act.**

24 **SECTION 3. ORS 238.082 is amended to read:**

25 238.082. (1) Subject to the limitations in this section, any public employer may employ any
26 member who is retired for service if the administrative head of the public employer is satisfied that

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 such employment is in the public interest.

2 (2) Except as provided in this section, the period or periods of employment by one or more
3 public employers of a retired member who is reemployed under this section may not total 1,040
4 hours or more in any calendar year.

5 (3) A retired member who is receiving old-age, survivors or disability insurance benefits under
6 the federal Social Security Act may be employed under this section for the number of hours per-
7 mitted by subsection (2) of this section, or for the number of hours for which the salary equals the
8 maximum allowed for receipt of the full amount of those benefits to which the person is entitled,
9 whichever is greater.

10 (4) Except as provided in subsection (9) of this section, the limitations on employment imposed
11 by subsections (2) and (3) of this section do not apply to a retired member who is employed as a
12 teacher or as an administrator, as those terms are defined in ORS 342.120, if the retired member is
13 employed by a school district or community college district located within a county with a popu-
14 lation of not more than 35,000 inhabitants according to the latest federal decennial census, or is
15 employed by an education service district and the retired member's primary work duties are per-
16 formed in a county with a population of not more than 35,000 inhabitants according to the latest
17 federal decennial census. A retired member who is employed under this subsection as a teacher, as
18 defined in ORS 342.120, by the same public employer that employed the member at the time of re-
19 tirement remains in the same collective bargaining unit that included the member before retirement.

20 (5) Except as provided in subsection (9) of this section, the limitations on employment imposed
21 by subsections (2) and (3) of this section do not apply to a retired member who is employed:

22 (a) By the sheriff of a county with a population of fewer than 75,000 inhabitants, according to
23 the latest federal decennial census;

24 (b) By the municipal police department of a city with a population of fewer than 15,000 inhab-
25 itants, according to the latest federal decennial census;

26 (c) By the state or a county for work in a correctional institution located in a county with a
27 population of fewer than 75,000 inhabitants, according to the latest federal decennial census;

28 (d) By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service
29 District or the Sunriver Service District;

30 (e) By the Oregon State Police for work in a county with a population of fewer than 75,000 in-
31 habitants, according to the latest federal decennial census; or

32 (f) As a deputy director or assistant director of the Department of Human Services, if the Gov-
33 ernor approves the exemption for the person from the limitations on employment imposed in sub-
34 sections (2) and (3) of this section.

35 (6) Except as provided in subsection (9) of this section, the limitations on employment imposed
36 by subsections (2) and (3) of this section do not apply to a retired member who is employed to tem-
37 porarily replace an employee who serves in the National Guard or in a reserve component of the
38 Armed Forces of the United States and who is called to federal active duty.

39 (7) Except as provided in subsection (9) of this section, the limitations on employment imposed
40 by subsections (2) and (3) of this section do not apply to a retired member who is employed by a road
41 assessment district organized under ORS 371.405 to 371.535.

42 (8) Except as provided in subsection (9) of this section, the limitations on employment imposed
43 by subsections (2) and (3) of this section do not apply to a retired member who is a nurse and is
44 employed by a public employer as a nurse or for the purpose of teaching nursing during the period
45 in which a nursing workforce shortage declared by the Legislative Assembly or the Governor is in

1 effect.

2 (9)(a) Except as provided in paragraph (b) of this subsection, subsections (4) to (8) of this section
 3 do not apply to any member who retires under the provisions of ORS 238.280 (1), (2) or (3).

4 (b) Subsection (4) of this section applies to a person who retires under the provisions of ORS
 5 238.280 (1), (2) or (3) as long as the person's date of retirement is more than six months before the
 6 date the person is employed under subsection (4) of this section.

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

9 (11) Hours worked by a person employed under subsections (4) to (8) of this section shall not
 10 be counted for the purpose of the limitations on employment imposed by subsections (2) and (3) of
 11 this section.

12 **(12) This section applies only to members of the system whose effective date of retire-**
 13 **ment is before the effective date of this 2011 Act.**

14 **SECTION 4.** ORS 238.088 is amended to read:

15 238.088. (1) Except as provided in subsection (2) of this section, A person who is elected to a
 16 full-time salaried office of the state or one of the participating political subdivisions thereof, or who
 17 is appointed to a full-time salaried office having a term fixed by statute or charter, whether or not
 18 the person has been retired, does not forfeit any rights accrued or accruing to the person under this
 19 chapter. However, for the period that such person holds such office the person is not entitled to any
 20 pension or annuity provided by this chapter. Upon ceasing to hold such office, benefits shall be
 21 computed or recomputed by the Public Employees Retirement Board on the basis of age then at-
 22 tained.

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

28 (3) Subsection (2) of this section does not apply to any member who retires under the provisions
 29 of ORS 238.280 (1), (2) or (3). **Subsection (2) of this section applies only to members of the**
 30 **system whose effective date of retirement is before the effective date of this 2011 Act.**

31 **SECTION 5.** ORS 238.092 is amended to read:

32 238.092. (1) Notwithstanding any other provision of this chapter:

33 (a) A retired member of the system who has retired as other than a member of the Legislative
 34 Assembly and who thereafter becomes a member of the Legislative Assembly and elects to become
 35 an active member of the system as a member of the Legislative Assembly may also elect, by giving
 36 the board written notice of desire to do so, to receive the pension and annuity provided by this
 37 chapter for service as other than a member of the Legislative Assembly, and be an active member
 38 of the system as a member of the Legislative Assembly for the period the member holds office as a
 39 member of the Legislative Assembly. The notice provided for in this paragraph shall be given within
 40 30 days after the retired member takes office as a member of the Legislative Assembly.

41 (b) A member of the Legislative Assembly who is a member of the system as a member of the
 42 Legislative Assembly and who becomes eligible to retire by reason of service as other than a mem-
 43 ber of the Legislative Assembly, without regard to when that service was performed, may elect, by
 44 giving the board written notice of desire to do so, to retire and receive the pension and annuity
 45 provided by this chapter for service as other than a member of the Legislative Assembly, and to

1 continue, for the period the member holds office as a member of the Legislative Assembly, as an
 2 active member of the system as a member of the Legislative Assembly.

3 (c) Upon receipt of the notice provided for in paragraphs (a) and (b) of this subsection, the board
 4 shall determine that portion of the accumulated contributions, if any, of the member and interest
 5 thereon attributable to service as other than a member of the Legislative Assembly, which shall be
 6 used in determining the amount of the annuity the member shall receive for that service. The por-
 7 tion of the accumulated contributions, if any, of the member and interest thereon attributable to
 8 service as a member of the Legislative Assembly shall remain in the member account of the member
 9 and, together with any subsequent contributions and interest thereon, be used in determining the
 10 amount of the additional annuity the member shall receive for that service upon ceasing to hold
 11 office as a member of the Legislative Assembly. If the member does not have a member account, the
 12 board shall determine the member's retirement allowance for nonlegislative service based on the
 13 number of years of nonlegislative service, and shall determine any additional benefit to be received
 14 after the member ceases to hold office as a member of the Legislative Assembly based on the number
 15 of years of service in the Legislative Assembly.

16 (2) If a retired member of the system is employed by the Legislative Assembly, or by the Oregon
 17 State Police, for the purpose of service during a regular or special session of the Legislative As-
 18 sembly, the hours worked during the session shall not be counted for the purpose of the limitations
 19 on employment imposed by ORS 238.082 (2) and (3).

20 **(3) This section applies only to members of the system whose effective date of retirement**
 21 **is before the effective date of this 2011 Act.**

22 **SECTION 6.** ORS 238.580 is amended to read:

23 238.580. (1) **Section 2 of this 2011 Act**, ORS 238.005 (3) and (21), 238.025, 238.078, 238.082,
 24 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.380, 238.410, 238.415, 238.420, 238.445,
 25 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650,
 26 238.655, 238.660, 238.665, 238.670 and 238.705 and the increases provided by ORS 238.385 for members
 27 of the system who are serving as other than police officers or firefighters apply in respect to service
 28 as a judge member.

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

31 **SECTION 7.** ORS 243.163 is amended to read:

32 243.163. A member of the Legislative Assembly [*who is receiving a pension or annuity under ORS*
 33 *238.092 (1)(a) shall be*] **is** eligible to participate as a retired state officer in one of the group benefit
 34 plans described in ORS 243.135 after the member ceases to be a member of the Legislative Assembly
 35 if:

36 **(1) The member is a retired member of the Public Employees Retirement System; and**

37 **(2) The member applies to the Public Employees' Benefit Board within 60 days after the member**
 38 **ceases to be a member of the Legislative Assembly.**

39 **SECTION 8.** ORS 399.075 is amended to read:

40 399.075. (1) The Adjutant General, with the approval of the Governor, may order members of the
 41 organized militia to active state duty. Members, while on active state duty, shall receive not less
 42 than the pay and allowances of their corresponding grades in the Armed Forces of the United States
 43 in accordance with a schedule approved by the Adjutant General for the period of time in active
 44 state duty. Active state duty under this subsection includes, but is not limited to, support of federal,
 45 state and local drug eradication, interdiction and other counterdrug operations under a counterdrug

1 support plan approved by the Governor, and reasons related to homeland security. When partic-
 2 ipating in such support operations, and to the extent authorized by 32 U.S.C. 112, applicable regu-
 3 lations of the National Guard Bureau and the Oregon Counterdrug Support Plan, the Oregon
 4 Military Department is designated as a law enforcement agency for the purpose of carrying out
 5 federal asset forfeiture laws only.

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

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

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

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

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

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

32 (b) Members of the organized militia who are ordered to active state duty are not subject to
 33 ORS chapter 240 and ORS 243.650 to 243.782.

34 (8) The limitations on employment imposed by ORS 238.082 (2) and (3) do not apply to a retired
 35 member of the Public Employees Retirement System who has attained normal retirement age and is
 36 on active state duty. Hours served by a person under this subsection shall not be counted for the
 37 purpose of the limitations on employment imposed by ORS 238.082 (2) and (3). **The provisions of**
 38 **this subsection apply only to members of the system whose effective date of retirement is**
 39 **before the effective date of this 2011 Act.**

40 **SECTION 9.** Section 3, chapter 499, Oregon Laws 2007, is amended to read:

41 **Sec. 3.** Section 2 [*of this 2007 Act*], **chapter 499, Oregon Laws 2007**, is repealed January 2,
 42 2016. **Section 2, chapter 499, Oregon Laws 2007, applies only to members of the Public Em-**
 43 **ployees Retirement System whose effective date of retirement is before the effective date**
 44 **of this 2011 Act.**

45 **SECTION 10.** Section 4, chapter 774, Oregon Laws 2007, is amended to read:

1 **Sec. 4.** Section 3 [*of this 2007 Act*], **chapter 774, Oregon Laws 2007**, is repealed January 2,
2 2016. **Section 3, chapter 774, Oregon Laws 2007**, applies only to members of the **Public Em-**
3 **ployees Retirement System** whose effective date of retirement is before the effective date
4 **of this 2011 Act.**

5 **SECTION 11.** Section 2 of this 2011 Act applies to calendar year 2012 and subsequent
6 **calendar years.**

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