

A-Engrossed
House Bill 2875

Ordered by the House April 13
Including House Amendments dated April 13

Sponsored by Representative EVANS (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.

[Directs Public Employees Retirement Board to study public employee retirement and report to appropriate committee or interim committee of Legislative Assembly no later than September 15, 2022.]

Provides that certain employee of State Fire Marshal qualifies as firefighter for purposes of Public Employees Retirement System.

Modifies dates on which Public Employees Retirement Board must initiate, resume or reduce payment of certain increased benefits under Public Employees Retirement System because benefit payments are or are not subject to Oregon personal income tax.

Provides for restoration of certain retirement credit forfeited at end of 2020.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.374,
3 238.376 and 238A.005; and prescribing an effective date.

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

5 **SECTION 1.** ORS 238.005 is amended to read:

6 238.005. For purposes of this chapter:

7 (1) "Active member" means a member who is presently employed by a participating public em-
8 ployer in a qualifying position and who has completed the six-month period of service required by
9 ORS 238.015.

10 (2) "Annuity" means payments for life derived from contributions made by a member as provided
11 in this chapter.

12 (3) "Board" means the Public Employees Retirement Board.

13 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
14 cember 31 following.

15 (5) "Continuous service" means service not interrupted for more than five years, except that
16 such continuous service shall be computed without regard to interruptions in the case of:

17 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
18 who remained in that employment until having established membership in the Public Employees
19 Retirement System.

20 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
21 of the employer within one year of the date of being otherwise than dishonorably discharged and
22 remained in that employment until having established membership in the Public Employees Retire-
23 ment System.

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 (6) "Creditable service" means any period of time during which an active member is being paid
2 a salary by a participating public employer and for which benefits under this chapter are funded by
3 employer contributions and earnings on the fund. For purposes of computing years of "creditable
4 service," full months and major fractions of a month shall be considered to be one-twelfth of a year
5 and shall be added to all full years. "Creditable service" includes all retirement credit received by
6 a member.

7 (7) "Earliest service retirement age" means the age attained by a member when the member
8 could first make application for retirement under the provisions of ORS 238.280.

9 (8) "Employee" includes, in addition to employees, public officers, but does not include:

10 (a) Persons engaged as independent contractors.

11 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
12 ployer or public employers do not total 600 hours in any calendar year.

13 (c) Persons provided sheltered employment or made-work by a public employer in an employment
14 or industries program maintained for the benefit of such persons.

15 (d) Persons employed and paid from federal funds received under a federal program intended
16 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
17 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
18 to have the person so considered by an irrevocable written notice to the board.

19 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
20 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
21 shall be deemed to have been in effect since the inception of the system.

22 (f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
23 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

24 (9) "Final average salary" means whichever of the following is greater:

25 (a) The average salary per calendar year paid by one or more participating public employers to
26 an employee who is an active member of the system in three of the calendar years of membership
27 before the effective date of retirement of the employee, in which three years the employee was paid
28 the highest salary. The three calendar years in which the employee was paid the largest total salary
29 may include calendar years in which the employee was employed for less than a full calendar year.
30 If the number of calendar years of active membership before the effective date of retirement of the
31 employee is three or fewer, the final average salary for the employee is the average salary per cal-
32 endar year paid by one or more participating public employers to the employee in all of those years,
33 without regard to whether the employee was employed for the full calendar year.

34 (b) One-third of the total salary paid by a participating public employer to an employee who is
35 an active member of the system in the last 36 calendar months of active membership before the ef-
36 fective date of retirement of the employee.

37 (10) "Firefighter" does not include a volunteer firefighter, but does include:

38 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals;

39 **(b) An employee of the State Fire Marshal whose primary duties include fire investi-**
40 **gation, fire prevention, fire safety, fire control or fire suppression;**

41 [(b)] (c) An employee of the State Forestry Department who is certified by the State Forester
42 as a professional wildland firefighter and whose primary duties include the abatement of uncon-
43 trolled fires as described in ORS 477.064; and

44 [(c)] (d) An employee of the Oregon Military Department whose primary duties include fighting
45 structural, aircraft, wildland or other fires.

1 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
2 lowing.

3 (12) "Fund" means the Public Employees Retirement Fund.

4 (13) "Inactive member" means a member who is not employed in a qualifying position, whose
5 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
6 for service or disability.

7 (14) "Institution of higher education" means a public university listed in ORS 352.002, the
8 Oregon Health and Science University and a community college, as defined in ORS 341.005.

9 (15) "Member" means a person who has established membership in the system and whose mem-
10 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive
11 and retired members.

12 (16) "Member account" means the regular account and the variable account.

13 (17) "Normal retirement age" means:

14 (a) For a person who establishes membership in the system before January 1, 1996, as described
15 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
16 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

17 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
18 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
19 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
20 firefighter.

21 (18) "Pension" means annual payments for life derived from contributions by one or more public
22 employers.

23 (19) "Police officer" includes:

24 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
25 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
26 persons committed to the custody of or transferred to the Department of Corrections and employees
27 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
28 whether or not such classification was authorized by law.

29 (b) Employees of the Department of State Police who are classified as police officers by the
30 Superintendent of State Police.

31 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
32 cialists by the administrator of the commission.

33 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
34 by the sheriff, are the regular duties of police officers or corrections officers.

35 (e) Police chiefs and police personnel of a city who are classified as police officers by the
36 council or other governing body of the city.

37 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
38 are classified as police officers by the university.

39 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
40 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
41 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
42 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
43 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
44 ented by a labor organization, any proposal by the county to change that classification or to cease
45 to classify adult parole and probation officers as police officers for the purposes of this chapter is

1 a mandatory subject of bargaining.

2 (h) Police officers appointed under ORS 276.021 or 276.023.

3 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
4 missioners of the Port of Portland.

5 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
6 ficers by the Director of Agriculture.

7 (k) Employees of the Department of Public Safety Standards and Training who are classified by
8 the department as other than secretarial or clerical personnel.

9 (L) Investigators of the Criminal Justice Division of the Department of Justice.

10 (m) Corrections officers as defined in ORS 181A.355.

11 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
12 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

13 (o) The Director of the Department of Corrections.

14 (p) An employee who for seven consecutive years has been classified as a police officer as de-
15 fined by this section, and who is employed or transferred by the Department of Corrections to fill
16 a position designated by the Director of the Department of Corrections as being eligible for police
17 officer status.

18 (q) An employee of the Department of Corrections classified as a police officer on or prior to
19 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
20 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
21 tem implemented pursuant to ORS 240.190 does not affect police officer status.

22 (r) Employees of a school district who are appointed and duly sworn members of a law
23 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
24 police officers commissioned by the district.

25 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
26 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
27 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
28 Department of Corrections or the Oregon Youth Authority.

29 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
30 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
31 in such facilities.

32 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
33 bation officers.

34 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
35 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
36 443.400, that house individuals with intellectual or developmental disabilities.

37 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
38 to (6) (1999 Edition).

39 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
40 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
41 created by one or more such governmental organizations to provide governmental services. For
42 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
43 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
44 sue and be sued.

45 (22) "Qualifying position" means one or more jobs with one or more participating public em-

1 employers in which an employee performs 600 or more hours of service in a calendar year, excluding
2 any service in a job for which a participating public employer does not provide benefits under this
3 chapter pursuant to an application made under ORS 238.035.

4 (23) "Regular account" means the account established for each active and inactive member un-
5 der ORS 238.250.

6 (24) "Retired member" means a member who is retired for service or disability.

7 (25) "Retirement credit" means a period of time that is treated as creditable service for the
8 purposes of this chapter.

9 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
10 employer in return for services to the employer, plus the monetary value, as determined by the
11 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
12 other advantages the employer furnishes the employee in return for services.

13 (b) "Salary" includes but is not limited to:

14 (A) Payments of employee and employer money into a deferred compensation plan, which are
15 deemed salary paid in each month of deferral;

16 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
17 paid in each month of participation;

18 (C) Retroactive payments described in ORS 238.008; and

19 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
20 652.190.

21 (c) "Salary" or "other advantages" does not include:

22 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
23 employer;

24 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
25 dependents, for which the employee has no cash option;

26 (C) Payments made on account of an employee's death;

27 (D) Any lump sum payment for accumulated unused sick leave;

28 (E) Any accelerated payment of an employment contract for a future period or an advance
29 against future wages;

30 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
31 gratuitous payment;

32 (G) Payments for periods of leave of absence after the date the employer and employee have
33 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
34 sick leave and vacation;

35 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or
36 the Oregon Health and Science University when such services are in excess of full-time employment
37 subject to this chapter. A person employed under a contract for less than 12 months is subject to
38 this subparagraph only for the months to which the contract pertains;

39 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
40 employee;

41 (J) Compensation described and authorized under ORS 341.556 that is not paid by the community
42 college employing the faculty member;

43 (K) Compensation described and authorized under ORS 352.232 that is not paid by the public
44 university employing the officer or employee;

45 (L) Compensation described and authorized under ORS 353.270 that is not paid by Oregon Health

1 and Science University; or

2 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a
3 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000
4 limitation for that period shall be multiplied by a fraction, the numerator of which is the number
5 of months in the determination period and the denominator of which is 12. On January 1 of each
6 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage
7 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-
8 lished by the Bureau of Labor Statistics of the United States Department of Labor.

9 (27) "School year" means the period beginning July 1 and ending June 30 next following.

10 (28) "System" means the Public Employees Retirement System.

11 (29) "Variable account" means the account established for a member who participates in the
12 Variable Annuity Account under ORS 238.260.

13 (30) "Vested" means being an active member of the system in each of five calendar years.

14 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
15 hours of service per year.

16 **SECTION 2.** ORS 238A.005 is amended to read:

17 238A.005. For the purposes of this chapter:

18 (1) "Active member" means a member of the pension program or the individual account program
19 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

20 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the
21 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
22 sumptions adopted by the board.

23 (3) "Board" means the Public Employees Retirement Board.

24 (4) "Eligible employee" means a person who performs services for a participating public em-
25 ployer, including elected officials other than judges. "Eligible employee" does not include:

26 (a) Persons engaged as independent contractors;

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

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

29 (d) Persons categorized by a participating public employer as student employees;

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

31 (f) Employees of foreign trade offices of the Oregon Business Development Department who live
32 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

33 (g) An employee actively participating in an alternative retirement program established under
34 ORS 353.250 or an optional retirement plan established under ORS 341.551;

35 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
36 optional retirement plan offered under ORS 243.815;

37 (i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
38 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

39 (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
40 for membership in the system under the provisions of ORS chapter 238 or other law;

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

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

45 (m) Judges.

- 1 (5) "Firefighter" means:
- 2 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
- 3 duties include the fighting of fires;
- 4 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;
- 5 (c) **An employee of the State Fire Marshal whose primary duties include fire investi-**
- 6 **gation, fire prevention, fire safety, fire control or fire suppression;**
- 7 [(c)] (d) An employee of the State Forestry Department who is certified by the State Forester
- 8 as a professional wildland firefighter and whose primary duties include the abatement of uncon-
- 9 trolled fires as described in ORS 477.064; and
- 10 [(d)] (e) An employee of the Oregon Military Department whose primary duties include fighting
- 11 structural, aircraft, wildland or other fires.
- 12 (6) "Fund" means the Public Employees Retirement Fund.
- 13 (7)(a) "Hour of service" means:
- 14 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
- 15 by a participating public employer for performance of duties in a qualifying position; and
- 16 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
- 17 during which an employee does not perform duties but for which the employee is directly or indi-
- 18 rectly paid or entitled to payment by a participating public employer for services in a qualifying
- 19 position, as long as the hour is within the number of hours regularly scheduled for the performance
- 20 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
- 21 thorized leave.
- 22 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
- 23 maintained solely for the purpose of complying with applicable unemployment compensation laws.
- 24 (8) "Inactive member" means a member of the pension program or the individual account pro-
- 25 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
- 26 is not a retired member and who is not employed in a qualifying position.
- 27 (9) "Individual account program" means the defined contribution individual account program of
- 28 the Oregon Public Service Retirement Plan established under ORS 238A.025.
- 29 (10) "Institution of higher education" means a public university listed in ORS 352.002, the
- 30 Oregon Health and Science University or a community college, as defined in ORS 341.005.
- 31 (11) "Member" means an eligible employee who has established membership in the pension pro-
- 32 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
- 33 membership has not been terminated under ORS 238A.110 or 238A.310.
- 34 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that
- 35 provides retirement benefits for employees of the public employer under the system.
- 36 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service
- 37 Retirement Plan established under ORS 238A.025.
- 38 (14) "Police officer" means a police officer as described in ORS 238.005.
- 39 (15) "Qualifying position" means one or more jobs with one or more participating public em-
- 40 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,
- 41 excluding any service in a job for which benefits are not provided under the Oregon Public Service
- 42 Retirement Plan pursuant to ORS 238A.070 (2).
- 43 (16) "Retired member" means a pension program member who is receiving a pension as provided
- 44 in ORS 238A.180 to 238A.195.
- 45 (17)(a) "Salary" means the remuneration paid to an active member in return for services to the

1 participating public employer, including remuneration in the form of living quarters, board or other
2 items of value, to the extent the remuneration is includable in the employee's taxable income under
3 Oregon law. "Salary" includes the additional amounts specified in paragraph (b) of this subsection,
4 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether
5 those amounts are includable in taxable income.

6 (b) "Salary" includes the following amounts:

7 (A) Payments of employee and employer money into a deferred compensation plan that are made
8 at the election of the employee.

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

11 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
12 plan by the employer at the election of the employee and that is not includable in the taxable in-
13 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2018.

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

17 (E) Retroactive payments described in ORS 238.008.

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

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

23 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
24 652.190.

25 (c) "Salary" does not include the following amounts:

26 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
27 employer.

28 (B) Payments made on account of an employee's death.

29 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid
30 leave.

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

33 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

34 (F) Payment for a leave of absence after the date the employer and employee have agreed that
35 no future services in a qualifying position will be performed.

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

40 (H) The amount of an employee contribution to the individual account program that is paid by
41 the employer and is not deducted from the compensation of the employee, as provided under ORS
42 238A.335 (1) and (2)(b).

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

45 (J) Compensation described and authorized under ORS 352.232 that is not paid by the public

1 university employing the officer or employee.

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

4 (L) For years before 2020, any amount in excess of \$200,000 for a calendar year. If any period
5 over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall
6 be multiplied by a fraction, the numerator of which is the number of months in the determination
7 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit
8 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

9 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a
10 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000
11 limitation for that period shall be multiplied by a fraction, the numerator of which is the number
12 of months in the determination period and the denominator of which is 12. On January 1 of each
13 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage
14 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-
15 lished by the Bureau of Labor Statistics of the United States Department of Labor.

16 (18) "System" means the Public Employees Retirement System.

17 (19) "Workers' compensation benefits" means:

18 (a) Payments made under ORS chapter 656; or

19 (b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

20 **SECTION 3.** ORS 238.374 is amended to read:

21 238.374. (1) A person applying for payments under this chapter shall give a written statement
22 to the Public Employees Retirement Board that indicates whether the payments will be subject to
23 Oregon personal income tax under ORS 316.127 (9). If the person fails to provide the statement re-
24 quired by this subsection, or the statement indicates that the payments will not be subject to Oregon
25 personal income tax under ORS 316.127 (9), the board may not pay the person the increased benefits
26 provided by chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995.

27 (2) If a person is receiving payments under this chapter that have not been increased under
28 chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995, by reason of the provisions of
29 subsection (1) of this section, and thereafter the payments become subject to Oregon personal in-
30 come tax under ORS 316.127 (9), the person shall promptly notify the [*Public Employees Retirement*]
31 board by written statement that the payments are subject to Oregon personal income tax under ORS
32 316.127 (9).

33 (3) If a person is receiving payments under this chapter that have not been increased under
34 chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995, by reason of the provisions of
35 subsection (1) of this section, and the board receives notice under subsection (2) of this section that
36 payments to the person under this chapter are subject to Oregon personal income tax under ORS
37 316.127 (9), or determines under ORS 238.378 that payments to the person under this chapter are
38 subject to Oregon personal income tax under ORS 316.127 (9), the board shall initiate payment of
39 the increased benefits provided by chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws
40 1995. The increase in benefits becomes effective:

41 (a) **If the board receives notice under subsection (2) of this section on or after January**
42 **1 and on or before April 15 of any calendar year, as soon as administratively feasible by the**
43 **board, but no later than the first day of the second calendar month following receipt of no-**
44 **tice by the board.**

45 (b) **If the board receives notice under subsection (2) of this section after April 15 of any**

1 **calendar year**, on the first day of the calendar year following receipt of notice by the board.

2 **SECTION 4.** ORS 238.376 is amended to read:

3 238.376. (1) If a person is receiving payments under this chapter, and after the payments com-
4 mence the payments cease to be subject to Oregon personal income tax under ORS 316.127 (9), the
5 person shall promptly notify the Public Employees Retirement Board by written statement that the
6 payments are no longer subject to Oregon personal income tax under ORS 316.127 (9). The board
7 shall reduce any benefits payable to the person by the amount by which the benefits were increased
8 under chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995. The reduction in benefits
9 becomes effective:

10 (a) **If the board receives notice under this subsection on or after January 1 and on or**
11 **before April 15 of any calendar year, as soon as administratively feasible by the board, but**
12 **no later than the first day of the second calendar month following receipt of notice by the**
13 **board.**

14 (b) **If the board receives notice under this subsection after April 15 of any calendar year,**
15 **on the first day of the calendar year following receipt of notice by the board.**

16 (2) If a person is receiving payments under this chapter that have been reduced because the
17 payments are not subject to Oregon personal income tax under ORS 316.127 (9), and thereafter the
18 payments become subject to Oregon personal income tax under ORS 316.127 (9), the person shall
19 promptly notify the board by written statement that the payments are once again subject to Oregon
20 personal income tax under ORS 316.127 (9).

21 (3) If a person is receiving payments under this chapter that have been reduced because the
22 payments are not subject to Oregon personal income tax under ORS 316.127 (9), and the board re-
23 ceives notice under subsection (2) of this section that payments to the person under this chapter are
24 once again subject to Oregon personal income tax under ORS 316.127 (9), or determines under ORS
25 238.378 that payments to the person under this chapter are once again subject to Oregon personal
26 income tax under ORS 316.127 (9), the board shall resume payment of the increased benefits provided
27 by chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995. The increase in benefits be-
28 comes effective:

29 (a) **If the board receives notice under subsection (2) of this section on or after January**
30 **1 and on or before April 15 of any calendar year, as soon as administratively feasible by the**
31 **board, but no later than the first day of the second calendar month following receipt of no-**
32 **tice by the board.**

33 (b) **If the board receives notice under subsection (2) of this section after April 15 of any**
34 **calendar year, on the first day of the calendar year following receipt of notice by the board.**

35 **SECTION 5.** Section 6 of this 2021 Act is added to and made a part of ORS chapter 238A.

36 **SECTION 6.** Notwithstanding ORS 238A.110 and 238A.145 and in consideration of the
37 COVID-19 pandemic, if calendar year 2020 is a member's fifth consecutive calendar year of
38 performing fewer than 600 hours of service and the member forfeited all retirement credit
39 under ORS 238A.145 at the end of 2020, but the person performs 600 hours or more of service
40 in calendar year 2021, the person's membership and any retirement credit forfeited at the
41 end of calendar year 2020 shall be restored.

42 **SECTION 7.** (1) The amendments to ORS 238.005 and 238A.005 by sections 1 and 2 of this
43 2021 Act apply only to a person who:

44 (a) **Is employed by the State Fire Marshal and whose primary duties include fire investi-**
45 **gation, fire prevention, fire safety, fire control or fire suppression on the effective date of**

1 **this 2021 Act; or**

2 **(b) Becomes employed by the State Fire Marshal as a person whose primary duties in-**
3 **clude fire investigation, fire prevention, fire safety, fire control or fire suppression after the**
4 **effective date of this 2021 Act.**

5 **(2) Any person who is employed by the State Fire Marshal and whose primary duties in-**
6 **clude fire investigation, fire prevention, fire safety, fire control or fire suppression on the**
7 **effective date of this 2021 Act is entitled to service in the Public Employees Retirement**
8 **System as a firefighter for all service performed as an employee of the State Fire Marshal**
9 **whose primary duties include fire investigation, fire prevention, fire safety, fire control or**
10 **fire suppression, whether performed before, on or after the effective date of this 2021 Act.**

11 **SECTION 8. This 2021 Act takes effect on the 91st day after the date on which the 2021**
12 **regular session of the Eighty-first Legislative Assembly adjourns sine die.**

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