

HB 2875-2
(LC 2871)
3/23/21 (MNJ/ps)

Requested by HOUSE COMMITTEE ON BUSINESS AND LABOR (at the request of Representative Paul Evans)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2875**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; and amending ORS 238.005 and 238A.005”.

3 Delete lines 4 through 7 and insert:

4 **“SECTION 1.** ORS 238.005 is amended to read:

5 “238.005. For purposes of this chapter:

6 “(1) ‘Active member’ means a member who is presently employed by a
7 participating public employer in a qualifying position and who has completed
8 the six-month period of service required by ORS 238.015.

9 “(2) ‘Annuity’ means payments for life derived from contributions made
10 by a member as provided in this chapter.

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

12 “(4) ‘Calendar year’ means 12 calendar months commencing on January
13 1 and ending on December 31 following.

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

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

20 “(b) An employee who was in the armed services on January 1, 1945, and
21 returned to the service of the employer within one year of the date of being

1 otherwise than dishonorably discharged and remained in that employment
2 until having established membership in the Public Employees Retirement
3 System.

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

11 “(7) ‘Earliest service retirement age’ means the age attained by a member
12 when the member could first make application for retirement under the pro-
13 visions of ORS 238.280.

14 “(8) ‘Employee’ includes, in addition to employees, public officers, but
15 does not include:

16 “(a) Persons engaged as independent contractors.

17 “(b) Seasonal, emergency or casual workers whose periods of employment
18 with any public employer or public employers do not total 600 hours in any
19 calendar year.

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

23 “(d) Persons employed and paid from federal funds received under a fed-
24 eral program intended primarily to alleviate unemployment. However, any
25 such person shall be considered an ‘employee’ if not otherwise excluded by
26 paragraphs (a) to (c) of this subsection and the public employer elects to
27 have the person so considered by an irrevocable written notice to the board.

28 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,
29 and who, as such employees, are included in a retirement plan under federal
30 railroad retirement statutes. This paragraph shall be deemed to have been

1 in effect since the inception of the system.

2 “(f) Persons employed in positions classified as post-doctoral scholar po-
3 sitions by a public university listed in ORS 352.002, or by the Oregon Health
4 and Science University, under ORS 350.370.

5 “(9) ‘Final average salary’ means whichever of the following is greater:

6 “(a) The average salary per calendar year paid by one or more partic-
7 ipating public employers to an employee who is an active member of the
8 system in three of the calendar years of membership before the effective date
9 of retirement of the employee, in which three years the employee was paid
10 the highest salary. The three calendar years in which the employee was paid
11 the largest total salary may include calendar years in which the employee
12 was employed for less than a full calendar year. If the number of calendar
13 years of active membership before the effective date of retirement of the
14 employee is three or fewer, the final average salary for the employee is the
15 average salary per calendar year paid by one or more participating public
16 employers to the employee in all of those years, without regard to whether
17 the employee was employed for the full calendar year.

18 “(b) One-third of the total salary paid by a participating public employer
19 to an employee who is an active member of the system in the last 36 calendar
20 months of active membership before the effective date of retirement of the
21 employee.

22 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
23 clude:

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

26 “(b) **An employee of the State Fire Marshal whose primary duties**
27 **include fire investigation, fire prevention, fire safety, fire control or**
28 **fire suppression;**

29 “[*b*] (c) An employee of the State Forestry Department who is certified
30 by the State Forester as a professional wildland firefighter and whose pri-

1 mary duties include the abatement of uncontrolled fires as described in ORS
2 477.064; and

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

5 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and
6 ending on June 30 following.

7 “(12) ‘Fund’ means the Public Employees Retirement Fund.

8 “(13) ‘Inactive member’ means a member who is not employed in a quali-
9 fying position, whose membership has not been terminated in the manner
10 described by ORS 238.095 and who is not retired for service or disability.

11 “(14) ‘Institution of higher education’ means a public university listed in
12 ORS 352.002, the Oregon Health and Science University and a community
13 college, as defined in ORS 341.005.

14 “(15) ‘Member’ means a person who has established membership in the
15 system and whose membership has not been terminated as described in ORS
16 238.095. ‘Member’ includes active, inactive and retired members.

17 “(16) ‘Member account’ means the regular account and the variable ac-
18 count.

19 “(17) ‘Normal retirement age’ means:

20 “(a) For a person who establishes membership in the system before Jan-
21 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee
22 retires at that age as a police officer or firefighter or 58 years of age if the
23 employee retires at that age as other than a police officer or firefighter.

24 “(b) For a person who establishes membership in the system on or after
25 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
26 retires at that age as a police officer or firefighter or 60 years of age if the
27 employee retires at that age as other than a police officer or firefighter.

28 “(18) ‘Pension’ means annual payments for life derived from contributions
29 by one or more public employers.

30 “(19) ‘Police officer’ includes:

1 “(a) Employees of institutions defined in ORS 421.005 as Department of
2 Corrections institutions whose duties, as assigned by the Director of the
3 Department of Corrections, include the custody of persons committed to the
4 custody of or transferred to the Department of Corrections and employees
5 of the Department of Corrections who were classified as police officers on
6 or before July 27, 1989, whether or not such classification was authorized
7 by law.

8 “(b) Employees of the Department of State Police who are classified as
9 police officers by the Superintendent of State Police.

10 “(c) Employees of the Oregon Liquor Control Commission who are clas-
11 sified as regulatory specialists by the administrator of the commission.

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

15 “(e) Police chiefs and police personnel of a city who are classified as po-
16 lice officers by the council or other governing body of the city.

17 “(f) Police officers who are commissioned by a university under ORS
18 352.121 or 353.125 and who are classified as police officers by the university.

19 “(g) Parole and probation officers employed by the Department of Cor-
20 rections, parole and probation officers who are transferred to county em-
21 ployment under ORS 423.549 and adult parole and probation officers, as
22 defined in ORS 181A.355, who are classified as police officers for the pur-
23 poses of this chapter by the county governing body. If a county classifies
24 adult parole and probation officers as police officers for the purposes of this
25 chapter, and the employees so classified are represented by a labor organ-
26 ization, any proposal by the county to change that classification or to cease
27 to classify adult parole and probation officers as police officers for the pur-
28 poses of this chapter is a mandatory subject of bargaining.

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

30 “(i) Employees of the Port of Portland who are classified as airport police

1 by the Board of Commissioners of the Port of Portland.

2 “(j) Employees of the State Department of Agriculture who are classified
3 as livestock police officers by the Director of Agriculture.

4 “(k) Employees of the Department of Public Safety Standards and Train-
5 ing who are classified by the department as other than secretarial or clerical
6 personnel.

7 “(L) Investigators of the Criminal Justice Division of the Department of
8 Justice.

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

10 “(n) Employees of the Oregon State Lottery Commission who are classi-
11 fied by the Director of the Oregon State Lottery as enforcement agents pur-
12 suant 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
15 a police officer as defined by this section, and who is employed or transferred
16 by the Department of Corrections to fill a position designated by the Direc-
17 tor of the Department of Corrections as being eligible for police officer sta-
18 tus.

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

24 “(r) Employees of a school district who are appointed and duly sworn
25 members of a law enforcement agency of the district as provided in ORS
26 332.531 or otherwise employed full-time as police officers commissioned by
27 the district.

28 “(s) Employees at youth correction facilities and juvenile detention facil-
29 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
30 to hold valid Oregon teaching licenses and who have supervisory, control or

1 teaching responsibilities over juveniles committed to the custody of the De-
2 partment of Corrections or the Oregon Youth Authority.

3 “(t) Employees at youth correction facilities as defined in ORS 420.005
4 whose primary job description involves the custody, control, treatment, in-
5 vestigation or supervision of juveniles placed in such facilities.

6 “(u) Employees of the Oregon Youth Authority who are classified as ju-
7 venile parole and probation officers.

8 “(v) Employees of the Department of Human Services who are prohibited
9 from striking under ORS 243.726 and whose duties include the care of resi-
10 dents of residential facilities, as defined in ORS 443.400, that house individ-
11 uals with intellectual or developmental disabilities.

12 “(20) ‘Prior service credit’ means credit provided under ORS 238.442 or
13 under ORS 238.225 (2) to (6) (1999 Edition).

14 “(21) ‘Public employer’ means the state, one of its agencies, any city,
15 county, or municipal or public corporation, any political subdivision of the
16 state or any instrumentality thereof, or an agency created by one or more
17 such governmental organizations to provide governmental services. For pur-
18 poses of this chapter, such agency created by one or more governmental or-
19 ganizations is a governmental instrumentality and a legal entity with power
20 to enter into contracts, hold property and sue and be sued.

21 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
22 ticipating public employers in which an employee performs 600 or more hours
23 of service in a calendar year, excluding any service in a job for which a
24 participating public employer does not provide benefits under this chapter
25 pursuant to an application made under ORS 238.035.

26 “(23) ‘Regular account’ means the account established for each active and
27 inactive member under ORS 238.250.

28 “(24) ‘Retired member’ means a member who is retired for service or dis-
29 ability.

30 “(25) ‘Retirement credit’ means a period of time that is treated as credit-

1 able service for the purposes of this chapter.

2 “(26)(a) ‘Salary’ means the remuneration paid an employee in cash out of
3 the funds of a public employer in return for services to the employer, plus
4 the monetary value, as determined by the Public Employees Retirement
5 Board, of whatever living quarters, board, lodging, fuel, laundry and other
6 advantages the employer furnishes the employee in return for services.

7 “(b) ‘Salary’ includes but is not limited to:

8 “(A) Payments of employee and employer money into a deferred compen-
9 sation plan, which are deemed salary paid in each month of deferral;

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

12 “(C) Retroactive payments described in ORS 238.008; and

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

15 “(c) ‘Salary’ or ‘other advantages’ does not include:

16 “(A) Travel or any other expenses incidental to employer’s business which
17 is reimbursed by the employer;

18 “(B) Payments for insurance coverage by an employer on behalf of em-
19 ployee or employee and dependents, for which the employee has no cash op-
20 tion;

21 “(C) Payments made on account of an employee’s death;

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

23 “(E) Any accelerated payment of an employment contract for a future
24 period or an advance against future wages;

25 “(F) Any retirement incentive, retirement severance pay, retirement bonus
26 or retirement gratuitous payment;

27 “(G) Payments for periods of leave of absence after the date the employer
28 and employee have agreed that no future services qualifying pursuant to ORS
29 238.015 (3) will be performed, except for sick leave and vacation;

30 “(H) Payments for instructional services rendered to public universities

1 listed in ORS 352.002 or the Oregon Health and Science University when
2 such services are in excess of full-time employment subject to this chapter.
3 A person employed under a contract for less than 12 months is subject to this
4 subparagraph only for the months to which the contract pertains;

5 “(I) Payments made by an employer for insurance coverage provided to a
6 domestic partner of an employee;

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

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

11 “(L) Compensation described and authorized under ORS 353.270 that is
12 not paid by Oregon Health and Science University; or

13 “(M) For years beginning on or after January 1, 2020, any amount in ex-
14 cess of \$195,000 for a calendar year. If any period over which salary is de-
15 termined is less than 12 months, the \$195,000 limitation for that period shall
16 be multiplied by a fraction, the numerator of which is the number of months
17 in the determination period and the denominator of which is 12. On January
18 1 of each year, the board shall adjust the dollar limit provided by this sub-
19 paragraph to reflect any percentage changes in the Consumer Price Index for
20 All Urban Consumers, West Region (All Items), as published by the Bureau
21 of Labor Statistics of the United States Department of Labor.

22 “(27) ‘School year’ means the period beginning July 1 and ending June 30
23 next following.

24 “(28) ‘System’ means the Public Employees Retirement System.

25 “(29) ‘Variable account’ means the account established for a member who
26 participates in the Variable Annuity Account under ORS 238.260.

27 “(30) ‘Vested’ means being an active member of the system in each of five
28 calendar years.

29 “(31) ‘Volunteer firefighter’ means a firefighter whose position normally
30 requires less than 600 hours of service per year.

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

2 “238A.005. For the purposes of this chapter:

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

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

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

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

13 “(a) Persons engaged as independent contractors;

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

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

17 “(d) Persons categorized by a participating public employer as student
18 employees;

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

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

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

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

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

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

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

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

10 “(m) Judges.

11 “(5) ‘Firefighter’ means:

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

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

16 “(c) **An employee of the State Fire Marshal whose primary duties**
17 **include fire investigation, fire prevention, fire safety, fire control or**
18 **fire suppression;**

19 “[c] (d) An employee of the State Forestry Department who is certified
20 by the State Forester as a professional wildland firefighter and whose pri-
21 mary duties include the abatement of uncontrolled fires as described in ORS
22 477.064; and

23 “[d] (e) An employee of the Oregon Military Department whose primary
24 duties include fighting structural, aircraft, wildland or other fires.

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

26 “(7)(a) ‘Hour of service’ means:

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

30 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military

1 duty or authorized leave during which an employee does not perform duties
2 but for which the employee is directly or indirectly paid or entitled to pay-
3 ment by a participating public employer for services in a qualifying position,
4 as long as the hour is within the number of hours regularly scheduled for
5 the performance of duties during the period of vacation, holiday, illness, in-
6 capacity, jury duty, military duty or authorized leave.

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

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

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

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

20 “(11) ‘Member’ means an eligible employee who has established member-
21 ship in the pension program or the individual account program of the Oregon
22 Public Service Retirement Plan and whose membership has not been termi-
23 nated under ORS 238A.110 or 238A.310.

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

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

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

30 “(15) ‘Qualifying position’ means one or more jobs with one or more par-

1 participating public employers in which an eligible employee performs 600 or
2 more hours of service in a calendar year, excluding any service in a job for
3 which benefits are not provided under the Oregon Public Service Retirement
4 Plan pursuant to ORS 238A.070 (2).

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

7 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
8 turn for services to the participating public employer, including
9 remuneration in the form of living quarters, board or other items of value,
10 to the extent the remuneration is includable in the employee’s taxable in-
11 come under Oregon law. ‘Salary’ includes the additional amounts specified
12 in paragraph (b) of this subsection, but does not include the amounts speci-
13 fied in paragraph (c) of this subsection, regardless of whether those amounts
14 are includable in taxable income.

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

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

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

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

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

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

29 “(F) The amount of an employee contribution to the individual account
30 program that is paid by the employer and deducted from the compensation

1 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

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

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

6 “(c) ‘Salary’ does not include the following amounts:

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

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

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

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

14 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
15 payment.

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

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

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

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

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

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

3 “(L) For years before 2020, any amount in excess of \$200,000 for a calen-
4 dar year. If any period over which salary is determined is less than 12
5 months, the \$200,000 limitation for that period shall be multiplied by a frac-
6 tion, 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 ad-
8 justing this dollar limit to incorporate cost-of-living adjustments authorized
9 by the Internal Revenue Service.

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

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

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

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

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

24 **“SECTION 3. (1) The amendments to ORS 238.005 and 238A.005 by**
25 **sections 1 and 2 of this 2021 Act apply only to a person who:**

26 **“(a) Is employed by the State Fire Marshal and whose primary du-**
27 **ties include fire investigation, fire prevention, fire safety, fire control**
28 **or fire suppression on the effective date of this 2021 Act; or**

29 **“(b) Becomes employed by the State Fire Marshal as a person whose**
30 **primary duties include fire investigation, fire prevention, fire safety,**

1 **fire control or fire suppression after the effective date of this 2021 Act.**
2 **“(2) A person who is employed by the State Fire Marshal and whose**
3 **primary duties include fire investigation, fire prevention, fire safety,**
4 **fire control or fire suppression on the effective date of this 2021 Act**
5 **is entitled to service in the Public Employees Retirement System as a**
6 **firefighter only for service performed as an employee of the State Fire**
7 **Marshal whose primary duties include fire investigation, fire pre-**
8 **vention, fire safety, fire control or fire suppression on or after the ef-**
9 **fective date of this 2021 Act.”.**

10 _____