

HB 2875-3  
(LC 2871)  
4/6/21 (MNJ/ps)

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

**PROPOSED AMENDMENTS TO  
HOUSE BILL 2875**

1 In line 2 of the printed bill, before the period insert “; creating new pro-  
2 visions; amending ORS 238.005, 238.374, 238.376 and 238A.005; and prescribing  
3 an effective date”.

4 Delete lines 4 through 7 and insert:

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  
8 participating public employer in a qualifying position and who has completed  
9 the six-month period of service required by ORS 238.015.

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

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

13 “(4) ‘Calendar year’ means 12 calendar months commencing on January  
14 1 and ending on December 31 following.

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

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

21 “(b) An employee who was in the armed services on January 1, 1945, and

1 returned to the service of the employer within one year of the date of being  
2 otherwise than dishonorably discharged and remained in that employment  
3 until having established membership in the Public Employees Retirement  
4 System.

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

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

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

17 “(a) Persons engaged as independent contractors.

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

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

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

29 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,  
30 and who, as such employees, are included in a retirement plan under federal

1 railroad retirement statutes. This paragraph shall be deemed to have been  
2 in effect since the inception of the system.

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

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

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

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

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

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

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

30 “[b)] (c) An employee of the State Forestry Department who is certified

1 by the State Forester as a professional wildland firefighter and whose pri-  
2 mary duties include the abatement of uncontrolled fires as described in ORS  
3 477.064; and

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

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

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

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

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

15 “(15) ‘Member’ means a person who has established membership in the  
16 system and whose membership has not been terminated as described in ORS  
17 238.095. ‘Member’ includes active, inactive and retired members.

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

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

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

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

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

1 “(19) ‘Police officer’ includes:

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

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

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

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

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

18 “(f) Police officers who are commissioned by a university under ORS  
19 352.121 or 353.125 and who are classified as police officers by the university.

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

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

1       “(i) Employees of the Port of Portland who are classified as airport police  
2 by the Board of Commissioners of the Port of Portland.

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

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

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

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

11       “(n) Employees of the Oregon State Lottery Commission who are classi-  
12 fied by the Director of the Oregon State Lottery as enforcement agents pur-  
13 suant to ORS 461.110.

14       “(o) The Director of the Department of Corrections.

15       “(p) An employee who for seven consecutive years has been classified as  
16 a police officer as defined by this section, and who is employed or transferred  
17 by the Department of Corrections to fill a position designated by the Direc-  
18 tor of the Department of Corrections as being eligible for police officer sta-  
19 tus.

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

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

29       “(s) Employees at youth correction facilities and juvenile detention facil-  
30 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required

1 to hold valid Oregon teaching licenses and who have supervisory, control or  
2 teaching responsibilities over juveniles committed to the custody of the De-  
3 partment of Corrections or the Oregon Youth Authority.

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

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

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

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

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

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

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

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

1       “(25) ‘Retirement credit’ means a period of time that is treated as credit-  
2       able service for the purposes of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

28       “(G) Payments for periods of leave of absence after the date the employer  
29       and employee have agreed that no future services qualifying pursuant to ORS  
30       238.015 (3) will be performed, except for sick leave and vacation;



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

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

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

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

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

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

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

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

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

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

30       “(31) ‘Volunteer firefighter’ means a firefighter whose position normally

1 requires less than 600 hours of service per year.

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

3 “238A.005. For the purposes of this chapter:

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

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

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

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

14 “(a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

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

1 and Science University, under ORS 350.370;

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

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

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

11 “(m) Judges.

12 “(5) ‘Firefighter’ means:

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

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

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

20 “[c] (d) An employee of the State Forestry Department who is certified  
21 by the State Forester as a professional wildland firefighter and whose pri-  
22 mary duties include the abatement of uncontrolled fires as described in ORS  
23 477.064; and

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

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

27 “(7)(a) ‘Hour of service’ means:

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

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

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

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

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

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

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

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

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

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

1       “(15) ‘Qualifying position’ means one or more jobs with one or more par-  
2       ticipating public employers in which an eligible employee performs 600 or  
3       more hours of service in a calendar year, excluding any service in a job for  
4       which benefits are not provided under the Oregon Public Service Retirement  
5       Plan pursuant to ORS 238A.070 (2).

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

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

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

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

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

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

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

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

30      “(F) The amount of an employee contribution to the individual account

1 program that is paid by the employer and deducted from the compensation  
2 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

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

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

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

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

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

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

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

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

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

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

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

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

30 “(J) Compensation described and authorized under ORS 352.232 that is not

1 paid by the public university employing the officer or employee.

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

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

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

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

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

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

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

25 **“SECTION 3.** ORS 238.374 is amended to read:

26 “238.374. (1) A person applying for payments under this chapter shall give  
27 a written statement to the Public Employees Retirement Board that indicates  
28 whether the payments will be subject to Oregon personal income tax under  
29 ORS 316.127 (9). If the person fails to provide the statement required by this  
30 subsection, or the statement indicates that the payments will not be subject

1 to Oregon personal income tax under ORS 316.127 (9), the board may not pay  
2 the person the increased benefits provided by chapter 796, Oregon Laws 1991,  
3 or chapter 569, Oregon Laws 1995.

4 “(2) If a person is receiving payments under this chapter that have not  
5 been increased under chapter 796, Oregon Laws 1991, or chapter 569, Oregon  
6 Laws 1995, by reason of the provisions of subsection (1) of this section, and  
7 thereafter the payments become subject to Oregon personal income tax under  
8 ORS 316.127 (9), the person shall promptly notify the [*Public Employees Re-*  
9 *tirement*] board by written statement that the payments are subject to Oregon  
10 personal income tax under ORS 316.127 (9).

11 “(3) If a person is receiving payments under this chapter that have not  
12 been increased under chapter 796, Oregon Laws 1991, or chapter 569, Oregon  
13 Laws 1995, by reason of the provisions of subsection (1) of this section, and  
14 the board receives notice under subsection (2) of this section that payments  
15 to the person under this chapter are subject to Oregon personal income tax  
16 under ORS 316.127 (9), or determines under ORS 238.378 that payments to the  
17 person under this chapter are subject to Oregon personal income tax under  
18 ORS 316.127 (9), the board shall initiate payment of the increased benefits  
19 provided by chapter 796, Oregon Laws 1991, or chapter 569, Oregon Laws  
20 1995. The increase in benefits becomes effective:

21 **“(a) If the board receives notice under subsection (2) of this section**  
22 **on or after January 1 and on or before April 15 of any calendar year,**  
23 **as soon as administratively feasible by the board, but no later than the**  
24 **first day of the second calendar month following receipt of notice by**  
25 **the board.**

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

29 **“SECTION 4.** ORS 238.376 is amended to read:

30 “238.376. (1) If a person is receiving payments under this chapter, and



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

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

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

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

22 “(3) If a person is receiving payments under this chapter that have been  
23 reduced because the payments are not subject to Oregon personal income tax  
24 under ORS 316.127 (9), and the board receives notice under subsection (2) of  
25 this section that payments to the person under this chapter are once again  
26 subject to Oregon personal income tax under ORS 316.127 (9), or determines  
27 under ORS 238.378 that payments to the person under this chapter are once  
28 again subject to Oregon personal income tax under ORS 316.127 (9), the  
29 board shall resume payment of the increased benefits provided by chapter  
30 796, Oregon Laws 1991, or chapter 569, Oregon Laws 1995. The increase in

1 benefits becomes effective:

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

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

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

12 **“SECTION 6. Notwithstanding ORS 238A.110 and 238A.145 and in**  
13 **consideration of the COVID-19 pandemic, if calendar year 2020 is a**  
14 **member’s fifth consecutive calendar year of performing fewer than 600**  
15 **hours of service and the member forfeited all retirement credit under**  
16 **ORS 238A.145 at the end of 2020, but the person performs 600 hours or**  
17 **more of service in calendar year 2021, the person’s membership and**  
18 **any retirement credit forfeited at the end of calendar year 2020 shall**  
19 **be restored.**

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

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

25 **“(b) Becomes employed by the State Fire Marshal as a person whose**  
26 **primary duties include fire investigation, fire prevention, fire safety,**  
27 **fire control or fire suppression after the effective date of this 2021 Act.**

28 **“(2) Any person who is employed by the State Fire Marshal and**  
29 **whose primary duties include fire investigation, fire prevention, fire**  
30 **safety, fire control or fire suppression on the effective date of this 2021**

1 **Act is entitled to service in the Public Employees Retirement System**  
2 **as a firefighter for all service performed as an employee of the State**  
3 **Fire Marshal whose primary duties include fire investigation, fire**  
4 **prevention, fire safety, fire control or fire suppression, whether per-**  
5 **formed before, on or after the effective date of this 2021 Act.**

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

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