

# House Bill 2701

Sponsored by Representative HUDSON; Representatives EVANS, NELSON, Senator PATTERSON (Presession filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Increases retirement benefits and lowers normal retirement age under Oregon Public Service Retirement Plan for telecommunicators and employees of Oregon State Hospital.

## A BILL FOR AN ACT

1  
2 Relating to the Oregon Public Service Retirement Plan; creating new provisions; and amending ORS  
3 238A.005, 238A.125, 238A.160, 238A.165, 238A.220 and 238A.240.

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

5 **SECTION 1.** ORS 238A.005, as amended by section 3, chapter 83, Oregon Laws 2022, is amended  
6 to read:

7 238A.005. For the purposes of this chapter:

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

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

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

14 (4) "Eligible employee" means a person who performs services for a participating public em-  
15 ployer, including persons considered employees of a participating public employer under 26 U.S.C.  
16 3121(d)(2), as in effect on January 1, 2022, and elected officials other than judges. "Eligible  
17 employee" does not include:

18 (a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

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

31 (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,

**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 for membership in the system under the provisions of ORS chapter 238 or other law;

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

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

6 (m) Judges.

7 (5) "Firefighter" means:

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

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

11 (c) An employee of the State Fire Marshal whose primary duties include fire investigation, fire  
12 prevention, fire safety, fire control or fire suppression;

13 (d) An employee of the State Forestry Department who is certified by the State Forester as a  
14 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
15 fires as described in ORS 477.064; and

16 (e) An employee of the Oregon Military Department whose primary duties include fighting  
17 structural, aircraft, wildland or other fires.

18 (6) "Fund" means the Public Employees Retirement Fund.

19 (7)(a) "Hour of service" means:

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

22 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave  
23 during which an employee does not perform duties but for which the employee is directly or indi-  
24 rectly paid or entitled to payment by a participating public employer for services in a qualifying  
25 position, as long as the hour is within the number of hours regularly scheduled for the performance  
26 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-  
27 thorized leave.

28 (b) "Hour of service" does not include any hour for which payment is made or due under a plan  
29 maintained solely for the purpose of complying with applicable unemployment compensation laws.

30 (8) "Inactive member" means a member of the pension program or the individual account pro-  
31 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who  
32 is not a retired member and who is not employed in a qualifying position.

33 (9) "Individual account program" means the defined contribution individual account program of  
34 the Oregon Public Service Retirement Plan established under ORS 238A.025.

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

37 (11) "Member" means an eligible employee who has established membership in the pension pro-  
38 gram or the individual account program of the Oregon Public Service Retirement Plan and whose  
39 membership has not been terminated under ORS 238A.110 or 238A.310.

40 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that  
41 provides retirement benefits for employees of the public employer under the system.

42 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service  
43 Retirement Plan established under ORS 238A.025.

44 (14) "Police officer" means a police officer as described in ORS 238.005.

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

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

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

6 (17)(a) “Salary” means the remuneration paid to an active member in return for services to the  
 7 participating public employer, including remuneration in the form of living quarters, board or other  
 8 items of value, to the extent the remuneration is, or would be if the member were an Oregon resi-  
 9 dent, includable in the employee’s taxable income under Oregon law. “Salary” includes the addi-  
 10 tional amounts specified in paragraph (b) of this subsection, but does not include the amounts  
 11 specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in  
 12 taxable income.

13 (b) “Salary” includes the following amounts:

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

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

18 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit  
 19 plan by the employer at the election of the employee and that is not includable in the taxable in-  
 20 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2021.

21 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the  
 22 election of the employee and that is not included in the taxable income of the employee by reason  
 23 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2021.

24 (E) Retroactive payments described in ORS 238.008.

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

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

30 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
 31 652.190.

32 (c) “Salary” does not include the following amounts:

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

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

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

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

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

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

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

1 this subparagraph only for the months covered by the contract.

2 (H) The amount of an employee contribution to the individual account program that is paid by  
 3 the employer and is not deducted from the compensation of the employee, as provided under ORS  
 4 238A.335 (1) and (2)(b).

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

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

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

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

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

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

24 **(19) "Telecommunicator" has the meaning given that term in ORS 181A.355.**

25 [(19)] **(20) "Workers' compensation benefits" means:**

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

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

28 **SECTION 2.** ORS 238A.125, as amended by section 4, chapter 83, Oregon Laws 2022, is amended  
 29 to read:

30 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall  
 31 be paid an annual pension for the life of the member as follows:

32 (a) For service as a police officer, [or] firefighter, **telecommunicator or employee of the**  
 33 **Oregon State Hospital**, 1.8 percent of final average salary multiplied by the number of years of  
 34 retirement credit attributable to service as a police officer, [or] firefighter, **telecommunicator or**  
 35 **employee of the Oregon State Hospital**.

36 (b) For service as other than a police officer, [or] firefighter, **telecommunicator or employee**  
 37 **of the Oregon State Hospital**, 1.5 percent of final average salary multiplied by the number of years  
 38 of retirement credit attributable to service as other than a police officer, [or] firefighter, **telecom-**  
 39 **municator or employee of the Oregon State Hospital**.

40 (2) Notwithstanding any provision of ORS 238A.100 to 238A.250, the annual benefit payable to  
 41 a member under the pension program and under any other tax-qualified defined benefit plan main-  
 42 tained by the participating public employer may not exceed the applicable limitations set forth in  
 43 26 U.S.C. 415(b), as in effect on December 31, 2021. The Public Employees Retirement Board shall  
 44 adopt rules for the administration of this limitation, including adjustments in the annual dollar lim-  
 45 itation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

1 (3) The board shall make no actuarial adjustment in a member's pension calculated under this  
2 section by reason of the member's retirement after normal retirement age.

3 **SECTION 3.** ORS 238A.160 is amended to read:

4 238A.160. (1) Except as provided in subsections (2) [and (3)] to (4) of this section, normal re-  
5 tirement age for a member of the pension program is the earlier of:

6 (a) 65 years of age; or

7 (b) 58 years of age if the member has 30 years or more of retirement credit.

8 (2) Normal retirement age for a member of the pension program who retires from service as a  
9 police officer or firefighter, and who has held a position as a police officer or firefighter contin-  
10 uously for a period of not less than five years immediately preceding the effective date of retirement,  
11 is the earlier of:

12 (a) 60 years of age; or

13 (b) 53 years of age if the member has 25 years or more of retirement credit.

14 (3) Normal retirement age for a member of the pension program who retires from service as a  
15 school employee as defined by ORS 238A.140 is the earlier of:

16 (a) 65 years of age; or

17 (b) 58 years of age if the member has been an active member in 30 or more calendar years.

18 **(4)(a) Normal retirement age for a member of the pension program who retires from**  
19 **service as a telecommunicator or as an employee of the Oregon State Hospital is the later**  
20 **of:**

21 **(A) 60 years of age; or**

22 **(B) The age of the member when the member acquires a total of five years of retirement**  
23 **credit as a telecommunicator or as an employee of the Oregon State Hospital.**

24 **(b) Notwithstanding paragraph (a) of this subsection, normal retirement age for a mem-**  
25 **ber of the pension program who retires from service as a telecommunicator or as an em-**  
26 **ployee of the Oregon State Hospital is not later than 65 years of age.**

27 [(4)] (5) The normal retirement date of a member is the first day of the month beginning on or  
28 after the date the member reaches normal retirement age.

29 **SECTION 4.** ORS 238A.165 is amended to read:

30 238A.165. (1) Except as provided in this section, earliest retirement age for a member of the  
31 pension program is 55 years of age.

32 (2) Earliest retirement age for a member of the pension program who retires from service as a  
33 police officer or firefighter is 50 years of age if the member has held a position as a police officer  
34 or firefighter continuously for a period of not less than five years immediately before the effective  
35 date of retirement. Earliest retirement date for a member described in this subsection is not later  
36 than the date the member reaches 55 years of age.

37 (3) If a member of the pension program has 25 years or more of retirement credit as a  
38 telecommunicator[, as defined in ORS 181A.355], earliest retirement age for the member is 55 years  
39 of age or the age of the member when the member acquires a total of 25 years or more of retirement  
40 credit as a telecommunicator, whichever occurs first. A member who retires under this subsection  
41 before attaining the age of 55 shall not receive a cost-of-living adjustment under ORS 238A.210 until  
42 the member attains the age of 55.

43 (4) A member of the pension program who has reached earliest retirement age may retire on an  
44 early retirement date that is the first day of any month on or after the member has reached earliest  
45 retirement age.

**SECTION 5.** ORS 238A.220 is amended to read:

238A.220. (1) A participating public employer shall make employer contributions to the Public Employees Retirement Board at intervals designated by the board in the amounts determined by the board under ORS 238.225. All participating public employers shall be considered to be a single employer for the purposes of the employer contributions under ORS 238.225 that are required for funding the pension program established under ORS 238A.025.

(2) For the purpose of the actuarial computation required under ORS 238.225, the board shall separately establish the liability of participating public employers for police officers, [and] firefighters, **telecommunicators and employees of the Oregon State Hospital** under the pension program and shall require that public employers that employ police officers, [and] firefighters, **telecommunicators and employees of the Oregon State Hospital** who are members of the pension program make contributions for those employees based on the liability established under this subsection.

**SECTION 6.** ORS 238A.240 is amended to read:

238A.240. (1) A participating public employer shall contribute to the pension program, at intervals designated by the Public Employees Retirement Board, all amounts determined by the board to be actuarially necessary to adequately fund the disability benefits to be provided under ORS 238A.235 and the reasonable costs of administering the provision of those benefits. The board shall periodically determine the liabilities attributable to the disability benefits and shall set the amount of contributions to be made by participating public employers, and by other public employers who are required to make contributions on behalf of members, to ensure that those liabilities will be funded no more than 40 years after the date on which the determination is made. All participating public employers shall be considered to be a single employer for the purposes of the contributions required under this section.

(2) For the purpose of the actuarial computation required under subsection (1) of this section, the board shall separately establish the liability of participating public employers for police officers, [and] firefighters, **telecommunicators and employees of the Oregon State Hospital**, and shall require that public employers that employ police officers, [and] firefighters, **telecommunicators and employees of the Oregon State Hospital** make contributions for those employees based on the liability established under this section.

**SECTION 4.** (1) **The amendments to ORS 238A.005, 238A.125, 238A.160, 238A.165, 238A.220 and 238A.240 by sections 1 to 6 of this 2023 Act apply only to a person who is employed as a telecommunicator or as an employee of the Oregon State Hospital on or after the effective date of this 2023 Act.**

(2) **The amendments to ORS 238A.125 by section 2 of this 2023 Act apply only to service as a telecommunicator or as an employee of the Oregon State Hospital performed on or after the effective date of this 2023 Act.**