

## SENATE AMENDMENTS TO SENATE BILL 588

By COMMITTEE ON LABOR AND BUSINESS

March 17

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating new provisions;  
2 amending ORS 238.320, 238.325, 238.340, 238A.155 and 238A.235;”.

3 Delete lines 5 through 26 and delete page 2 and insert:

4 “**SECTION 1. Section 2 of this 2025 Act is added to and made a part of ORS chapter 238.**

5 “**SECTION 2. (1) If a member who is a police officer or a firefighter requests a contested**  
6 **case hearing to dispute a final denial of an application for a disability retirement allowance**  
7 **under ORS 238.320, the Public Employees Retirement Board shall ensure that the contested**  
8 **case is referred for a hearing no later than 180 days after the member requests the hearing,**  
9 **or, if the member requests an extension, no later than 360 days after the member requests**  
10 **the hearing.**

11 “**(2) If the case is not referred for a hearing within the time provided in this section, the**  
12 **member prevails in disputing the final denial of the application under ORS 238.320.**

13 “**SECTION 3. Section 4 of this 2025 Act is added to and made a part of ORS chapter 238A.**

14 “**SECTION 4. (1) If a member who is a police officer or a firefighter requests a contested**  
15 **case hearing to dispute a final denial of an application for disability benefits under ORS**  
16 **238A.235, the Public Employees Retirement Board shall ensure that the contested case is**  
17 **referred for a hearing no later than 180 days after the member requests the hearing, or, if**  
18 **the member requests an extension, no later than 360 days after the member requests the**  
19 **hearing.**

20 “**(2) If the case is not referred for a hearing within the time provided in this section, the**  
21 **member prevails in disputing the final denial of the application under ORS 238A.235.**

22 “**SECTION 5. Within 360 days after the effective date of this 2025 Act, the Public Em-**  
23 **ployees Retirement Board shall refer for a hearing all contested cases for which a police of-**  
24 **ficer or firefighter has requested a hearing before the effective date of this 2025 Act to**  
25 **dispute a final denial of an application for a disability retirement allowance under ORS**  
26 **238.320 or for disability benefits under ORS 238A.235.**

27 “**SECTION 6. ORS 238.320 is amended to read:**

28 “238.320. [(1) *Whenever an employee who is a member of the Public Employees Retirement System*  
29 *is found, after being examined by one or more physicians selected by the Public Employees Retirement*  
30 *Board, to be mentally or physically incapacitated for an extended duration, as determined by medical*  
31 *examination, and thereby unable to perform any work for which qualified, by injury or disease sus-*  
32 *tained while in actual performance of duty and not intentionally self-inflicted, the member shall receive*  
33 *a disability retirement allowance consisting of:]*

34 “**(1)(a)(A) Except as provided in subparagraph (B) of this paragraph, an employee who is**  
35 **a member of the Public Employees Retirement System is considered to be disabled if the**

1 employee is found, after being examined by one or more physicians selected by the Public  
2 Employees Retirement Board, to be mentally or physically incapacitated for an extended  
3 duration, as determined by medical examination, and thereby unable to perform any work for  
4 which qualified, by injury or disease sustained while in actual performance of duty and not  
5 intentionally self-inflicted.

6 **“(B) An employee who is a member of the Public Employees Retirement System and who**  
7 **is employed as a police officer or firefighter is considered to be disabled if the employee is**  
8 **found, after being examined by one or more physicians selected by the Public Employees**  
9 **Retirement Board, to be mentally or physically incapacitated for an extended duration, as**  
10 **determined by medical examination, and thereby unable to perform the work the member**  
11 **performed at the time the member became disabled, by injury or disease sustained while in**  
12 **actual performance of duty and not intentionally self-inflicted.**

13 **“(b) When a member is found to be disabled under this subsection, the member shall**  
14 **receive a disability retirement allowance consisting of:**

15 **“[(a)] (A)** A disability retirement refund annuity based on the contributions under this chapter,  
16 if any, credited to the member account of the member.

17 **“[(b)] (B)** A current service pension provided by the contributions of employers and, for benefits  
18 that accrue on or after July 1, 2020, amounts in the employee pension stability account established  
19 for the member under ORS 238A.353, equal to:

20 **“[(A)] (i)** For a police officer or firefighter, the pension to which the member would have been  
21 entitled if the member had worked continuously until attaining the age of 55, or if the member has  
22 attained the age of 55, the pension which the member would receive were the member to retire for  
23 service, as provided in this chapter.

24 **“[(B)] (ii)** For a member other than a police officer or firefighter, the pension to which the  
25 member would have been entitled if the member had worked continuously until attaining the age  
26 of 58, or if the member has attained the age of 58, the pension which the member would receive were  
27 the member to retire for service, as provided in this chapter.

28 **“[(c)] (C)** The same prior service pension the member would have received had the member  
29 worked until normal retirement age.

30 **“(2)** As used in subsection (1) of this section, ‘injury’ means bodily injury causing the disability  
31 directly and independently of all other causes and effected solely through accidental means.

32 **“(3)(a) Except as provided in paragraph (b) of this subsection,** whenever an employee who  
33 is a member of the system and who has been an employee for 10 years or more of an employer  
34 participating in the system is found, after being examined by one or more physicians selected by the  
35 board, to be mentally or physically incapacitated for an extended duration, as determined by medical  
36 examination, and thereby unable to perform any work for which qualified, from cause other than  
37 injury or disease sustained while in actual performance of duty or intentionally self-inflicted, the  
38 member shall receive a disability retirement allowance as provided in subsection (1) of this section.

39 **“(b) Whenever an employee who is a member of the system, who is employed as a police**  
40 **officer or firefighter and who has been an employee for 10 years or more of an employer**  
41 **participating in the system is found, after being examined by one or more physicians selected**  
42 **by the board, to be mentally or physically incapacitated for an extended duration, as deter-**  
43 **mined by medical examination, and thereby unable to perform the work the member per-**  
44 **formed at the time the member became disabled, from cause other than injury or disease**  
45 **sustained while in actual performance of duty or intentionally self-inflicted, the member shall**

1 **receive a disability retirement allowance as provided in subsection (1) of this section.**

2 “(4) Payments under a disability retirement allowance provided for in subsection (1) or (3) of this  
3 section for the first 90-day period of incapacity shall be withheld until such 90-day period has  
4 elapsed.

5 “(5) An inactive member is not eligible for disability benefits referred to in subsection (1) or (3)  
6 of this section unless the member applies for such disability benefits within five calendar years after  
7 the date of separation from service with a participating public employer if the disability is contin-  
8 uous from such separation date or within six months after the date of such separation from service  
9 if disability occurs after such separation date.

10 “(6) In computing years of employment for the purpose of subsection (3) of this section, the fol-  
11 lowing schedule shall be used: For employment before the employee established membership in the  
12 Public Employees Retirement System, a member shall be considered to have been employed for one  
13 year for each year of prior service credit allowed, and for any minor fraction of a year of continuous  
14 service as certified by the employer for which no prior service credit was granted. After having  
15 established membership in the Public Employees Retirement System a member shall be considered  
16 to have been employed one year for each 12-month period or major fraction thereof during which  
17 time the member received compensation for employment which entitled the member to membership  
18 in the system, as evidenced by payroll records. For the purpose of determining a member’s eligibility  
19 for disability benefits, no leave of absence after a member ceases to work for any participating em-  
20 ployer shall be considered other than accumulated sick leave not in excess of 90 days. The effective  
21 date of the disability shall not in any event be determined by the board as prior to the last day for  
22 which the disabled member performed services for a participating employer. No benefits may be paid  
23 for any month in which the member received salary or sick leave benefits from the participating  
24 employer.

25 “(7) For the purposes of subsections (1) and (3) of this section, a member of the system shall be  
26 considered to be mentally or physically incapacitated for an extended duration if the mental or  
27 physical incapacity can be expected to result in death or has lasted or can be expected to last for  
28 a continuous period of not less than 90 days.

29 “**SECTION 7.** ORS 238.340 is amended to read:

30 “238.340. (1) **Except as provided in subsection (2) of this section,** when a member retired  
31 because of disability is determined by the Public Employees Retirement Board to be not incapaci-  
32 tated to the extent that the member is disabled from the performance of any work for which the  
33 member is qualified, the disability retirement shall be canceled forthwith, the member shall be eli-  
34 gible for reemployment and the member account of the member shall be credited with the amount  
35 that stood to the credit in the member account of the member in the fund at the time of retirement  
36 for disability. Any such person who for any reason is not reinstated in the service of an employer  
37 participating in the system shall receive separation benefits or service retirement benefits as pro-  
38 vided in this chapter.

39 “(2) **When a member retired because of disability who was employed as a police officer**  
40 **or firefighter at the time the member became disabled is determined by the Public Employees**  
41 **Retirement Board to be not incapacitated to the extent that the member is disabled from the**  
42 **performance of the work the member performed at the time the member became disabled,**  
43 **the disability retirement shall be canceled forthwith, the member shall be eligible for reem-**  
44 **ployment and the member account of the member shall be credited with the amount that**  
45 **stood to the credit in the member account of the member in the fund at the time of retire-**

1 **ment for disability. Any such person who for any reason is not reinstated in the service of**  
2 **an employer participating in the system shall receive separation benefits or service retire-**  
3 **ment benefits as provided in this chapter.**

4 **“SECTION 8.** ORS 238A.235 is amended to read:

5 “238A.235. (1) An active member of the pension program described in subsection (2) of this sec-  
6 tion who becomes disabled shall receive a disability benefit in the amount of 45 percent of the salary  
7 of the member determined as of the last full month of employment before the disability commences.

8 “(2) The provisions of this section apply only to:

9 “(a) A member, other than a school employee as defined by ORS 238A.140, who has accrued 10  
10 years or more of retirement credit before the member becomes disabled;

11 “(b) A member who is a school employee as defined by ORS 238A.140 and who was an active  
12 member in 10 or more calendar years before the member becomes disabled; or

13 “(c) A member who becomes disabled by reason of injury or disease sustained while in the actual  
14 performance of duty.

15 “(3) A disability benefit under this section shall be paid until:

16 “(a) The member is no longer disabled;

17 **“(b) The member returns to employment with any employer, including self-employment;**

18 **“(c) The member receives earned income in any month in an irregular or unpredictable**  
19 **manner that exceeds 10 percent of the monthly salary of the member determined as of the**  
20 **last full month of employment before the disability commences;**

21 “[*b*] (d) The member attains normal retirement age under ORS 238A.160; or

22 “[*c*] (e) The member retires on or after the earliest normal retirement date for the member  
23 under ORS 238A.165.

24 **“(4)(a) Except as provided in paragraph (b) of this subsection,** a member is considered to  
25 be disabled for the purpose of this section if the member is found, after being examined by one or  
26 more physicians selected by the board, to be mentally or physically incapacitated for an extended  
27 duration and unable to perform any work for which qualified, by reason of injury or disease that  
28 was not intentionally self-inflicted.

29 **“(b) A member who is employed as a police officer or firefighter is considered to be dis-**  
30 **abled for the purpose of this section if the member is found, after being examined by one or**  
31 **more physicians selected by the board, to be mentally or physically incapacitated for an ex-**  
32 **tended duration and unable to perform the work the member performed at the time the**  
33 **member became disabled, by reason of injury or disease that was not intentionally self-**  
34 **inflicted.**

35 **“SECTION 9.** ORS 238A.155 is amended to read:

36 “238A.155. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an active  
37 member of the pension program who becomes disabled shall accrue retirement credit and hours of  
38 service credit for vesting purposes for the period during which the member is disabled.

39 “(2) Retirement credit accrues under this section only for as long as the member remains disa-  
40 bled or until the member reaches the normal retirement age under ORS 238A.160.

41 “(3) If a disabled member does not return to employment with a participating public employer  
42 after the period of disability, the member shall receive a pension under ORS 238A.180, 238A.185 or  
43 238A.190 upon retirement based on an adjusted salary. The adjusted salary shall be the salary paid  
44 to the disabled member on the date the member left active employment with the participating public  
45 employer by reason of disability, adjusted for each year after the member left employment and before

1 the member's effective date of retirement to reflect cost-of-living changes, based on the Consumer  
2 Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor  
3 Statistics of the United States Department of Labor. Adjustments under this subsection may not  
4 exceed a two percent increase or decrease for any year. An adjustment shall be made under this  
5 subsection only for calendar years in which the member is disabled for at least six months during  
6 the year.

7 “(4) Retirement credit for the period of disability under this section shall be classified the same  
8 as the member's last qualifying position prior to the disability.

9 “(5) A pension program member is considered to be disabled for the purpose of this section if:

10 “(a)(A) **Except as provided in subparagraph (B) of this paragraph**, the member is found, af-  
11 ter being examined by one or more physicians selected by the Public Employees Retirement Board,  
12 to be mentally or physically incapacitated for an extended duration and unable to perform any work  
13 for which qualified, by reason of injury or disease that was not intentionally self-inflicted; or

14 “(B) **If the member was employed as a police officer or firefighter at the time the mem-  
15 ber became disabled, the member is found, after being examined by one or more physicians  
16 selected by the board, to be mentally or physically incapacitated for an extended duration  
17 and unable to perform the work the member performed at the time the member became  
18 disabled, by reason of injury or disease that was not intentionally self-inflicted; or**

19 “(b) The member receives workers' compensation benefits by reason of injury or disease that  
20 was sustained while in actual performance of duty with a participating public employer and that  
21 was not intentionally self-inflicted and returns to employment with a participating public employer  
22 after the period of disability.

23 “**SECTION 10.** ORS 238.325 is amended to read:

24 “238.325. (1) At any time after establishing membership, but before the expiration of 90 days  
25 after the Public Employees Retirement Board makes its finding that the employee is disabled, an  
26 employee who is a member of the Public Employees Retirement System may elect to convert the  
27 disability retirement allowance otherwise payable on the member account of the member into a  
28 disability retirement annuity of equivalent actuarial value, by selecting one of the optional forms  
29 named below. The election of Option 2, 2A, 3 or 3A shall be effective immediately upon the effective  
30 date of the member's disability, and in the event of death within the first 90-day period of incapacity,  
31 payment to the beneficiary of the member shall be made in accordance with the option selected.

32 “Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be  
33 the actuarial equivalent of the accumulated contributions under this chapter and interest thereon  
34 credited to the member at the time the member retires (if death occurs before the first payment is  
35 due, the member account of the member shall be treated as though death had occurred before re-  
36 tirement); (b) a life pension (nonrefund) provided by the contributions of employers and, for benefits  
37 that accrue on or after July 1, 2020, amounts in the employee pension stability account established  
38 for the member under ORS 238A.353 as provided in ORS 238.320 [(1)(b)] **(1)(b)(B)**; (c) an additional  
39 nonrefund pension for prior service credit, including military service, credited to the member at the  
40 time the member first becomes a member of the system, as elsewhere provided in this chapter, which  
41 pension shall be provided by the contributions of the employer; or

42 “Option 2. A reduced disability retirement allowance payable during the period of incapacity,  
43 with the provision that after death, if death shall occur after the effective date of the disability and  
44 during the period of incapacity, it shall continue for the life of the beneficiary whom the member  
45 has designated in writing duly acknowledged and filed with the board at the time of election, should

1 the beneficiary survive the member; or

2 “Option 2A. A reduced disability retirement allowance payable during the period of incapacity  
3 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
4 after the effective date of the disability and during the period of incapacity, for the life of the ben-  
5 efi-ciary whom the member nominates by written designation duly acknowledged and filed with the  
6 board at the time of election, should the beneficiary survive the member; or

7 “Option 3. A reduced disability retirement allowance payable during the period of incapacity,  
8 with the provision that after death, if death shall occur after the effective date of the disability and  
9 during the period of incapacity, such allowance shall continue at one-half the rate paid to the  
10 member and be paid for the life of the beneficiary whom the member has designated in writing duly  
11 acknowledged and filed with the board at the time of election, should the beneficiary survive the  
12 member; or

13 “Option 3A. A reduced disability retirement allowance payable during the period of incapacity  
14 which, unless modified under subsection (3) of this section, continues after death, if death shall occur  
15 after the effective date of the disability and during the period of incapacity, at one-half the rate paid  
16 to the member and is paid for the life of the beneficiary whom the member nominates by written  
17 designation duly acknowledged and filed with the board at the time of election, should the benefi-  
18 ciary survive the member; or

19 “Option 4. A reduced disability retirement allowance payable during the period of incapacity,  
20 with the provisions that if the member dies during the period of incapacity and before a total of 180  
21 monthly payments is made, the remainder of the 180 monthly payments shall be paid monthly to the  
22 beneficiary the member nominates by written designation duly acknowledged and filed with the  
23 board at any time before the member’s death; and that if the member designates no beneficiary to  
24 receive the monthly payments or no such beneficiary is able to receive the monthly payments, an  
25 amount equal to the actuarial value, on the date of the member’s death, of the total of the monthly  
26 payments not made to the member shall be paid according to ORS 238.390 for disposal of an amount  
27 credited to the member account of a member at the time of death; and that if the beneficiary re-  
28 ceiving monthly payments dies before the total number of monthly payments to which the benefi-  
29 ciary is entitled is made, an amount equal to the actuarial value, on the date of the beneficiary’s  
30 death, of the total of the monthly payments not made to the member and beneficiary shall be paid  
31 according to ORS 238.390 for disposal of an amount credited to the member account of a member  
32 at the time of death and as if the beneficiary had been a member.

33 “(2) The beneficiary designated by a member to receive any benefit under this section shall be  
34 the same as designated under ORS 238.390 (1). The designation of a beneficiary or the election of  
35 an option may be changed by a member within 60 days after the date of the first benefit payment,  
36 except that the designation of a beneficiary under Option 4 may be changed by the member at any  
37 time before the member’s death.

38 “(3) If a retired member has elected to receive a disability retirement allowance under Option  
39 2A or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that op-  
40 tion dies after the expiration of the time within which the member could change the election of an  
41 option or if the beneficiary is the spouse of the member and the marriage relationship is terminated  
42 as provided by law after the expiration of the time within which the member could change the  
43 election of an option, the member may elect to receive, in lieu of the optional form of allowance  
44 previously elected, the allowance that the member would have received on the effective date of re-  
45 tirement under Option 1 as provided in subsection (1) of this section and adjusted by the actual

1 amount of any cost-of-living or other post-retirement adjustments made to the original allowance  
2 since the effective date of retirement. Notice of election under this subsection must be in a form  
3 approved by the board. If an election is made under this subsection, the Option 1 payment amount  
4 is applicable to the first full month after the death of the beneficiary, or the first full month after  
5 entry of the judgment of divorce, and payable the first day of the month thereafter. If the increased  
6 amount is not paid in any month in which the increased amount is due, the board shall make a lump  
7 sum payment to the retired member that is equal to the difference between the amount paid to the  
8 member for that month and the amount that should have been paid under the provisions of this  
9 subsection.

10 “(4) The cost to the system of a disability retirement allowance in any optional form may not  
11 exceed the cost to the system of a nonrefund disability retirement allowance payable to, and on  
12 account of, the member making such election.

13 “(5) The obligation for payment of any benefit in force prior to April 8, 1953, may not be altered  
14 by subsections (1) to (4) of this section. However, the beneficiary of a retired member who prior to  
15 July 1, 1953, elected an option but died prior to the effective date of such election, shall have a right  
16 to repay, before December 31, 1953, the amount of the lump sum refund made in lieu of the monthly  
17 life benefit elected and receive payment of such benefit, computed as of the date of the member’s  
18 death and payable from such date.

19 “(6) If a member who would have qualified for disability benefits makes preliminary application  
20 for such benefits but dies prior to being found by the board to be disabled or prior to electing a plan  
21 of benefit payments, and the records of the board indicate that the member had designated the sur-  
22 viving spouse as beneficiary under ORS 238.390 (1), such surviving spouse may, not more than 90  
23 days after the board makes its finding that the member would have qualified for disability benefits  
24 if living:

25 “(a) Elect to receive the amount referred to in ORS 238.395 if such benefit would have been  
26 available if the member had not applied for disability benefits;

27 “(b) If not eligible for benefits under ORS 238.395, elect to receive benefits under ORS 238.390  
28 (1); or

29 “(c) Elect Option 2 or 3 under subsection (1) of this section and designate the surviving spouse  
30 as beneficiary thereunder with the same force and effect as if the election and designation had been  
31 properly made by the deceased member.

32 “(7) The board may deny an election to convert a disability retirement allowance under this  
33 section, a change of beneficiary under this section or a change in benefit options under this section  
34 if that denial is required to maintain the status of the system and the Public Employees Retirement  
35 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and  
36 under regulations adopted pursuant to the Internal Revenue Code.

37 “**SECTION 11. Sections 2 and 4 of this 2025 Act apply to requests for contested case**  
38 **hearings made on or after the effective date of this 2025 Act.**

39 “**SECTION 12. The amendments to ORS 238.320, 238.325, 238.340, 238A.155 and 238A.235**  
40 **by sections 6 to 10 of this 2025 Act apply to open applications for disability benefits or con-**  
41 **tinuation of disability benefits that have not been referred for a contested case hearing be-**  
42 **fore the effective date of this 2025 Act.**

43 “**SECTION 13. This 2025 Act being necessary for the immediate preservation of the public**  
44 **peace, health and safety, an emergency is declared to exist, and this 2025 Act takes effect**  
45 **on its passage.”.**

