

**Enrolled**  
**Senate Bill 851**

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for Public Employees Retirement System)

CHAPTER .....

AN ACT

Relating to administration of Public Employees Retirement System member account data; amending ORS 238.005, 238.148, 238.450, 238.580, 238.608, 238.715 and 238A.140; and repealing ORS 238A.010.

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

**SECTION 1.** ORS 238.715 is amended to read:

238.715. (1) If the Public Employees Retirement Board determines that a member of the Public Employees Retirement System or any other person receiving a monthly payment from the Public Employees Retirement Fund has received any amount in excess of the amounts that the member or other person is entitled to under this chapter and ORS chapter 238A, the board may recover the overpayment or other improperly made payment by:

(a) Reducing the monthly payment to the member or other person for as many months as may be determined by the board to be necessary to recover the overpayment or other improperly made payment; or

(b) Reducing the monthly payment to the member or other person by an amount actuarially determined to be adequate to recover the overpayment or other improperly made payment during the period during which the monthly payment will be made to the member or other person.

(2)(a) Any person who receives a payment from the Public Employees Retirement Fund and who is not entitled to receive that payment, including a member of the system who receives an overpayment, holds the improperly made payment in trust subject to the board's recovery of that payment under this section or by a civil action or other proceeding.

(b) The board may recover an improperly made payment in the manner provided by subsection (1) of this section from any person who receives an improperly made payment from the fund and who subsequently becomes entitled to receive a monthly payment from the fund.

(c) The board may recover an improperly made payment by reducing any lump sum payment in the amount necessary to recover the improperly made payment if a person who receives an improperly made payment from the fund subsequently becomes entitled to receive a lump sum payment from the fund.

(3) Unless the member or other person receiving a monthly payment from the fund authorizes a greater reduction, the board may not reduce the monthly payment made to a member or other person under the provisions of subsection (1) of this section by an amount that is equal to more than 10 percent of the monthly payment.

(4) Before reducing a benefit to recover an overpayment or erroneous payment, or pursuing any other collection action under this section, the board shall give notice of the overpayment or erroneous payment to the person who received the payment. The notice shall describe the manner in which the person who received the payment may appeal the board's determination that an overpayment or erroneous payment was made, the action the board may take if the person does not respond to the notice and the authority of the board to assess interest, penalties or costs of collection.

(5) If the board determines that an overpayment or erroneous payment was not caused by the system or by a participating public employer, the board may assess interest in an amount equal to one percent per month on the balance of the improperly made payment until the payment is fully recovered. The board may also assess to the member or other person all costs incurred by the system in recovering the payment, including attorney fees. Interest and costs may be collected in the manner prescribed in subsections (1) and (2) of this section. The board may waive the interest and costs on an overpayment or other improperly made payment for good cause shown.

(6) Notwithstanding ORS 293.240, the board may waive the recovery of any payment or payments made to a person who was not entitled to receive the payment or payments if the total amount of the overpayment or other improperly made payments is less than [~~\$50~~] **\$200**.

(7) A payment made to a person from the fund may not be recovered by the board unless within six years after the date that the payment was made the board has commenced proceedings to recover the payment. For the purposes of subsection (1) of this section, the board shall be considered to have commenced proceedings to recover the payment upon mailing of notice to the person receiving a monthly payment that the board has determined that an overpayment or other improperly made payment has been made.

(8) The remedies authorized under this section are supplemental to any other remedies that may be available to the board for recovery of amounts incorrectly paid from the fund to members of the system or other persons.

(9) The board shall adopt rules establishing the procedures to be followed by the board in recovering overpayments and erroneous payments under this section.

**SECTION 2.** ORS 238.450 is amended to read:

238.450. (1) Upon receiving an application for a retirement allowance or benefit from a member of the Public Employees Retirement System and obtaining information necessary for computation of the retirement allowance or benefit to which the member is entitled upon retirement, the system shall provide to the member a written computation of the retirement allowance or benefit to which the member is entitled upon retirement and summary of the information used in making that computation.

(2) A member of the system may dispute the accuracy of the information used by the system in making the computation only by filing a written notice of dispute with the system not later than whichever of the following days occurs last:

(a) The 240th day after the date on which the computation and information summary is provided to the member pursuant to subsection (1) of this section.

(b) The 240th day after the date on which the retirement allowance or benefit to which the member is entitled first becomes payable.

(3) The filing of a notice of dispute under subsection (2) of this section extends the time allowed for election of an optional form of retirement allowance or benefit until the 30th day after the conclusion of the proceeding and any judicial review thereof if the proceeding or review results in a change in the computation of the retirement allowance or benefit.

(4) Upon receiving a notice of dispute under subsection (2) of this section, the system shall determine the accuracy of the disputed information and make a written decision either affirming the accuracy of the information and computation based thereon or changing the computation using corrected information. The system shall provide to the member a copy of the decision and a written explanation of any applicable statutes and rules. The member is entitled to judicial review of the decision as provided in ORS 183.484 and rules of the Public Employees Retirement Board consistent with applicable statutes.

(5) After the last date for filing a written notice of dispute under subsection (2) of this section, a participating public employer may not modify information that is provided to the system and that relates to a member's creditable service, retirement credit, salary, employee contributions or accumulated unused sick leave, unless specifically required by one of the following circumstances:

(a) To comply with a judgment, administrative order, arbitration award, conciliation agreement, settlement agreement or other legal agreement entered into after the last date for filing a written notice of dispute under subsection (2) of this section;

(b) To comply with ORS 238.156 or 238A.150; [or]

**(c) To comply with a verification of retirement data under ORS 238.285 that was submitted to the system before the member's effective date of retirement; or**

**[(c)] (d) To make a correction or modification as a result of a dispute under subsection (2) of this section, or in response to the board's request under ORS 238.285 (5) for the purpose of a determination under ORS 238.285 (2) or (4).**

(6) This section does not affect any authority of the system, on its own initiative, to correct an incorrect computation of any retirement allowance or benefit.

**SECTION 3.** ORS 238.005, as amended by section 1, chapter 101, Oregon Laws 2024, is amended to read:

238.005. For purposes of this chapter:

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

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

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

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

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

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

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

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

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

(8) "Employee" means a person who performs services for a participating public employer, including persons considered employees of a participating public employer under 26 U.S.C. 3121(d)(2), as in effect on December 31, 2019, and public officers. "Employee" does not include:

(a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

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

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

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

**(15) "Major fraction of a month" means a month:**

**(a) In which an active member is employed for more than one-half of the total calendar days in that calendar month; and**

**(b) In which the member is being paid a salary by a participating public employer for hours worked in that calendar month.**

[(15)] **(16)** "Member" means a person who has established membership in the system and whose membership has not been terminated as described in ORS 238.095. "Member" includes active, inactive and retired members.

[(16)] **(17)** "Member account" means the regular account and the variable account.

[(17)] **(18)** "Normal retirement age" means:

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

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

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

[(19)] (20) "Police officer" includes:

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

(b) Employees of the Department of State Police who are classified as police officers, forensic scientists or evidence technicians by the Superintendent of State Police.

(c) Employees of the Oregon Liquor and Cannabis Commission who are classified as regulatory specialists by the administrator of the commission.

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

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

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

(g) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation officers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

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

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

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

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

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

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

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

(o) The Director of the Department of Corrections.

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

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

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

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

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

(u) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

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

(w) Employees appointed as judicial marshals under ORS 1.177 who are certified under ORS 181A.540.

(x) Certified parole and probation officers employed by the State Board of Parole and Post-Prison Supervision.

(y) District attorneys and deputy district attorneys.

[20] **(21)** "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).

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

[22] **(23)** "Qualifying position" means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a full calendar year, or would perform 600 or more hours of service if the employee were employed for the full calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.

[23] **(24)** "Regular account" means the account established for each active and inactive member under ORS 238.250.

[24] **(25)** "Retired member" means a member who is retired for service or disability.

[25] **(26)** "Retirement credit" means a period of time that is treated as creditable service for the purposes of this chapter.

[26](a) **(27)(a)** "Salary" means the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.

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

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

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

(C) Retroactive payments described in ORS 238.008;

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190; and

(E) The full amount of required employee contributions under ORS 238A.330 that are paid by the employer on behalf of its employees under ORS 238A.335 (2)(b), solely for the purpose of computing a member's final average salary, and not for any other purpose.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[28] (29) "System" means the Public Employees Retirement System.

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

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

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

**SECTION 4.** ORS 238A.140 is amended to read:

238A.140. (1) An active member of the pension program accrues one year of retirement credit for each complete year of service and one-twelfth of a year of retirement credit for each full month and each major fraction of a month of service.

(2) An active member who is a school employee shall be credited with at least six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between January 1 and June 30, and at least six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between July 1 and December 31.

(3) When an eligible employee becomes a member under ORS 238A.100, the board shall credit the eligible employee with retirement credit for the period of employment required of the employee under ORS 238A.100.

(4) A member may not accrue more than one full year of retirement credit in any calendar year.

(5) For purposes of this section[,]:

(a) **“Major fraction of a month” or “major fraction of each month” means a month:**

(A) **In which an active member is employed for more than one-half of the total calendar days in that calendar month; and**

(B) **In which the member is being paid a salary by a participating public employer for hours worked in that calendar month.**

(b) “School employee” means:

[(a)] (A) A person who is employed by a common school district, a union high school district or an education service district;

[(b)] (B) An employee of an institution of higher education who is engaged in teaching or other school activity; and

[(c)] (C) An employee of the Department of Human Services, the Oregon Youth Authority, the Department of Corrections or the State Board of Education who is engaged in teaching or other school activity at an institution supervised by the authority, board or department.

**SECTION 5.** ORS 238.148 is amended to read:

238.148. (1) A member of the Public Employees Retirement System who is a police officer is entitled to receive retirement credit as provided in subsection (2) of this section if:

(a) The member was employed as a public safety officer by another state, or political subdivision of another state, before being employed in a position that entitled the member to credit in the system; and

(b) The member makes the payment required by subsection (2) of this section within the time specified by that subsection.

(2) Except as provided in subsection (3) of this section, a member of the system employed as a police officer who meets the requirements of subsection (1) of this section is entitled to receive retirement credit for the period of the member’s service with another state, or political subdivision of another state, not to exceed a maximum of four years, if the member within 90 days of the member’s effective date of retirement:

(a) Applies in writing to the Public Employees Retirement Board for such retirement credit;

(b) Provides written verification to the board from the other state, or political subdivision of the other state, that employed the member, verifying the period of time that the member served as a public safety officer in the other state; and

(c) Pays to the board, in a lump sum, for each year of retirement credit applied for under this section, an amount determined by the board to represent the full cost to the system of providing the retirement credit to the member, including all administrative costs incurred by the system in processing the application for acquisition of the retirement credit.

(3) A member may not receive retirement credit under the provisions of this section for any period of service with another state, or political subdivision of another state, if the member is entitled to a pension or retirement allowance by reason of that service under a public plan or system offered by the other state or by a political subdivision of the other state.

(4) For the purposes of this section, “public safety officer” means a person who serves in a position with another state, or political subdivision of another state, that is the other state’s equivalent of a position described in ORS 238.005 [(19)] (20).

**SECTION 6.** ORS 238.580 is amended to read:

238.580. (1) Except as provided in subsection (3) of this section, ORS 238.005 (4) and [(26)] (27), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.362, 238.364, 238.372 to 238.384, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and

238.705 and the increases provided by ORS 238.366 for members of the system who are serving as other than police officers or firefighters apply in respect to service as a judge member.

(2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to service as a judge member only as specifically provided in ORS 238.500 to 238.585.

(3) ORS 238.005 [(26)(c)(M)] (27)(c)(M) does not apply in respect to service as a judge member.

**SECTION 7.** ORS 238.608 is amended to read:

238.608. (1) The Public Employees Retirement Board shall conduct a study of the life expectancy of members of the Public Employees Retirement System in the categories described in subsection (2) of this section. If the board determines that members in the categories described in subsection (2) of this section have a life expectancy that is substantially shorter than the life expectancy of members of the system generally, the board shall adopt and use separate actuarial equivalency factor tables under ORS 238.607 for the purpose of computing the payments to be made to members in the categories described in subsection (2) of this section and to the beneficiaries and alternate payees of those members. Any actuarial equivalency factor tables adopted under this section shall first become effective January 1, 2005.

(2) The provisions of this section apply to members of the system who are defined as firefighters under ORS 238.005 or as police officers under ORS 238.005 [(19)(a)] (20)(a), (b), (d), (e), (f), (g), (L), (m), (o), (p) or (q).

**SECTION 8. ORS 238A.010 is repealed.**

**Passed by Senate February 11, 2025**

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Obadiah Rutledge, Secretary of Senate

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Rob Wagner, President of Senate

**Passed by House April 30, 2025**

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Julie Fahey, Speaker of House

**Received by Governor:**

.....M,....., 2025

**Approved:**

.....M,....., 2025

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2025

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Tobias Read, Secretary of State