

Enrolled
House Bill 2401

Sponsored by Representative SCHAUFLEER (at the request of AFSCME Council 75) (Pre-session filed.)

CHAPTER

AN ACT

Relating to public employee retirement; amending ORS 238.078, 238.082, 238.088, 238.280 and 238A.165.

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

SECTION 1. ORS 238.280 is amended to read:

238.280. (1) Except as otherwise provided in this section, a member of the Public Employees Retirement System who attains the age of 55 shall be retired upon written application by the member to the Public Employees Retirement Board on a reduced service retirement allowance, [*which shall be*] **that is** the actuarial equivalent of the service retirement allowance provided for in ORS 238.300 at the normal retirement age.

(2) A member of the system who has 25 years or more of creditable service in the system as a telecommunicator, as defined in ORS 181.610, shall be retired upon written application by the member to the board on a reduced service retirement allowance that is the actuarial equivalent of the service retirement allowance provided for in ORS 238.300 at the normal retirement age. A member who retires under this subsection before attaining the age of 55 shall not receive a cost-of-living adjustment under ORS 238.360 until the member attains the age of 55.

[2] (3) A police officer or firefighter who is a member of the system and attains the age of 50 shall be retired upon written application by the member to the board on a reduced service retirement allowance, which shall be the actuarial equivalent of the service retirement allowance provided for in ORS 238.300 at the normal retirement age. The provisions of this subsection apply to an inactive member of the system who was employed as a police officer or firefighter in a qualifying position immediately before becoming inactive.

[3] (4) Notwithstanding ORS 238.215 (2)(b)(B):

(a) A police officer or firefighter who is a member of the system, attains the age of 50 and has a combined total of 25 years or more of creditable service in the system and prior service credit shall be retired upon written application by the member to the board on a service retirement allowance including, without actuarial reduction, the same current service pension and prior service pension provided for in ORS 238.300 at the normal retirement age. The provisions of this paragraph apply to an inactive member of the system who was employed as a police officer or firefighter in a qualifying position immediately before becoming inactive.

(b) An employee who is a member of the system, has a combined total of 30 years or more of creditable service in the system and prior service credit, and is not eligible to retire under paragraph (a) of this subsection shall be retired upon written application by the member to the board

on a service retirement allowance including, without actuarial reduction, the same current service pension and prior service pension provided for in ORS 238.300 at the normal retirement age.

SECTION 2. ORS 238A.165 is amended to read:

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

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

(3) If a member of the pension program has 25 years or more of retirement credit as a telecommunicator, as defined in ORS 181.610, earliest retirement age for the member is 55 years of age or the age of the member when the member acquires a total of 25 years or more of retirement credit as a telecommunicator, whichever occurs first. A member who retires under this subsection before attaining the age of 55 shall not receive a cost-of-living adjustment under ORS 238A.210 until the member attains the age of 55.

[3] (4) If a member has a break in service under ORS 238A.025 and is entitled to receive a retirement allowance under ORS chapter 238 in addition to a pension under this chapter, earliest retirement age under this chapter is the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.

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

SECTION 3. ORS 238.078 is amended to read:

238.078. (1)(a) A retired member who has been retired for more than six consecutive calendar months may be reemployed by a participating public employer in the manner provided by this subsection.

(b) Any person reemployed as provided in this subsection shall resume making contributions to the retirement fund, and the employer shall make contributions on behalf of the person as provided in ORS 238.225. Payments of retirement allowance received by such person during separation from the service shall not be repaid into the retirement fund after the person reenters public employment except as provided in paragraph (c) of this subsection; but the amount of such payment shall be deducted from such employee's reserve in the retirement fund and the remainder shall be credited pro rata to the funds from which it was derived.

(c) Upon reentering public employment as provided in this subsection, the former retirement of such person and any election of option for payment of retirement benefits theretofore made by the person shall be canceled; and thereafter upon retiring such person may elect any option for payment of retirement benefits authorized by this chapter, except that a person who elected to receive lump sum payment of benefits pursuant to ORS 238.305 (2) or (3) at the time of former retirement may not elect any other option at the time of subsequent retirement unless an amount equal to the lump sum and the interest that would have accumulated on the sum has been repaid by the employee to the fund. Upon such subsequent retirement any prior service pension due the employee shall be derived from the unused portion of the prior service credit reserve and shall be calculated on the basis of then attained age.

(2) A retired member who has been retired for less than six consecutive calendar months may be reemployed by a participating public employer only upon immediate repayment in a lump sum by the member of the amount of retirement benefits drawn. The member account of the member shall be reestablished just as it was at the time of earlier retirement after the lump sum repayment is made.

(3) If a member of the system who retired before August 21, 1981, is reemployed, as provided in subsection (1) or (2) of this section, beginning on or after August 21, 1981, the service retirement allowance received upon subsequent retirement by the member shall be:

(a) For service before August 21, 1981, an allowance including a current service pension computed on the basis of ORS 237.147 (2) (1979 Replacement Part).

(b) For service on or after August 21, 1981, an allowance including a current service pension computed on the basis of ORS 238.300 (2).

(4) A person may be reemployed by a public employer that is not participating in the system, or may be employed by a participating public employer in a position that is in a class of employees that was not designated by the public employer under ORS 238.035 as a class of employees that become members of the system, without affecting the person's status as a retired member or the person's continued receipt of retirement benefits.

(5) Subsection (4) of this section does not apply to any member who retires under the provisions of ORS 238.280 (1), **(2) or (3)** [or (2)].

SECTION 4. ORS 238.082 is amended to read:

238.082. (1) Subject to the limitations in subsection (2) of this section, any public employer may employ any person receiving a service retirement allowance if the administrative head of such employer is satisfied that such employment is in the public interest.

(2) The period or periods of employment by one or more public employers of any person receiving a service retirement allowance may not total 1,040 hours or more in any calendar year; but if the person is receiving old-age, survivors or disability insurance benefits under the federal Social Security Act, the person may be employed for the number of hours for which the salary equals the maximum allowed for receipt of the full amount of those benefits to which the person is entitled.

(3) The limitations on employment imposed by subsection (2) of this section do not apply to a retired member who is employed as a teacher or as an administrator, as those terms are defined in ORS 342.120, if the retired member is employed by a school district or education service district that has its administrative office located within a county with a population of not more than 35,000 inhabitants according to the latest federal decennial census. A retired member who is employed as a teacher, as defined in ORS 342.120, by the same public employer that employed the member at the time of retirement remains in the same collective bargaining unit that included the member before retirement.

(4) The limitations on employment imposed by subsection (2) of this section do not apply to a retired member who is employed:

(a) By the sheriff of a county with a population of fewer than 75,000 inhabitants, according to the latest federal decennial census;

(b) By the municipal police department of a city with a population of fewer than 15,000 inhabitants, according to the latest federal decennial census;

(c) By the state or a county for work in a correctional institution located in a county with a population of fewer than 75,000 inhabitants, according to the latest federal decennial census;

(d) By the Black Butte Ranch Rural Fire Protection District, the Black Butte Ranch Service District or the Sunriver Service District; or

(e) By the Oregon State Police for work in a county with a population of fewer than 75,000 inhabitants, according to the latest federal decennial census.

(5) The limitations on employment imposed by subsection (2) of this section do not apply to a retired member who is employed to temporarily replace an employee who serves in the National Guard or in a reserve component of the Armed Forces of the United States and who is called to federal active duty.

(6) The limitations on employment imposed by subsection (2) of this section do not apply to a retired member who is employed by a road assessment district organized under ORS 371.405 to 371.535.

(7) Subsections (3) to (6) of this section do not apply to any member who retires under the provisions of ORS 238.280 (1), **(2) or (3)** [or (2)].

(8) Employment under this section does not affect the status of a person as a retired member of the system and a recipient of retirement benefits under this chapter.

SECTION 5. ORS 238.088 is amended to read:

238.088. (1) Except as provided in subsection (2) of this section, a person who is elected to a full-time salaried office of the state or one of the participating political subdivisions thereof, or who is appointed to a full-time salaried office having a term fixed by statute or charter, whether or not the person has been retired, does not forfeit any rights accrued or accruing to the person under this chapter. However, for the period that such person holds such office the person is not entitled to any pension or annuity provided by this chapter. Upon ceasing to hold such office, benefits shall be computed or recomputed by the Public Employees Retirement Board on the basis of age then attained.

(2) If a person is elected or appointed to the office of sheriff or county judge or commissioner in a county with a population of fewer than 75,000 inhabitants, according to the latest federal decennial census, and the person does not elect to become an active member of the system under ORS 238.015 (5), the person shall continue to be a retired member and to receive retirement benefits for as long as the person holds the office.

(3) Subsection (2) of this section does not apply to any member who retires under the provisions of ORS 238.280 (1), (2) or (3) [or (2)].

Passed by House May 3, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 29, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State