

Enrolled
House Bill 2005

Sponsored by COMMITTEE ON PUBLIC EMPLOYEES RETIREMENT SYSTEM

CHAPTER

AN ACT

Relating to membership of Public Employees Retirement Board; creating new provisions; amending ORS 238.630, 238.640, 293.706 and 293.711; and declaring an emergency.

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

SECTION 1. ORS 238.630 is amended to read:

238.630. (1) The governing authority of the system shall be a board known as the Public Employees Retirement Board and consisting of [12] **five** members appointed by the Governor subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Except as otherwise provided in ORS 238.640, the term of each member shall be three years. **The Governor shall designate one member to serve as chairperson, who shall serve as chairperson at the pleasure of the Governor.**

(2) The board shall have:

(a) The powers and privileges of a corporation, including the right to sue and be sued in its own name as such board; and

(b) The power and duty, subject to the limitations of this chapter, of managing the system.

(3) The board:

[(a) Shall, at its first meeting each year, designate one of its members to serve as chair of the board for the remainder of the year and until a successor is designated and takes that office;]

[(b)] (a) Shall arrange for actuarial service for the system;

[(c)] (b) Shall employ a director;

[(d)] (c) Shall create such other positions as it deems necessary to sound and economical administration of the system, which positions the director shall fill by appointment;

[(e)] (d) Shall, with the approval of the Director of the Oregon Department of Administrative Services, and as otherwise provided by law, fix the salaries of all persons employed for purposes of administering the system;

[(f)] (e) Shall publish and distribute to all employer and employee members of the system an annual report including a summary of investments of moneys in the fund, investment earnings, significant legislative or administrative changes in the system and other pertinent information on the operation of the system for the preceding year;

[(g)] (f) Shall determine the actuarial equivalency of optional forms of retirement allowances and establish from time to time for that purpose the necessary actuarial factors, which shall constitute a part of the system; and

[(h)] (g) Shall adopt rules and take all actions necessary to maintain qualification of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and under regulations adopted

pursuant to the Internal Revenue Code. Rules under this paragraph may impose limits on contributions to the system, limits on benefits payable from the system and other limitations or procedures required or imposed under federal law or regulation for the purpose of qualification of the Public Employees Retirement System and Public Employees Retirement Fund under the Internal Revenue Code as a governmental retirement plan and trust.

(4) The board established by this section shall succeed to all the duties and prerogatives of the Public Employees Retirement Board created by chapter 401, Oregon Laws 1945, in relation to the Public Employees Retirement Fund, and in addition shall perform all duties required of it by ORS 237.950 to 237.980, in regard to moneys payable to or from such fund.

(5) The board shall identify by rule those records that must be maintained by participating public employers for the purposes of subsection [(3)(h)] **(3)(g)** of this section. A participating public employer shall maintain records for all employees who are members of the system as required by board rules, and shall provide that information to the board upon request.

SECTION 2. ORS 238.640 is amended to read:

238.640. [(1) *Members of the Public Employees Retirement Board shall have the following qualifications:*]

[(a) *Each member shall be a citizen of the United States and a resident of this state for at least two years immediately preceding appointment to the board.*]

[(b) *Six members shall be public members who are not members of the Public Employees Retirement System. At least three of the public members must have experience in investing or pension management.*]

[(c) *One member shall be an employee of the state in a management position at the time of appointment and throughout the term of appointment.*]

[(d) *At the time of appointment and throughout the term of the appointment, one member shall hold an elective office, by election or appointment, in the governing body of a participating public employer, other than the state.*]

[(e) *Four members shall be public employees, as defined in ORS 243.650, of a participating public employer and be in an appropriate bargaining unit, as defined in ORS 243.650, having an exclusive representative at the time of appointment and throughout the term of appointment; but membership on the board shall not itself affect the status of such a member as a public employee as defined in ORS 243.650. At the time of appointment and throughout the term of appointment, one of those four members shall be engaged in teaching or other school activity, one shall be a police officer or firefighter, one shall be an employee of the state in a category other than teaching or other school activity or police officer or firefighter, and one shall be an employee of a political subdivision of the state in a category other than teaching or other school activity or police officer or firefighter.*]

[(f) *In lieu of one member appointed with the qualifications specified in paragraph (c), (d) or (e) of this subsection, one member shall be a retired member of the system at the time of appointment and throughout the term of the appointment.*]

[(g) *The successor of a board member in any category shall have the qualifications prescribed for that category.*]

(1) All members of the Public Employees Retirement Board must be at least 21 years of age, be citizens of the United States and have been residents of the state for at least two years immediately preceding appointment to the board.

(2) One member of the board must be:

(a) An employee of the state in a management position at the time of appointment and throughout the term of appointment; or

(b) A person who holds an elective office, by election or appointment, in the governing body of a participating public employer, other than the state.

(3) One member must be a public employee, as defined in ORS 243.650, who is in an appropriate bargaining unit, as defined in ORS 243.650, and who has an exclusive representative at the time of the member's appointment and throughout the term of the member. Mem-

bership on the board does not affect the status of the person as a public employee, as defined in ORS 243.650.

(4) Three members of the board must have experience in business management, pension management or investing. A member appointed under this subsection may not be a member of the Public Employees Retirement System or a beneficiary of a member of the system, and may not have any interest in benefits provided by the system.

(5) Notwithstanding the qualifications established for members of the board under this section, all members of the board have the same fiduciary duties and must exercise the same degree of independent judgment.

[(2)] (6) Any vacancy on the board shall be filled by appointment for the unexpired term of the member replaced. **Members of the board may be reappointed.**

[(3)] (7) Except as provided in subsection [(4)] (8) of this section, a member of the board is entitled to compensation and expenses as provided in ORS 292.495 from the Public Employees Retirement Fund.

[(4)] (8) Any member of the board who is an active member of the system shall be released by the participating public employer who employs the member for the purpose of conducting the official business of the board. The wages or salary of the member shall not be reduced during periods that the member is released from duty for the purpose of conducting the official business of the board. The board shall reimburse a public employer for the cost of continuing the wages or salary of the member while the member is released from duty under this subsection. A member who continues to receive wages or salary under the provisions of this subsection shall not receive compensation under ORS 292.495, but shall receive travel and other expenses provided for under ORS 292.495. The provisions of this subsection do not apply to any person who is a member of the board and who holds another office that is subject to the provisions of section 10, Article II of the Oregon Constitution, prohibiting the holding of more than one lucrative office.

SECTION 3. ORS 293.706 is amended to read:

293.706. (1) There is created the Oregon Investment Council, consisting of five members, subject to Senate confirmation in the manner provided in ORS 171.562 and 171.565.

(2) One member of the council shall be a person who [serves] **is appointed to serve** on the Public Employees Retirement Board **under ORS 238.640 (4).**

(3) Three members, who shall be qualified by training and experience in the field of investment or finance and who may not hold any other public office or employment, shall be appointed by the Governor. One member shall be the State Treasurer. In addition, the Director of the Public Employees Retirement System appointed by the board shall be an ex officio member of the council with no voting power.

(4) The term of office of each appointed non ex officio member of the council is four years, but each appointed member serves at the pleasure of the appointing authority. A vacancy in the appointed membership occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

SECTION 4. ORS 293.711 is amended to read:

293.711. (1) A member of the Oregon Investment Council is entitled to compensation and expenses as provided in ORS 292.495 except that the member of the council who is also a member of the Public Employees Retirement Board shall be compensated in the manner provided in ORS 238.640 [(3)] (7). [*If the member from the board is also an active member of the Public Employees Retirement System, conducting official business of the Oregon Investment Council shall be considered conducting official business of the board for purposes of ORS 238.640 (4).*]

(2) The council shall select one of its members as chairperson, for a term and with powers and duties necessary for the performance of the functions of the office as the council shall determine.

SECTION 5. (1) **Except as provided in subsection (2) of this section, the amendments to ORS 238.630, 238.640, 293.706 and 293.711 by sections 1 to 4 of this 2003 Act become operative on September 1, 2003.**

(2) The term of office of the members of the Public Employees Retirement Board serving on August 31, 2003, terminates on that date. Before September 1, 2003, the Governor shall appoint five persons with the qualifications prescribed by ORS 238.640 to begin terms as the members of the board on September 1, 2003. A member of the board serving on August 31, 2003, may be reappointed if the member meets the qualifications prescribed by ORS 238.640.

(3) Notwithstanding ORS 238.630, the term of office of one of the members appointed by the Governor under subsection (2) of this section shall end on January 1, 2005, the term of office of two of the members appointed by the Governor under subsection (2) of this section shall end on January 1, 2006, and the term of office of two of the members appointed by the Governor under subsection (2) of this section shall end on January 1, 2007. The Governor shall designate the members with terms subject to this subsection. Members appointed under this section are eligible for reappointment.

SECTION 6. This 2003 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2003 Act takes effect on its passage.

Passed by House February 6, 2003

Received by Governor:

Repassed by House April 15, 2003

.....M.,....., 2003

Approved:

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Chief Clerk of House

.....M.,....., 2003

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Speaker of House

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Governor

Passed by Senate April 11, 2003

Filed in Office of Secretary of State:

.....M.,....., 2003

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President of Senate

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Secretary of State