

Enrolled House Bill 2281

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Public Employees Retirement System)

CHAPTER

AN ACT

Relating to public employee retirement; amending ORS 238.105, 238.115, 238.265, 238.440, 238A.120 and 238A.375.

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

SECTION 1. ORS 238.265 is amended to read:

238.265. (1) Except as otherwise provided in this section, a member of the Public Employees Retirement System may withdraw from the Public Employees Retirement Fund the amount credited to the member account, if any, for the member if:

- (a) The member is separated from all service with participating public employers;
- (b) The member is separated from all service with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust;
- (c) The member has not attained earliest service retirement age; and
- (d) The separation from service is not by reason of death or disability.

(2) If a member wishes to withdraw the member account, if any, of the member under this section, the member must transmit to the Public Employees Retirement Board a withdrawal request. The board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn amounts, if:

- (a) The board determines that the separation is not a bona fide separation; or
- (b) The member fails to remain absent from the service of all employers described in subsection (1) of this section for at least one calendar month following the month in which the member separates from service.

(3) If a member has contributed to the fund in each of five calendar years and has separated from all service in the manner described in subsection (1) of this section before reaching earliest service retirement age, the member may elect to withdraw the member account of the member under this section at any time before reaching earliest service retirement age. If the inactive member does not make an election to withdraw under this section, the member shall be paid the benefits or retirement allowances described in ORS 238.425.

(4) A member who is vested in the pension program established under ORS chapter 238A and who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member account under this section only if the member also withdraws from the pension program. A member who has an individual account or accounts in the individual account program established under ORS chapter 238A may withdraw a member account under this section only if the member also withdraws all individual accounts pursuant to ORS 238A.375.

A member who has an account established under ORS 238.440 may withdraw a member account under this section only if the member also withdraws the account established under ORS 238.440.

[(4)] (5) Withdrawal of a member account under this section cancels all membership rights in the system, including the right to claim credit for any employment before withdrawal.

SECTION 2. ORS 238A.120 is amended to read:

238A.120. (1) A vested inactive member may withdraw from the pension program if:

(a) The actuarial equivalent of the member's benefit under the pension program at the time of withdrawal is \$5,000 or less; and

(b) The inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(2) Upon withdrawal under this section, the Public Employees Retirement Board shall pay the withdrawing member the actuarial equivalent of the member's benefit in a lump sum.

(3) If a vested inactive member withdraws from the pension program under this section and is thereafter reemployed by a participating public employer:

(a) The person may reestablish membership in the pension program only for the purpose of service performed after the person is reemployed; and

(b) Any service performed before the withdrawal may not be credited toward the period of service required by ORS 238A.100 or 238A.115 or toward the accrual of retirement credit under ORS 238A.140, 238A.150 or 238A.155.

(4) A member who has an individual account or accounts in the individual account program established under ORS 238A.025 may withdraw from the pension program under this section only if the member also withdraws all individual accounts pursuant to ORS 238A.375. A member who has a member account established under ORS chapter 238 may withdraw from the pension program under this section only if the member also withdraws that member account in the manner provided by ORS 238.265. A member who has an account established under ORS 238.440 may withdraw from the pension program under this section only if the member also withdraws the account established under ORS 238.440.

[(4)] (5) For the purposes of this section, the actuarial equivalent of a member's benefit does not include any value attributable to adjustments to the benefit under ORS 238A.210.

SECTION 3. ORS 238A.375 is amended to read:

238A.375. (1) An inactive member of the individual account program may elect to receive a distribution of the amounts in the member's employee account, rollover account and employer account to the extent the member is vested in those accounts under ORS 238A.320 if the inactive member has separated from all service with participating public employers and with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(2) If an inactive member of the individual account program who is not vested in the employer account receives a distribution under subsection (1) of this section, the employer account of the member is permanently forfeited as of the date of the distribution.

(3) A member may not make an election under this section for less than all of the member's individual accounts described in ORS 238A.350 in which the member is vested.

(4) A member who is vested in the pension program established under this chapter and who is eligible to withdraw from the pension program under ORS 238A.120 may make an election under this section only if the member also withdraws from the pension program. A member who has a member account established under ORS chapter 238 may make an election under this section only if the member also withdraws that member account in the manner provided by ORS 238.265. A member who has an account established under ORS

238.440 may make an election under this section only if the member also withdraws the account established under ORS 238.440.

[3] (5) If an inactive member receives a distribution under subsection (1) of this section and is subsequently reemployed by a participating public employer, any service performed before the date the member became an inactive member may not be used toward the period of service required for vesting in the employer account under ORS 238A.320.

SECTION 4. ORS 238.105 is amended to read:

238.105. (1) Whenever, within five years after the employee is separated from all service entitling the employee to membership in the system, an employee who has withdrawn the amount credited to the member account of the member reenters the service of an employer participating in the system, the employee's rights in the system that were forfeited by the withdrawal shall be restored upon repaying to the board within one year after reentering the service of the employer, the full amount so withdrawn together with the interest that would have been accumulated on the sum had the amount not been withdrawn.

(2) Restoration of rights under this section does not affect any forfeiture of rights of a person by reason of:

(a) Withdrawal of an account established under ORS 238.440;

(b) Withdrawal from the pension program under ORS 238A.120; or

(c) Withdrawal of individual accounts pursuant to ORS 238A.375.

SECTION 5. ORS 238.115 is amended to read:

238.115. (1)(a) A member of the system who, after separation from all service entitling the employee to membership in the system and withdrawal of the amount credited to the member account of the member, reenters the service of an employer participating in the system and serves as an active member of the system for 10 years after that reentry, and who has not otherwise obtained restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full month of creditable service forfeited by the withdrawal for each three full months of service as an active member after that reentry if the member, within 90 days before the effective date of retirement of the member:

(A) Applies in writing to the board for restoration of creditable service; and

(B) Pays to the board in a lump sum for credit to the member account of the member the amount withdrawn and interest on the amount withdrawn compounded annually for each year or portion of a year after the date of the withdrawal and before the effective date of retirement of the member. The interest shall be computed at the annual rate of 7.5 percent.

(b) If a member who obtains restoration of creditable service as provided in this subsection does not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to reflect the percentage of creditable service restored.

(c) A member who obtains restoration of creditable service as provided in this subsection is not entitled to elect to receive the service retirement benefit described in ORS 238.305 (2) or (3).

(2) A member who forfeited creditable service rendered to a public employer before March 27, 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member, before the effective date of retirement of the member:

(a) Applies in writing to the board for the restoration of the creditable service; and

(b) Pays to the board in a lump sum for credit to the member account of the member an amount determined by the board to be equal to the full amount of contributions so withdrawn and the interest that would have accumulated to the regular account of the member had those contributions not been withdrawn.

(3)(a) A member of the Public Employees Retirement System who was a member of an association established pursuant to ORS chapter 239 (1997 Edition), but separated from all service entitling

ing the employee to membership in the system of the association and withdrew the amount credited to the member account of the employee in the retirement fund of the association, and who, after that separation, entered the service of an employer in the field of education participating in the Public Employees Retirement System and served as an active member of that system for 10 years after that entry, and who has not otherwise obtained restoration of all creditable service forfeited by the withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System equal to all creditable service forfeited by the withdrawal if the member within 90 days before the effective date of retirement of the member:

(A) Applies in writing to the Public Employees Retirement Board for that creditable service; and

(B) Pays to the board in a lump sum for credit to the member account of the member the amount withdrawn and interest on the amount withdrawn compounded annually for each year or portion of a year after the date of the withdrawal and before the effective date of retirement or effective date of application of the member. The interest shall be computed at the rate actually credited to regular accounts for that period.

(b) This subsection provides a method of obtaining creditable service for forfeited creditable service described in this subsection that is in lieu of any application of subsection (1) of this section for that purpose.

(4) Restoration of creditable service under this section does not affect any forfeiture of rights of a person by reason of:

(a) Withdrawal of an account established under ORS 238.440;

(b) Withdrawal from the pension program under ORS 238A.120; or

(c) Withdrawal of individual accounts pursuant to ORS 238A.375.

SECTION 6. ORS 238.440 is amended to read:

238.440. (1) A police officer or firefighter who is a member of the system may elect to make additional contributions to the fund to purchase increased benefits between the date of retirement and age 65. The rate of additional contribution shall be determined by the actuary, dependent upon the age of the police officer or firefighter at the date of election, so as to provide monthly payments on the basis of \$10 per unit of benefits purchased. No police officer or firefighter may elect to purchase more than eight units. For each \$10 unit purchased by the police officer or firefighter, the employer shall purchase an equal \$10 unit. A police officer or firefighter who is retained until age 65 shall receive a lump sum refund of the additional contributions made toward units purchased, plus interest thereon, but shall receive no benefits from the additional contributions by the employer for such units. If a police officer or firefighter retires after age 60 but prior to age 65, the units purchased by additional contributions shall provide increased monthly benefits based on life expectancy, but the matching units purchased by the employer shall not, regardless of age, exceed \$10 per month per unit purchased by the police officer or firefighter. If a police officer or firefighter is absent from the employment of a participating employer for any reason and because of such absence is unable to make monthly additional contributions, the benefits provided under this section shall be actuarially reduced upon the retirement of the police officer or firefighter. **The Public Employees Retirement Board shall establish an account for each member who elects to make additional contributions under this section and shall credit all contributions made by that member and interest on those contributions to the account.**

(2) Notwithstanding subsection (1) of this section, a police officer or firefighter who retires prior to age 60 may apply for and receive an actuarially reduced unit income commencing at any date between the date of early retirement and age 60, with monthly benefits payable for at least 60 months or any other monthly formula in excess of 60 months but always terminating by age 65. Such a police officer or firefighter may elect to pay in a lump sum within the 60 days immediately preceding early retirement the contribution that the police officer or firefighter would have made to the [unit income] account had the police officer or firefighter worked to age 60.

(3) Any police officer or firefighter who elects to make additional contributions to purchase increased benefits may elect at any time before termination to cancel such election. Having once

canceled such election, no police officer or firefighter shall be again permitted to make additional contributions.

(4) *[The additional contributions made by the police officer or firefighter under this section shall be refunded to the police officer or firefighter only when]* **A member may withdraw the amounts credited to the account established for the member under this section if:**

(a) The member is separated from all service with participating public employers; and

(b) The member is separated from all service with employers who are treated as part of a participating public employer's controlled group under the federal laws and rules governing the status of the system and the fund as a qualified governmental retirement plan and trust.

(5) A member who withdraws the amounts credited to the account established for the member pursuant to subsection (4) of this section may not thereafter make additional contributions under this section.

[(5)] **(6)** A police officer or firefighter who has elected to make additional contributions under this section and who transfers to employment in which not entitled to make such additional contributions may retain the account established under subsection (1) of this section for five years immediately following such transfer by not requesting a withdrawal. If, at the end of the five-year period, the police officer or firefighter has not reached age 50, or has not returned to employment in which entitled to make additional contributions under this section, the election shall be canceled and the amount of the account established under subsection (1) of this section shall be refunded to the police officer or firefighter.

[(6)] **(7)** Any election to make additional contributions under this section and any cancellation of such election shall be submitted to the employer and to the board in writing.

Passed by House February 20, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate March 27, 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