

Employer Announcement #78

Work After Retirement Restrictions for County Judges

Most elected officials who work after retirement in a full-time salaried office, or qualifying position, will not receive a retirement benefit payment while in public office, under both the Ch.238 Tier1/Tier2 and the Ch.238A OPSRP pension programs. (As described in Oregon Revised Statutes (ORS) 238.088(1)(a) and ORS 238A.245(1), respectively).

However, certain Ch.238 Tier1/Tier2 retirees are allowed a statutory work after retirement exception if they satisfy the criteria described in ORS 238.088(2) and ORS 238.088(3). ORS 238.088(2) provides that a Ch.238 Tier1/Tier2 retiree elected or appointed to the office of "county judge," in a county with a population of fewer than 75,000 inhabitants, shall continue to be a retired member and to receive retirement benefits for as long as the person holds the office. ORS 238.088(3) provides that this exception is not available to members who took an early retirement under the provisions of ORS 238.280(1), (2), or (3).

To be eligible for the ORS 238.088(2) exception, the Ch.238 Tier1/Tier2 retiree must be a "county judge." The legislature has distinguished between county judges and justices of the peace in chapters 5 and 51 of the Oregon Revised Statutes. ORS 5.010 provides that a "county judge" is the presiding judicial officer of the "county court," whereas ORS 51.010 provides that a "Justice of the Peace" is the presiding judicial officer of the "justice court." The structure, organization and authority of each legal entity is described in detail in each of the two chapters, which clearly outline two distinctly different avenues for administering the separate courts of the State of Oregon judicial system. A "Justice of the Peace," who presides over a "justice court" is not a "county judge" for purposes of this statute.

The Judge vs. Justice of the Peace distinction precludes including elected or appointed "Justice of the Peace" positions in the exception described in ORS 238.088(2). Ch.238 Tier1/Tier2 retirees in such positions are subject to the 1040 hour/calendar year work limits applicable to Ch.238 Tier1/Tier2 retirees working as retirees in positions with no statutorily defined work hour exceptions.

Please contact your ESC Account Team representative for questions on this subject.