

House Bill 2060

Sponsored by Representative BUTLER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes community college districts to offer alternative retirement programs.

A BILL FOR AN ACT

1
2 Relating to alternative retirement programs; creating new provisions; and amending ORS 238.015
3 and 238A.005.

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

5 **SECTION 1. Section 2 of this 2005 Act is added to and made a part of ORS chapter 341.**

6 **SECTION 2. Notwithstanding the provisions of ORS chapters 238 and 238A, a community
7 college district may offer alternative retirement programs in addition to the Public Employ-
8 ees Retirement System. The board of a community college district may specify classes of
9 employees that are eligible for participation in an alternative retirement program offered
10 under this section.**

11 **SECTION 3. ORS 238.015 is amended to read:**

12 238.015. (1) No person may become a member of the system unless that person is in the service
13 of a public employer and has completed six months' service uninterrupted by more than 30 consec-
14 utive working days during the six months' period. Every employee of a participating employer shall
15 become a member of the system at the beginning of the first full pay period of the employee fol-
16 lowing the six months' period. Contributions for new members shall first be made for those wages
17 that are attributable to services performed by the employee during the first full pay period following
18 the six months' period, without regard to when those wages are considered earned for other pur-
19 poses under this chapter. All public employers participating in the Public Employees Retirement
20 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that
21 chapter, and all school districts of the state, shall participate in, and their employees shall be
22 members of, the system, except as otherwise specifically provided by law.

23 (2) Any active member of the Public Employees Retirement System who, through the annexation
24 of a political subdivision employing the member or by change of employment, becomes the employee
25 of another political subdivision which is participating in the Public Employees Retirement System
26 and has also a separate retirement system for its employees, shall remain an active member of the
27 Public Employees Retirement System unless, within 60 days after the effective date of the
28 annexation or change of employment or April 8, 1953, the member shall by written notice to the
29 Public Employees Retirement Board and to the administrative body of the new public employer elect
30 to relinquish membership in the Public Employees Retirement System and become a member of the
31 separate retirement system of the employer, if eligible for membership in that retirement system, and
32 the member shall be so carried by the new employer. Immediately upon such annexation of any

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 political subdivision or such change of employment, the new public employer shall inform such em-
2 ployee in writing of the right of the employee to exercise an election as in this section provided.

3 (3) A political subdivision (other than a school district) not participating in the retirement sys-
4 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-
5 ployees, each of whose position requires 600 hours of service per year, or an agency created by two
6 or more political subdivisions to provide themselves governmental services, which employs one or
7 more employees, each of whose position requires 600 hours of service per year, may, through its
8 governing body, notify the board in writing, that it elects to include its employees in the system
9 hereby established. Such public employer may request the board to make a study and estimate of the
10 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which
11 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon
12 completion of the study and estimate the employer may apply for admission to the system, where-
13 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters
14 shall become members of the system. If the employer is an agency created by two or more political
15 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the
16 board contributions for any of its eligible employees, the benefits based upon employer contributions
17 to which such employees would otherwise be entitled shall be reduced accordingly.

18 (4) Except as subsection (7) of this section provides otherwise with reference to volunteer fire-
19 fighters, no employee whose position with one public employer or concurrent positions with two or
20 more public employers normally require less than 600 hours of service per year may become a
21 member of the system.

22 (5) No inmate of a state institution or an alien on a training or educational visa working for
23 any participating employer, even though the inmate or alien received compensation from a partic-
24 ipating employer, shall be eligible to become a member of the system. No person employed by a
25 participating employer and defined by such employer as a student employee is eligible to become a
26 member of the system for such student employment.

27 (6) A person holding an elective office or an appointive office with a fixed term or an office as
28 head of a department to which the person is appointed by the Governor may become a member of
29 the system by giving the board written notice of desire to do so within 30 days after taking the of-
30 fice or, in the event that the officer is not eligible to become a member of the system at the time
31 of taking the office, within 30 days after becoming so eligible. Membership so established shall not
32 be discontinued during the appointive or elective term of the officer except upon separation of the
33 officer from service.

34 (7) A public employer employing volunteer firefighters may apply to the board at any time for
35 them to become members of the system. Upon receiving the application the board shall fix a wage
36 at which, for purposes of this chapter only, they shall be considered to be employed and which shall
37 be the basis for computing the amounts of the contributions, if any, which they pay into, and of the
38 benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satis-
39 factory to the employer, shall include the firefighters in the system.

40 (8)(a) In the event that an employee enters the service of a public employer which is partic-
41 ipating in or later begins to participate in the system and in the event that at the time of entering
42 that service or at the time that the employer begins to participate in the system the employee has
43 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems
44 the annuity adequate for the purposes of this chapter, it may enter into an agreement with the em-
45 ployee and the board pursuant to which the employee may be exempted from contributing to the

1 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity
2 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would
3 make to the fund on account of the employee, may make contributions toward the cost of purchasing
4 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that
5 neither the employee nor any person claiming under the employee shall receive any payments from
6 the retirement fund as service or disability allowance.

7 (b) An employee who enters into an agreement under paragraph (a) of this subsection may elect
8 at any time thereafter to start to participate in the system by giving written notice of desire to
9 participate to the board and to the employer. The employee shall receive no retirement credit for
10 the period during which the employee was exempted from contributing to the fund under the
11 agreement, but the employee shall be considered to have completed the six months' service required
12 for membership in the system. When the employee starts to participate in the system the employer
13 shall start to contribute to the fund on account of the employee in the same manner as the employer
14 contributes on account of other employees who are active members of the system and the employer
15 shall stop making contributions toward the cost of purchasing the retirement annuity.

16 (9)(a) All new appointees in the Federal Cooperative Extension Service or in any other service
17 in which participation in the Federal Civil Service retirement program is mandatory, who receive
18 a federal appointment on or after July 1, 1955, may participate in the Public Employees Retirement
19 System only by giving written notice of their election to so participate to the Public Employees
20 Retirement Board within six months after the effective date of their appointment.

21 (b) All persons employed by the Federal Cooperative Extension Service or by any other service
22 in which participation in the Federal Civil Service retirement program is mandatory, who are under
23 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall
24 continue such membership unless, prior to February 1, 1956, they give written notice to the Public
25 Employees Retirement Board of their desire to cancel their membership.

26 (c) Any person who is an active member of the Public Employees Retirement System, who, on
27 or after July 1, 1955, is employed by the Federal Cooperative Extension Service or by any other
28 service in which participation in the Federal Civil Service retirement program is mandatory, and
29 who is given a federal appointment, shall continue such membership in the Public Employees Re-
30 tirement System unless, within six months after the effective date of the appointment, the person
31 gives written notice to the Public Employees Retirement Board of the desire to cancel membership.

32 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-
33 bership in the Public Employees Retirement System and cancels the right to any benefits from, or
34 claims against, that system. Such cancellation prevents the withdrawing member from claiming
35 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt
36 of a notice of cancellation, the Public Employees Retirement Board shall refund the member account
37 of the withdrawing member, regardless of the age of the withdrawing member.

38 (10) Employees, including managers, of foreign trade offices of the Economic and Community
39 Development Department who live and perform services in foreign countries under the provisions
40 of ORS 285A.090 (13) shall not be members of the system. However, any person who is an active
41 member of the system immediately before becoming an employee of a foreign trade office shall con-
42 tinue to be a member of the system during the period of time the person serves as an employee of
43 the foreign trade office.

44 (11) An employee who *[is an employee of the Oregon Health and Science University may not be*
45 *an active member of the Public Employees Retirement System if that employee]* is participating in an

1 alternative retirement program established [*by the university*] pursuant to ORS 353.250 **or section**
 2 **2 of this 2005 Act may not be an active member of the Public Employees Retirement**
 3 **System.**

4 **SECTION 4.** ORS 238A.005 is amended to read:

5 238A.005. For the purposes of this chapter:

6 (1) "Active member" means a member of the pension program or the individual account program
 7 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

8 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the
 9 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
 10 sumptions adopted by the board.

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

12 (4) "Eligible employee" means a person who performs services for a participating public em-
 13 ployer, including elected officials other than judges. "Eligible employee" does not include:

14 (a) Persons engaged as independent contractors;

15 (b) Aliens working under a training or educational visa;

16 (c) Persons, other than workers in the Industries for the Blind Program under ORS 346.190,
 17 provided sheltered employment or make-work by a public employer;

18 (d) Persons categorized by a participating public employer as student employees;

19 (e) Any person who is an inmate of a state institution;

20 (f) Employees of foreign trade offices of the Economic and Community Development Department
 21 who live and perform services in foreign countries under the provisions of ORS 285A.090 (13);

22 (g) An employee [*of the Oregon Health and Science University*] actively participating in an al-
 23 ternative retirement program established [*by the university*] under ORS 353.250 **or section 2 of this**
 24 **2005 Act;**

25 (h) Employees of the Oregon University System who are actively participating in an optional
 26 retirement plan offered under ORS 243.800;

27 (i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
 28 for membership in the system under the provisions of ORS chapter 238 or other law;

29 (j) Any person who belongs to a class of employees who are not eligible to become members of
 30 the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);

31 (k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS chapter 238 and who
 32 continues to receive retirement benefits while employed; and

33 (L) Judges.

34 (5) "Firefighter" means:

35 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
 36 duties include the fighting of fires;

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

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

42 (6) "Fund" means the Public Employees Retirement Fund.

43 (7)(a) "Hour of service" means:

44 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
 45 by a participating public employer for performance of duties in a qualifying position; and

1 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
2 during which an employee does not perform duties but for which the employee is directly or indi-
3 rectly paid or entitled to payment by a participating public employer for services in a qualifying
4 position, as long as the hour is within the number of hours regularly scheduled for the performance
5 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
6 thorized leave.

7 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
8 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
9 employment compensation laws.

10 (8) "Inactive member" means a member of the pension program or the individual account pro-
11 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
12 is not a retired member and who is separated from all service with participating public employers
13 and with employers who are treated as part of a participating public employer's controlled group
14 under the federal laws and rules governing the status of the system and the fund as a qualified
15 governmental retirement plan and trust.

16 (9) "Individual account program" means the defined contribution individual account program of
17 the Oregon Public Service Retirement Plan established under ORS 238A.025.

18 (10) "Member" means an eligible employee who has established membership in the pension pro-
19 gram or the individual account program of the Oregon Public Service Retirement Plan and whose
20 membership has not been terminated under ORS 238A.110 or 238A.310.

21 (11) "Participating public employer" means a public employer as defined in ORS 238.005 that
22 provides retirement benefits for employees of the public employer under the system.

23 (12) "Pension program" means the defined benefit pension program of the Oregon Public Service
24 Retirement Plan established under ORS 238A.025.

25 (13) "Police officer" means a police officer as described in ORS 238.005.

26 (14) "Qualifying position" means one or more jobs with one or more participating public em-
27 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,
28 excluding any service in a job for which benefits are not provided under the Oregon Public Service
29 Retirement Plan pursuant to ORS 238A.070 (2).

30 (15) "Retired member" means a pension program member who is receiving a pension as provided
31 in ORS 238A.180 to 238A.195.

32 (16)(a) "Salary" means the remuneration paid to an active member in return for services to the
33 participating public employer, including remuneration in the form of living quarters, board or other
34 items of value, to the extent the remuneration is includable in the employee's taxable income under
35 Oregon law. Salary includes the additional amounts specified in paragraph (b) of this subsection,
36 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether
37 those amounts are includable in taxable income.

38 (b) "Salary" includes the following amounts:

39 (A) Payments of employee and employer money into a deferred compensation plan that are made
40 at the election of the employee.

41 (B) Contributions to a tax-sheltered or deferred annuity that are made at the election of the
42 employee.

43 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
44 plan by the employer at the election of the employee and that is not includable in the taxable in-
45 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on August 29, 2003.

1 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
2 election of the employee and that is not included in the taxable income of the employee by reason
3 of 26 U.S.C. 402(e)(3), as in effect on August 29, 2003.

4 (E) Retroactive payments made to an employee to correct a clerical error, pursuant to an award
5 by a court or by order of or pursuant to a conciliation agreement with an administration agency
6 charged with enforcing federal or state law protecting the employee's rights to employment or
7 wages, which shall be allocated to and deemed paid in the periods in which the work was done or
8 in which the work would have been done.

9 (F) The amount of an employee contribution to the individual account program that is paid by
10 the employer and deducted from the compensation of the employee, as provided under ORS 238A.335
11 (1) and (2)(a).

12 (G) The amount of an employee contribution to the individual account program that is not paid
13 by the employer under ORS 238A.335.

14 (c) "Salary" does not include the following amounts:

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

17 (B) Payments made on account of an employee's death.

18 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid
19 leave.

20 (D) Any severance payment, accelerated payment of an employment contract for a future period
21 or advance against future wages.

22 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

23 (F) Payment for a leave of absence after the date the employer and employee have agreed that
24 no future services in a qualifying position will be performed.

25 (G) Payments for instructional services rendered to institutions of the Department of Higher
26 Education or the Oregon Health and Science University when those services are in excess of full-
27 time employment subject to this chapter. A person employed under a contract for less than 12
28 months is subject to this subparagraph only for the months covered by the contract.

29 (H) The amount of an employee contribution to the individual account program that is paid by
30 the employer and is not deducted from the compensation of the employee, as provided under ORS
31 238A.335 (1) and (2)(b).

32 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is
33 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a
34 fraction, the numerator of which is the number of months in the determination period and the de-
35 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate
36 cost-of-living adjustments authorized by the Internal Revenue Service.

37 (17) "System" means the Public Employees Retirement System.

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