

Senate Bill 497

Sponsored by COMMITTEE ON GENERAL GOVERNMENT

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**.

Prohibits Public Employees Retirement Board from paying increased benefit by reason of state income taxation of payments made by board if person receiving payments is not resident of state and does not pay Oregon income tax. Provides procedures for enforcing prohibition.

Imposes similar prohibition for certain public employers that provide retirement benefits for police officers and firefighters other than by participation in Public Employees Retirement System.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 237.635 and 237.637;
3 and declaring an emergency.

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 238.**

6 **SECTION 2. (1) The Public Employees Retirement Board shall not pay the increased**
7 **benefit provided by ORS 238.375, 238.380, 238.385 and 238.387 to any person who is not a resi-**
8 **dent of this state and who does not pay Oregon income tax on payments made under this**
9 **chapter.**

10 **(2) The board shall require that a person applying for payments under this chapter give**
11 **a written statement that indicates whether the person will be a resident of this state when**
12 **the first payment is made to the person and whether the person will pay Oregon income**
13 **taxes on those payments. If the person indicates that the person will not be a resident of this**
14 **state when the first payment is made to the person and will not pay Oregon income tax on**
15 **payments made under this chapter, the board may not pay the person the increased benefit**
16 **provided by ORS 238.375, 238.380 and 238.385.**

17 **(3) If a person is receiving payments under this chapter, and the person ceases to be a**
18 **resident of this state and to pay Oregon income tax on those payments, the person shall**
19 **promptly notify the board that the person has ceased to be a resident of this state and to**
20 **pay Oregon income tax on the payments. Upon receiving notice under this subsection, the**
21 **board shall cease paying the person the increased benefit provided by ORS 238.375, 238.380,**
22 **238.385 and 238.387.**

23 **(4) Not less than once each calendar year, the Department of Revenue shall provide to**
24 **the board such information on Oregon personal income tax returns relating to the residency**
25 **of taxpayers as the board determines to be helpful in determining whether persons receiving**
26 **payments under this chapter have complied with the requirements of this section.**
27 **Notwithstanding ORS 314.835 or other law governing the disclosure of tax information, the**
28 **department shall provide the board with the information requested by the board.**

29 **(5) If the board at any time after the retirement or death of a member has reason to**

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 believe that a person receiving payments under this chapter is not a resident of this state
 2 and does not pay Oregon income tax on those payments, the board shall require the person
 3 to provide the board with a written statement that indicates whether the person is a resident
 4 of this state and whether the person pays Oregon income taxes on payments received under
 5 this chapter. The board shall require a statement under this subsection if a person receiving
 6 payments under this chapter requests that:

7 (a) The payments be mailed to an address that is not in this state; or

8 (b) The payments be deposited in a financial institution at an address that is not located
 9 in this state.

10 (6) The statements required by subsections (2) and (5) of this section constitute declara-
 11 tions under penalty of perjury, and must include the following sentence in prominent letters
 12 immediately above the signature of the declarant: "I hereby declare that the above statement
 13 is true to the best of my knowledge and belief, and that I understand it is subject to penalty
 14 for perjury."

15 (7) The board shall cease paying a person the increased benefit provided by ORS 238.375,
 16 238.380, 238.385 and 238.387 if the board at any time determines that:

17 (a) The person has failed to comply with subsection (3) of this section;

18 (b) The person has failed to provide a statement required by this section; or

19 (c) The person has provided a false statement under this section.

20 (8) If a person fails to comply with the requirements of this section, and the board ceases
 21 paying the person the increased benefit provided by ORS 238.375, 238.380, 238.385 and 238.387,
 22 the board may recover as overpayments all amounts improperly paid to the person in the
 23 manner provided by ORS 238.715.

24 (9) If the board ceases to pay a person the increased benefit provided by ORS 238.375,
 25 238.380, 238.385 and 238.387 pursuant to the provisions of this section, the board shall resume
 26 paying the increased benefit if the person resumes residency in this state for the purposes
 27 of payment of Oregon income taxes on payments made under this chapter. The board by rule
 28 shall establish procedures for resumption of payments of increased benefits under this sub-
 29 section.

30 (10) The board shall give written notification of the provisions of this section to all per-
 31 sons applying for payments under this chapter.

32 (11) The requirements of this section apply only to persons who receive the increased
 33 benefit provided by ORS 238.375, 238.380, 238.385 and 238.387.

34 **SECTION 3.** ORS 237.635 is amended to read:

35 237.635. (1) Any public employer that provides retirement benefits to its police officers and
 36 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 37 provisions of ORS 237.620 (4) shall provide increases to the police officers and firefighters of the
 38 public employer, both active and retired, that are equal to the increases in retirement benefits that
 39 are provided for in [*this 1991 Act*] **ORS 238.385 and 238.387** for active and retired police officers
 40 or firefighters who are members of the Public Employees Retirement System, or shall provide to
 41 those police officers and firefighters increases in retirement benefits that are the actuarial equiv-
 42 alent of the increases in retirement benefits that are provided for in [*this 1991 Act*] **ORS 238.385**
 43 **and 238.387** for police officers or firefighters who are members of the Public Employees Retirement
 44 System. No other retirement benefit or other benefit provided by those public employers shall be
 45 decreased by the employer by reason of the increases mandated by this section.

1 (2) The increased benefits provided for in this section apply only to police officers or firefighters
 2 who establish membership before July 14, 1995, in a retirement plan or system offered by a public
 3 employer in lieu of membership in the Public Employees Retirement System pursuant to the pro-
 4 visions of ORS 237.620 (4).

5 **(3) A public employer that is subject to the requirements of this section shall cease**
 6 **paying increased benefits under this section to any person who is not a resident of this state**
 7 **and who does not pay Oregon income tax on payments made to the person. A public employer**
 8 **that is subject to the requirements of this section shall adopt procedures similar to those**
 9 **provided under section 2 of this 2005 Act for the purpose of implementing this subsection.**

10 **SECTION 4.** ORS 237.637 is amended to read:

11 237.637. (1) Any public employer that provides retirement benefits to its police officers and
 12 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 13 provisions of ORS 237.620 (4) shall provide increases to the police officers and firefighters of the
 14 public employer, both active and retired, that are equal to the increases in retirement benefits that
 15 are provided for in [*chapter 569, Oregon Laws 1995,*] **ORS 238.375 and 238.380** for active and retired
 16 police officers or firefighters who are members of the Public Employees Retirement System, or the
 17 public employer shall provide to those police officers and firefighters increases in retirement bene-
 18 fits that are the actuarial equivalent of the increases in retirement benefits that are provided for in
 19 [*chapter 569, Oregon Laws 1995,*] **ORS 238.375 and 238.380** for police officers or firefighters who are
 20 members of the Public Employees Retirement System. Increases provided under this section shall
 21 be reduced by the amount of any benefit increase provided by ORS 237.635 in the same manner that
 22 increases in retirement benefits that are provided for in [*chapter 569, Oregon Laws 1995,*] **ORS**
 23 **238.375 and 238.380** for active and retired police officers or firefighters who are members of the
 24 Public Employees Retirement System are reduced to reflect amounts paid to those members under
 25 the provisions of [*chapter 796, Oregon Laws 1991*] **ORS 238.385 and 238.387**. No other retirement
 26 benefit or other benefit provided by those public employers shall be decreased by the employer by
 27 reason of the increases mandated by this section.

28 **(2) A public employer that is subject to the requirements of this section shall cease**
 29 **paying increased benefits under this section to a person who is not a resident of this state**
 30 **and who does not pay Oregon income tax on the payments made to person. A public employer**
 31 **that is subject to the requirements of this section shall adopt procedures similar to those**
 32 **provided under section 2 of this 2005 Act for the purpose of implementing this subsection.**

33 **SECTION 5.** The amendments to ORS 237.635 and 237.637 by sections 3 and 4 of this 2005
 34 Act do not affect any benefit paid under the provisions of chapter 796, Oregon Laws 1991, or
 35 chapter 569, Oregon Laws 1995, before the effective date of this 2005 Act.

36 **SECTION 6.** This 2005 Act being necessary for the immediate preservation of the public
 37 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
 38 on its passage.