

# Senate Bill 75

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Kate Brown for Public Employees Retirement System)

## 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**.

Provides that interest earned by Employer Incentive Fund may be used to match lump sum payments by participating public employers in Public Employees Retirement System.

Shortens time period during which participating public employers in Public Employees Retirement System must make lump sum payments to receive matching funds from Employer Incentive Fund. Shortens time period during which certain employers have priority to reserve matching funds from Employer Incentive Fund.

Provides for certain transfers to School Districts Unfunded Liability Fund to occur on last business day of odd-numbered year.

Limits participation in Unfunded Actuarial Liability Resolution Program to participating public employers that have applied to reserve matching amounts from Employer Incentive Fund.

Sunsets Unfunded Actuarial Liability Resolution Program on January 2, 2025.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to employer contributions to the Public Employees Retirement System; amending sections  
3 1, 2, 3, 13, 15 and 26, chapter 105, Oregon Laws 2018; repealing section 26, chapter 105, Oregon  
4 Laws 2018; and declaring an emergency.

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

6 **SECTION 1.** Section 1, chapter 105, Oregon Laws 2018, is amended to read:

7 **Sec. 1.** (1) The Employer Incentive Fund is established in the State Treasury, separate and dis-  
8 tinct from the General Fund. Interest earned by the Employer Incentive Fund shall be credited to  
9 the fund[, *but*]. Interest earned **by the fund** may [*not*] be used under section 2, **chapter 105, Oregon**  
10 **Laws 2018**, [*of this 2018 Act*] to match lump sum payments made under ORS 238.229.

11 (2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board  
12 for the purposes described in sections 2 and 26, **chapter 105, Oregon Laws 2018** [*of this 2018*  
13 *Act*].

14 **SECTION 2.** Section 2, chapter 105, Oregon Laws 2018, is amended to read:

15 **Sec. 2.** (1)(a) The Public Employees Retirement Board shall establish a process for distributing  
16 the moneys in the Employer Incentive Fund established under section 1, **chapter 105, Oregon Laws**  
17 **2018** [*of this 2018 Act*].

18 (b) The process must allow a participating public employer to apply to reserve matching  
19 amounts in the Employer Incentive Fund by committing to make a qualifying lump sum payment of  
20 at least \$25,000 to an account established under ORS 238.229.

21 (2) The board shall adopt rules establishing:

22 (a) The percentage of a lump sum payment that may be matched by distributions from the fund,  
23 not to exceed 25 percent of a qualifying lump sum payment.

24 (b) The maximum matching amount that may be reserved by a participating public employer, not

**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 to exceed the greater of:

2 (A) Five percent of the unfunded actuarial liability attributable to the employer, as determined  
3 in the most recent report prepared under ORS 238.605; or

4 (B) \$300,000.

5 (c) The qualifications for lump sum payments that may be matched under this section. The  
6 qualifications must include the following requirements:

7 (A) The participating public employer must apply to reserve matching funds no later than De-  
8 cember 31, 2019.

9 (B) The participating public employer must make the qualifying lump sum payment no later than  
10 *[July 1, 2023]* **September 30, 2021**.

11 (C) A qualifying lump sum payment may not be a payment from moneys borrowed by the em-  
12 ployer.

13 (d) A requirement that the participating public employer participate in the Unfunded Actuarial  
14 Liability Resolution Program to develop a plan under section 26, **chapter 105, Oregon Laws 2018**  
15 *[of this 2018 Act]*.

16 *[(3)(a) The board may begin accepting applications under subsection (1) of this section on the date*  
17 *on which the board determines that there are sufficient moneys in the Employer Incentive Fund.]*

18 *[(b)]* **(3)(a)** For *[180]* **90** days after the board begins accepting applications under subsection (1)  
19 of this section, a participating public employer may apply to reserve matching amounts from the  
20 Employer Incentive Fund under subsection (1) of this section only if the unfunded actuarial liability  
21 attributable to the employer, as determined in the most recent report prepared under ORS 238.605,  
22 is more than 200 percent of the employer's payroll for members of the Public Employees Retirement  
23 System.

24 *[(c)]* **(b)** After the *[180-day]* **90-day** period described in paragraph *[(b)]* **(a)** of this subsection, any  
25 participating public employer may apply to reserve matching funds from the Employer Incentive  
26 Fund under subsection (1) of this section.

27 **(4)(a)** The board shall approve applications that meet the qualifications established under sub-  
28 section (2) of this section in the order in which the applications are submitted. The board shall  
29 continue approving applications as long as **adequate** moneys in the Employer Incentive Fund are  
30 **projected to become** available.

31 **(b) After all of the moneys projected to become available in the Employer Incentive Fund**  
32 **are reserved for matching under paragraph (a) of this subsection, the board may establish**  
33 **a waiting list for the remaining timely submitted applications and, if sufficient moneys in the**  
34 **Employer Incentive Fund become available, shall approve, in the order in which they were**  
35 **submitted, applications that meet the qualifications under subsection (2) of this section.**

36 (5) The board shall transfer matching amounts approved under subsection (4) of this section from  
37 the Employer Incentive Fund to the approved employers' accounts established under ORS 238.229.

38 (6) The board may transfer moneys from the Employer Incentive Fund to the Public Employees  
39 Retirement Fund established under ORS 238.660 for crediting to the reserves for pension accounts  
40 and annuities as provided in ORS 238.670 (2).

41 (7) The board may use moneys in the Employer Incentive Fund for reasonable administrative  
42 costs incurred under this section.

43 **SECTION 3.** Section 3, chapter 105, Oregon Laws 2018, is amended to read:

44 **Sec. 3.** (1) Section 2, **chapter 105, Oregon Laws 2018, as amended by section 2 of this 2019**  
45 **Act, [of this 2018 Act]** is repealed January 2, 2025.

1 (2)(a) The Employer Incentive Fund established under section 1, **chapter 105, Oregon Laws**  
 2 **2018**, [of this 2018 Act] is abolished on January 2, 2025.

3 (b) The unexpended moneys remaining in the Employer Incentive Fund on January 2, 2025, shall  
 4 be transferred to the General Fund.

5 **(3) Section 26, chapter 105, Oregon Laws 2018, as amended by section 6 of this 2019 Act,**  
 6 **is repealed on January 2, 2025.**

7 **SECTION 4.** Section 13, chapter 105, Oregon Laws 2018, is amended to read:

8 **Sec. 13.** (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and  
 9 2023, the division of the Oregon Department of Administrative Services that serves as office of  
 10 economic analysis shall:

11 (a) Calculate the rate of change in the tax liability from personal income taxes on taxable cap-  
 12 ital gains during the five preceding biennia; and

13 (b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the tax  
 14 liability from personal income taxes on taxable capital gains for the biennium beginning on July 1  
 15 of the year in which the calculation is made.

16 (2) Not later than November 1 of the odd-numbered year following each calculation under sub-  
 17 subsection (1) of this section, the Oregon Department of Administrative Services, in consultation with  
 18 the Department of Revenue, shall estimate the tax liability from personal income taxes on taxable  
 19 capital gains for the previous biennium.

20 (3) Not later than November 30 of the odd-numbered year in which the estimate is made under  
 21 subsection (2) of this section, the Oregon Department of Administrative Services, in consultation  
 22 with the Department of Revenue, shall determine whether the tax liability from personal income  
 23 taxes on capital gains estimated under subsection (2) of this section, less any amount required to  
 24 be returned to taxpayers under ORS 291.349, exceeds the tax liability from personal income taxes  
 25 on taxable capital gains forecasted under subsection (1) of this section.

26 (4) Except as provided in subsection (5) of this section, **on the last business day of the odd-**  
 27 **numbered year in which the estimate is made under subsection (2) of this section**, the De-  
 28 partment of Revenue shall transfer an amount equal to 25 percent of any excess calculated under  
 29 subsection (3) of this section to the School Districts Unfunded Liability Fund established in section  
 30 **24, chapter 105, Oregon Laws 2018** [of this 2018 Act].

31 (5) The Department of Revenue may not make a transfer under subsection (4) of this section if:

32 (a) The Legislative Assembly has appropriated moneys from the Oregon Rainy Day Fund under  
 33 ORS 293.144 on or after [the effective date of this 2018 Act] **June 2, 2018**; or

34 (b) The Public Employees Retirement System is more than 90 percent funded as determined in  
 35 accordance with rules adopted by the Public Employees Retirement Board.

36 (6) The Department of Revenue shall retain unreceipted revenue from the tax imposed under  
 37 ORS chapter 316 in an amount necessary to make the transfer required under subsection (4) of this  
 38 section. The department shall make the transfer out of the unreceipted revenue in lieu of paying the  
 39 revenue over to the State Treasurer for deposit in the General Fund.

40 **SECTION 5.** Section 15, chapter 105, Oregon Laws 2018, is amended to read:

41 **Sec. 15.** (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and  
 42 2023, the division of the Oregon Department of Administrative Services that serves as office of  
 43 economic analysis shall:

44 (a) Calculate the rate of change in collections from estate taxes during the five preceding  
 45 biennia; and

1 (b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the  
 2 collections from estate taxes for the biennium beginning on July 1 of the year in which the calcu-  
 3 lation is made.

4 (2) Not later than November 1 of the odd-numbered year following each calculation under sub-  
 5 section (1) of this section, the Oregon Department of Administrative Services, in consultation with  
 6 the Department of Revenue, shall estimate the collections from estate taxes for the previous  
 7 biennium.

8 (3) Not later than November 30 of the odd-numbered year in which the estimate is made under  
 9 subsection (2) of this section, the Oregon Department of Administrative Services, in consultation  
 10 with the Department of Revenue, shall determine whether the collections from estate taxes esti-  
 11 mated under subsection (2) of this section exceed the collections from estate taxes forecasted under  
 12 subsection (1) of this section.

13 (4) **On the last business day of the odd-numbered year in which the estimate is made**  
 14 **under subsection (2) of this section**, the Department of Revenue shall transfer an amount equal  
 15 to the amount of any excess calculated under subsection (3) of this section, less any amount required  
 16 to be returned to taxpayers under ORS 291.349, to the School Districts Unfunded Liability Fund  
 17 established in section 24, **chapter 105, Oregon Laws 2018** [*of this 2018 Act*].

18 (5) The Department of Revenue shall retain unreceipted revenue from estate taxes imposed un-  
 19 der ORS 118.005 to 118.540 in an amount necessary to make the transfer required under subsection  
 20 (4) of this section. The department shall make the transfer out of the unreceipted revenue in lieu  
 21 of paying the revenue over to the State Treasurer for deposit in the General Fund.

22 **SECTION 6.** Section 26, chapter 105, Oregon Laws 2018, is amended to read:

23 **Sec. 26.** (1) The Public Employees Retirement Board shall establish an Unfunded Actuarial Li-  
 24 ability Resolution Program. Under the program, the board shall provide technical expertise to  
 25 participating public employers **that have applied to reserve matching amounts under section**  
 26 **2, chapter 105, Oregon Laws 2018, from the Employer Incentive Fund established in section**  
 27 **1, chapter 105, Oregon Laws 2018**, in developing plans to improve the employers' funded status and  
 28 to manage projected employer contribution rate changes. Participating public employers are not re-  
 29 quired to participate in the program.

30 (2) The board may use moneys in the Employer Incentive Fund [*established in section 1 of this*  
 31 *2018 Act*] for reasonable administrative costs incurred under this section.

32 **SECTION 7. This 2019 Act being necessary for the immediate preservation of the public**  
 33 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**  
 34 **on its passage.**