

House Bill 3363

Sponsored by Representative NERON, Senators MANNING JR, GORSEK, Representative SMITH G

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act changes how overtime is used in OPSRP. (Flesch Readability Score: 84.9).

Modifies how the overtime cap is calculated for use in calculating the final average salary of members of the Oregon Public Service Retirement Plan.

A BILL FOR AN ACT

1
2 Relating to the application of overtime under the Oregon Public Service Retirement Plan; creating
3 new provisions; and amending ORS 238A.130.

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

5 **SECTION 1.** ORS 238A.130 is amended to read:

6 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-
7 tion of pension program benefits under ORS 238A.125, "final average salary" means whichever of the
8 following is greater:

9 (a) The average salary per calendar year paid to an active member in the three consecutive
10 calendar years of membership that produce the highest average salary, including calendar years in
11 which the member was employed for less than a full calendar year. If the number of consecutive
12 calendar years of active membership before the effective date of retirement of the member is three
13 or less, the final average salary for the member is the average salary per calendar year paid to the
14 member in all of those years, without regard to whether the member was employed for full calendar
15 years.

16 (b) One-third of the total salary paid to an active member in the last 36 calendar months of
17 membership before the effective date of retirement of the member.

18 (2) For the purposes of calculating the final average salary of a member under subsection (1)
19 of this section, the Public Employees Retirement Board shall:

20 (a) Include any salary paid in or for the calendar month of separation from employment;

21 (b) Exclude any salary for any pay period before the first full pay period that is included in the
22 three consecutive calendar years of membership under subsection (1)(a) of this section; and

23 (c) Exclude any salary for any pay period before the first full pay period that is included in the
24 last 36 calendar months of membership under subsection (1)(b) of this section.

25 (3) For purposes of the computation of pension program benefits under ORS 238A.125 of a person
26 employed by a local government as defined in ORS 174.116, "final average salary" means whichever
27 of the following is greater:

28 (a) The average salary per calendar year earned by an active member in the three consecutive
29 calendar years of membership that produce the highest average salary, including calendar years in
30 which the member was employed for less than a full calendar year. If the number of consecutive

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 calendar years of active membership before the effective date of retirement of the member is three
 2 or less, the final average salary for the member is the average salary per calendar year earned by
 3 the member in all of those years, without regard to whether the member was employed for full cal-
 4 endar years.

5 (b) One-third of the total salary earned by an active member in the last 36 calendar months of
 6 membership before the effective date of retirement of the member.

7 (4) For the purposes of calculating the final average salary of a member under this section, the
 8 salary of the member does not include:

9 (a) Any amounts attributable to hours of overtime that exceed the [*average number of hours of*
 10 *overtime for the same class of employees as established by rule of the Public Employees Retirement*
 11 *Board*] **overtime cap for the member’s class of employees calculated under section 3 of this**
 12 **2025 Act.** [*The Oregon Department of Administrative Services shall establish by rule more than one*
 13 *overtime average for a class of state employees based on the geographic placement of the employees.*]

14 (b) Any increases in salary during the last 36 calendar months of membership before the effec-
 15 tive date of retirement of the member that:

16 (A) Are made by an employer to pay for insurance coverage previously paid for by the employer;
 17 and

18 (B) Are not offered to all employees in the same class of employees as established by rule of the
 19 board [*under paragraph (a) of this subsection*].

20 **SECTION 2. Section 3 of this 2025 Act is added to and made a part of ORS chapter 238A.**

21 **SECTION 3. (1) For purposes of ORS 238A.130 (4)(a), the overtime cap shall be calculated**
 22 **as follows:**

23 (a) **Before July 1 of each year, a participating public employer shall calculate the actual**
 24 **average number of overtime hours that employees in each class of employees employed by**
 25 **the employer performed in the previous calendar year.**

26 (b) **If the average number of overtime hours for a class of employees for the previous**
 27 **calendar year exceeds 105 percent of the existing overtime cap for that class of employees,**
 28 **the average number of overtime hours calculated under paragraph (a) of this subsection shall**
 29 **apply as the overtime cap to the calendar year in which the calculation is made.**

30 (c) **If the average number of overtime hours for a class of employees for the previous**
 31 **calendar year does not exceed 105 percent of the existing overtime cap for that class of em-**
 32 **ployees, the overtime cap for the previous calendar year shall apply to the calendar year in**
 33 **which the calculation is made.**

34 (d) **The Oregon Department of Administrative Services shall calculate the overtime cap**
 35 **under this subsection separately for each state agency, and calculate more than one over-**
 36 **time cap for each class of state employees based on the geographic placement of the em-**
 37 **ployees.**

38 (2) **A participating public employer shall maintain records of the overtime cap for each**
 39 **class of employee for each calendar year and provide the records to the Public Employees**
 40 **Retirement Board upon request.**

41 **SECTION 4. A participating public employer, as defined in ORS 238A.005, shall make the**
 42 **first calculations of overtime caps under section 3 of this 2025 Act no later than January 31,**
 43 **2026. The overtime caps calculated under this section apply to calendar year 2026.**