

Senate Bill 785

Sponsored by Senator KNOPP; Senators KRUSE, WHITSETT, Representative WHITSETT

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**.

Establishes Fair Retirement Plan for persons hired on or after July 1, 2016, who have not established membership in Public Employees Retirement System before July 1, 2016. Specifies that Fair Retirement Plan be part of Public Employees Retirement System administered by Public Employees Retirement Board. Provides that Fair Retirement Plan be defined contribution plan. Authorizes assessment of administrative charge against Fair Retirement Plan member accounts.

Continuously appropriates funds collected pursuant to charge to board for costs of administration of Fair Retirement Plan.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to a defined contribution retirement plan for public employees; creating new provisions;
3 amending ORS 106.340, 169.810, 173.051, 192.502, 196.165, 237.620, 237.650, 238.105, 238.115,
4 238.265, 238.445, 238.447, 238.455, 238.460, 238.465, 238.630, 238.645, 238.650, 238.700, 238.705,
5 238.715, 243.800, 243.830, 268.240, 338.135, 341.290, 341.551, 351.704, 352.138, 353.117, 377.836,
6 396.330, 410.614, 576.306, 741.201 and 777.775; repealing ORS 238.750; and declaring an emer-
7 gency.

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

DEFINITIONS

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12 **SECTION 1. For the purposes of sections 1 to 20 of this 2015 Act:**

13 (1) **"Employee" means an employee as described in ORS 238.005.**

14 (2) **"Fair Plan" means the Fair Retirement Plan established under sections 1 to 20 of this**
15 **2015 Act.**

16 (3) **"Fair Plan member" means a person who has established membership in the Fair Plan**
17 **under section 6 or 17 of this 2015 Act.**

18 (4) **"Firefighter" means:**

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

21 (b) **The State Fire Marshal, the chief deputy state fire marshal and deputy state fire**
22 **marshals; and**

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

26 (5) **"Participating public employer" means a public employer as defined in ORS 238.005**
27 **that participates in the system.**

28 (6) **"Police officer" means:**

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 (a) Employees of the Department of State Police who are classified as police officers by
 2 the Superintendent of State Police.

3 (b) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as
 4 classified by the sheriff, are the regular duties of police officers or corrections officers.

5 (c) Police chiefs and police personnel of a city who are classified as police officers by the
 6 city council or other governing body of the city.

7 (d) Corrections officers as defined in ORS 181.610.

8 (e) Employees at youth correction facilities, as defined in ORS 420.005, whose primary job
 9 description involves the custody, control, treatment, investigation or supervision of juveniles
 10 placed in those facilities.

11
 12 **FAIR RETIREMENT PLAN**

13
 14 **SECTION 2.** (1) The Fair Retirement Plan is established. Notwithstanding any provision
 15 of ORS chapter 238 or 238A, any person who is employed by a participating public employer
 16 on or after July 1, 2016, and who has not established membership in the Public Employees
 17 Retirement System before July 1, 2016, is entitled to receive only the benefits provided under
 18 the Fair Plan for periods of service with participating public employers on and after July 1,
 19 2016, and has no right or claim to any benefit under ORS chapter 238 or 238A, except as
 20 specifically provided by sections 1 to 20 of this 2015 Act. A person who establishes member-
 21 ship in the system before July 1, 2016, is entitled to receive the benefits provided by ORS
 22 chapter 238 or 238A.

23 (2) A person establishes membership in the system before July 1, 2016, for the purposes
 24 of this section if:

25 (a) The person is a member of the system, or a judge member of the system, on June 30,
 26 2016; or

27 (b) The person performed any period of service for a participating public employer before
 28 July 1, 2016, that is credited to the six-month period of employment required of an employee
 29 under ORS 238A.100 before an employee may become a member of the system.

30 (3) Except as provided in sections 1 to 20 of this 2015 Act, ORS chapters 238 and 238A do
 31 not apply to the Fair Plan.

32 (4) The provisions of this section do not apply to a person elected or appointed as a
 33 member of the Legislative Assembly, as a justice of the Supreme Court or as a judge of the
 34 Court of Appeals, the Oregon Tax Court or a circuit court.

35
 36 **ADMINISTRATION**

37
 38 **SECTION 3. Fair Retirement Plan administered by Public Employees Retirement Board.**

39 (1) The Fair Retirement Plan is part of the Public Employees Retirement System and is ad-
 40 ministered by the Public Employees Retirement Board.

41 (2) The board shall contract with a private sector firm for the recordkeeping and cus-
 42 tomer service functions of the Fair Plan. The board shall seek a firm that has economical
 43 pricing structures and the experience, knowledge and facilities to properly perform the
 44 functions specified in this subsection.

45 (3) ORS 238.035, 238.156, 238.445, 238.600, 238.601, 238.615, 238.618, 238.630, 238.635, 238.640,

1 238.645, 238.650, 238.655, 238.700, 238.705, 238.710 and 238.715 apply to the Fair Plan.

2 (4) Amounts contributed by or on behalf of Fair Plan members shall be held separate and
 3 distinct from the General Fund and the Public Employees Retirement Fund, but may be
 4 commingled with the assets of the Public Employees Retirement Fund for investment pur-
 5 poses.

6 **SECTION 4. Administrative costs of Fair Retirement Plan.** (1) The Public Employees
 7 Retirement Board shall implement and administer sections 1 to 20 of this 2015 Act so that:

8 (a) No expense is incurred by participating public employers or by the Public Employees
 9 Retirement Fund for the implementation and administration of the Fair Retirement Plan;
 10 and

11 (b) Participating public employers and the Public Employees Retirement System incur
 12 no liabilities other than those liabilities that are imposed under sections 1 to 20 of this 2015
 13 Act or other law.

14 (2) The system may assess a charge against the member account of a Fair Plan member.
 15 Funds collected pursuant to the charge are continuously appropriated to the board and may
 16 be used only to cover the costs incurred by the system to implement and administer the Fair
 17 Plan.

18
 19 **PARTICIPATION BY PUBLIC EMPLOYERS**
 20

21 **SECTION 5. Participation generally.** (1) All public employers participating in the Public
 22 Employees Retirement System on July 1, 2016:

23 (a) Shall continue to be participating public employers for the purposes of the Fair Re-
 24 tirement Plan; and

25 (b) Shall provide benefits under the Fair Plan for Fair Plan members.

26 (2) Any participating public employer that provided retirement benefits under ORS
 27 chapter 238 or 238A for some, but not all, of the employees of the participating public em-
 28 ployer on June 30, 2016, need not provide benefits under the Fair Plan for any class of em-
 29 ployees who were not members of the system on June 30, 2016.

30 (3) Any public employer that is not a participating public employer on June 30, 2016, may
 31 become a participating public employer under the Fair Plan. A public employer may become
 32 a participating public employer under this subsection only for the purposes of service per-
 33 formed by employees of the public employer on or after the date the public employer elects
 34 to participate in the Fair Plan.

35
 36 **MEMBERSHIP**
 37

38 **SECTION 6. Establishing membership in Fair Retirement Plan; member account.** (1) Any
 39 person who is employed by a participating public employer on or after July 1, 2016, and who
 40 has not established membership in the Public Employees Retirement System before July 1,
 41 2016, as described in section 2 of this 2015 Act, becomes a member of the Fair Retirement
 42 Plan after completing six full calendar months of employment, unless the employee elects
 43 not to become a Fair Plan member. The six-month probationary period may not be inter-
 44 rupted by more than 30 consecutive working days.

45 (2) Unless the employee elects not to become a member, upon completion of the six-

1 month probationary period required by this section, an employee shall become a member of
 2 the Fair Plan on the first day of the next full month following the six-month period.

3 (3) Upon a person's becoming a Fair Plan member under this section, the Public Em-
 4 ployees Retirement Board shall create a member account for the person. The member ac-
 5 count shall consist of employee contributions made under section 7 of this 2015 Act and
 6 employer contributions made under section 8 of this 2015 Act, adjusted to reflect any
 7 earnings or losses on those contributions.

9 CONTRIBUTIONS

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 11 **SECTION 7. Employee contribution.** (1) A Fair Plan member may elect to make an em-
 12 ployee contribution to the Fair Retirement Plan equal to a specific percentage of the Fair
 13 Plan member's salary. The percentage may not be more than the amount allowed by the
 14 federal law governing the Fair Plan's tax qualification and must be a whole number.

15 (2) A participating public employer may not assume or pay the employee contribution
 16 provided for in this section, except that a participating public employer may structure the
 17 compensation of the employee in a manner that allows a Fair Plan member who is employed
 18 by the employer to make the employee contribution on a pretax basis.

19 **SECTION 8. Employer contributions.** (1) A participating public employer must contribute
 20 to the Fair Retirement Plan a base amount equal to three percent of the salary of each Fair
 21 Plan member employed by the employer. The base amount must be contributed for all Fair
 22 Plan members, without regard to whether the employee makes any contributions under
 23 section 7 of this 2015 Act.

24 (2) In addition to the base amount required under subsection (1) of this section, for a Fair
 25 Plan member who is not a police officer or firefighter, a participating public employer must
 26 make contributions equal to one percent of a Fair Plan member's salary for every two per-
 27 cent of salary contributed by the Fair Plan member under section 7 of this 2015 Act. In no
 28 event may the total contribution by the employer for a Fair Plan member who is not a police
 29 officer or firefighter exceed an amount equal to six percent of the Fair Plan member's salary.

30 (3) In addition to the base amount required under subsection (1) of this section, for a Fair
 31 Plan member who is a police officer or firefighter, a participating public employer who em-
 32 ploys the Fair Plan member as a police officer or firefighter must make contributions equal
 33 to one and one-third percent of the Fair Plan member's salary for every two percent of sal-
 34 ary contributed by the Fair Plan member under section 7 of this 2015 Act. However, if a Fair
 35 Plan member who is a police officer or firefighter contributes six percent of the Fair Plan
 36 member's salary, the total employer contribution shall be an amount equal to 7.15 percent
 37 of the Fair Plan member's salary. In no event may the total contribution by the employer
 38 for a Fair Plan member who is a police officer or firefighter exceed an amount equal to 7.15
 39 percent of the Fair Plan member's salary.

40 **SECTION 9. Salary defined.** (1) For the purpose of computing employer and employee
 41 contributions under sections 7 and 8 of this 2015 Act, "salary" means the remuneration paid
 42 to a Fair Plan member in return for service to the participating public employer, including
 43 remuneration in the form of living quarters, board or other items of value, to the extent the
 44 remuneration is includable in the employee's taxable income under Oregon law. "Salary" in-
 45 cludes the additional amounts specified in subsection (2) of this section, but does not include

1 the amounts specified in subsection (3) of this section, regardless of whether those amounts
2 are includable in taxable income.

3 (2) For the purpose of computing employer and employee contributions under sections 7
4 and 8 of this 2015 Act, "salary" includes the following amounts:

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

7 (b) Contributions to a tax-sheltered or deferred annuity that are made at the election of
8 the employee.

9 (c) Any amount that is contributed to a cafeteria plan or qualified transportation fringe
10 benefit plan by the employer at the election of the employee and that is not includable in the
11 taxable income of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on the
12 effective date of this 2015 Act.

13 (d) Retroactive payments made to an employee to correct a clerical error, pursuant to
14 an award by a court or by order of or pursuant to a conciliation agreement with an admin-
15 istrative agency charged with enforcing federal or state law protecting the employee's rights
16 to employment or wages, which shall be allocated to and deemed paid in the periods in which
17 the work was done or in which the work would have been done.

18 (3) For the purpose of computing employer and employee contributions under sections 7
19 and 8 of this 2015 Act, "salary" does not include the following amounts:

20 (a) Money paid for overtime or bonuses.

21 (b) Travel expenses or any other expenses incidental to an employer's business that are
22 reimbursed by the employer.

23 (c) Payments made on account of an employee's death.

24 (d) Any lump sum payment for accumulated unused sick leave, vacation leave or other
25 paid leave.

26 (e) Any accelerated payment of an employment contract for a future period or any ad-
27 vance against future wages.

28 (f) Any retirement incentive, retirement severance pay, retirement bonus or retirement
29 gratuitous payment.

30 (g) Payment for a leave of absence after the date the employer and employee have agreed
31 that no future service will be performed.

32 (h) Payments for instructional services rendered to public universities listed in ORS
33 352.002 or the Oregon Health and Science University when those services are in excess of
34 full-time employment subject to sections 1 to 20 of this 2015 Act. A person employed under
35 a contract for less than 12 months is subject to this paragraph only for the months covered
36 by the contract.

37 (i) Any amount in excess of \$200,000 for a calendar year. If any period over which salary
38 is determined is less than 12 months, the \$200,000 limitation for that period shall be multi-
39 plied by a fraction, the numerator of which is the number of months in the determination
40 period and the denominator of which is 12. The Public Employees Retirement Board shall
41 adopt rules adjusting this dollar limit to incorporate adjustments authorized by the Internal
42 Revenue Service.

43 **SECTION 10. Collective bargaining agreements.** Notwithstanding section 7 of this 2015
44 Act, if a participating public employer is paying employee contributions for employees of the
45 employer pursuant to ORS 238.205 or 238A.335 under a collective bargaining agreement in

1 effect on July 1, 2016, the employer shall continue to make those contributions under the
 2 Fair Retirement Plan until such time as the term of the agreement expires. Upon the expi-
 3 ration of the collective bargaining agreement, the participating public employer may not
 4 thereafter “pick-up,” assume or pay the employee contributions.

6 VESTING

8 **SECTION 11. Vesting; loans.** (1) A Fair Plan member vests in employee contributions
 9 when the contributions are made.

10 (2) A Fair Plan member vests in employer contributions when employer contributions
 11 have been made on behalf of the member in each of 54 consecutive months.

12 (3) The Public Employees Retirement Board shall establish a mechanism under which a
 13 Fair Plan member may borrow amounts from the member account established under section
 14 6 of this 2015 Act. A member may borrow only from amounts in which the member has be-
 15 come vested under this section. The board shall limit loans to terms and conditions allowed
 16 under the tax qualification of the Fair Retirement Plan.

18 INVESTMENT OF MONEYS IN MEMBER ACCOUNTS

20 **SECTION 12. Investment program.** (1) The Oregon Investment Council shall establish a
 21 program for investment of moneys in Fair Plan member accounts. The program shall include
 22 policies and procedures for the investment of moneys in the accounts. The program and all
 23 investments of moneys under the program are subject to the provisions of ORS 293.701 to
 24 293.820.

25 (2) The council shall provide to the Public Employees Retirement Board a description, set
 26 forth in the council’s policies and procedures, of the investment options for moneys in Fair
 27 Plan member accounts, the applicable benchmark for each option and a description of the
 28 characteristics of each benchmark. The council shall provide at least nine different invest-
 29 ment options with a range of investment risks.

30 (3) The provisions of ORS chapter 59 that require registration of securities do not apply
 31 to any share, participation or other interest under the investment program established under
 32 this section. The provisions of ORS chapter 59 that require licensing of certain persons as
 33 broker-dealers or as investment advisers do not apply to any of the following persons or
 34 entities for the purposes of implementing and administering the investment program estab-
 35 lished under this section:

36 (a) The Oregon Investment Council.

37 (b) The Public Employees Retirement Board.

38 (c) The Public Employees Retirement System.

39 (d) The State Treasurer.

40 (e) Any officer or employee of the persons or entities described in paragraphs (a) to (d)
 41 of this subsection.

42 **SECTION 13. Self-direction of investments.** A Fair Plan member may elect any invest-
 43 ment option offered under the investment program established under section 12 of this 2015
 44 Act for all or part of the moneys in a member account. The Public Employees Retirement
 45 Board by rule shall provide for the manner in which changes in investment options may be

1 made by a Fair Plan member.

2
3 **WITHDRAWAL OF MEMBER ACCOUNT**

4
5 **SECTION 14. Account may be withdrawn by inactive member at any time after leaving**
6 **public employment.** (1) An inactive Fair Plan member may withdraw the member's account
7 at any time.

8 (2) Withdrawal of a member account under this section cancels all membership rights in
9 the Fair Retirement Plan.

10 (3) If a Fair Plan member withdraws the member account and is subsequently reem-
11 ployed by a participating public employer, the person may reestablish membership under the
12 Fair Plan only for the purposes of service performed after the person is reemployed.

13 (4) A Fair Plan member is inactive for the purposes of this section if the member is
14 separated from all service with participating public employers and with employers that are
15 treated as part of a participating public employer's controlled group under the federal laws
16 and rules governing the status of the Fair Plan as a qualified governmental retirement plan
17 and trust.

18
19 **DEATH BENEFIT**

20
21 **SECTION 15. Death benefit.** (1) If a Fair Plan member dies before retiring, the Public
22 Employees Retirement Board shall pay all money credited at the time of death to the mem-
23 ber account of the member in which the member has become vested under section 11 of this
24 2015 Act to one or more beneficiaries designated by the member. A Fair Plan member may
25 designate as a beneficiary any person, including the personal representative for the estate
26 of the member or a trustee named by the member. The withdrawal of a member's account
27 under section 14 of this 2015 Act invalidates any designation of a beneficiary under this sec-
28 tion.

29 (2) If a Fair Plan member dies before retiring and has not designated a beneficiary under
30 subsection (1) of this section, the board shall pay all money credited at the time of death to
31 the member account of the member in which the member has become vested under section
32 11 of this 2015 Act to the personal representative appointed for the estate of the deceased
33 member. If an affidavit has been filed under ORS 114.505 to 114.560 and the amount of pay-
34 ment does not exceed the maximum amount of personal property for which an affidavit may
35 be filed under ORS 114.505 to 114.560, the board shall pay the amount to the person who filed
36 the affidavit.

37 (3) If a Fair Plan member dies before retiring and has designated a beneficiary under
38 subsection (1) of this section, but the beneficiary dies before the member or dies before dis-
39 tribution is made under this section, the board shall pay the amount of money that would
40 otherwise have been paid to the beneficiary to the personal representative appointed for the
41 estate of the deceased beneficiary. If an affidavit has been filed under ORS 114.505 to 114.560
42 and the amount of money that would have been paid to the beneficiary does not exceed the
43 maximum amount of personal property for which an affidavit may be filed under ORS 114.505
44 to 114.560, the board shall pay the amount to the person who filed the affidavit on behalf of
45 the estate of the beneficiary.

1 (4) Payment by the board of a death benefit in the manner provided by this section
 2 completely discharges the board and the Public Employees Retirement System from any li-
 3 ability for amounts owing by reason of the death of a Fair Plan member.

4 5 BENEFITS UPON RETIREMENT

6
7 SECTION 16. Annuities and other payout options. The Public Employees Retirement
 8 Board shall by rule provide for annuities and other payout options for retired Fair Plan
 9 members. Annuities offered by the board may be fixed or variable. The board may not offer
 10 any annuity or other payout option that would require that a participating public employer
 11 make any contribution beyond the contributions required by section 8 of this 2015 Act. The
 12 board may not allow a Fair Plan member to receive an annuity or other payout before the
 13 member reaches the minimum retirement age provided for in the Fair Retirement Plan's tax
 14 qualification. The board shall ensure that minimum distribution requirements imposed under
 15 the Fair Plan's tax qualification are met.

16 17 CONVERSION TO FAIR RETIREMENT PLAN

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19 SECTION 17. (1) Any employee who establishes membership in the Public Employees
 20 Retirement System before July 1, 2016, as described in section 2 of this 2015 Act, and who is
 21 an active member, as defined in ORS 238.005 or 238A.005, may elect to convert the employee's
 22 retirement benefit to the Fair Retirement Plan. Upon conversion, the amounts in the regular
 23 account established for the employee under ORS 238.250, along with a matching amount
 24 funded by employer contributions, and any amounts in the variable account established for
 25 the employee under ORS 238.260 shall be transferred to a member account established for
 26 the employee under section 6 of this 2015 Act.

27 (2) If the Public Employees Retirement Board is informed by the Oregon Investment
 28 Council that the number of conversions elected under this section could negatively affect the
 29 Public Employees Retirement Fund, the board may require that amounts be transferred un-
 30 der this section in not more than five annual installments. Interest shall be paid on the
 31 amounts not immediately transferred at a rate established by the board.

32 33 BENEFIT INCREASES

34
35 SECTION 18. Local government approval of benefit increases. (1) Any benefit increase
 36 that is described in subsection (2) of this section and that is provided for by laws that become
 37 effective on or after the effective date of this 2015 Act applies to participating public em-
 38 ployers other than the state only if the benefit increase is approved in writing by the par-
 39 ticipating public employer. Written approval of the benefit increase must be delivered to the
 40 Public Employees Retirement Board within three months after the session of the Legislative
 41 Assembly that enacted the benefit increase adjourns sine die. If the benefit increase is ap-
 42 proved in the manner provided by this section, the benefit increase becomes operative on
 43 January 1 of the next calendar year.

44 (2) The provisions of this section apply to any change to the benefits provided under
 45 sections 1 to 20 of this 2015 Act that is the result of laws enacted during a single legislative

1 session, excluding any change that is made solely to maintain the status of the Fair Retirement
 2 Plan as a tax-qualified governmental plan, if the change results in an increase in the
 3 total liability for benefits under the Fair Plan, whether funded or not funded, that is in excess
 4 of one-tenth of one percent.

5 **SECTION 19. Application of benefit increases to legislators.** Any law enacted after January
 6 1, 2017, that has the effect of increasing the total liability for benefits under sections 1
 7 to 20 of this 2015 Act that is in excess of one-tenth of one percent does not apply to service
 8 by members of the Legislative Assembly that entitles those members to benefits under
 9 sections 1 to 20 of this 2015 Act.

10 CONTRACT RIGHTS

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 12
 13 **SECTION 20.** Except as provided in section 18 of this 2015 Act, nothing in sections 1 to
 14 20 of this 2015 Act prevents the Legislative Assembly or the Public Employees Retirement
 15 Board from changing or terminating the retirement benefits payable to persons who become
 16 Fair Plan members on or after July 1, 2016, as described in section 2 of this 2015 Act, as long
 17 as the change or termination applies only to benefits accruing on or after the date the
 18 change or termination is effective.

19 TAX QUALIFICATION

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 21
 22 **SECTION 21.** (1) Except as provided in this section, sections 1 to 20 and 22 of this 2015
 23 Act, the amendments to ORS 106.340, 169.810, 173.051, 192.502, 196.165, 237.620, 237.650, 238.105,
 24 238.115, 238.265, 238.445, 238.455, 238.465, 238.630, 238.645, 238.650, 238.700, 238.705, 238.715,
 25 243.800, 243.830, 268.240, 338.135, 341.290, 351.704, 353.117, 377.836, 396.330, 410.614, 576.306,
 26 741.201 and 777.775 by sections 23 to 55 of this 2015 Act and the repeal of ORS 238.750 by
 27 section 56 of this 2015 Act become operative on July 1, 2016.

28 (2) As soon as possible after the effective date of this 2015 Act, the Public Employees
 29 Retirement Board shall submit the provisions of sections 1 to 20 of this 2015 Act to the
 30 Internal Revenue Service and seek approval of sections 1 to 20 of this 2015 Act as a qualified
 31 governmental retirement plan and trust under the Internal Revenue Code.

32 (3) As soon as possible after the effective date of this 2015 Act, the board shall adopt all
 33 rules necessary for the implementation and operation of the Fair Retirement Plan.

34 **SECTION 22.** (1) Subject to the provisions of this section, until June 30, 2018, the Public
 35 Employees Retirement System may use assets of the Public Employees Retirement Fund
 36 that are unrelated to sections 1 to 20 of this 2015 Act to pay the administrative costs of the
 37 Fair Retirement Plan.

38 (2) Before January 1, 2023, the Public Employees Retirement Board shall transfer from
 39 accounts established under the Fair Retirement Plan the amount used under subsection (1)
 40 of this section, with interest, to accounts in the fund established to provide retirement benefits
 41 under ORS chapter 238. The rate of interest must be at least equal to the rate that the
 42 moneys would have earned had the moneys remained invested in the fund established to
 43 provide retirement benefits under ORS chapter 238, and in no event less than two percent
 44 per annum.

45 (3) Until such time as all moneys and interest are repaid under subsection (2) of this

1 section, beneficiaries of the fund established to provide retirement benefits under ORS
 2 chapter 238 have a security interest in the assets of the Fair Retirement Plan equal to the
 3 amount used under subsection (1) of this section and the interest required under subsection
 4 (2) of this section. The security interest may be foreclosed in an action at law.

5 (4) If the board fails to transfer any amount required under subsection (2) of this section
 6 before January 1, 2023, a person entitled to benefits under ORS chapter 238 may bring a
 7 mandamus action to compel the board to make the transfer and to perform all acts within
 8 the authority of the board to collect employer or employee contributions to the Fair Retirement
 9 Plan necessary to fund the transfer.

10 (5) In determining the amount of employer contributions necessary under the Fair Retirement
 11 Plan, the board shall include any amounts required to be transferred under subsection
 12 (2) of this section that are attributable to paying the costs of administering the Fair
 13 Retirement Plan.

14 (6) The board shall deduct from the member accounts established under section 6 of this
 15 2015 Act the amounts to be transferred under subsection (2) of this section that are attributable
 16 to paying the costs of administering the Fair Retirement Plan. The deduction must
 17 be a uniform percentage of the member accounts.

18 CONFORMING AMENDMENTS

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 21 **SECTION 23.** ORS 106.340 is amended to read:

22 106.340. (1) Any privilege, immunity, right or benefit granted by statute, administrative or court
 23 rule, policy, common law or any other law to an individual because the individual is or was married,
 24 or because the individual is or was an in-law in a specified way to another individual, is granted
 25 on equivalent terms, substantive and procedural, to an individual because the individual is or was
 26 in a domestic partnership or because the individual is or was, based on a domestic partnership, related
 27 in a specified way to another individual.

28 (2) Any responsibility imposed by statute, administrative or court rule, policy, common law or
 29 any other law on an individual because the individual is or was married, or because the individual
 30 is or was an in-law in a specified way to another individual, is imposed on equivalent terms, substantive
 31 and procedural, on an individual because the individual is or was in a domestic partnership
 32 or because the individual is or was, based on a domestic partnership, related in a specified way to
 33 another individual.

34 (3) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative
 35 or court rule, policy, common law or any other law to or on a spouse with respect to
 36 a child of either of the spouses is granted or imposed on equivalent terms, substantive and procedural,
 37 to or on a partner with respect to a child of either of the partners.

38 (4) Any privilege, immunity, right, benefit or responsibility granted or imposed by statute, administrative
 39 or court rule, policy, common law or any other law to or on a former or surviving
 40 spouse with respect to a child of either of the spouses is granted or imposed on equivalent terms,
 41 substantive and procedural, to or on a former or surviving partner with respect to a child of either
 42 of the partners.

43 (5) Many of the laws of this state are intertwined with federal law, and the Legislative Assembly
 44 recognizes that it does not have the jurisdiction to control federal laws or the privileges, immunities,
 45 rights, benefits and responsibilities related to federal laws.

1 (6) ORS 106.300 to 106.340 do not require or permit the extension of any benefit under ORS
2 chapter 238 or 238A **or sections 1 to 20 of this 2015 Act**, or under any other retirement, deferred
3 compensation or other employee benefit plan, if the plan administrator reasonably concludes that the
4 extension of benefits would conflict with a condition for tax qualification of the plan, or a condition
5 for other favorable tax treatment of the plan, under the Internal Revenue Code or regulations
6 adopted under the Internal Revenue Code.

7 (7) ORS 106.300 to 106.340 do not require the extension of any benefit under any employee
8 benefit plan that is subject to federal regulation under the Employee Retirement Income Security
9 Act of 1974.

10 (8) For purposes of administering Oregon tax laws, partners in a domestic partnership, surviving
11 partners in a domestic partnership and the children of partners in a domestic partnership have the
12 same privileges, immunities, rights, benefits and responsibilities as are granted to or imposed on
13 spouses in a marriage, surviving spouses and their children.

14 **SECTION 24.** ORS 169.810 is amended to read:

15 169.810. (1) Assumption by the regional correctional facility of those custodial duties formerly
16 performed by a county or city jail constitutes an assumption of duties by a public employer subject
17 to ORS 236.610 to 236.640.

18 (2) An employee who transfers from employment at a county or city jail to employment at a
19 regional correctional facility operated by the county or city by which the employee has been em-
20 ployed shall be accorded the following rights:

21 (a) If a trial or probationary service period is required for employment at the county or city jail,
22 the period of county or city employment of the employee shall apply to that requirement.

23 (b) An employee who transfers from employment at a county or city jail to employment at the
24 regional correctional facility shall retain accumulated unused sick leave with pay and the accumu-
25 lated unused vacation with pay to which the employee was entitled under county or city employment
26 on the day before the transfer that are supported by written records of accumulation and use pur-
27 suant to a plan formally adopted and applicable to the employee under county or city employment.

28 (c) Notwithstanding any other provision of law applicable to a retirement system for county
29 employees or city employees, an employee who transfers from employment at a county or city jail
30 to employment at the regional correctional facility who was participating in a retirement system
31 under county or city employment may elect, not later than the first day of the month following the
32 month in which the employee transfers, to continue under the retirement system in which partic-
33 ipating and not to become, if eligible, a member of another retirement system. The election shall be
34 made in writing and shall be submitted to the regional correctional facility administrator, the Public
35 Employees Retirement Board and the governing body of the counties and cities that operate the
36 regional correctional facility.

37 (d) If an employee elects to continue under the retirement system in which participating under
38 county or city employment, the employee shall continue to make required contributions to that
39 system and the administration of the regional correctional facility shall make contributions on be-
40 half of the employee required of an employer participating in that system.

41 (e) If an employee fails to elect to continue under the retirement system in which participating
42 under county or city employment as provided in paragraph (c) of this subsection or was not partic-
43 ipating in a retirement system under county or city employment, the employee shall become, if eli-
44 gible, a member of the Public Employees Retirement System. If the employee is eligible to become
45 a member of the Public Employees Retirement System, the period of continuous service of the em-

1 ployee under county or city employment immediately before the transfer of the employee shall apply
2 to the six months' service requirement of ORS 238.015, 238A.100 or 238A.300 (1) **or section 6 of this**
3 **2015 Act.**

4 (3) The county or city employment records, or a copy thereof, applicable to an employee trans-
5 ferred under subsection (2) of this section shall be provided by the person having custody of the
6 records to the regional correctional facility administrator.

7 **SECTION 25.** ORS 173.051 is amended to read:

8 173.051. The Legislative Fiscal Officer, with the aid of the Public Employees Retirement Board
9 and public employers providing benefits under ORS chapter 238A **or sections 1 to 20 of this 2015**
10 **Act**, shall prepare a fiscal impact statement on each measure reported out of a committee of the
11 Legislative Assembly that would increase employer contributions under ORS chapter 238A **or**
12 **sections 1 to 20 of this 2015 Act.** If the Legislative Fiscal Officer determines that a proposed
13 measure would result in an increase in the total liability for benefits under ORS chapter 238A **or**
14 **sections 1 to 20 of this 2015 Act** that is in excess of one-tenth of one percent, the Legislative
15 Fiscal Officer shall promptly notify the Public Employees Retirement Board. The board shall there-
16 after promptly give notice of the proposed measure, and the fiscal impact of the proposed measure
17 as determined by the Legislative Fiscal Officer, to all public employers providing benefits under ORS
18 chapter 238A **or sections 1 to 20 of this 2015 Act.**

19 **SECTION 26.** ORS 192.502 is amended to read:

20 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

21 (1) Communications within a public body or between public bodies of an advisory nature to the
22 extent that they cover other than purely factual materials and are preliminary to any final agency
23 determination of policy or action. This exemption shall not apply unless the public body shows that
24 in the particular instance the public interest in encouraging frank communication between officials
25 and employees of public bodies clearly outweighs the public interest in disclosure.

26 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
27 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
28 public interest by clear and convincing evidence requires disclosure in the particular instance. The
29 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
30 tute an unreasonable invasion of privacy.

31 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
32 telephone numbers contained in personnel records maintained by the public body that is the em-
33 ployer or the recipient of volunteer services. This exemption:

34 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
35 unteers who are elected officials, except that a judge or district attorney subject to election may
36 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
37 terms of ORS 192.445;

38 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
39 shows by clear and convincing evidence that the public interest requires disclosure in a particular
40 instance;

41 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
42 fessional education association of which the substitute teacher may be a member; and

43 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

44 (4) Information submitted to a public body in confidence and not otherwise required by law to
45 be submitted, where such information should reasonably be considered confidential, the public body

1 has obliged itself in good faith not to disclose the information, and when the public interest would
2 suffer by the disclosure.

3 (5) Information or records of the Department of Corrections, including the State Board of Parole
4 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
5 a person in custody of the department or substantially prejudice or prevent the carrying out of the
6 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
7 terest in disclosure.

8 (6) Records, reports and other information received or compiled by the Director of the Depart-
9 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not
10 otherwise required by law to be made public, to the extent that the interests of lending institutions,
11 their officers, employees and customers in preserving the confidentiality of such information out-
12 weighs the public interest in disclosure.

13 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

14 (8) Any public records or information the disclosure of which is prohibited by federal law or
15 regulations.

16 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
17 wise made confidential or privileged under Oregon law.

18 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
19 compiled in a public record when:

20 (A) The basis for the claim of exemption is ORS 40.225;

21 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
22 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
23 to 192.505;

24 (C) The factual information was compiled by or at the direction of an attorney as part of an
25 investigation on behalf of the public body in response to information of possible wrongdoing by the
26 public body;

27 (D) The factual information was not compiled in preparation for litigation, arbitration or an
28 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
29 or against the public body; and

30 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
31 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
32 rection.

33 (10) Public records or information described in this section, furnished by the public body ori-
34 ginally compiling, preparing or receiving them to any other public officer or public body in con-
35 nection with performance of the duties of the recipient, if the considerations originally giving rise
36 to the confidential or exempt nature of the public records or information remain applicable.

37 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
38 programs pursuant to ORS 469.530.

39 (12) Employee and retiree address, telephone number and other nonfinancial membership records
40 and employee financial records maintained by the Public Employees Retirement System pursuant to
41 ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act.**

42 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
43 agents of the treasurer or the council relating to active or proposed publicly traded investments
44 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
45 liquidation of the investments. For the purposes of this subsection:

- 1 (a) The exemption does not apply to:
- 2 (A) Information in investment records solely related to the amount paid directly into an invest-
- 3 ment by, or returned from the investment directly to, the treasurer or council; or
- 4 (B) The identity of the entity to which the amount was paid directly or from which the amount
- 5 was received directly.
- 6 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
- 7 or liquidation of the investment has been concluded.
- 8 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
- 9 Oregon Growth Board or the agents of the treasurer, council or board relating to actual or proposed
- 10 investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset
- 11 including but not limited to records regarding the solicitation, acquisition, deployment, exchange or
- 12 liquidation of the investments including but not limited to:
- 13 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
- 14 or to their respective investment vehicles.
- 15 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
- 16 ment vehicles.
- 17 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
- 18 vehicles.
- 19 (D) Records containing information regarding the portfolio positions in which an investment
- 20 fund, an asset ownership or their respective investment vehicles invest.
- 21 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
- 22 spective investment vehicles.
- 23 (F) Investment agreements and related documents.
- 24 (b) The exemption under this subsection does not apply to:
- 25 (A) The name, address and vintage year of each privately placed investment fund.
- 26 (B) The dollar amount of the commitment made to each privately placed investment fund since
- 27 inception of the fund.
- 28 (C) The dollar amount of cash contributions made to each privately placed investment fund since
- 29 inception of the fund.
- 30 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
- 31 Treasurer, the Oregon Investment Council, the Oregon Growth Board or the agents of the treasurer,
- 32 council or board from each privately placed investment fund.
- 33 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
- 34 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
- 35 Council, the Oregon Growth Board or the agents of the treasurer, council or board.
- 36 (F) The net internal rate of return of each privately placed investment fund since inception of
- 37 the fund.
- 38 (G) The investment multiple of each privately placed investment fund since inception of the fund.
- 39 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
- 40 basis to each privately placed investment fund.
- 41 (I) The dollar amount of cash profit received from each privately placed investment fund on a
- 42 fiscal year-end basis.
- 43 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
- 44 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
- 45 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

1 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
2 by ORS 98.352.

3 (17)(a) The following records, communications and information submitted to the Oregon Business
4 Development Commission, the Oregon Business Development Department, the State Department of
5 Agriculture, the Oregon Growth Board, the Port of Portland or other ports as defined in ORS
6 777.005, or a county or city governing body and any board, department, commission, council or
7 agency thereof, by applicants for investment funds, grants, loans, services or economic development
8 moneys, support or assistance including, but not limited to, those described in ORS 285A.224:

9 (A) Personal financial statements.

10 (B) Financial statements of applicants.

11 (C) Customer lists.

12 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
13 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
14 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
15 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
16 ery or deposition statutes to a party to litigation or potential litigation.

17 (E) Production, sales and cost data.

18 (F) Marketing strategy information that relates to applicant's plan to address specific markets
19 and applicant's strategy regarding specific competitors.

20 (b) The following records, communications and information submitted to the State Department
21 of Energy by applicants for tax credits or for grants awarded under ORS 469B.256:

22 (A) Personal financial statements.

23 (B) Financial statements of applicants.

24 (C) Customer lists.

25 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
26 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
27 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
28 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
29 ery or deposition statutes to a party to litigation or potential litigation.

30 (E) Production, sales and cost data.

31 (F) Marketing strategy information that relates to applicant's plan to address specific markets
32 and applicant's strategy regarding specific competitors.

33 (18) Records, reports or returns submitted by private concerns or enterprises required by law
34 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
35 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
36 information is in a form which would permit identification of the individual concern or enterprise.
37 Nothing in this subsection shall limit the use which can be made of such information for regulatory
38 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
39 payer of the delinquency immediately by certified mail. However, in the event that the payment or
40 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
41 public body shall disclose, upon the request of any person, the following information:

42 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
43 payment or delivery of the taxes.

44 (b) The period for which the taxes are delinquent.

45 (c) The actual, or estimated, amount of the delinquency.

1 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
2 pointed counsel, and all information supplied to the court from whatever source for the purpose of
3 verifying the financial eligibility of a person pursuant to ORS 151.485.

4 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
5 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
6 ness Services, in any of the following circumstances:

7 (a) When necessary for insurers, self-insured employers and third party claim administrators to
8 process workers' compensation claims.

9 (b) When necessary for the director, other governmental agencies of this state or the United
10 States to carry out their duties, functions or powers.

11 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
12 to identify any worker who is the subject of a claim.

13 (d) When a worker or the worker's representative requests review of the worker's claim record.

14 (21) Sensitive business records or financial or commercial information of the Oregon Health and
15 Science University that is not customarily provided to business competitors.

16 (22) Records of Oregon Health and Science University regarding candidates for the position of
17 president of the university.

18 (23) The records of a library, including:

19 (a) Circulation records, showing use of specific library material by a named person;

20 (b) The name of a library patron together with the address or telephone number of the patron;
21 and

22 (c) The electronic mail address of a patron.

23 (24) The following records, communications and information obtained by the Housing and Com-
24 munity Services Department in connection with the department's monitoring or administration of
25 financial assistance or of housing or other developments:

26 (a) Personal and corporate financial statements and information, including tax returns.

27 (b) Credit reports.

28 (c) Project appraisals, excluding appraisals obtained in the course of transactions involving an
29 interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed
30 of as part of the project, but only after the transactions have closed and are concluded.

31 (d) Market studies and analyses.

32 (e) Articles of incorporation, partnership agreements and operating agreements.

33 (f) Commitment letters.

34 (g) Project pro forma statements.

35 (h) Project cost certifications and cost data.

36 (i) Audits.

37 (j) Project tenant correspondence.

38 (k) Personal information about a tenant.

39 (L) Housing assistance payments.

40 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
41 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
42 that is not otherwise required by law to be submitted.

43 (26) Sensitive business, commercial or financial information furnished to or developed by a
44 public body engaged in the business of providing electricity or electricity services, if the information
45 is directly related to a transaction described in ORS 261.348, or if the information is directly related

1 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
2 disclosure of the information would cause a competitive disadvantage for the public body or its re-
3 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
4 velopment or review of generally applicable rate schedules.

5 (27) Sensitive business, commercial or financial information furnished to or developed by the
6 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
7 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
8 and disclosure of the information would cause a competitive disadvantage for the Klamath
9 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
10 ment or review of generally applicable rate schedules.

11 (28) Personally identifiable information about customers of a municipal electric utility or a
12 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,
13 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
14 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
15 lease personally identifiable information about a customer, and a public body providing water, sewer
16 or storm drain services may release the name, date of birth, driver license number, telephone num-
17 ber, electronic mail address or Social Security number of a customer, if the customer consents in
18 writing or electronically, if the disclosure is necessary for the utility, district or other public body
19 to render services to the customer, if the disclosure is required pursuant to a court order or if the
20 disclosure is otherwise required by federal or state law. The utility, district or other public body
21 may charge as appropriate for the costs of providing such information. The utility, district or other
22 public body may make customer records available to third party credit agencies on a regular basis
23 in connection with the establishment and management of customer accounts or in the event such
24 accounts are delinquent.

25 (29) A record of the street and number of an employee's address submitted to a special district
26 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

27 (30) Sensitive business records, capital development plans or financial or commercial information
28 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

29 (31) Documents, materials or other information submitted to the Director of the Department of
30 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
31 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
32 or subsidiaries under ORS 86A.095 to 86A.198, 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200
33 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code
34 when:

35 (a) The document, material or other information is received upon notice or with an under-
36 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
37 the document, material or other information; and

38 (b) The director has obligated the Department of Consumer and Business Services not to dis-
39 close the document, material or other information.

40 (32) A county elections security plan developed and filed under ORS 254.074.

41 (33) Information about review or approval of programs relating to the security of:

42 (a) Generation, storage or conveyance of:

43 (A) Electricity;

44 (B) Gas in liquefied or gaseous form;

45 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

1 (D) Petroleum products;

2 (E) Sewage; or

3 (F) Water.

4 (b) Telecommunication systems, including cellular, wireless or radio systems.

5 (c) Data transmissions by whatever means provided.

6 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
7 ignates the information as confidential by rule under ORS 1.002.

8 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

9 (b) As used in this subsection, "employer account records" means all records maintained in any
10 form that are specifically related to the account of any employer insured, previously insured or un-
11 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
12 mation obtained or developed by the corporation in connection with providing, offering to provide
13 or declining to provide insurance to a specific employer. "Employer account records" includes, but
14 is not limited to, an employer's payroll records, premium payment history, payroll classifications,
15 employee names and identification information, experience modification factors, loss experience and
16 dividend payment history.

17 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
18 discovery documents in litigation pursuant to applicable rules of civil procedure.

19 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

20 (b) As used in this subsection, "claimant files" includes, but is not limited to, all records held
21 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
22 records pertaining to such a claim.

23 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
24 discovery documents in litigation pursuant to applicable rules of civil procedure.

25 (37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge
26 or other separation from military service.

27 (38) Records of or submitted to a domestic violence service or resource center that relate to the
28 name or personal information of an individual who visits a center for service, including the date of
29 service, the type of service received, referrals or contact information or personal information of a
30 family member of the individual. As used in this subsection, "domestic violence service or resource
31 center" means an entity, the primary purpose of which is to assist persons affected by domestic or
32 sexual violence by providing referrals, resource information or other assistance specifically of ben-
33 efit to domestic or sexual violence victims.

34 (39) Information reported to the Oregon Health Authority under ORS 431.964, except as provided
35 in ORS 431.964 (2)(c) information disclosed by the authority under ORS 431.966 and any information
36 related to disclosures made by the authority under ORS 431.966, including information identifying
37 the recipient of the information.

38 (40)(a) Electronic mail addresses in the possession or custody of an agency or subdivision of the
39 executive department, as defined in ORS 174.112, a local government or local service district, as
40 defined in ORS 174.116, or a special government body, as defined in ORS 174.117.

41 (b) This subsection does not apply to electronic mail addresses assigned by a public body to
42 public employees for use by the employees in the ordinary course of their employment.

43 **SECTION 27.** ORS 196.165 is amended to read:

44 196.165. (1) The Columbia River Gorge Commission established under ORS 196.150 may designate
45 its employees as employees and the commission as an employer subject to the Oregon Public Em-

1 ployees Retirement System under ORS chapters 238 and 238A **and sections 1 to 20 of this 2015**
 2 **Act** or as an employer and employees subject to a retirement system provided by the State of
 3 Washington under the laws of the State of Washington.

4 (2) The commission may designate its employees as employees eligible under benefit plans pro-
 5 vided under ORS 243.105 to 243.285 or under benefit plans provided under the laws of the State of
 6 Washington.

7 **SECTION 28.** ORS 237.620 is amended to read:

8 237.620. (1) Except as provided in this section, all public employers of police officers or fire-
 9 fighters shall provide retirement benefits to those employees under the Public Employees Retirement
 10 System.

11 (2) Notwithstanding subsection (1) of this section, a public employer of police officers or fire-
 12 fighters need not provide retirement benefits to those employees under the Public Employees Re-
 13 tirement System if the Public Employees Retirement Board determines that the public employer
 14 provides retirement benefits to each of the following classes of employees that are equal to or better
 15 than the retirement benefits that would be provided to the equivalent classes of employees under the
 16 Public Employees Retirement System:

17 (a) Police officers or firefighters who are entitled to receive benefits only under ORS chapter
 18 238 and who established membership in the system before January 1, 1996, as described in ORS
 19 238.430 (2);

20 (b) Police officers or firefighters who are entitled to receive benefits only under ORS chapter
 21 238 and who established membership in the system on or after January 1, 1996, and before August
 22 29, 2003, as described in ORS 238A.025 (4); and

23 (c) Police officers or firefighters who establish membership in the system on or after August 29,
 24 2003, and are entitled to benefits only under the Oregon Public Service Retirement Plan.

25 **(d) Police officers or firefighters who establish membership in the system on or after the**
 26 **effective date of this 2015 Act, and are entitled to benefits only under sections 1 to 20 of this**
 27 **2015 Act.**

28 (3) At such times as may be established by board rule, the Public Employees Retirement Board
 29 shall review the retirement benefits provided by a public employer of police officers or firefighters
 30 that does not provide retirement benefits for those employees under the Public Employees Retire-
 31 ment System. The review must be conducted at the expense of the public employer. Based on the
 32 review, the board shall determine whether the public employer complies with the requirements of
 33 subsection (2) of this section. If the board determines that the public employer does not comply with
 34 the requirements of subsection (2) of this section for any class of employees described in subsection
 35 (2) of this section, the public employer must provide that class of employees with retirement benefits
 36 adequate to meet the requirements of subsection (2) of this section. If the public employer fails to
 37 provide those benefits, any employee within the class may bring an action in circuit court to compel
 38 compliance with the requirements of this section.

39 **SECTION 29.** ORS 237.650 is amended to read:

40 237.650. (1) Except as provided in this section, a person who is appointed or elected as a member
 41 of the Legislative Assembly and who is a member of the Public Employees Retirement System at the
 42 time of the appointment or election may make a retirement plan election in the manner provided
 43 by this section. If a person who is permitted to make an election under this section does not make
 44 a retirement plan election under subsection (2), (3), (4), [or] (5), **(6) or (7)** of this section, the person
 45 is deemed to have elected a retirement plan as provided in subsection [(6)] **(8)** of this section.

1 (2) An active or inactive member of the Public Employees Retirement System who is appointed
2 or elected as a member of the Legislative Assembly, and who established membership in the system
3 before August 29, 2003, as described in ORS 238A.025, may:

4 (a) Elect to remain a member of the system under ORS chapter 238 for the purpose of service
5 in the Legislative Assembly;

6 (b) Decline to remain a member of the system under ORS chapter 238 and elect to become a
7 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
8 service in the Legislative Assembly; or

9 (c) Decline to remain a member of the system under ORS chapter 238 or to become a legislator
10 member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the
11 Legislative Assembly.

12 (3) A retired member of the Public Employees Retirement System who is appointed or elected
13 as a member of the Legislative Assembly, and who established membership in the system before
14 August 29, 2003, as described in ORS 238A.025, may:

15 (a) Elect to become an active member of the system under ORS chapter 238 for the purpose of
16 service in the Legislative Assembly;

17 (b) Decline to become an active member of the system under ORS chapter 238 and elect to be-
18 come a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose
19 of service in the Legislative Assembly; or

20 (c) Decline to become an active member of the system under ORS chapter 238 or to become a
21 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
22 service in the Legislative Assembly.

23 (4) An active or inactive member of the Public Employees Retirement System who is appointed
24 or elected as a member of the Legislative Assembly, and who established membership in the system
25 on or after August 29, 2003, as described in ORS 238A.025, **and before July 1, 2016**, may:

26 (a) Elect to remain a member of the system under ORS chapter 238A for the purpose of service
27 in the Legislative Assembly;

28 (b) Decline to remain a member of the system under ORS chapter 238A and elect to become a
29 legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
30 service in the Legislative Assembly; or

31 (c) Decline to remain a member of the system under ORS chapter 238A or to become a legislator
32 member of the state deferred compensation plan under ORS 237.655 for the purpose of service in the
33 Legislative Assembly.

34 (5) A retired member of the Public Employees Retirement System who is appointed or elected
35 as a member of the Legislative Assembly, and who established membership in the system on or after
36 August 29, 2003, as described in ORS 238A.025, **and before July 1, 2016**, may:

37 (a) Elect to become an active member of the system under ORS chapter 238A for the purpose
38 of service in the Legislative Assembly;

39 (b) Decline to become an active member of the system under ORS chapter 238A and elect to
40 become a legislator member of the state deferred compensation plan under ORS 237.655 for the
41 purpose of service in the Legislative Assembly; or

42 (c) Decline to become an active member of the system under ORS chapter 238A or to become
43 a legislator member of the state deferred compensation plan under ORS 237.655 for the purpose of
44 service in the Legislative Assembly.

45 **(6) An active or inactive member of the Public Employees Retirement System who is**

1 appointed or elected as a member of the Legislative Assembly, and who established mem-
2 bership in the system on or after July 1, 2016, may:

3 (a) Elect to remain a member of the system under sections 1 to 20 of this 2015 Act for
4 the purpose of service in the Legislative Assembly;

5 (b) Decline to remain a member of the system under sections 1 to 20 of this 2015 Act and
6 elect to become a legislator member of the state deferred compensation plan under ORS
7 237.655 for the purpose of service in the Legislative Assembly; or

8 (c) Decline to remain a member of the system under sections 1 to 20 of this 2015 Act or
9 to become a legislator member of the state deferred compensation plan under ORS 237.655
10 for the purpose of service in the Legislative Assembly.

11 (7) A retired member of the Public Employees Retirement System who is appointed or
12 elected as a member of the Legislative Assembly, and who established membership in the
13 system on or after July 1, 2016, may:

14 (a) Elect to become an active member of the system under sections 1 to 20 of this 2015
15 Act for the purpose of service in the Legislative Assembly;

16 (b) Decline to become an active member of the system under sections 1 to 20 of this 2015
17 Act and elect to become a legislator member of the state deferred compensation plan under
18 ORS 237.655 for the purpose of service in the Legislative Assembly; or

19 (c) Decline to become an active member of the system under sections 1 to 20 of this 2015
20 Act or to become a legislator member of the state deferred compensation plan under ORS
21 237.655 for the purpose of service in the Legislative Assembly.

22 [(6)] (8) Written notice of an election under subsection (2), (3), (4) [or], (5), (6) or (7) of this
23 section must be given to the Public Employees Retirement Board not more than 30 days after the
24 person takes office. If the board does not receive written notice of the election within 30 days after
25 the person takes office:

26 (a) A person described in subsection (2) of this section is deemed to have elected to remain a
27 member of the Public Employees Retirement System under ORS chapter 238 for the purpose of ser-
28 vice in the Legislative Assembly.

29 (b) A person described in subsection (3) of this section is deemed to have declined to become
30 an active member of the system under ORS chapter 238 or to become a legislator member of the
31 state deferred compensation plan under ORS 237.655, and remains a retired member of the system
32 under ORS chapter 238 for the purpose of service in the Legislative Assembly.

33 (c) A person described in subsection (4) of this section is deemed to have elected to remain a
34 member of the Public Employees Retirement System under ORS chapter 238A for the purpose of
35 service in the Legislative Assembly.

36 (d) A person described in subsection (5) of this section is deemed to have declined to become
37 an active member of the system under ORS chapter 238A or to become a legislator member of the
38 state deferred compensation plan under ORS 237.655, and remains a retired member of the system
39 under ORS chapter 238A for the purpose of service in the Legislative Assembly.

40 (e) A person described in subsection (6) of this section is deemed to have elected to re-
41 main a member of the Public Employees Retirement System under sections 1 to 20 of this
42 2015 Act for the purpose of service in the Legislative Assembly.

43 (d) A person described in subsection (7) of this section is deemed to have declined to be-
44 come an active member of the system under sections 1 to 20 of this 2015 Act or to become
45 a legislator member of the state deferred compensation plan under ORS 237.655, and remains

1 **a retired member of the system under sections 1 to 20 of this 2015 Act for the purpose of**
 2 **service in the Legislative Assembly.**

3 [(7)] (9) An election under subsection (3)(b) or (c) [or], (5)(b) or (c) **or (7)(b) or (c)** of this section
 4 does not affect the status of a person as a retired member of the system and a recipient of retire-
 5 ment benefits under ORS chapter 238 or 238A **or sections 1 to 20 of this 2015 Act.**

6 [(8)] (10) An election under this section does not affect the ability of a person appointed or
 7 elected as a member of the Legislative Assembly to participate in the state deferred compensation
 8 plan in the manner provided by ORS 243.401 to 243.507 as other than a legislator member under ORS
 9 237.655.

10 **SECTION 30.** ORS 238.105 is amended to read:

11 238.105. (1) Whenever, within five years after the employee is separated from all service entitling
 12 the employee to membership in the system, an employee who has withdrawn the amount credited to
 13 the member account of the member reenters the service of an employer participating in the system,
 14 the employee's rights in the system that were forfeited by the withdrawal shall be restored upon
 15 repaying to the board within one year after reentering the service of the employer, the full amount
 16 so withdrawn together with the interest that would have been accumulated on the sum had the
 17 amount not been withdrawn.

18 (2) Restoration of rights under this section does not affect any forfeiture of rights of a person
 19 by reason of:

20 (a) Withdrawal of an account established under ORS 238.440;

21 (b) Withdrawal from the pension program under ORS 238A.120; [or]

22 (c) Withdrawal of individual accounts pursuant to ORS 238A.375; **or**

23 **(d) Withdrawal of member accounts under section 14 of this 2015 Act.**

24 **SECTION 31.** ORS 238.115 is amended to read:

25 238.115. (1)(a) A member of the system who, after separation from all service entitling the em-
 26 ployee to membership in the system and withdrawal of the amount credited to the member account
 27 of the member, reenters the service of an employer participating in the system and serves as an
 28 active member of the system for 10 years after that reentry, and who has not otherwise obtained
 29 restoration of creditable service forfeited by the withdrawal, shall obtain restoration of one full
 30 month of creditable service forfeited by the withdrawal for each three full months of service as an
 31 active member after that reentry if the member, within 90 days before the effective date of retire-
 32 ment of the member:

33 (A) Applies in writing to the board for restoration of creditable service; and

34 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
 35 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
 36 a year after the date of the withdrawal and before the effective date of retirement of the member.
 37 The interest shall be computed at the annual rate of 7.5 percent.

38 (b) If a member who obtains restoration of creditable service as provided in this subsection does
 39 not obtain restoration of all creditable service forfeited by the withdrawal pursuant to service after
 40 reentry, the payment under paragraph (a) of this subsection shall be reduced proportionately to re-
 41 flect the percentage of creditable service restored.

42 (c) A member who obtains restoration of creditable service as provided in this subsection is not
 43 entitled to elect to receive the service retirement benefit described in ORS 238.305 (2) or (3).

44 (2) A member who forfeited creditable service rendered to a public employer before March 27,
 45 1953, because under ORS 237.976 (2) the employee withdrew contributions of the employee to the

1 Public Employees Retirement System established by chapter 401, Oregon Laws 1945, and who did
 2 not obtain restoration of creditable service so forfeited as provided in chapter 857, Oregon Laws
 3 1977, shall, upon retirement, receive restoration of creditable service so forfeited, if the member,
 4 before the effective date of retirement of the member:

5 (a) Applies in writing to the board for the restoration of the creditable service; and

6 (b) Pays to the board in a lump sum for credit to the member account of the member an amount
 7 determined by the board to be equal to the full amount of contributions so withdrawn and the in-
 8 terest that would have accumulated to the regular account of the member had those contributions
 9 not been withdrawn.

10 (3)(a) A member of the Public Employees Retirement System who was a member of an associ-
 11 ation established pursuant to ORS chapter 239 (1997 Edition), but separated from all service entitl-
 12 ing the employee to membership in the system of the association and withdrew the amount credited
 13 to the member account of the employee in the retirement fund of the association, and who, after that
 14 separation, entered the service of an employer in the field of education participating in the Public
 15 Employees Retirement System and served as an active member of that system for 10 years after that
 16 entry, and who has not otherwise obtained restoration of all creditable service forfeited by the
 17 withdrawal, shall obtain creditable service as a member of the Public Employees Retirement System
 18 equal to all creditable service forfeited by the withdrawal if the member within 90 days before the
 19 effective date of retirement of the member:

20 (A) Applies in writing to the Public Employees Retirement Board for that creditable service; and

21 (B) Pays to the board in a lump sum for credit to the member account of the member the amount
 22 withdrawn and interest on the amount withdrawn compounded annually for each year or portion of
 23 a year after the date of the withdrawal and before the effective date of retirement or effective date
 24 of application of the member. The interest shall be computed at the rate actually credited to regular
 25 accounts for that period.

26 (b) This subsection provides a method of obtaining creditable service for forfeited creditable
 27 service described in this subsection that is in lieu of any application of subsection (1) of this section
 28 for that purpose.

29 (4) Restoration of creditable service under this section does not affect any forfeiture of rights
 30 of a person by reason of:

31 (a) Withdrawal of an account established under ORS 238.440;

32 (b) Withdrawal from the pension program under ORS 238A.120; *[or]*

33 (c) Withdrawal of individual accounts pursuant to ORS 238A.375;

34 **(d) Withdrawal of member accounts under section 14 of this 2015 Act.**

35 **SECTION 32.** ORS 238.265 is amended to read:

36 238.265. (1) Except as otherwise provided in this section, a member of the Public Employees
 37 Retirement System may withdraw from the Public Employees Retirement Fund the amount credited
 38 to the member account, if any, for the member if:

39 (a) The member is separated from all service with participating public employers;

40 (b) The member is separated from all service with employers who are treated as part of a par-
 41 ticipating public employer's controlled group under the federal laws and rules governing the status
 42 of the system and the fund as a qualified governmental retirement plan and trust;

43 (c) The member has not attained earliest service retirement age; and

44 (d) The separation from service is not by reason of death or disability.

45 (2) If a member wishes to withdraw the member account, if any, of the member under this sec-

1 tion, the member must transmit to the Public Employees Retirement Board a withdrawal request.
 2 The board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn
 3 amounts, if:

4 (a) The board determines that the separation is not a bona fide separation; or

5 (b) The member fails to remain absent from the service of all employers described in subsection
 6 (1) of this section for at least one calendar month following the month in which the member sepa-
 7 rates from service.

8 (3) If a member has contributed to the fund in each of five calendar years and has separated
 9 from all service in the manner described in subsection (1) of this section before reaching earliest
 10 service retirement age, the member may elect to withdraw the member account of the member under
 11 this section at any time before reaching earliest service retirement age. If the inactive member does
 12 not make an election to withdraw under this section, the member shall be paid the benefits or re-
 13 tirement allowances described in ORS 238.425.

14 (4) A member who is vested in the pension program established under ORS chapter 238A and
 15 who is eligible to withdraw from the pension program under ORS 238A.120 may withdraw a member
 16 account under this section only if the member also withdraws from the pension program. A member
 17 who has an individual account or accounts in the individual account program established under ORS
 18 chapter 238A **or a member account under sections 1 to 20 of this 2015 Act**, may withdraw a
 19 member account under this section only if the member also withdraws all individual **and member**
 20 accounts pursuant to ORS 238A.375 **and section 14 of this 2015 Act**. A member who has an account
 21 established under ORS 238.440 may withdraw a member account under this section only if the
 22 member also withdraws the account established under ORS 238.440.

23 (5) Withdrawal of [*a member*] **an** account under this section cancels all membership rights in the
 24 system, including the right to claim credit for any employment before withdrawal.

25 **SECTION 33.** ORS 238.445 is amended to read:

26 238.445. (1) Except as provided in this section, the right of a person to a pension, an annuity
 27 or a retirement allowance, to the return of contribution, the pension, annuity or retirement allow-
 28 ance itself, any optional benefit or death benefit, or any other right accrued or accruing to any
 29 person under the provisions of this chapter or ORS chapter 238A **or sections 1 to 20 of this 2015**
 30 **Act**, and the money in the various funds created by ORS 238.660 and 238.670, shall be exempt from
 31 garnishment and all state, county and municipal taxes heretofore or hereafter imposed, except as
 32 provided under ORS chapter 118, shall not be subject to execution, garnishment, attachment or any
 33 other process or to the operation of any bankruptcy or insolvency law heretofore or hereafter ex-
 34 isting or enacted, and shall be unassignable.

35 (2) Subsection (1) of this section does not apply to state personal income taxation of amounts
 36 paid under this chapter and ORS chapter 238A **or sections 1 to 20 of this 2015 Act**.

37 (3) Unless otherwise ordered by a court under ORS 25.387, the exemption from execution or
 38 other process granted under this section applies to 50 percent of amounts paid under this chapter
 39 and ORS chapter 238A **or sections 1 to 20 of this 2015 Act** if the execution or other process is
 40 issued for a support obligation or an order or notice entered or issued under ORS chapter 25, 107,
 41 108, 109, 110, 416, 419B or 419C.

42 **SECTION 34.** ORS 238.455 is amended to read:

43 238.455. (1)(a) Whenever a member of the system is retired for service and is entitled to receive
 44 a retirement allowance or benefit that is payable monthly, and the Public Employees Retirement
 45 Board is unable to calculate the amount of the monthly payment in time to allow mailing of the

1 monthly payment to the member within 62 days of the date the first monthly payment is due, the
2 board shall calculate an estimated amount for the monthly payment based on the information then
3 available to the board and shall mail that payment to the member within 62 days of the date the first
4 monthly payment is due.

5 (b) Whenever a member of the system is retired for disability and is entitled to receive a re-
6 tirement allowance or benefit that is payable monthly, and the board is unable to calculate the
7 amount of the monthly payment in time to allow mailing of the monthly payment to the member
8 within 10 days of either the date the board approves the member's application or the date that the
9 first monthly payment is due, whichever is later, the board shall calculate an estimated amount for
10 the monthly payment based on the information then available to the board and shall mail that pay-
11 ment to the member within 10 days of the date the board approves the member's disability benefit,
12 the date the board receives the member's election of one of the optional forms of disability retire-
13 ment allowance or the date the first monthly payment is due, whichever is later.

14 (2) The board shall continue to mail estimated payments under subsection (1) of this section
15 until such time as the correct amount of the monthly payment is determined.

16 (3) The board shall notify the member receiving an estimated payment under subsection (1) of
17 this section that the payment is an estimated payment only. The board shall further notify the
18 member of the provisions of subsection (4) of this section.

19 (4) If the board determines that any estimated payment made to the member under subsection
20 (1) of this section resulted in payment to the member of an amount other than the correct amount
21 due the member as a retirement allowance or benefit, the board shall immediately so notify the
22 member. Thereafter, the board may increase or decrease the monthly payment to the member until
23 such time as the total difference between the amount or amounts the member received and the
24 amount or amounts the member should have received is accounted for. Thereafter the member shall
25 receive the monthly payment as finally calculated by the board.

26 (5) If the estimated payment made to the member under subsection (1) of this section results in
27 an underpayment to the member of \$10 or more a month, the board shall pay interest on the balance
28 of such underpayment at a rate established by rule of the board until such time as the underpayment
29 is paid to the member pursuant to subsection (4) of this section.

30 (6) No member shall have any right to any allowance or other benefit other than that provided
31 for in this chapter [*and*] **or** ORS chapter 238A **or sections 1 to 20 of this 2015 Act** based on the
32 board's estimate under this section or based on any other estimate made by the board for any other
33 purpose under this chapter [*and*] **or** ORS chapter 238A **or sections 1 to 20 of this 2015 Act**.

34 **SECTION 35.** ORS 238.465 is amended to read:

35 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this
36 chapter or ORS chapter 238A **or sections 1 to 20 of this 2015 Act** of any pension, annuity, retire-
37 ment allowance, disability benefit, death benefit, refund benefit or other benefit that would otherwise
38 be made to a person entitled thereto under this chapter or ORS chapter 238A **or sections 1 to 20**
39 **of this 2015 Act** shall be paid, in whole or in part, by the Public Employees Retirement Board to
40 an alternate payee if and to the extent expressly provided for in the terms of any judgment of
41 annulment or dissolution of marriage or of separation, or the terms of any court order or court-
42 approved property settlement agreement incident to any judgment of annulment or dissolution of
43 marriage or of separation. Except as provided in subsection (5) of this section, the total value of
44 benefits payable to a member and to an alternate payee under this section may not be greater than
45 the value of the benefits the member would otherwise be eligible to receive. Any payment under this

1 subsection to an alternate payee bars recovery by any other person.

2 (2) A judgment, order or settlement providing for payment to an alternate payee under sub-
3 section (1) of this section may also provide:

4 (a) That payments to the alternate payee may commence, at the election of the alternate payee,
5 at any time after the earlier of:

6 (A) The earliest date the member would be eligible to receive retirement benefits if the member
7 separates from service; or

8 (B) The date the member actually separates from service due to death, disability, retirement or
9 termination of employment.

10 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-
11 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit
12 in the form of a joint and survivor annuity, that would be available to the member under this
13 chapter or ORS chapter 238A **or sections 1 to 20 of this 2015 Act**, or that would be available to
14 the member if the member retired or separated from service at the time of election by the alternate
15 payee, without regard to the form of benefit elected by the member.

16 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments
17 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose
18 of determining necessary employer reserves.

19 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the
20 member as a beneficiary under ORS 238.300, 238.305, 238.325, 238A.190 or 238A.400 **or section 15**
21 **of this 2015 Act** be changed, even though the member has retired and has begun receiving a re-
22 tirement allowance or pension. If a change of beneficiary is ordered under this paragraph, the board
23 shall adjust the anticipated benefits that would be payable to the member and the beneficiary to
24 ensure that the cost to the system of providing benefits to the member and the new beneficiary does
25 not exceed the cost that the system would have incurred to provide benefits to the member and the
26 original beneficiary. The judgment, order or settlement may not provide for any change to the option
27 selected by the retired member under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400
28 as to the form of the retirement benefit.

29 (3) The board shall adopt rules that provide for:

30 (a) The creation of a separate account in the name of the alternate payee reflecting the
31 judgment's, order's or agreement's distribution of the member's benefits under this chapter or ORS
32 chapter 238A **or sections 1 to 20 of this 2015 Act**;

33 (b) The establishing of criteria to determine whether domestic relations judgments, orders and
34 agreements comply with this section; and

35 (c) The definitions and procedures for the administration of this section.

36 (4) An alternate payee may designate a beneficiary for the purposes of death benefits payable
37 under ORS 238.390 and 238.395 **and section 15 of this 2015 Act**. Subject to ORS 238A.410 (2), an
38 alternate payee may designate a beneficiary for the purposes of death benefits payable under ORS
39 238A.410. If the alternate payee fails to designate a beneficiary for the purposes of death benefits
40 payable under ORS 238.390 and 238.395 **and section 15 of this 2015 Act**, the benefits shall be paid
41 as provided by ORS 238.390 (2) **and section 15 (2) of this 2015 Act**. If the alternate payee fails to
42 designate a beneficiary for the purposes of death benefits payable under ORS 238A.410, the benefits
43 shall be paid as provided by ORS 238A.410 (3). If a judgment, order or agreement awards an interest
44 to an alternate payee, and if the alternate payee predeceases the member before the alternate payee
45 has commenced receiving benefits, the alternate payee shall be considered a member of the system

1 who died before retiring for the purposes of the death benefits provided in ORS 238.390, 238.395,
2 238A.230 and 238A.410 **and section 15 of this 2015 Act**, but for purposes of the death benefits
3 provided in ORS 238.395, the alternate payee shall be considered a member of the system who died
4 before retiring only if the member would have been eligible for death benefits under ORS 238.395
5 had the member died at the same time as the alternate payee. Payment of the death benefits to the
6 beneficiaries, estate or other persons entitled to receive the benefits under ORS 238.390, 238.395,
7 238A.230 and 238A.410 **and section 15 of this 2015 Act**, shall constitute payment in full of the al-
8 ternate payee's interest under the judgment, order or agreement.

9 (5) Any increase in the retirement allowance provided to the member shall increase the amounts
10 paid to the alternate payee in the same proportion, except that:

11 (a) An alternate payee is not entitled to receive cost-of-living adjustments under ORS 238.360
12 or any other retirement allowance increase until benefits are first paid from the system on behalf
13 of the member; and

14 (b) Cost-of-living adjustments under ORS 238.360 or 238A.210 to the retirement allowance paid
15 to an alternate payee shall be calculated on the basis of the amount of the alternate payee's yearly
16 allowance or yearly pension or benefit, as those terms are defined in ORS 238.360 and 238A.210.

17 (6) An alternate payee under this section is not eligible to receive the benefits provided under
18 ORS 238.410, 238.415, 238.420 and 238.440 by reason of the provisions of this section.

19 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-
20 tion before the member's effective date of retirement is not eligible to receive any additional pay-
21 ment by reason of credit in the system acquired by the member after the alternate payee begins to
22 receive payments.

23 (8) Subsection (1) of this section applies only to payments made by the board after the date of
24 receipt by the board of written notice of the judgment, order or agreement and such additional in-
25 formation and documentation as the board may prescribe.

26 (9) Whenever the board is required to make payment to an alternate payee under the provisions
27 of this section, the board shall charge and collect out of the benefits payable to the member and the
28 alternate payee actual and reasonable administrative expenses and related costs incurred by the
29 board in obtaining data and making calculations that are necessary by reason of the provisions of
30 this section. The board may not charge more than \$300 for total administrative expenses and related
31 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-
32 visions of this section. The board shall allocate expenses and costs charged under the provisions of
33 this subsection between the member and the alternate payee based on the fraction of the benefit
34 received by the member or alternate payee.

35 (10) Unless otherwise provided by the judgment, order or agreement, a member has no interest
36 in the benefit payable to an alternate payee under this section. Upon the death of an alternate
37 payee, the board shall make such payment to the beneficiary designated by the alternate payee as
38 may be required under the form of benefit elected by the alternate payee. If a death benefit is pay-
39 able under ORS 238.390 or 238.395 **or section 15 of this 2015 Act** by reason of the death of an al-
40 ternate payee, payment of the death benefit shall be made to the beneficiary designated by the
41 alternate payee under ORS 238.390 (1), or as otherwise provided by ORS 238.390 and 238.395 **and**
42 **section 15 of this 2015 Act**.

43 (11) As used in this section, "court" means any court of appropriate jurisdiction of this or any
44 other state or of the District of Columbia.

45 **SECTION 36.** ORS 238.630 is amended to read:

1 238.630. (1) The governing authority of the system shall be a board known as the Public Em-
2 ployees Retirement Board and consisting of five members appointed by the Governor subject to
3 confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. Except as otherwise
4 provided in ORS 238.640, the term of each member shall be three years. The Governor shall desig-
5 nate one member to serve as chairperson, who shall serve as chairperson at the pleasure of the
6 Governor.

7 (2) The board shall have:

8 (a) The powers and privileges of a corporation, including the right to sue and be sued in its own
9 name as such board; and

10 (b) The power and duty, subject to the limitations of this chapter and ORS chapter 238A **and**
11 **sections 1 to 20 of this 2015 Act**, of managing the system.

12 (3) The board:

13 (a) Shall arrange for actuarial service for the system;

14 (b) Shall employ a director;

15 (c) Shall create such other positions as it deems necessary to sound and economical adminis-
16 tration of the system, which positions the director shall fill by appointment;

17 (d) Shall, with the approval of the Director of the Oregon Department of Administrative Ser-
18 vices, and as otherwise provided by law, fix the salaries of all persons employed for purposes of
19 administering the system;

20 (e) Shall publish and distribute to all employer and employee members of the system an annual
21 report including a summary of investments of moneys in the fund, investment earnings, significant
22 legislative or administrative changes in the system and other pertinent information on the operation
23 of the system for the preceding year;

24 (f) Shall determine the actuarial equivalency of optional forms of retirement allowances and
25 pensions and adopt for that purpose the necessary actuarial equivalency factor tables in the manner
26 provided by ORS 238.607, which shall constitute a part of the system; and

27 (g) Shall adopt rules and take all actions necessary to maintain qualification of the Public Em-
28 ployees Retirement System and the Public Employees Retirement Fund as a qualified governmental
29 retirement plan and trust under the Internal Revenue Code and under regulations adopted pursuant
30 to the Internal Revenue Code. Rules under this paragraph may impose limits on contributions to the
31 system, limits on benefits payable from the system and other limitations or procedures required or
32 imposed under federal law or regulation for the purpose of qualification of the Public Employees
33 Retirement System and Public Employees Retirement Fund under the Internal Revenue Code as a
34 governmental retirement plan and trust.

35 (4) The board established by this section shall succeed to all the duties and prerogatives of the
36 Public Employees Retirement Board created by chapter 401, Oregon Laws 1945, in relation to the
37 Public Employees Retirement Fund, and in addition shall perform all duties required of it by ORS
38 237.950 to 237.980, in regard to moneys payable to or from such fund.

39 (5) The board shall identify by rule those records that must be maintained by participating
40 public employers for the purposes of subsection (3)(g) of this section. A participating public employer
41 shall maintain records for all employees who are members of the system as required by board rules,
42 and shall provide that information to the board upon request.

43 **SECTION 37.** ORS 238.645 is amended to read:

44 238.645. The system shall be administered, subject to the limitations of this chapter[,] **and** ORS
45 chapter 238A **and sections 1 to 20 of this 2015 Act** and the budget prescribed by the board, by the

1 director provided for by ORS 238.630 and by a staff *[which]* **that** the board authorizes and *[which]*
 2 **that** the director appoints. The director shall hold that position during the discretion of the board
 3 and the members of the staff shall hold their respective positions during the discretion of the di-
 4 rector. No member of the staff may be removed from it, however, in a manner contrary to the laws
 5 of the state regarding civil service. The director shall furnish such bond as is required by the board.

6 **SECTION 38.** ORS 238.650 is amended to read:

7 238.650. (1) Subject to the limitations of this chapter and ORS chapter 238A **and sections 1 to**
 8 **20 of this 2015 Act**, the Public Employees Retirement Board shall, from time to time, establish rules
 9 for transacting its business and administering the system in accordance with the requirements of
 10 ORS chapter 183.

11 (2) All rules adopted by the board become part of the written plan document of the Public Em-
 12 ployees Retirement System for the purpose of the status of the system and the Public Employees
 13 Retirement Fund as a qualified governmental retirement plan and trust under the Internal Revenue
 14 Code and under regulations adopted pursuant to the Internal Revenue Code.

15 **SECTION 39.** ORS 238.700 is amended to read:

16 238.700. All provisions of ORS 238.655, 238.705, 238.710 and 238.715 hereby are made applicable
 17 for enforcement of the requirements of this chapter and ORS chapter 238A **and sections 1 to 20**
 18 **of this 2015 Act.**

19 **SECTION 40.** ORS 238.705 is amended to read:

20 238.705. (1) All public employers that are members of the system shall promptly and regularly
 21 remit to the Public Employees Retirement Board all contributions required of them by law and fur-
 22 nish all reports required by the board.

23 (2) Any public employer delinquent in remitting contributions shall be charged interest on the
 24 total amount of contributions due from it at the rate of one percent per month or fraction thereof
 25 during which the public employer is delinquent. Interest so paid shall be deposited in the Public
 26 Employees Retirement Fund and shall be used by the board in paying administrative expenses of the
 27 system.

28 (3) If any state officer or agency fails to remit any contribution or other obligation required by
 29 law, the Public Employees Retirement Board, within 30 days after the date the request therefor has
 30 been made by it by registered mail or by certified mail with return receipt, may certify to the
 31 Oregon Department of Administrative Services the fact of such failure and the amount of the de-
 32 linquent contribution or obligation, together with its request that such amount be set over from
 33 funds of the delinquent officer or agency to the credit of the Public Employees Retirement Fund. A
 34 copy of such certification and request shall be furnished the delinquent officer or agency. The de-
 35 partment shall, within 10 days after receipt of the request of the board, approve the payment of such
 36 amount by the delinquent officer or agency from funds allocated to the officer or agency for the
 37 current biennium and draw a warrant for payment of the amount of the contribution or obligation
 38 due out of funds in the State Treasury allocated to the use of the delinquent officer or agency.

39 (4) If any public employer other than a state agency fails to remit any contribution or pay any
 40 other obligation due under this chapter or ORS chapter 238A **or sections 1 to 20 of this 2015**
 41 **Act**, the board may certify to the department the fact of such failure. Upon receipt of the certi-
 42 fication the department shall withhold payment to the public employer of any revenues or funds in
 43 the State Treasury in which the public employer is entitled by law to share and which have been
 44 apportioned to the public employer until the board certifies to the department that the failure has
 45 been remedied. The board shall send a copy of each certification it makes under this subsection to

1 the public employer affected.

2 (5) Any public employer delinquent in making reports or supplying information concerning its
3 employees in the manner required by the board shall be charged a penalty of the lesser of \$2,000
4 or one percent of the total annual contributions, for each month or fraction thereof during which
5 the employer is delinquent. In addition, the board may send an auditor to the office of the employer
6 to examine its records and to obtain the necessary reports, the entire cost of such audit to be paid
7 by the delinquent employer. Penalties and other charges so paid shall be used by the board in paying
8 administrative expenses of the system.

9 **SECTION 41.** ORS 238.715 is amended to read:

10 238.715. (1) If the Public Employees Retirement Board determines that a member of the Public
11 Employees Retirement System or any other person receiving a monthly payment from the Public
12 Employees Retirement Fund has received any amount in excess of the amounts that the member or
13 other person is entitled to under this chapter [and] **or** ORS chapter 238A **or sections 1 to 20 of**
14 **this 2015 Act**, the board may recover the overpayment or other improperly made payment by:

15 (a) Reducing the monthly payment to the member or other person for as many months as may
16 be determined by the board to be necessary to recover the overpayment or other improperly made
17 payment; or

18 (b) Reducing the monthly payment to the member or other person by an amount actuarially de-
19 termined to be adequate to recover the overpayment or other improperly made payment during the
20 period during which the monthly payment will be made to the member or other person.

21 (2)(a) Any person who receives a payment from the Public Employees Retirement Fund and who
22 is not entitled to receive that payment, including a member of the system who receives an over-
23 payment, holds the improperly made payment in trust subject to the board's recovery of that pay-
24 ment under this section or by a civil action or other proceeding.

25 (b) The board may recover an improperly made payment in the manner provided by subsection
26 (1) of this section from any person who receives an improperly made payment from the fund and
27 who subsequently becomes entitled to receive a monthly payment from the fund.

28 (c) The board may recover an improperly made payment by reducing any lump sum payment in
29 the amount necessary to recover the improperly made payment if a person who receives an im-
30 properly made payment from the fund subsequently becomes entitled to receive a lump sum payment
31 from the fund.

32 (3) Unless the member or other person receiving a monthly payment from the fund authorizes
33 a greater reduction, the board may not reduce the monthly payment made to a member or other
34 person under the provisions of subsection (1) of this section by an amount that is equal to more than
35 10 percent of the monthly payment.

36 (4) Before reducing a benefit to recover an overpayment or erroneous payment, or pursuing any
37 other collection action under this section, the board shall give notice of the overpayment or erro-
38 neous payment to the person who received the payment. The notice shall describe the manner in
39 which the person who received the payment may appeal the board's determination that an over-
40 payment or erroneous payment was made, the action the board may take if the person does not re-
41 spond to the notice and the authority of the board to assess interest, penalties or costs of collection.

42 (5) If the board determines that an overpayment or erroneous payment was not caused by the
43 system or by a participating public employer, the board may assess interest in an amount equal to
44 one percent per month on the balance of the improperly made payment until the payment is fully
45 recovered. The board may also assess to the member or other person all costs incurred by the sys-

1 tem in recovering the payment, including attorney fees. Interest and costs may be collected in the
 2 manner prescribed in subsections (1) and (2) of this section. The board may waive the interest and
 3 costs on an overpayment or other improperly made payment for good cause shown.

4 (6) Notwithstanding ORS 293.240, the board may waive the recovery of any payment or payments
 5 made to a person who was not entitled to receive the payment or payments if the total amount of
 6 the overpayment or other improperly made payments is less than \$50.

7 (7) A payment made to a person from the fund may not be recovered by the board unless within
 8 six years after the date that the payment was made the board has commenced proceedings to re-
 9 cover the payment. For the purposes of subsection (1) of this section, the board shall be considered
 10 to have commenced proceedings to recover the payment upon mailing of notice to the person re-
 11 ceiving a monthly payment that the board has determined that an overpayment or other improperly
 12 made payment has been made.

13 (8) The remedies authorized under this section are supplemental to any other remedies that may
 14 be available to the board for recovery of amounts incorrectly paid from the fund to members of the
 15 system or other persons.

16 (9) The board shall adopt rules establishing the procedures to be followed by the board in re-
 17 covering overpayments and erroneous payments under this section.

18 **SECTION 42.** ORS 243.800 is amended to read:

19 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
 20 243.945 or **sections 1 to 20 of this 2015 Act**, the State Board of Higher Education and the gov-
 21 erning board of a public university with a governing board listed in ORS 352.054 shall establish and
 22 administer an Optional Retirement Plan for administrative and academic employees of the Oregon
 23 University System or public university. The Optional Retirement Plan must be a qualified plan under
 24 the Internal Revenue Code, capable of accepting funds transferred under subsection (7) of this sec-
 25 tion without the transfer being treated as a taxable event under the Internal Revenue Code, and
 26 willing to accept those funds. Retirement and death benefits shall be provided under the plan by
 27 the purchase of annuity contracts, fixed or variable or a combination thereof, or by contracts for
 28 investments in mutual funds.

29 (2) An administrative or academic employee may elect to participate in the Optional Retirement
 30 Plan upon completion of:

31 (a) Six hundred hours of employment, or the equivalent as determined by the State Board of
 32 Higher Education or the governing board; and

33 (b) Six months of employment that is not interrupted by more than 30 consecutive working days.

34 (3) An administrative or academic employee may make an irrevocable election to participate in
 35 the Optional Retirement Plan within six months after being employed. An election under this sub-
 36 section is effective on the first day of the month following the completion of the requirements of
 37 subsection (2) of this section.

38 (4) An administrative or academic employee who does not elect to participate in the Optional
 39 Retirement Plan:

40 (a) Remains or becomes a member of the Public Employees Retirement System in accordance
 41 with ORS [*chapters 238 and*] **chapter 238 or 238A or sections 1 to 20 of this 2015 Act**; or

42 (b) Continues to be assisted by the State Board of Higher Education or governing board under
 43 ORS 243.920 if the employee is being so assisted.

44 (5) Except as provided in subsection (6) of this section, employees who elect to participate in the
 45 Optional Retirement Plan are ineligible for active membership in the Public Employees Retirement

1 System or for any assistance by the State Board of Higher Education or governing board under ORS
2 243.920 as long as those employees are employed in the Oregon University System or public uni-
3 versity and the plan is in effect.

4 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
5 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
6 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
7 member under the provisions of ORS 238.095 as of the effective date of the election, and the amount
8 credited to the member account of the member shall be transferred directly to the Optional Retirement
9 Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of
10 this section.

11 (b) An administrative or academic employee who elects to participate in the Optional Retirement
12 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
13 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
14 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
15 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
16 to the member account of the member to the Optional Retirement Plan. A request for a transfer
17 must be made at the time the member elects to participate in the Optional Retirement Plan. Upon
18 receiving the request, the Public Employees Retirement Board shall transfer all amounts credited
19 to the member account of the member directly to the Optional Retirement Plan, and shall terminate
20 all rights, privileges and options of the employee under ORS chapter 238.

21 (c) An administrative or academic employee who elects to participate in the Optional Retirement
22 Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
23 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be
24 considered to be a terminated member of the pension program by the Public Employees Retirement
25 Board as of the effective date of the election.

26 (d) An administrative or academic employee who elects to participate in the Optional Retirement
27 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
28 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
29 ered an inactive member of the pension program by the Public Employees Retirement Board as of
30 the effective date of the election. An employee who is subject to the provisions of this paragraph
31 retains all the rights, privileges and options of an inactive member of the pension program. If the
32 actuarial equivalent of the employee's benefit under the pension program at the time that the
33 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
34 Employees Retirement Board for a transfer of the employee's interest under the pension program to
35 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
36 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
37 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
38 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
39 bership of the employee in the pension program.

40 (e) An administrative or academic employee who elects to participate in the Optional Retirement
41 Plan, and who is a vested member of the individual account program of the Oregon Public Service
42 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall
43 be considered an inactive member of the individual account program by the Public Employees Re-
44 tirement Board as of the effective date of the election. An employee who is subject to the provisions
45 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-

1 vidual account program. An administrative or academic employee who elects to participate in the
2 Optional Retirement Plan, and who is a member of the individual account program of the Oregon
3 Public Service Retirement Plan, may make a written request to the Public Employees Retirement
4 Board that all amounts in the member's employee account, rollover account and employer account,
5 to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the
6 Optional Retirement Plan. The request must be made at the time the member elects to participate
7 in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
8 Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the
9 membership of the employee in the individual account program upon making the transfer.

10 **(f) An administrative or academic employee who elects to participate in the Optional**
11 **Retirement Plan, and who is a vested member of the Fair Retirement Plan on the date that**
12 **the election becomes effective, shall be considered an inactive member of the Fair Retirement**
13 **Plan as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member**
14 **of the Fair Retirement Plan. An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a member of the Fair Retirement Plan,**
15 **may make a written request to the Public Employees Retirement Board that all amounts in**
16 **the member's account, to the extent the member is vested in those accounts under section**
17 **11 of this 2015 Act, be transferred to the Optional Retirement Plan. The request must be**
18 **made at the time the member elects to participate in the Optional Retirement Plan. Upon**
19 **receiving the request, the Public Employees Retirement Board shall transfer the amounts**
20 **directly to the Optional Retirement Plan, and shall terminate the membership of the em-**
21 **ployee in the Fair Retirement Plan upon making the transfer.**

22 *[(f)]* **(g)** Notwithstanding paragraphs (b), (d) *[and]*, (e) **and (f)** of this subsection, the Public Em-
23 ployees Retirement Board may not treat any employee as an inactive member under the provisions
24 of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A **or**
25 **sections 1 to 20 of this 2015 Act** that requires that the employee be separated from all service with
26 participating public employers and with employers who are treated as part of a participating public
27 employer's controlled group under the federal laws and rules governing the status of the system and
28 the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

29 (7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6)
30 of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees
31 Retirement Board and may not be made available to the employee.

32 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
33 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
34 employee would otherwise have contributed as an employee contribution to the Public Employees
35 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

36 (9) For an employee participating in the Optional Retirement Plan who was hired before July
37 1, 2014, the State Board of Higher Education or governing board shall contribute monthly to the
38 Optional Retirement Plan the percentage of salary of the employee equal to the percentage of salary
39 that would otherwise have been contributed as an employer contribution on behalf of the employee
40 to the Public Employees Retirement System, before any offset under ORS 238.229 (2), if the employee
41 had not elected to participate in the Optional Retirement Plan.

42 (10) For an employee participating in the Optional Retirement Plan who was hired on or after
43 July 1, 2014, the State Board of Higher Education shall contribute monthly to the Optional Retirement
44 Plan the percentage of salary of the employee equal to the percentage of salary that would otherwise
45 have been contributed as an employer contribution on behalf of the employee to the Public Employees Retirement System, before any offset under ORS 238.229 (2), if the employee had not elected to participate in the Optional Retirement Plan.

1 ment Plan:

2 (a) Eight percent of the employee's salary; and

3 (b) A percentage of the employee's salary equal to the percentage of salary contributed by the
4 employee to the Oregon University System Tax-Deferred Investment 403(b) Plan under ORS 243.820,
5 up to four percent of the employee's salary in each pay period.

6 (11) Both employee and employer contributions to an Optional Retirement Plan shall be remitted
7 directly to the companies that have issued annuity contracts to the participating employees or di-
8 rectly to the mutual funds.

9 (12) Benefits under the Optional Retirement Plan are payable to employees who elect to partic-
10 ipate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accord-
11 ance with the terms of the annuity contracts or the terms of the contract with the mutual fund.
12 Employees electing to participate in the Optional Retirement Plan agree that benefits payable under
13 the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

14 **SECTION 43.** ORS 243.830 is amended to read:

15 243.830. An agreement executed pursuant to ORS 243.820 by an employee who is subject to ORS
16 chapter 238 or 238A **or sections 1 to 20 of this 2015 Act**, or a similar retirement program for
17 public employees, in no way affects the contributions to be made or the benefits to be provided for
18 such employee under ORS chapter 238 or 238A **or sections 1 to 20 of this 2015 Act** or the other
19 similar program. Reduction of salary or forgoing a salary increase by a stated amount under ORS
20 243.820 shall not be deemed a reduction in salary for the purpose of such contributions and benefits.

21 **SECTION 44.** ORS 268.240 is amended to read:

22 268.240. (1) A district that is not participating in the Public Employees Retirement System may,
23 by application to the board, include any class of employees of the district in the system [*established*
24 *by ORS chapters 238 and 238A*] without entering into a contract of integration with the board under
25 ORS 238.680.

26 (2) The board shall consider an application received under this section to be an application to
27 become a participating employer [*under ORS chapters 238 and 238A*] **in the Public Employees**
28 **Retirement System**, but only to the extent of providing membership for the class of employees
29 described in the application.

30 (3) The board, upon such terms as are set forth in a contract between the board and the em-
31 ployer, shall allow every employee in the specified class to become members of the Public Employees
32 Retirement System [*in accordance with ORS chapters 238 and 238A*].

33 (4) When a district enters into a contract with the board under subsection (3) of this section,
34 the district shall agree to eventually extend [*coverage under ORS chapters 238 and 238A*] **mem-**
35 **bership in the Public Employees Retirement System** to all eligible district employees through
36 successive contracts with the board.

37 (5) All employees who have completed the period of service with the public employer that is
38 required under ORS 238.015, 238A.100 or 238A.300 **or section 6 of this 2015 Act** shall become
39 members of the **Public Employees Retirement** System on a date specified by the board. All other
40 employees in the described class shall become members upon completion of the required period of
41 service.

42 (6) As used in this section, "board" means the Public Employees Retirement Board established
43 under ORS 238.630.

44 **SECTION 45.** ORS 338.135 is amended to read:

45 338.135. (1) Employee assignment to a public charter school shall be voluntary.

1 (2)(a) A public charter school or the sponsor of the public charter school is considered the em-
2 ployer of any employees of the public charter school. If a school district board is not the sponsor
3 of the public charter school, the school district board may not be the employer of the employees of
4 the public charter school and the school district board may not collectively bargain with the em-
5 ployees of the public charter school. The public charter school governing body shall control the
6 selection of employees at the public charter school.

7 (b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
8 with a for-profit entity to provide educational services through the virtual public charter school, the
9 for-profit entity may not be the employer of any employees of the virtual public charter school un-
10 less:

11 (A) The employee is an administrator who does not have any teaching responsibilities; and

12 (B) Both the executive officer of the sponsor and the public charter school governing body ap-
13 prove employment by the for-profit entity. The executive officer or governing body may choose to
14 grant approval under this subparagraph:

15 (i) For all employees of the for-profit entity who meet the description in subparagraph (A) of this
16 paragraph;

17 (ii) Based on the job categories of the employees who meet the description in subparagraph (A)
18 of this paragraph; or

19 (iii) On a case-by-case basis for each employee who meets the description in subparagraph (A)
20 of this paragraph.

21 (3) The school district board of the school district within which the public charter school is lo-
22 cated shall grant a leave of absence to any employee who chooses to work in the public charter
23 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
24 board policy. However, the length of the leave of absence may not be less than two years unless:

25 (a) The charter of the public charter school is terminated or the public charter school is dis-
26 solved or closed during the leave of absence; or

27 (b) The employee and the school district board have mutually agreed to a different length of
28 time.

29 (4) An employee of a public charter school operating within a school district who is granted a
30 leave of absence from the school district and returns to employment with the school district shall
31 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
32 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
33 a public charter school not operating within the school district may make provisions for the return
34 of the employee to employment with the school district.

35 (5) For purposes of ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act**, a public
36 charter school shall be considered a public employer and as such shall participate in the Public
37 Employees Retirement System.

38 (6) For teacher licensing, employment experience in public charter schools shall be considered
39 equivalent to experience in public schools.

40 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or
41 registered to administer by the Teacher Standards and Practices Commission.

42 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
43 to teach by the commission.

44 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
45 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by

1 the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

2 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
3 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
4 of a labor organization or organize with other employees to bargain collectively. Bargaining units
5 at the public charter school may be separate from other bargaining units of the sponsor or of the
6 school district in which the public charter school is located. Employees of a public charter school
7 may be part of the bargaining units of the sponsor or of the school district in which the public
8 charter school is located.

9 (9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
10 school in a collective bargaining agreement.

11 **SECTION 46.** ORS 338.135, as amended by section 7, chapter 327, Oregon Laws 2013, is
12 amended to read:

13 338.135. (1) Employee assignment to a public charter school shall be voluntary.

14 (2)(a) A public charter school or the sponsor of the public charter school is considered the em-
15 ployer of any employees of the public charter school. If a school district board is not the sponsor
16 of the public charter school, the school district board may not be the employer of the employees of
17 the public charter school and the school district board may not collectively bargain with the em-
18 ployees of the public charter school. The public charter school governing body shall control the
19 selection of employees at the public charter school.

20 (b) If a virtual public charter school or the sponsor of a virtual public charter school contracts
21 with a for-profit entity to provide educational services through the virtual public charter school, the
22 for-profit entity may not be the employer of any employees of the virtual public charter school.

23 (3) The school district board of the school district within which the public charter school is lo-
24 cated shall grant a leave of absence to any employee who chooses to work in the public charter
25 school. The length and terms of the leave of absence shall be set by negotiated agreement or by
26 board policy. However, the length of the leave of absence may not be less than two years unless:

27 (a) The charter of the public charter school is terminated or the public charter school is dis-
28 solved or closed during the leave of absence; or

29 (b) The employee and the school district board have mutually agreed to a different length of
30 time.

31 (4) An employee of a public charter school operating within a school district who is granted a
32 leave of absence from the school district and returns to employment with the school district shall
33 retain seniority and benefits as an employee pursuant to the terms of the leave of absence.
34 Notwithstanding ORS 243.650 to 243.782, a school district that was the employer of an employee of
35 a public charter school not operating within the school district may make provisions for the return
36 of the employee to employment with the school district.

37 (5) For purposes of ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act**, a public
38 charter school shall be considered a public employer and as such shall participate in the Public
39 Employees Retirement System.

40 (6) For teacher licensing, employment experience in public charter schools shall be considered
41 equivalent to experience in public schools.

42 (7)(a) Any person employed as an administrator in a public charter school shall be licensed or
43 registered to administer by the Teacher Standards and Practices Commission.

44 (b) Any person employed as a teacher in a public charter school shall be licensed or registered
45 to teach by the commission.

1 (c) Notwithstanding paragraph (a) or (b) of this subsection, at least one-half of the total full-time
2 equivalent (FTE) teaching and administrative staff at the public charter school shall be licensed by
3 the commission pursuant to ORS 342.135, 342.136, 342.138 or 342.140.

4 (8) Notwithstanding ORS 243.650, a public charter school shall be considered a school district
5 for purposes of ORS 243.650 to 243.782. An employee of a public charter school may be a member
6 of a labor organization or organize with other employees to bargain collectively. Bargaining units
7 at the public charter school may be separate from other bargaining units of the sponsor or of the
8 school district in which the public charter school is located. Employees of a public charter school
9 may be part of the bargaining units of the sponsor or of the school district in which the public
10 charter school is located.

11 (9) An entity described in ORS 338.005 (5) may not waive the right to sponsor a public charter
12 school in a collective bargaining agreement.

13 **SECTION 47.** ORS 341.290 is amended to read:

14 341.290. The board of education of a community college district shall be responsible for the
15 general supervision and control of any and all community colleges operated by the district. Con-
16 sistent with any applicable rules of the Higher Education Coordinating Commission, the board of
17 education of a community college district may:

18 (1) Subject to ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act**, employ ad-
19 ministrative officers, professional personnel and other employees, define their duties, terms and
20 conditions of employment and prescribe compensation therefor, pursuant to ORS 243.650 to 243.782.

21 (2) Enact rules for the government of the community college, including professional personnel
22 and other employees and students of the community college.

23 (3) Prescribe the educational program.

24 (4) Control use of and access to the grounds, buildings, books, equipment and other property of
25 the district.

26 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-
27 vest, improve and develop any and all property of whatever nature given to or appropriated for the
28 use, support or benefit of any activity under the control of the board, according to the terms and
29 conditions of the gift or appropriation.

30 (6) Purchase real property upon a contractual basis when the period of time allowed for payment
31 under the contract does not exceed 30 years.

32 (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-
33 mission to the community college, including fixing different tuition rates for students who reside in
34 the district, students who do not reside in the district but are residents of the state and students
35 who do not reside in the state.

36 (8) Prescribe and collect fees and expend funds so raised for special programs and services for
37 the students and for programs for the cultural and physical development of the students.

38 (9) Provide and disseminate to the public information relating to the program, operation and fi-
39 nances of the community college.

40 (10) Establish or contract for advisory and consultant services.

41 (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift
42 or arising out of transactions entered into in accordance with the powers, duties and authority of
43 the board and institute, maintain and participate in suits and actions and other judicial proceedings
44 in the name of the district for the foreclosure of the mortgages.

45 (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and en-

1 ter into agreements with any person or public or private agency.

2 (13) Provide student services including health, guidance, counseling and placement services, and
3 contract therefor.

4 (14) Join appropriate associations and pay any required dues therefor from resources of the
5 district.

6 (15) Apply for federal funds and accept and enter into any contracts or agreements for the re-
7 ceipt of the funds from the federal government or its agencies for educational purposes.

8 (16) Exercise any other power, duty or responsibility necessary to carry out the functions under
9 this section or required by law.

10 (17) Prescribe rules for the use and access to public records of the district that are consistent
11 with ORS 192.420, and education records of students under applicable state and federal law and
12 rules of the commission. Whenever a student has attained 18 years of age or is attending an insti-
13 tution of post-secondary education, the permission or consent required of and the rights accorded
14 to a parent of the student regarding education records shall thereafter be required of and accorded
15 to only the student. However, faculty records relating to matters such as conduct, personal and
16 academic evaluations, disciplinary actions, if any, and other personal matters shall not be made
17 available to public inspection for any purpose except with the consent of the person who is the
18 subject of the record or upon order of a court of competent jurisdiction.

19 (18) Enter into contracts for the receipt of cash or property, or both, and establish charitable
20 gift annuities pursuant to ORS 731.038; and, commit, appropriate, authorize and budget for the pay-
21 ment of or other disposition of general funds to pay, in whole or in part, sums due under an agree-
22 ment for a charitable gift annuity, and to provide the necessary funding for reserves or other trust
23 funds pursuant to ORS 731.038.

24 (19) Encourage gifts to the district by faithfully devoting the proceeds of the gifts to the district
25 purposes for which intended.

26 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire
27 lands for all district purposes. Financing may be by any prudent method including but not limited
28 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase
29 agreements under which the district may acquire ownership of the leased property at a nominal
30 price. The financing agreements may be for a term of up to 30 years except for lease arrangements
31 which may be for a term of up to 50 years.

32 (21) Participate in an educational consortium with public and private institutions that offer up-
33 per division and graduate instruction. Community colleges engaged in consortiums may expend
34 money, provide facilities and assign staff to assist those institutions offering upper division and
35 graduate instruction.

36 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate
37 a self-insurance program as provided in ORS 341.312.

38 **SECTION 48.** ORS 353.117 is amended to read:

39 353.117. (1) Pursuant to ORS 353.050, Oregon Health and Science University may create and
40 maintain an entity that is exempt from federal income tax under section 501(c)(3) of the Internal
41 Revenue Code, as amended, for the purpose of conducting clinical care and practice and advancing
42 other university missions by the faculty.

43 (2) Any entity created by the university under subsection (1) of this section shall be considered:

44 (a) A public employer for purposes of ORS 236.605 to 236.640 and ORS chapters 238 and 238A
45 **and sections 1 to 20 of this 2015 Act;**

1 (b) A unit of local government for purposes of ORS 190.003 to 190.130;

2 (c) A public body for purposes of ORS 30.260 to 30.300 and 307.112;

3 (d) A public agency for purposes of ORS 200.090; and

4 (e) A public corporation for purposes of ORS 307.090.

5 **SECTION 49.** ORS 377.836 is amended to read:

6 377.836. (1) Except as otherwise provided by law, and except as provided in subsection (2) of this
7 section, the provisions of ORS 279.835 to 279.855 and 283.085 to 283.092 and ORS chapters 240, 276,
8 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to the Travel Information Council. The
9 council is subject to all other statutes governing a state agency that do not conflict with ORS
10 377.700 to 377.844, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions
11 of ORS chapter 183. Subject to the requirements of ORS chapters 238 and 238A **and sections 1 to**
12 **20 of this 2015 Act**, the council's employees are members of the Public Employees Retirement Sys-
13 tem.

14 (2) The following shall apply to the council:

15 (a) ORS 279A.250 to 279A.290;

16 (b) ORS 282.210 to 282.230; and

17 (c) ORS 293.235, 293.240, 293.245, 293.611, 293.625 and 293.630.

18 **SECTION 50.** ORS 396.330 is amended to read:

19 396.330. (1) State employees of the Oregon Military Department who are not otherwise members
20 of the Oregon National Guard may be required as a condition of employment to obtain membership
21 in the Oregon State Defense Force when in the judgment of the Adjutant General the membership
22 maintains or enhances the readiness and stability of the department to provide services if the need
23 for Oregon State Defense Force assistance should arise. The decision of the Adjutant General shall
24 be carried out by written regulation and shall not be subject to collective bargaining.

25 (2) Members of the Oregon National Guard or Oregon State Defense Force who are ordered to
26 state active duty under the provisions of ORS chapter 399 shall be considered as being in the mili-
27 tary service of the state and shall be considered temporary employees of the military department.

28 (3) State employees of the military department may be ordered to state active duty under ORS
29 chapter 399 without jeopardizing their status as regular employees. Employees so ordered must be
30 in an authorized leave status from their regular military department employment during the period
31 served on active duty.

32 (4) State employees of the military department shall be subject to ORS chapter 240 or 243 when
33 performing as regular employees.

34 (5) Members of the Oregon National Guard who are serving under Title 10 or Title 32 of the
35 United States Code are not eligible, by reason of that service, for the rights or benefits of public
36 employees granted or authorized by ORS chapter 236, 237, 238, 238A, 240 or 243 **or sections 1 to**
37 **20 of this 2015 Act**. Except as required by federal law or regulation, ORS chapters 652, 653, 654,
38 656, 657, 659, 659A, 661 and 663 do not apply to members of the Oregon National Guard who are
39 serving under Title 10 or Title 32 of the United States Code.

40 **SECTION 51.** ORS 576.306 is amended to read:

41 576.306. (1) A commodity commission may contract with an independent contractor for the per-
42 formance of any services. However, the commission may not contract with an independent con-
43 tractor to perform the discretionary functions of the commission. ORS 279.835 to 279.855 and ORS
44 chapters 240, 279A, 279B and 279C do not apply to the commission in obtaining such services, except
45 that a contract for such services may not take effect until approved by the State Department of

1 Agriculture as provided in subsection (7) of this section.

2 (2) The commission may rent space or acquire supplies and equipment from any contractor as
3 described in subsection (1) of this section. ORS chapters 276, 278, 279A, 279B, 279C and 283 and ORS
4 279.835 to 279.855, 283.085 to 283.092 and 291.038 do not apply to such rentals or acquisitions.

5 (3) Except as provided in this section, a contractor described in subsection (1) of this section
6 shall be considered an independent contractor and not an employee, eligible employee, public em-
7 ployee or employee of the state for purposes of Oregon law, including ORS chapters 236, 238, 238A,
8 240, 243, 291, 292, 316 and 652 **and sections 1 to 20 of this 2015 Act.**

9 (4) Nothing in this section precludes the state or a commission from being considered the em-
10 ployer of the contractor described in subsection (1) of this section for purposes of unemployment
11 compensation under ORS chapter 657 and ORS 670.600.

12 (5) A contractor described in subsection (1) of this section shall be considered an independent
13 contractor and not a worker for purposes of ORS chapter 656 and ORS 670.600.

14 (6) A contractor described in subsection (1) of this section may not be considered a public offi-
15 cial, public officer, state officer or executive official for purposes of Oregon law, including ORS
16 chapters 236, 244, 292, 295 and 297 and ORS 171.725 to 171.785.

17 (7) The State Department of Agriculture shall review the contract described in subsection (1)
18 of this section for the adequacy of the clauses pertaining to statement of work, starting and ending
19 dates, consideration, subcontracts, funds authorized in the budget, amendments, termination, com-
20 pliance with applicable law, assignment and waiver, access to records, indemnity, ownership of work
21 product, nondiscrimination, successors in interest, attorney fees, tax certification or merger or any
22 other clause the department deems necessary.

23 (8) The Oregon Department of Administrative Services, in consultation with the State Depart-
24 ment of Agriculture, shall adopt rules necessary for the screening and selection of independent
25 contractors under this section.

26 (9) Except as provided in subsection (8) of this section, the State Department of Agriculture may
27 promulgate any rules necessary for the administration and enforcement of this section.

28 **SECTION 52.** ORS 777.775 is amended to read:

29 777.775. (1) An export trading corporation is not a contracting agency for the purposes of ORS
30 279A.055, 279A.065, 279A.070, 279A.075, 279A.100, 279A.105, 279A.120, 279C.005, 279C.100 to
31 279C.125, 279C.300 to 279C.470 and 279C.570 and ORS chapter 279B, except ORS 279B.025, 279B.235,
32 279B.240, 279B.270, 279B.275 and 279B.280.

33 (2) An export trading corporation is not a public employer for the purposes of ORS chapters 238
34 and 238A **and sections 1 to 20 of this 2015 Act.**

35 **SECTION 53.** ORS 351.704 is amended to read:

36 351.704. (1) Subject to ORS 351.094 and any group health and welfare insurance benefit plan
37 developed under ORS 351.094, a part-time faculty member at a public institution of higher education
38 is eligible for the same health care benefits as full-time faculty members if the part-time faculty
39 member is eligible for membership in the Public Employees Retirement System or another plan au-
40 thorized under ORS chapter 238 or 238A **or sections 1 to 20 of this 2015 Act** by teaching either
41 at a single public institution of higher education or in aggregate at multiple public institutions of
42 higher education during the prior year.

43 (2) A part-time faculty member at a public institution of higher education shall pay all insurance
44 premiums for health care benefits unless otherwise provided for by the policy of the institution or
45 by collective bargaining at the institution.

1 **SECTION 54.** ORS 410.614, as amended by section 9, chapter 116, Oregon Laws 2014, is
2 amended to read:

3 410.614. (1) Notwithstanding ORS 243.650 (19) and (20), the Home Care Commission shall be
4 considered a public employer and home care workers shall be considered public employees governed
5 by ORS 243.650 to 243.782.

6 (2) Home care workers have the right to form, join and participate in the activities of labor
7 organizations of their own choosing for the purpose of representation and collective bargaining with
8 the commission on matters concerning employment relations. These rights shall be exercised in ac-
9 cordance with the rights granted to public employees with mediation and interest arbitration under
10 ORS 243.742 as the method of concluding the collective bargaining process.

11 (3) Home care workers are not public employees with respect to the Public Employees Retire-
12 ment System, the Oregon Public Service Retirement Plan, **sections 1 to 20 of this 2015 Act** or the
13 Public Employees' Benefit Board.

14 (4) Home care workers do not have the right to strike.

15 **SECTION 55.** ORS 741.201 is amended to read:

16 741.201. (1) The Oregon Health Insurance Exchange Corporation is under the supervision of an
17 executive director appointed by the corporation board of directors. The executive director serves
18 at the pleasure of the board. The executive director shall be paid a salary as prescribed by the
19 board.

20 (2) Before assuming the duties of the office, the executive director shall:

21 (a) Give to the state a fidelity bond, with one or more corporate sureties authorized to do
22 business in this state, in a penal sum prescribed by the Director of the Oregon Department of Ad-
23 ministrative Services, but not less than \$50,000. The premium for the bond shall be paid from an
24 account established under ORS 741.101.

25 (b) Subscribe to an oath that the executive director faithfully and impartially will discharge the
26 duties of the office and that the executive director will support the Constitution of the United States
27 and the Constitution of the State of Oregon. The executive director shall file a copy of the signed
28 oath with the Secretary of State.

29 (3) The executive director has such other powers as are necessary to carry out the duties of the
30 corporation, subject to policy direction by the board.

31 (4) The executive director may employ, supervise and terminate the employment of such staff
32 as the executive director deems necessary. The executive director shall prescribe their duties and
33 fix their compensation, in accordance with the personnel policies adopted by the board. Employees
34 of the corporation may not be individuals who are:

35 (a) Employed by, consultants to or members of a board of directors of:

36 (A) An insurer or third party administrator;

37 (B) An insurance producer; or

38 (C) A health care provider, health care facility or health clinic;

39 (b) Members, board members or employees of a trade association of:

40 (A) Insurers or third party administrators; or

41 (B) Health care providers, health care facilities or health clinics; or

42 (c) Health care providers, unless they receive no compensation for rendering services as health
43 care providers and do not have ownership interests in professional health care practices.

44 (5)(a) The board shall adopt personnel policies, subject to ORS 236.605 to 236.640, for any
45 transferred public employees. The board may elect to provide for participation in a health benefit

1 plan available to state employees pursuant to ORS 243.105 to 243.285 and may elect to participate
2 in the state deferred compensation plan established under ORS 243.401 to 243.507. If the board so
3 elects, employees of the corporation shall be considered eligible employees for purposes of ORS
4 243.105 to 243.285 and eligible state employees for purposes of ORS 243.401 to 243.507.

5 (b) In order to facilitate the development of innovative health benefit plans, the board or the
6 executive director may contract with one or more carriers to offer to employees of the Oregon
7 Health Insurance Exchange Corporation proof of concept health benefit plans approved by the Di-
8 rector of the Department of Consumer and Business Services. A plan offered under this paragraph
9 is not subject to ORS 743.730 to 743.773.

10 (6) With respect to the Public Employees Retirement System, employees of the corporation shall
11 be considered employees for purposes of ORS chapter 238 **and sections 1 to 20 of this 2015 Act**
12 and eligible employees for purposes of ORS chapter 238A.

13 (7) Employees of the corporation may participate in collective bargaining in accordance with
14 ORS 243.650 to 243.782.

15 **SECTION 56.** ORS 238.447 is amended to read:

16 238.447. (1) Notwithstanding ORS 238.445, any retirement allowance, pension payment, lump sum
17 payment or other distribution payable under this chapter or ORS chapter 238A **or sections 1 to 20**
18 **of this 2015 Act** to a person convicted of a felony is subject to execution, garnishment, attachment
19 or other process to collect, and may be assigned to satisfy, the portion of a money award described
20 in subsection (2) of this section that is included in a judgment entered in the criminal action as
21 provided in ORS 18.048.

22 (2) Subsection (1) of this section applies only to the amount of a money award attributable to
23 restitution ordered under ORS 137.106 or a compensatory fine ordered under ORS 137.101.

24 **SECTION 57.** ORS 238.460 is amended to read:

25 238.460. (1) If receipt in full by a person of a retirement allowance or other benefit under this
26 chapter or ORS chapter 238A **or sections 1 to 20 of this 2015 Act** would prevent such person from
27 receiving in full any other governmental pension to which the person is entitled, such person may
28 waive for a calendar year sufficient monthly payments, or portions thereof, of retirement allowance
29 or other benefit under this chapter or ORS chapter 238A **or sections 1 to 20 of this 2015 Act** to
30 permit the person to receive in full the other governmental pension. The waiver shall be made in
31 writing and filed with the Public Employees Retirement Board not less than 15 days before the first
32 day of the month to which the waiver applies.

33 (2) If for any month the waiver does not apply to the full retirement allowance due under this
34 chapter, the waiver applies first to all or the necessary portion of prior service pension, then to all
35 or to the necessary portion of current service pension, and then to the necessary portion of annuity.

36 (3) The waiver may be revoked at any time, but no retirement allowance or other benefit waived
37 for the period of time in which the waiver is in effect shall be paid. The revocation shall be made
38 in writing and filed with the board. If a person dies during the period of time in which the waiver
39 is in effect, the waiver is considered revoked on the date of such death.

40 **SECTION 58.** ORS 341.551 is amended to read:

41 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A **or sections 1 to 20 of**
42 **this 2015 Act**, the Department of Community Colleges and Workforce Development may establish
43 and administer an optional retirement plan for administrative employees of community college dis-
44 tricts who are eligible for membership in the Public Employees Retirement System. Any community
45 college district may participate in the plan by giving written notice to the department.

1 (2) An administrative employee may make an election to participate in the optional retirement
2 plan if the community college district that employs the employee is participating in the plan. The
3 election must be made in the following manner:

4 (a) An administrative employee who is an active member of the Public Employees Retirement
5 System may make an election to participate in the plan within 180 days after the community college
6 district commences participation in the plan, effective on the first day of the month following the
7 election.

8 (b) An administrative employee who is hired after the community college district commences
9 participation in the plan may make an election to participate in the plan within the first six months
10 of employment, effective on the first day of the month following six full months of employment.

11 (3) An administrative employee who does not elect to participate in the optional retirement plan
12 remains or becomes a member of the Public Employees Retirement System in accordance with ORS
13 [*chapters 238 and*] **chapter 238 or 238A or sections 1 to 20 of this 2015 Act.**

14 (4) An administrative employee may elect to participate in the optional retirement plan only if
15 at the time the election becomes effective the employee is not concurrently employed in a position
16 with any participating public employer other than the community college district in a position that
17 entitles the employee to membership in the Public Employees Retirement System. Except as pro-
18 vided in subsection (9) of this section, employees who elect to participate in the optional retirement
19 plan are ineligible for active membership in the Public Employees Retirement System for as long as
20 those employees are employed by a community college district that participates in the plan, whether
21 by reason of employment by the district or any other participating public employer.

22 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
23 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
24 be considered by the Public Employees Retirement Board to be a terminated member under the
25 provisions of ORS 238.095 as of the effective date of the election, and the amount credited to the
26 member account of the member shall be transferred directly to the optional retirement plan by the
27 Public Employees Retirement Board in the manner provided by subsection (6) of this section.

28 (b) An administrative employee who elects to participate in the optional retirement plan, who
29 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
30 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
31 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
32 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
33 member account of the member to the optional retirement plan. A request for a transfer must be
34 made at the time the member elects to participate in the optional retirement plan. Upon receiving
35 the request, the Public Employees Retirement Board shall transfer all amounts credited to the
36 member account of the member directly to the optional retirement plan and shall terminate all
37 rights, privileges and options of the employee under ORS chapter 238.

38 (c) An administrative employee who elects to participate in the optional retirement plan and
39 who is not a vested member of the pension program of the Oregon Public Service Retirement Plan
40 as described in ORS 238A.115 on the date that the election becomes effective shall be considered to
41 be a terminated member of the pension program by the Public Employees Retirement Board as of
42 the effective date of the election.

43 (d) An administrative employee who elects to participate in the optional retirement plan and
44 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
45 described in ORS 238A.115 on the date that the election becomes effective shall be considered an

1 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
2 fective date of the election. An employee who is subject to the provisions of this paragraph retains
3 all the rights, privileges and options of an inactive member of the pension program. If the actuarial
4 equivalent of the employee's benefit under the pension program at the time that the election be-
5 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees
6 Retirement Board for a transfer of the employee's interest under the pension program to the optional
7 retirement plan. The request must be made at the time the member elects to participate in the op-
8 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall
9 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the
10 pension program directly to the optional retirement plan and shall terminate the membership of the
11 employee in the pension program.

12 (e) An administrative employee who elects to participate in the optional retirement plan and
13 who is a vested member of the individual account program of the Oregon Public Service Retirement
14 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
15 ered an inactive member of the individual account program by the Public Employees Retirement
16 Board as of the effective date of the election. An employee who is subject to the provisions of this
17 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
18 count program. An administrative employee who elects to participate in the optional retirement plan
19 and who is a member of the individual account program of the Oregon Public Service Retirement
20 Plan may make a written request to the Public Employees Retirement Board that all amounts in the
21 member's employee account, rollover account and employer account, to the extent the member is
22 vested in those accounts under ORS 238A.320, be transferred to the optional retirement plan. The
23 request must be made at the time the member elects to participate in the optional retirement plan.
24 Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts di-
25 rectly to the optional retirement plan and shall terminate the membership of the employee in the
26 individual account program.

27 **(f) An administrative employee who elects to participate in the optional retirement plan**
28 **and who is a member of the Fair Retirement Plan under section 6 of this 2015 Act on the**
29 **date that the election becomes effective shall be considered an inactive member of the Fair**
30 **Retirement Plan by the Public Employees Retirement Board as of the effective date of the**
31 **election. An employee who is subject to the provisions of this paragraph retains all the**
32 **rights, privileges and options of an inactive member of the Fair Retirement Plan. An ad-**
33 **ministrative employee who elects to participate in the optional retirement plan and who is**
34 **a member of the Fair Retirement Plan under section 6 of this 2015 Act may make a written**
35 **request to the Public Employees Retirement Board that all amounts in the member's mem-**
36 **ber account be transferred to the optional retirement plan. The request must be made at the**
37 **time the member elects to participate in the optional retirement plan. Upon receiving the**
38 **request, the Public Employees Retirement Board shall transfer the amounts directly to the**
39 **optional retirement plan and shall terminate the membership of the employee in the Fair**
40 **Retirement Plan.**

41 [(f)] (g) Notwithstanding paragraphs (b), (d), [and] (e) and (f) of this subsection, the Public Em-
42 ployees Retirement Board shall not treat any employee as an inactive member under the provisions
43 of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A or
44 sections 1 to 20 of this 2015 Act that requires that the employee be separated from all service with
45 participating public employers and with employers who are treated as part of a participating public

1 employer's controlled group under the federal laws and rules governing the status of the Public
2 Employees Retirement System and the Public Employees Retirement Fund as a qualified govern-
3 mental retirement plan and trust.

4 (6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5)
5 of this section shall be transferred directly to the optional retirement plan by the Public Employees
6 Retirement Board and shall not be made available to the employee.

7 (7) An employee participating in the optional retirement plan shall contribute monthly an
8 amount equal to the percentage of the employee's salary that the employee would otherwise have
9 contributed as an employee contribution to the Public Employees Retirement System if the employee
10 had not elected to participate in the optional retirement plan.

11 (8) A participating community college district shall contribute monthly to the optional retire-
12 ment plan the percentage of salary for each employee participating in the plan that is equal to the
13 percentage of salary that is required to be made as the employer contribution under ORS 238A.220,
14 less any contributions made by reason of unfunded liabilities. The district may make contributions
15 under this subsection only during periods of time in which the employee would be eligible for
16 membership in the Public Employees Retirement System if the employee had not elected to partic-
17 ipate in the optional retirement plan.

18 (9) An administrative employee who elects to participate in the optional retirement plan may
19 make an election to withdraw from the plan. An employee may make an election under this sub-
20 section only once. Upon withdrawing from the plan:

21 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-
22 ited to the employee;

23 (b) The employee becomes a member of the [*Public Employees Retirement System under ORS*
24 *chapter 238A*] **Fair Retirement Plan under sections 1 to 20 of this 2015 Act** if the member meets
25 all requirements for membership under [*ORS chapter 238A*] **sections 1 to 20 of this 2015 Act**; and

26 (c) The employee is barred from ever again electing to participate in the optional retirement
27 plan.

28 (10) For the purposes of this section, "administrative employee" means a president, vice presi-
29 dent or dean, or a person holding a position that is the equivalent of a president, vice president or
30 dean.

31 **SECTION 59.** ORS 352.138, as amended by section 6, chapter 113, Oregon Laws 2014, and sec-
32 tion 17, chapter 121, Oregon Laws 2014, is amended to read:

33 352.138. (1) The following entities are not subject to any provision of law enacted after January
34 1, 2013, that is unique to governmental entities unless the following entities are expressly named:

35 (a) A university with a governing board; and

36 (b) Any not-for-profit organization or other entity if the equity of the entity is owned or con-
37 trolled exclusively by a university with a governing board and if the organization or entity is cre-
38 ated by the university to advance any of the university's statutory missions.

39 (2) Notwithstanding subsection (1) of this section, the provisions of ORS 30.260 to 30.460, 33.710,
40 33.720, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640, 279.835, 279.840, 279.850 and 297.040
41 and ORS chapters 35, 190, 192 and 244 apply to a university with a governing board under the same
42 terms as they apply to public bodies other than the state.

43 (3) Except as otherwise provided by law, the provisions of ORS 35.550 to 35.575, 180.060, 180.210
44 to 180.235, 184.305 to 184.345, 190.480, 190.490, 200.035, 243.696, 357.805 to 357.895 and 656.017 (2)
45 and ORS chapters 182, 183, 240, 270, 273, 276, 278, 279A, 279B, 279C, 282, 283, 291, 292, 293, 294, 295

1 and 297 do not apply to a university with a governing board.

2 (4) Notwithstanding subsections (1) and (3) of this section, ORS 240.167, 279C.600 to 279C.625,
 3 279C.800, 279C.810, 279C.825, 279C.830, 279C.835, 279C.840, 279C.845, 279C.850, 279C.855, 279C.860,
 4 279C.865, 279C.870 and 292.043 apply to a university with a governing board under the same terms
 5 as they apply to public bodies other than the state.

6 (5) Notwithstanding subsection (2) of this section, ORS 190.430 and 192.105 do not apply to a
 7 university with a governing board or any organization or other entity described in subsection (1)
 8 of this section.

9 (6) Except as set forth in subsection (3) of this section, ORS 243.650 to 243.782 and 276.073 to
 10 276.090 and ORS chapters 238 and 238A **and sections 1 to 20 of this 2015 Act** apply to a university
 11 with a governing board under the same terms as they apply to the state.

12 (7) ORS 351.065, 351.067, 351.642, 351.643, 351.644, 351.646, 351.656, 351.658, 352.012 and 352.375
 13 apply to a university with a governing board, except that the board or university shall exercise the
 14 responsibilities and authorities of the State Board of Higher Education, the Higher Education Co-
 15 ordinating Commission or the Oregon University System.

16 (8) A university with a governing board and its agents and employees remain subject to all
 17 statutes and administrative rules of this state that create rights, benefits or protections in favor of
 18 military veterans, service members and families of service members to the same extent as an agency
 19 of this state would be subject to such statutes and administrative rules.

20 (9) ORS 351.692, 351.695 and 351.697 apply to a governing board, except that the board has the
 21 responsibilities and authorities with respect to the university it governs that the State Board of
 22 Higher Education and the Oregon University System have with respect to the public universities
 23 identified in ORS 351.011. A university with a governing board may not issue a tax credit certificate
 24 under ORS 351.692, 351.695 and 351.697 that will cause the public universities listed in ORS 352.002
 25 to owe the General Fund more than \$6 million at any one time under ORS 351.692, 351.695 and
 26 351.697.

27 (10) If state bonds are issued for the benefit of a university with a governing board, the uni-
 28 versity shall have the powers and duties of a related agency, as defined in ORS 286A.001, to the
 29 extent necessary for the issuance of the state bonds and the administration of the proceeds of the
 30 state bonds.

31 (11) If state bonds are issued for the benefit of a university with a governing board under Article
 32 XI-Q of the Oregon Constitution, the university shall have the powers and duties of a project agency,
 33 as defined in ORS 286A.816, to the extent necessary for the issuance of the state bonds and the
 34 administration of the proceeds of the state bonds.

35 (12) Nothing in this section may be construed so that statutory provisions that are not set forth
 36 in this section apply to a university with a governing board.

37 **SECTION 60. ORS 238.750 is repealed.**

38
 39 **CAPTIONS**

40
 41 **SECTION 61. The unit and section captions used in this 2015 Act are provided only for**
 42 **the convenience of the reader and do not become part of the statutory law of this state or**
 43 **express any legislative intent in the enactment of this 2015 Act.**

44
 45 **EMERGENCY CLAUSE**

1 **SECTION 62. This 2015 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
3 **on its passage.**

4
