

Requested by Senator FERRIOLI

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 1067**

1 On page 1 of the printed A-engrossed bill, line 3, after “173.420,” delete
2 the rest of the line and delete lines 4 and 5 and insert “238.005, 238.229,
3 238.300, 238.350, 238.435, 238.605, 238.610, 238.670, 238A.005, 238A.320,
4 238A.330, 238A.335, 238A.340, 238A.350, 238A.375, 238A.410, 240.185, 243.135,
5 243.800, 243.866, 291.210, 291.216, 291.263, 291.371, 293.226, 293.229, 293.231,
6 293.233, 293.240, 293.250, 293.252 and 341.551; and declaring an emergency.”.

7 On page 5, delete lines 36 through 45 and delete pages 6 and 7.

8 On page 8, delete lines 1 through 31 and insert:

9

10

“GOVERNOR’S BUDGET

11

12 **“SECTION 10.** ORS 291.216, as amended by section 19, chapter 117,
13 Oregon Laws 2016, is amended to read:

14 “291.216. (1) The Governor’s budget shall include a budget message pre-
15 pared by the Governor, including recommendations of the Governor with
16 reference to the fiscal policy of the state government for the coming
17 biennium, describing the important features of the budget, embracing a gen-
18 eral budget summary setting forth the aggregate figures of the budget so as
19 to show a balanced relation between the total proposed expenditures and the
20 total anticipated income, with the basis and factors on which the estimates
21 are made, the amount to be borrowed, and other means of financing the es-

1 timated expenditures for the ensuing biennium, compared with the corre-
2 sponding figures for at least the last completed biennium and the current
3 biennium.

4 “(2) The Governor’s budget shall be supported by explanatory schedules
5 or statements, classifying the expenditures reported in the budget, both past
6 and proposed, by organization units, objects and funds, and the income by
7 organization units, sources and funds, and the proposed amount of new bor-
8 rowing as well as proposed new tax or revenue sources, including a single
9 comprehensive list of all proposed increases in fees, licenses and assessments
10 assumed in the budget.

11 “(3) The Governor’s budget shall be submitted for all dedicated funds, as
12 well as the state General Fund, and shall include the estimated amounts of
13 federal and other aids or grants to state agencies or activities provided for
14 any purpose whatever, together with estimated expenditures therefrom.

15 “(4) The Governor’s budget shall embrace the detailed estimates of ex-
16 penditures and revenues. It shall include:

17 “(a) Statements of the bonded indebtedness of the state government,
18 showing the actual amount of the debt service for at least the past biennium,
19 and the estimated amount for the current biennium and the ensuing
20 biennium, the debt authorized and unissued, the condition of the sinking
21 funds and the borrowing capacity.

22 “(b) The Governor’s recommendations concerning tax expenditures iden-
23 tified under ORS 291.214.

24 “(c) Any statements relative to the financial plan which the Governor
25 may consider desirable or which may be required by the Legislative Assem-
26 bly.

27 “(5) The Governor’s budget shall use the estimated revenues under ORS
28 291.342 for the fiscal year in which the budget is submitted as the basis for
29 total anticipated income under subsection (1) of this section, subject to ad-
30 justment as may be necessary to reflect accurately projections for the next

1 biennium.

2 “(6)(a) The Governor’s budget shall present information regarding the
3 expenses of the state in the following categories:

4 “(A) Personnel expenses, including compensation and benefits for state
5 employees, but excluding costs of services contracted out and temporary
6 service costs.

7 “(B) Supplies, equipment and the costs of services contracted out.

8 “(C) Special payments.

9 “(D) Capital construction.

10 “(E) Capital outlay.

11 “(F) Debt service.

12 “(b) For each category described in paragraph (a) of this subsection, the
13 budget shall show actual expenditures for the prior biennium and estimated
14 expenditures for the current biennium.

15 “(c) As supplemental information to the budget, the Governor shall in-
16 clude an estimate of the projected costs of continuing currently authorized
17 programs in the next biennium. The estimate shall include, but is not limited
18 to the projected costs of:

19 “(A) Removing one-time expenditures;

20 “(B) Program phase-ins and phase-outs;

21 “(C) Personnel expenses compared to existing compensation plan agree-
22 ments, including position vacancy experience calculations;

23 “(D) Inflation [*for services, supplies and medical costs*], **except for**
24 **standard inflation for services and supplies;**

25 “(E) Transfers between state funds or accounts;

26 “(F) Mandated caseload changes; and

27 “(G) Debt service for previously issued debt.

28 “(d) The budget shall show the total increase in the cost of salaries and
29 benefits for all state positions.

30 “(7) The Governor’s budget shall include:

1 “(a) The total number of positions and full-time equivalent positions in-
2 cluded in the budget.

3 “(b) The average vacancy rate in the present biennium.

4 “(c) The number of permanent, full-time equivalent vacancies as of July
5 1 of even-numbered years.

6 “(8) The Governor’s budget shall include computations showing budget
7 figures as a percentage of the total General Fund, federal fund, fee or other
8 source category, as may be appropriate.

9 “(9) The Governor’s budget shall include, in a format that provides side-
10 by-side comparison with the State Debt Policy Advisory Commission report
11 of net debt capacity, a six-year forecast, by debt type and repayment source,
12 of:

13 “(a) That portion of the capital construction program required to be re-
14 ported by ORS 291.224 that will be financed by debt issuance.

15 “(b) The acquisition of equipment or technology in excess of \$500,000 that
16 will be financed by debt issuance.

17 “(c) Other state agency debt issuance for grant or loan purposes.

18 “(10) The Governor’s budget shall include the outcomes-based budgeting
19 information required by ORS 291.217 (2) and (3).

20 **“(11) The Governor’s budget shall include recommendations re-**
21 **garding available funds that could be used to make lump sum pay-**
22 **ments to the Public Employees Retirement System under ORS 238.229.**

23 **“(12) The Governor’s budget may not include a standard inflation**
24 **factor for services and supplies.**

25

26 **“PUBLIC EMPLOYEES RETIREMENT SYSTEM**
27 **COST CONTAINMENT”.**

28 On page 9, delete lines 33 through 45.

29 On page 10, delete lines 1 through 8 and insert:

30

1 **under subsection (1)(a) of this section to make the employee contri-**
2 **bution under subsection (1)(b) of this section must be a percentage of**
3 **salary, may not be less than one percent of salary and must be a whole**
4 **number.**

5 “(3) A new member of the individual account program shall first make
6 contributions under this section for those wages that are attributable to
7 services performed by the employee during the first full pay period following
8 the six-month probationary period required under ORS 238A.300, without re-
9 gard to when those wages are considered earned for other purposes under
10 this chapter.

11 **“SECTION 13.** ORS 238A.335 is amended to read:

12 “238A.335. (1) A participating public employer may agree, by a written
13 employment policy or by a collective bargaining agreement, to pay the em-
14 ployee contribution required under ORS 238A.330 (1)(a). The policy or
15 agreement need not include all members of the individual account program
16 employed by the employer.

17 “(2) An agreement under this section to pay the required employee con-
18 tribution may provide that:

19 “(a) Employee compensation be reduced to generate the funds needed to
20 make the employee contributions; or

21 “(b) Additional amounts be paid by the employer for the purpose of mak-
22 ing the employee contributions, and employee compensation not be reduced
23 for the purpose of generating the funds needed to make the employee con-
24 tributions.

25 “(3) A participating public employer must give written notice to the
26 Public Employees Retirement Board at the time that a written employment
27 policy or collective bargaining agreement described in subsection (1) of this
28 section is adopted or changed. The notice must specifically indicate whether
29 the agreement is as described in subsection (2)(a) or (b) of this section. Any
30 change in the manner in which employee contributions are to be paid applies

1 only to employee contributions made on and after the date the notice is re-
2 ceived by the board.

3 **“SECTION 14.** ORS 238A.340 is amended to read:

4 “238A.340. (1) A participating public employer may agree, by a written
5 employment policy or agreement, to make employer contributions for mem-
6 bers of the individual account program employed by the employer. The per-
7 centage of salary paid as employer contributions may not be less than one
8 percent of salary or more than six percent of salary, and must be a whole
9 number. A participating public employer may make an agreement under this
10 section for specific groups of employees employed by the public employer.

11 “(2) If a participating public employer makes employer contributions un-
12 der this section and the member for which the contributions are made fails
13 to vest in the employer account under the provisions of ORS 238A.320, the
14 Public Employees Retirement Board shall apply the contributions in the
15 employer account against other obligations of the employer under the Oregon
16 Public Service Retirement Plan.

17 **“(3) Notwithstanding subsections (1) and (2) of this section, a par-**
18 **ticipating public employer may not make contributions under this**
19 **section on or after the later of:**

20 **“(a) January 1, 2018; or**

21 **“(b) The expiration of any collective bargaining agreement in effect**
22 **on January 1, 2018, under which a participating public employer makes**
23 **contributions under this section.**

24 **“SECTION 15.** ORS 238A.350 is amended to read:

25 “238A.350. (1) Upon any contributions being made to the individual ac-
26 count program by or on behalf of a member of the program, the Public Em-
27 ployees Retirement Board shall create the account or accounts described in
28 this section. Each account shall be adjusted at least annually in accordance
29 with rules adopted by the board to reflect any net earnings or losses on those
30 contributions and to pay the reasonable administrative costs of maintaining

1 the program to the extent the earnings on the assets of the program are in-
2 sufficient to pay those costs. The adjustments described in this subsection
3 shall continue until the account is distributed to the member [*or*], forfeited
4 **or applied to pay the costs of a pension or other retirement benefits**
5 **under subsection (3) of this section.**

6 “(2)(a) The board shall establish an employee account, which shall consist
7 of the employee contributions made by or on behalf of the member **under**
8 **ORS 238A.330 (1)(a)**, as adjusted under subsection (1) of this section, **that**
9 **are not allocated under ORS 238A.330 (2) to the member pension con-**
10 **tribution account established for the member.**

11 “(b) The board shall create a separate employee account for a member
12 who becomes an active member for the purpose of service in the Legislative
13 Assembly under ORS 237.650, which shall consist of the employee contribu-
14 tions made by or on behalf of the member that are attributable to the
15 member’s legislative service, as adjusted under subsection (1) of this section.

16 “(3)(a) **The board shall establish a member pension contribution**
17 **account, which shall consist of the employee contributions made by**
18 **or on behalf of the member under ORS 238A.330 (1)(b), as adjusted**
19 **under subsection (1) of this section.**

20 “(b) **Unless the amounts in a member pension contribution account**
21 **established under this subsection are withdrawn under ORS 238A.375,**
22 **the amounts in the account shall be applied by the board to pay the**
23 **costs of the pension or other retirement benefits payable to the mem-**
24 **ber or the member’s beneficiary under this chapter or ORS chapter 238**
25 **that are earned on or after January 1, 2018.**

26 “(c) **If the amounts in the member pension contribution account**
27 **established under this subsection exceed the actuarially projected costs**
28 **of the pension or other retirement benefits payable to the member or**
29 **the member’s beneficiary under this chapter or ORS chapter 238 that**
30 **are earned on or after January 1, 2018, the board shall refund the ex-**

1 **cess amounts to the member upon retirement.**

2 “[3] (4) If the public employer agrees to make employer contributions
3 under ORS 238A.340, the board shall establish an employer account, which
4 shall consist of the employer contributions made on behalf of the member
5 as adjusted under subsection (1) of this section.

6 “[4] (5) If the board accepts rollover contributions on behalf of the
7 member, the board shall establish a rollover account, which shall consist of
8 the rollover contributions made by the member as adjusted under subsection
9 (1) of this section. Contributions and the earnings attributable to the con-
10 tributions must be accounted for separately.

11 “[5] (6) The board shall provide an annual statement to each active and
12 inactive member of the program that reflects the amount credited to the ac-
13 counts established under this section. The statement shall reflect whether
14 the member is vested in the employer account under the provisions of ORS
15 238A.320.

16 **“SECTION 16.** ORS 238A.320 is amended to read:

17 “238A.320. (1) A member of the individual account program becomes
18 vested in the employee account established for the member under ORS
19 238A.350 (2) on the date the employee account is established.

20 “(2) A member who makes rollover contributions becomes vested in the
21 rollover account established for the member under ORS 238A.350 [(4)] (5) on
22 the date the rollover account is established.

23 “(3) Except as provided in subsection (4) of this section, if an employer
24 makes employer contributions for a member under ORS 238A.340, the member
25 becomes vested in the employer account established under ORS 238A.350
26 [(3)] (4) on the earliest of the following dates:

27 “(a) The date on which the member completes at least 600 hours of service
28 in each of five calendar years. The five calendar years need not be consec-
29 utive, but are subject to the provisions of subsection (5) of this section.

30 “(b) The date on which an active member reaches the normal retirement

1 age for the member under ORS 238A.160.

2 “(c) If the individual account program is terminated, the date on which
3 termination becomes effective, but only to the extent the account is then
4 funded.

5 “(d) The date on which an active member becomes disabled, as described
6 in ORS 238A.155 (5).

7 “(e) The date on which an active member dies.

8 “(4) If on the date that a person becomes an active member the person
9 has already reached the normal retirement age for the person under ORS
10 238A.160, and the employer makes employer contributions for the member
11 under ORS 238A.340, the person is vested in the employer account established
12 under ORS 238A.350 [(3)] (4) on that date.

13 “(5) If a member of the individual account program who is not vested in
14 the employer account performs fewer than 600 hours of service in each of five
15 consecutive calendar years, hours of service performed before the first cal-
16 endar year of the period of five consecutive calendar years shall be disre-
17 garded for purposes of determining whether the member is vested under
18 subsection (3)(a) of this section.

19 “(6) Solely for purposes of determining whether a member is vested under
20 subsection (3)(a) of this section, hours of service include creditable service,
21 as defined in ORS 238.005, performed by the person before the person became
22 an eligible employee, as long as the membership of the person under ORS
23 chapter 238 has not been terminated under the provisions of ORS 238.095 on
24 the date the person becomes an eligible employee.

25 “(7) **A member becomes vested in the member pension contribution**
26 **account established for the member under ORS 238A.350 (3) on the date**
27 **the account is established.**

28 “**SECTION 17.** ORS 238A.375 is amended to read:

29 “238A.375. (1)(a) An inactive member of the individual account program
30 may elect to receive a distribution of the amounts in the member’s employee

1 account, rollover account and employer account to the extent the member is
2 vested in those accounts under ORS 238A.320 if the inactive member has
3 separated from all service with participating public employers and with em-
4 ployers who are treated as part of a participating public employer's con-
5 trolled group under the federal laws and rules governing the status of the
6 system and the fund as a qualified governmental retirement plan and trust.

7 **“(b)(A) An inactive member of the individual account program may**
8 **elect to receive a distribution of the amounts in the member's member**
9 **pension contribution account established for the member under ORS**
10 **238A.350 (3) if:**

11 **“(i) The inactive member has separated from all service with par-**
12 **ticipating public employers and with employers who are treated as part**
13 **of a participating public employer's controlled group under the federal**
14 **laws and rules governing the status of the system and the fund as a**
15 **qualified governmental retirement plan and trust; and**

16 **“(ii) The member is eligible to withdraw and withdraws from the**
17 **pension program under ORS 238A.120.**

18 **“(B) The withdrawal of the member's accounts under this para-**
19 **graph cancels all membership rights in the Public Employees Retire-**
20 **ment System.**

21 **“(2) If an inactive member of the individual account program who is not**
22 **vested in the employer account receives a distribution under subsection (1)**
23 **of this section, the employer account of the member is permanently forfeited**
24 **as of the date of the distribution.**

25 **“(3) A member may not make an election under this section for less than**
26 **all of the member's individual accounts described in ORS 238A.350 in which**
27 **the member is vested.**

28 **“(4) A member who is vested in the pension program established under**
29 **this chapter and who is eligible to withdraw from the pension program under**
30 **ORS 238A.120 may make an election under this section only if the member**

1 also withdraws from the pension program.

2 “(5) A member who has a member account established under ORS chapter
3 238 may make an election under this section only if the member also with-
4 draws that member account in the manner provided by ORS 238.265. A
5 member who has an account established under ORS 238.440 may make an
6 election under this section only if the member also withdraws the account
7 established under ORS 238.440.

8 “[5] (6) If an inactive member receives a distribution under subsection
9 (1) of this section and is subsequently reemployed by a participating public
10 employer, any service performed before the date the member became an in-
11 active member may not be used toward the period of service required for
12 vesting in the employer account under ORS 238A.320.

13 **“SECTION 18.** ORS 238A.410, as amended by section 9, chapter 33,
14 Oregon Laws 2016, is amended to read:

15 “238A.410. (1)(a) If a member of the individual account program dies be-
16 fore retirement, the amounts in the member’s employee account, rollover
17 account and employer account, to the extent the member is vested in those
18 accounts under ORS 238A.320, shall be paid in a lump sum to the beneficiary
19 or beneficiaries designated by the member for the purposes of this section.

20 **“(b) If a member of the individual account program dies before re-**
21 **tirement, the amounts in the member pension contribution account**
22 **established for the member under ORS 238A.350 (3) shall be applied by**
23 **the Public Employees Retirement Board to pay the costs of any benefit**
24 **payable under ORS 238A.230. If the amounts in the member pension**
25 **contribution account exceed the costs of the benefit payable under**
26 **ORS 238A.230, the excess amounts shall be paid in a lump sum to the**
27 **beneficiary or beneficiaries designated by the member for the purposes**
28 **of this section.**

29 “(2) If a member of the individual account program is married at the time
30 of death, or there exists at the time of death any other person who is con-

1 stitutionally required to be treated in the same manner as a spouse for the
2 purpose of retirement benefits, the spouse or other person shall be the ben-
3 eficiary for purposes of the death benefit payable under this section unless
4 the spouse or other person consents to the designation of a different benefi-
5 ciary or beneficiaries before the designation has been made and the consent
6 has not been revoked by the spouse or other person as of the time of the
7 member's death. Consent and revocation of consent must be in writing, ac-
8 knowledged by a notary public, and submitted to the [*Public Employees Re-*
9 *retirement*] board in accordance with rules adopted by the board. If the
10 member's spouse is designated as the member's beneficiary and the marriage
11 of the member and spouse is subsequently dissolved, the former spouse shall
12 be treated as predeceasing the member for purposes of this section, unless
13 the member expressly designates the former spouse as beneficiary after the
14 effective date of the dissolution or the former spouse is required to be des-
15 ignated as a beneficiary under the provisions of ORS 238.465.

16 “(3) For purposes of this section and ORS 238A.400 (3), if a member fails
17 to designate a beneficiary, or if the person or persons designated do not
18 survive the member, the death benefit provided for in this section shall be
19 paid to the following person or persons, in the following order of priority:

20 “(a) The member's surviving spouse or other person who is constitu-
21 tionally required to be treated in the same manner as a spouse;

22 “(b) The member's surviving children, in equal shares; or

23 “(c) The member's estate.

24 “(4) The entire amount of a deceased member's vested accounts must be
25 distributed by December 31 of the fifth calendar year after the year in which
26 the member died. Notwithstanding any other provision of this chapter, dis-
27 tributions of death benefits under the individual account program must
28 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9)
29 and the regulations implementing that section, as in effect on December 31,
30 2015. The [*Public Employees Retirement*] board shall adopt rules implement-

1 ing those minimum distribution requirements.

2 **“SECTION 19.** ORS 243.800 is amended to read:

3 “243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A
4 or ORS 243.910 to 243.945, the governing board of a public university listed
5 in ORS 352.002 shall establish and administer an Optional Retirement Plan
6 for administrative and academic employees of the public university. The
7 Optional Retirement Plan must be a qualified plan under the Internal Reve-
8 nue Code, capable of accepting funds transferred under subsection (7) of this
9 section without the transfer being treated as a taxable event under the
10 Internal Revenue Code, and willing to accept those funds. Retirement and
11 death benefits shall be provided under the plan by the purchase of annuity
12 contracts, fixed or variable or a combination thereof, or by contracts for in-
13 vestments in mutual funds.

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

16 “(a) Six hundred hours of employment, or the equivalent as determined
17 by the governing board; and

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

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

25 “(4) An administrative or academic employee who does not elect to par-
26 ticipate in the Optional Retirement Plan:

27 “(a) Remains or becomes a member of the Public Employees Retirement
28 System in accordance with ORS chapters 238 and 238A; or

29 “(b) Continues to be assisted by the governing board under ORS 243.920
30 if the employee is being so assisted.

1 “(5) Except as provided in subsection (6) of this section, employees who
2 elect to participate in the Optional Retirement Plan are ineligible for active
3 membership in the Public Employees Retirement System or for any assistance
4 by the governing board under ORS 243.920 as long as those employees are
5 employed in the public university and the plan is in effect.

6 “(6)(a) An administrative or academic employee who elects to participate
7 in the Optional Retirement Plan, who has creditable service under ORS
8 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
9 sidered by the Public Employees Retirement Board to be a terminated mem-
10 ber under the provisions of ORS 238.095 as of the effective date of the
11 election, and the [amount] **amounts** credited to the member [account] **ac-**
12 **counts** of the member **established under ORS 238.250 and 238.260** shall be
13 transferred directly to the Optional Retirement Plan by the Public Employ-
14 ees Retirement Board in the manner provided by subsection (7) of this sec-
15 tion.

16 “(b) An administrative or academic employee who elects to participate in
17 the Optional Retirement Plan, who has creditable service under ORS chapter
18 238 as defined by ORS 238.005 and who is vested shall be considered to be
19 an inactive member by the Public Employees Retirement Board and shall
20 retain all the rights, privileges and options under ORS chapter 238 unless the
21 employee makes a written request to the Public Employees Retirement Board
22 for a transfer of the amounts credited to the member [account] **accounts** of
23 the member **established under ORS 238.250 and 238.260** to the Optional
24 Retirement Plan. A request for a transfer must be made at the time the
25 member elects to participate in the Optional Retirement Plan. Upon receiv-
26 ing the request, the Public Employees Retirement Board shall transfer all
27 amounts credited to the member [account] **accounts** of the member **estab-**
28 **lished under ORS 238.250 and 238.260** directly to the Optional Retirement
29 Plan, and shall terminate all rights, privileges and options of the employee
30 [under ORS chapter 238] **as provided in ORS 238.095.**

1 “(c) [*An administrative or academic employee who elects to participate in*
2 *the Optional Retirement Plan, and who is not a vested member of the pension*
3 *program of the Oregon Public Service Retirement Plan as described in ORS*
4 *238A.115*] **An administrative or academic employee who elects to par-**
5 **ticipate in the Optional Retirement Plan and who is a member of the**
6 **pension program of the Oregon Public Service Retirement Plan as de-**
7 **scribed in ORS 238A.100 on the date that the election becomes effec-**
8 **tive, but who has not vested in the program under ORS 238A.115** on the
9 date that the election becomes effective, shall be considered to be a termi-
10 nated member of the pension program by the Public Employees Retirement
11 Board as of the effective date of the election. **The board shall transfer the**
12 **amounts credited to the member accounts of the member directly to**
13 **the Optional Retirement Plan in the manner provided by subsection**
14 **(7) of this section.**

15 “(d) An administrative or academic employee who elects to participate in
16 the Optional Retirement Plan, and who is a vested member of the pension
17 program of the Oregon Public Service Retirement Plan as described in ORS
18 238A.115 on the date that the election becomes effective, shall be considered
19 an inactive member of the pension program by the Public Employees Re-
20 tirement Board as of the effective date of the election. An employee who is
21 subject to the provisions of this paragraph retains all the rights, privileges
22 and options of an inactive member of the pension program. If the actuarial
23 equivalent of the employee’s benefit under the pension program at the time
24 that the election becomes effective is \$5,000 or less, the employee may make
25 a written request to the Public Employees Retirement Board for a transfer
26 of the employee’s interest under the pension program to the Optional Re-
27 tirement Plan. The request must be made at the time the member elects to
28 participate in the Optional Retirement Plan. Upon receiving the request, the
29 Public Employees Retirement Board shall transfer the amount determined to
30 be the actuarial equivalent of the employee’s benefit under the pension pro-

1 gram directly to the Optional Retirement Plan, and shall terminate the
2 membership of the employee in the pension program.

3 “(e) An administrative or academic employee who elects to participate in
4 the Optional Retirement Plan, and who is a vested member of the individual
5 account program of the Oregon Public Service Retirement Plan as described
6 in ORS 238A.320 on the date that the election becomes effective, shall be
7 considered an inactive member of the individual account program by the
8 Public Employees Retirement Board as of the effective date of the election.
9 An employee who is subject to the provisions of this paragraph retains all
10 the rights, privileges and options of an inactive member of the individual
11 account program. An administrative or academic employee who elects to
12 participate in the Optional Retirement Plan, and who is a member of the
13 individual account program of the Oregon Public Service Retirement Plan,
14 may make a written request to the Public Employees Retirement Board that
15 all amounts [*in the member’s employee account, rollover account and employer*
16 *account*] **credited to the member accounts of the member established**
17 **under ORS 238A.350**, to the extent the member is vested in those accounts
18 under ORS 238A.320, be transferred to the Optional Retirement Plan. The
19 request must be made at the time the member elects to participate in the
20 Optional Retirement Plan. Upon receiving the request, the Public Employees
21 Retirement Board shall transfer the amounts directly to the Optional Re-
22 tirement Plan, and shall terminate the membership of the employee in the
23 individual account program upon making the transfer.

24 “(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the
25 Public Employees Retirement Board may not treat any employee as an inac-
26 tive member under the provisions of this subsection for the purpose of re-
27 ceiving any benefit under ORS chapter 238 or 238A that requires that the
28 employee be separated from all service with participating public employers
29 and with employers who are treated as part of a participating public
30 employer’s controlled group under the federal laws and rules governing the

1 status of the Public Employees Retirement System and the Public Employees
2 Retirement Fund as a qualified governmental retirement plan and trust.

3 “(7) Any amounts transferred from the Public Employees Retirement Fund
4 under subsection (6) of this section shall be transferred directly to the Op-
5 tional Retirement Plan by the Public Employees Retirement Board and may
6 not be made available to the employee.

7 “(8) An employee participating in the Optional Retirement Plan who was
8 hired before July 1, 2014, shall contribute monthly an amount equal to the
9 percentage of the employee’s salary that the employee would otherwise have
10 contributed as an employee contribution to the Public Employees Retirement
11 System if the employee had not elected to participate in the Optional Re-
12 tirement Plan.

13 “(9) For an employee participating in the Optional Retirement Plan who
14 was hired before July 1, 2014, the governing board shall contribute monthly
15 to the Optional Retirement Plan the percentage of salary of the employee
16 equal to the percentage of salary that would otherwise have been contributed
17 as an employer contribution on behalf of the employee to the Public Em-
18 ployees Retirement System, before any offset under ORS 238.229 (2), if the
19 employee had not elected to participate in the Optional Retirement Plan.

20 “(10) For an employee participating in the Optional Retirement Plan who
21 was hired on or after July 1, 2014, the governing board shall contribute
22 monthly to the Optional Retirement Plan:

23 “(a) Eight percent of the employee’s salary; and

24 “(b) A percentage of the employee’s salary equal to the percentage of
25 salary contributed by the employee to the public university’s Tax-Deferred
26 Investment 403(b) Plan under ORS 243.820, up to four percent of the
27 employee’s salary in each pay period.

28 “(11) Both employee and employer contributions to an Optional Retire-
29 ment Plan shall be remitted directly to the companies that have issued an-
30 nuity contracts to the participating employees or directly to the mutual

1 funds.

2 “(12) Benefits under the Optional Retirement Plan are payable to em-
3 ployees who elect to participate in the plan and their beneficiaries by the
4 selected annuity provider or mutual fund in accordance with the terms of the
5 annuity contracts or the terms of the contract with the mutual fund. Em-
6 ployees electing to participate in the Optional Retirement Plan agree that
7 benefits payable under the plan are not obligations of the State of Oregon
8 or of the Public Employees Retirement System.

9 **“SECTION 20.** ORS 341.551 is amended to read:

10 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,
11 the Office of Community Colleges and Workforce Development may establish
12 and administer an optional retirement plan for administrative employees of
13 community college districts who are eligible for membership in the Public
14 Employees Retirement System. Any community college district may partic-
15 ipate in the plan by giving written notice to the office.

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

20 “(a) An administrative employee who is an active member of the Public
21 Employees Retirement System may make an election to participate in the
22 plan within 180 days after the community college district commences partic-
23 ipation in the plan, effective on the first day of the month following the
24 election.

25 “(b) An administrative employee who is hired after the community college
26 district commences participation in the plan may make an election to par-
27 ticipate in the plan within the first six months of employment, effective on
28 the first day of the month following six full months of employment.

29 “(3) An administrative employee who does not elect to participate in the
30 optional retirement plan remains or becomes a member of the Public Em-

1 ployees Retirement System in accordance with ORS chapters 238 and 238A.

2 “(4) An administrative employee may elect to participate in the optional
3 retirement plan only if at the time the election becomes effective the em-
4 ployee is not concurrently employed in a position with any participating
5 public employer other than the community college district in a position that
6 entitles the employee to membership in the Public Employees Retirement
7 System. Except as provided in subsection (9) of this section, employees who
8 elect to participate in the optional retirement plan are ineligible for active
9 membership in the Public Employees Retirement System for as long as those
10 employees are employed by a community college district that participates in
11 the plan, whether by reason of employment by the district or any other par-
12 ticipating public employer.

13 “(5)(a) An administrative employee who elects to participate in the op-
14 tional retirement plan, who has creditable service under ORS chapter 238 as
15 defined by ORS 238.005 and who is not vested shall be considered by the
16 Public Employees Retirement Board to be a terminated member under the
17 provisions of ORS 238.095 as of the effective date of the election, and the
18 [*amount*] **amounts** credited to the member [*account*] **accounts** of the member
19 **established under ORS 238.250 and 238.260** shall be transferred directly to
20 the optional retirement plan by the Public Employees Retirement Board in
21 the manner provided by subsection (6) of this section.

22 “(b) An administrative employee who elects to participate in the optional
23 retirement plan, who has creditable service under ORS chapter 238 as defined
24 by ORS 238.005 and who is vested shall be considered to be an inactive
25 member by the Public Employees Retirement Board and shall retain all the
26 rights, privileges and options under ORS chapter 238 unless the employee
27 makes a written request to the Public Employees Retirement Board for a
28 transfer of the amounts credited to the member [*account*] **accounts** of the
29 member **established under ORS 238.250 and 238.260** to the optional retire-
30 ment plan. A request for a transfer must be made at the time the member

1 elects to participate in the optional retirement plan. Upon receiving the
2 request, the Public Employees Retirement Board shall transfer all amounts
3 credited to the member [*account*] **accounts** of the member **established under**
4 **ORS 238.250 and 238.260** directly to the optional retirement plan and shall
5 terminate all rights, privileges and options of the employee [*under ORS*
6 *chapter 238*] **as provided in ORS 238.095.**

7 “(c) [*An administrative employee who elects to participate in the optional*
8 *retirement plan and who is not a vested member of the pension program of the*
9 *Oregon Public Service Retirement Plan as described in ORS 238A.115*] **An**
10 **administrative employee who elects to participate in the optional re-**
11 **irement plan and who is a member of the pension program of the**
12 **Oregon Public Service Retirement Plan as described in ORS 238A.100**
13 **on the date that the election becomes effective, but who has not vested**
14 **in the program under ORS 238A.115** on the date that the election becomes
15 effective, shall be considered to be a terminated member of the pension pro-
16 gram by the Public Employees Retirement Board as of the effective date of
17 the election. **The board shall transfer the amounts credited to the**
18 **member accounts of the member directly to the optional retirement**
19 **plan in the manner provided by subsection (6) of this section.**

20 “(d) An administrative employee who elects to participate in the optional
21 retirement plan and who is a vested member of the pension program of the
22 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
23 date that the election becomes effective shall be considered an inactive
24 member of the pension program by the Public Employees Retirement Board
25 as of the effective date of the election. An employee who is subject to the
26 provisions of this paragraph retains all the rights, privileges and options of
27 an inactive member of the pension program. If the actuarial equivalent of the
28 employee’s benefit under the pension program at the time that the election
29 becomes effective is \$5,000 or less, the employee may make a written request
30 to the Public Employees Retirement Board for a transfer of the employee’s

1 interest under the pension program to the optional retirement plan. The re-
2 quest must be made at the time the member elects to participate in the op-
3 tional retirement plan. Upon receiving the request, the Public Employees
4 Retirement Board shall transfer the amount determined to be the actuarial
5 equivalent of the employee's benefit under the pension program directly to
6 the optional retirement plan and shall terminate the membership of the em-
7 ployee in the pension program.

8 “(e) An administrative employee who elects to participate in the optional
9 retirement plan and who is a vested member of the individual account pro-
10 gram of the Oregon Public Service Retirement Plan as described in ORS
11 238A.320 on the date that the election becomes effective shall be considered
12 an inactive member of the individual account program by the Public Em-
13 ployees Retirement Board as of the effective date of the election. An em-
14 ployee who is subject to the provisions of this paragraph retains all the
15 rights, privileges and options of an inactive member of the individual ac-
16 count program. An administrative employee who elects to participate in the
17 optional retirement plan and who is a member of the individual account
18 program of the Oregon Public Service Retirement Plan may make a written
19 request to the Public Employees Retirement Board that all amounts [*in the*
20 *member's employee account, rollover account and employer account*] **credited**
21 **to the member accounts of the member established under ORS**
22 **238A.350**, to the extent the member is vested in those accounts under ORS
23 238A.320, be transferred to the optional retirement plan. The request must
24 be made at the time the member elects to participate in the optional retire-
25 ment plan. Upon receiving the request, the Public Employees Retirement
26 Board shall transfer the amounts directly to the optional retirement plan and
27 shall terminate the membership of the employee in the individual account
28 program.

29 “(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the
30 Public Employees Retirement Board shall not treat any employee as an in-

1 active member under the provisions of this subsection for the purpose of re-
2 ceiving any benefit under ORS chapter 238 or 238A that requires that the
3 employee be separated from all service with participating public employers
4 and with employers who are treated as part of a participating public
5 employer's controlled group under the federal laws and rules governing the
6 status of the Public Employees Retirement System and the Public Employees
7 Retirement Fund as a qualified governmental retirement plan and trust.

8 “(6) Any amounts transferred from the Public Employees Retirement Fund
9 under subsection (5) of this section shall be transferred directly to the op-
10 tional retirement plan by the Public Employees Retirement Board and shall
11 not be made available to the employee.

12 “(7) An employee participating in the optional retirement plan shall con-
13 tribute monthly an amount equal to the percentage of the employee's salary
14 that the employee would otherwise have contributed as an employee contri-
15 bution to the Public Employees Retirement System if the employee had not
16 elected to participate in the optional retirement plan.

17 “(8) A participating community college district shall contribute monthly
18 to the optional retirement plan the percentage of salary for each employee
19 participating in the plan that is equal to the percentage of salary that is
20 required to be made as the employer contribution under ORS 238A.220, less
21 any contributions made by reason of unfunded liabilities. The district may
22 make contributions under this subsection only during periods of time in
23 which the employee would be eligible for membership in the Public Employ-
24 ees Retirement System if the employee had not elected to participate in the
25 optional retirement plan.

26 “(9) An administrative employee who elects to participate in the optional
27 retirement plan may make an election to withdraw from the plan. An em-
28 ployee may make an election under this subsection only once. Upon with-
29 drawing from the plan:

30 “(a) All contributions made to the plan before the effective date of the

1 withdrawal remain credited to the employee;

2 “(b) The employee becomes a member of the Public Employees Retirement
3 System under ORS chapter 238A if the member meets all requirements for
4 membership under ORS chapter 238A; and

5 “(c) The employee is barred from ever again electing to participate in the
6 optional retirement plan.

7 “(10) For the purposes of this section, ‘administrative employee’ means a
8 president, vice president or dean, or a person holding a position that is the
9 equivalent of a president, vice president or dean.

10 **“SECTION 21. (1) The amendments to ORS 238A.320, 238A.330,
11 238A.335, 238A.340, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by
12 sections 12 to 20 of this 2017 Act become operative on January 1, 2018.**

13 **“(2) The Public Employees Retirement Board may take any action
14 before the operative date specified in subsection (1) of this section to
15 enable the board to exercise, on and after the operative date specified
16 in subsection (1) of this section, all the duties, functions and powers
17 conferred on the board by the amendments to ORS 238A.320, 238A.330,
18 238A.335, 238A.340, 238A.350, 238A.375, 238A.410, 243.800 and 341.551 by
19 sections 12 to 20 of this 2017 Act.**

20

21 **“(Multiplication factor)**

22

23 **“SECTION 22. ORS 238.300 is amended to read:**

24 “238.300. Upon retiring from service at normal retirement age or there-
25 after, a member of the system shall receive a service retirement allowance
26 which shall consist of the following annuity and pensions:

27 “(1) A refund annuity which shall be the actuarial equivalent of accu-
28 mulated contributions, if any, by the member and interest thereon credited
29 at the time of retirement, which annuity shall provide an allowance payable
30 during the life of the member and at death a lump sum equal in amount to

1 the difference between accumulated contributions at the time of retirement
2 and the sum of the annuity payments actually made to the member during
3 life shall be paid to such person, if any, as the member nominates by written
4 designation duly acknowledged and filed with the board or shall otherwise
5 be paid according to the provisions of this chapter for disposal of an amount
6 credited to the member account of a member at the time of death in the event
7 the member designates no beneficiary to receive the amount or no such
8 beneficiary is able to receive the amount. If death of the member occurs be-
9 fore the first payment is due, the member account of the member shall be
10 treated as though death had occurred before retirement.

11 “(2)(a) A life pension (nonrefund) for current service provided by the
12 contributions of employers, which pension, subject to paragraph (b) of this
13 subsection, shall be an amount which, when added to the sum of the annuity,
14 if any, under subsection (1) of this section and the annuity, if any, provided
15 on the same basis and payable from the Variable Annuity Account, both
16 annuities considered on a refund basis, results in a total of:

17 “(A) For service as a police officer or firefighter[,]:

18 “(i) Two percent of final average salary multiplied by the number of years
19 of membership in the system as a police officer or firefighter before the ef-
20 fective date of retirement[.] **and before January 1, 2018; and**

21 “(ii) **1.2 percent of final average salary multiplied by the number**
22 **of years of membership in the system as a police officer or firefighter**
23 **before the effective date of retirement and on and after January 1,**
24 **2018.**

25 “(B) For service as other than a police officer or firefighter, including
26 service as a member of the Legislative Assembly[,]:

27 “(i) 1.67 percent of final average salary multiplied by the number of years
28 of membership in the system as other than a police officer or firefighter be-
29 fore the effective date of retirement[.] **and before January 1, 2018; and**

30 “(ii) **One percent of final average salary multiplied by the number**

1 **of years of membership in the system as other than a police officer**
2 **or firefighter before the effective date of retirement and on and after**
3 **January 1, 2018.**

4 “(b) A pension under this subsection shall be at least:

5 “(A) For a member who first establishes membership in the system before
6 July 1, 2003, the actuarial equivalent of the annuity provided by the accu-
7 mulated contributions of the member. A person establishes membership in
8 the system before July 1, 2003, for the purposes of this subparagraph if:

9 “(i) The person is a member of the system, or a judge member of the
10 system, on the day immediately before July 1, 2003; or

11 “(ii) The person performed any period of service for a participating public
12 employer before July 1, 2003, that is credited to the six-month period of em-
13 ployment required of an employee under ORS 238.015 before an employee may
14 become a member of the system.

15 “(B) For a member who made contributions before August 21, 1981, the
16 equivalent of a pension computed pursuant to this subsection as it existed
17 immediately before that date.

18 “(c) As used in this subsection, ‘number of years of membership’ means
19 the number of full years of creditable service plus any remaining fraction
20 of a year of creditable service. Except as otherwise provided in this para-
21 graph, in determining a remaining fraction a full month shall be considered
22 as one-twelfth of a year and a major fraction of a month shall be considered
23 as a full month. Membership of a school district employee, an employee of
24 an institution of higher education engaged in teaching or other school ac-
25 tivity or an employee of the Department of Human Services, the Oregon
26 Youth Authority, the Department of Corrections or the State Board of Edu-
27 cation engaged in teaching or other school activity at an institution super-
28 vised by the authority, board or department, for all portions of a school year
29 in a calendar year in which the district school, institution of higher educa-
30 tion or school activity at an institution so supervised in which the member

1 is employed is normally in session shall be considered as a full one-half year
2 of membership. The number of years of membership of a member who re-
3 ceived a refund of contributions as provided in ORS 237.976 (2) is limited to
4 the number of years after the day before the date on which the refund was
5 received. The number of years of membership of a member who is separated,
6 for any reason other than death or disability, from all service entitling the
7 member to membership in the system, who withdraws the amount credited
8 to the member account of the member in the fund during absence from such
9 service and who thereafter reenters the service of an employer participating
10 in the system but does not repay the amount so withdrawn as provided in
11 this chapter, is limited to the number of years after the day before the date
12 of so reentering.

13 “(3) An additional life pension (nonrefund) for prior service credit, in-
14 cluding military service, credited to the member at the time of first becoming
15 a member of the system, as elsewhere provided in this chapter, which pension
16 shall be provided by the contributions of the employer.

17 **“SECTION 23. The amendments to ORS 238.300 by section 22 of this**
18 **2017 Act apply only to members of the Public Employees Retirement**
19 **System whose effective date of retirement is on or after January 1,**
20 **2018.**

21

22 “(Final average salary)

23

24 **“SECTION 24.** ORS 238.005 is amended to read:

25 “238.005. For purposes of this chapter:

26 “(1) ‘Active member’ means a member who is presently employed by a
27 participating public employer in a qualifying position and who has completed
28 the six-month period of service required by ORS 238.015.

29 “(2) ‘Annuity’ means payments for life derived from contributions made
30 by a member as provided in this chapter.

1 “(3) ‘Board’ means the Public Employees Retirement Board.

2 “(4) ‘Calendar year’ means 12 calendar months commencing on January
3 1 and ending on December 31 following.

4 “(5) ‘Continuous service’ means service not interrupted for more than five
5 years, except that such continuous service shall be computed without regard
6 to interruptions in the case of:

7 “(a) An employee who had returned to the service of the employer as of
8 January 1, 1945, and who remained in that employment until having estab-
9 lished membership in the Public Employees Retirement System.

10 “(b) An employee who was in the armed services on January 1, 1945, and
11 returned to the service of the employer within one year of the date of being
12 otherwise than dishonorably discharged and remained in that employment
13 until having established membership in the Public Employees Retirement
14 System.

15 “(6) ‘Creditable service’ means any period of time during which an active
16 member is being paid a salary by a participating public employer and for
17 which benefits under this chapter are funded by employer contributions and
18 earnings on the fund. For purposes of computing years of ‘creditable
19 service,’ full months and major fractions of a month shall be considered to
20 be one-twelfth of a year and shall be added to all full years. ‘Creditable
21 service’ includes all retirement credit received by a member.

22 “(7) ‘Earliest service retirement age’ means the age attained by a member
23 when the member could first make application for retirement under the pro-
24 visions of ORS 238.280.

25 “(8) ‘Employee’ includes, in addition to employees, public officers, but
26 does not include:

27 “(a) Persons engaged as independent contractors.

28 “(b) Seasonal, emergency or casual workers whose periods of employment
29 with any public employer or public employers do not total 600 hours in any
30 calendar year.

1 “(c) Persons provided sheltered employment or made-work by a public
2 employer in an employment or industries program maintained for the benefit
3 of such persons.

4 “(d) Persons employed and paid from federal funds received under a fed-
5 eral program intended primarily to alleviate unemployment. However, any
6 such person shall be considered an ‘employee’ if not otherwise excluded by
7 paragraphs (a) to (c) of this subsection and the public employer elects to
8 have the person so considered by an irrevocable written notice to the board.

9 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,
10 and who, as such employees, are included in a retirement plan under federal
11 railroad retirement statutes. This paragraph shall be deemed to have been
12 in effect since the inception of the system.

13 “(9) ‘Final average salary’ means whichever of the following is [*greater*]
14 **greatest:**

15 “(a) The average salary per calendar year paid by one or more partic-
16 ipating public employers to an employee who is an active member of the
17 system in three of the calendar years of membership before the effective date
18 of retirement of the employee **and before January 1, 2018**, in which three
19 years the employee was paid the highest salary. The three calendar years in
20 which the employee was paid the largest total salary may include calendar
21 years in which the employee was employed for less than a full calendar year.
22 If the number of calendar years of active membership before the effective
23 date of retirement of the employee is three or fewer, the final average salary
24 for the employee is the average salary per calendar year paid by one or more
25 participating public employers to the employee in all of those years, without
26 regard to whether the employee was employed for the full calendar year.

27 “(b) **The average salary per calendar year paid by one or more par-**
28 **ticipating public employers to an employee who is an active member**
29 **of the system in five of the calendar years of membership before the**
30 **effective date of retirement of the employee, in which five years the**

1 **employee was paid the highest salary. The five calendar years in which**
2 **the employee was paid the largest total salary may include calendar**
3 **years in which the employee was employed for less than a full calendar**
4 **year. If the number of calendar years of active membership before the**
5 **effective date of retirement of the employee is five or fewer, the final**
6 **average salary for the employee is the average salary per calendar year**
7 **paid by one or more participating public employers to the employee in**
8 **all of those years, without regard to whether the employee was em-**
9 **ployed for the full calendar year.**

10 “[b)] (c) One-third of the total salary paid by a participating public em-
11 ployer to an employee who is an active member of the system in the last 36
12 calendar months of active membership before the effective date of retirement
13 of the employee **and before January 1, 2018.**

14 **“(d) One-fifth of the total salary paid by a participating public em-**
15 **ployer to an employee who is an active member of the system in the**
16 **last 60 calendar months of active membership.**

17 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
18 clude:

19 “(a) The State Fire Marshal, the chief deputy fire marshal and deputy
20 state fire marshals; and

21 “(b) An employee of the State Forestry Department who is certified by the
22 State Forester as a professional wildland firefighter and whose primary du-
23 ties include the abatement of uncontrolled fires as described in ORS 477.064.

24 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and
25 ending on June 30 following.

26 “(12) ‘Fund’ means the Public Employees Retirement Fund.

27 “(13) ‘Inactive member’ means a member who is not employed in a quali-
28 fying position, whose membership has not been terminated in the manner
29 described by ORS 238.095 and who is not retired for service or disability.

30 “(14) ‘Institution of higher education’ means a public university listed in

1 ORS 352.002, the Oregon Health and Science University and a community
2 college, as defined in ORS 341.005.

3 “(15) ‘Member’ means a person who has established membership in the
4 system and whose membership has not been terminated as described in ORS
5 238.095. ‘Member’ includes active, inactive and retired members.

6 “(16) ‘Member account’ means the regular account and the variable ac-
7 count.

8 “(17) ‘Normal retirement age’ means:

9 “(a) For a person who establishes membership in the system before Jan-
10 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee
11 retires at that age as a police officer or firefighter or 58 years of age if the
12 employee retires at that age as other than a police officer or firefighter.

13 “(b) For a person who establishes membership in the system on or after
14 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
15 retires at that age as a police officer or firefighter or 60 years of age if the
16 employee retires at that age as other than a police officer or firefighter.

17 “(18) ‘Pension’ means annual payments for life derived from contributions
18 by one or more public employers.

19 “(19) ‘Police officer’ includes:

20 “(a) Employees of institutions defined in ORS 421.005 as Department of
21 Corrections institutions whose duties, as assigned by the Director of the
22 Department of Corrections, include the custody of persons committed to the
23 custody of or transferred to the Department of Corrections and employees
24 of the Department of Corrections who were classified as police officers on
25 or before July 27, 1989, whether or not such classification was authorized
26 by law.

27 “(b) Employees of the Department of State Police who are classified as
28 police officers by the Superintendent of State Police.

29 “(c) Employees of the Oregon Liquor Control Commission who are clas-
30 sified as regulatory specialists by the administrator of the commission.

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

4 “(e) Police chiefs and police personnel of a city who are classified as po-
5 lice officers by the council or other governing body of the city.

6 “(f) Police officers who are commissioned by a university under ORS
7 352.121 or 353.125 and who are classified as police officers by the university.

8 “(g) Parole and probation officers employed by the Department of Cor-
9 rections, parole and probation officers who are transferred to county em-
10 ployment under ORS 423.549 and adult parole and probation officers, as
11 defined in ORS 181A.355, who are classified as police officers for the pur-
12 poses of this chapter by the county governing body. If a county classifies
13 adult parole and probation officers as police officers for the purposes of this
14 chapter, and the employees so classified are represented by a labor organ-
15 ization, any proposal by the county to change that classification or to cease
16 to classify adult parole and probation officers as police officers for the pur-
17 poses of this chapter is a mandatory subject of bargaining.

18 “(h) Police officers appointed under ORS 276.021 or 276.023.

19 “(i) Employees of the Port of Portland who are classified as airport police
20 by the Board of Commissioners of the Port of Portland.

21 “(j) Employees of the State Department of Agriculture who are classified
22 as livestock police officers by the Director of Agriculture.

23 “(k) Employees of the Department of Public Safety Standards and Train-
24 ing who are classified by the department as other than secretarial or clerical
25 personnel.

26 “(L) Investigators of the Criminal Justice Division of the Department of
27 Justice.

28 “(m) Corrections officers as defined in ORS 181A.355.

29 “(n) Employees of the Oregon State Lottery Commission who are classi-
30 fied by the Director of the Oregon State Lottery as enforcement agents pur-

1 suant to ORS 461.110.

2 “(o) The Director of the Department of Corrections.

3 “(p) An employee who for seven consecutive years has been classified as
4 a police officer as defined by this section, and who is employed or transferred
5 by the Department of Corrections to fill a position designated by the Direc-
6 tor of the Department of Corrections as being eligible for police officer sta-
7 tus.

8 “(q) An employee of the Department of Corrections classified as a police
9 officer on or prior to July 27, 1989, whether or not that classification was
10 authorized by law, as long as the employee remains in the position held on
11 July 27, 1989. The initial classification of an employee under a system im-
12 plemented pursuant to ORS 240.190 does not affect police officer status.

13 “(r) Employees of a school district who are appointed and duly sworn
14 members of a law enforcement agency of the district as provided in ORS
15 332.531 or otherwise employed full-time as police officers commissioned by
16 the district.

17 “(s) Employees at youth correction facilities and juvenile detention facil-
18 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
19 to hold valid Oregon teaching licenses and who have supervisory, control or
20 teaching responsibilities over juveniles committed to the custody of the De-
21 partment of Corrections or the Oregon Youth Authority.

22 “(t) Employees at youth correction facilities as defined in ORS 420.005
23 whose primary job description involves the custody, control, treatment, in-
24 vestigation or supervision of juveniles placed in such facilities.

25 “(u) Employees of the Oregon Youth Authority who are classified as ju-
26 venile parole and probation officers.

27 “(v) Employees of the Department of Human Services who are prohibited
28 from striking under ORS 243.726 and whose duties include the care of resi-
29 dents of residential facilities, as defined in ORS 443.400, that house individ-
30 uals with intellectual or developmental disabilities.

1 “(20) ‘Prior service credit’ means credit provided under ORS 238.442 or
2 under ORS 238.225 (2) to (6) (1999 Edition).

3 “(21) ‘Public employer’ means the state, one of its agencies, any city,
4 county, or municipal or public corporation, any political subdivision of the
5 state or any instrumentality thereof, or an agency created by one or more
6 such governmental organizations to provide governmental services. For pur-
7 poses of this chapter, such agency created by one or more governmental or-
8 ganizations is a governmental instrumentality and a legal entity with power
9 to enter into contracts, hold property and sue and be sued.

10 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
11 ticipating public employers in which an employee performs 600 or more hours
12 of service in a calendar year, excluding any service in a job for which a
13 participating public employer does not provide benefits under this chapter
14 pursuant to an application made under ORS 238.035.

15 “(23) ‘Regular account’ means the account established for each active and
16 inactive member under ORS 238.250.

17 “(24) ‘Retired member’ means a member who is retired for service or dis-
18 ability.

19 “(25) ‘Retirement credit’ means a period of time that is treated as credit-
20 able service for the purposes of this chapter.

21 “(26)(a) ‘Salary’ means the remuneration paid an employee in cash out of
22 the funds of a public employer in return for services to the employer, plus
23 the monetary value, as determined by the Public Employees Retirement
24 Board, of whatever living quarters, board, lodging, fuel, laundry and other
25 advantages the employer furnishes the employee in return for services.

26 “(b) ‘Salary’ includes but is not limited to:

27 “(A) Payments of employee and employer money into a deferred compen-
28 sation plan, which are deemed salary paid in each month of deferral;

29 “(B) The amount of participation in a tax-sheltered or deferred annuity,
30 which is deemed salary paid in each month of participation;

1 “(C) Retroactive payments described in ORS 238.008; and
2 “(D) Wages of a deceased member paid to a surviving spouse or dependent
3 children under ORS 652.190.
4 “(c) ‘Salary’ or ‘other advantages’ does not include:
5 “(A) Travel or any other expenses incidental to employer’s business which
6 is reimbursed by the employer;
7 “(B) Payments for insurance coverage by an employer on behalf of em-
8 ployee or employee and dependents, for which the employee has no cash op-
9 tion;
10 “(C) Payments made on account of an employee’s death;
11 “(D) Any lump sum payment for **accumulated unused vacation leave**
12 **or other unused paid leave accrued on or after January 1, 2018, or for**
13 **accumulated unused sick leave;**
14 “(E) Any accelerated payment of an employment contract for a future
15 period or an advance against future wages;
16 “(F) Any retirement incentive, retirement severance pay, retirement bonus
17 or retirement gratuitous payment;
18 “(G) Payments for periods of leave of absence after the date the employer
19 and employee have agreed that no future services qualifying pursuant to ORS
20 238.015 (3) will be performed, except for sick leave and vacation **accrued**
21 **before January 1, 2018;**
22 “(H) Payments for instructional services rendered to public universities
23 listed in ORS 352.002 or the Oregon Health and Science University when
24 such services are in excess of full-time employment subject to this chapter.
25 A person employed under a contract for less than 12 months is subject to this
26 subparagraph only for the months to which the contract pertains; [or]
27 “(I) Payments made by an employer for insurance coverage provided to a
28 domestic partner of an employee; **or**
29 “(J) **For years beginning on or after January 1, 2018, any amount**
30 **in excess of \$100,000 for a calendar year. If any period over which sal-**

1 **ary is determined is less than 12 months, the \$100,000 limitation for**
2 **that period shall be multiplied by a fraction, the numerator of which**
3 **is the number of months in the determination period and the denom-**
4 **inator of which is 12.**

5 “(27) ‘School year’ means the period beginning July 1 and ending June 30
6 next following.

7 “(28) ‘System’ means the Public Employees Retirement System.

8 “(29) ‘Variable account’ means the account established for a member who
9 participates in the Variable Annuity Account under ORS 238.260.

10 “(30) ‘Vested’ means being an active member of the system in each of five
11 calendar years.

12 “(31) ‘Volunteer firefighter’ means a firefighter whose position normally
13 requires less than 600 hours of service per year.

14 **“SECTION 25.** ORS 238A.005, as amended by section 2, chapter 33,
15 Oregon Laws 2016, is amended to read:

16 “238A.005. For the purposes of this chapter:

17 “(1) ‘Active member’ means a member of the pension program or the in-
18 dividual account program of the Oregon Public Service Retirement Plan who
19 is actively employed in a qualifying position.

20 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
21 the same value as the payment or series of payments replaced, computed on
22 the basis of interest rate and mortality assumptions adopted by the board.

23 “(3) ‘Board’ means the Public Employees Retirement Board.

24 “(4) ‘Eligible employee’ means a person who performs services for a par-
25 ticipating public employer, including elected officials other than judges. ‘El-
26 igible employee’ does not include:

27 “(a) Persons engaged as independent contractors;

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

29 “(c) Persons provided sheltered employment or make-work by a public
30 employer;

1 “(d) Persons categorized by a participating public employer as student
2 employees;

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

4 “(f) Employees of foreign trade offices of the Oregon Business Develop-
5 ment Department who live and perform services in foreign countries under
6 the provisions of ORS 285A.075 (1)(g);

7 “(g) An employee actively participating in an alternative retirement pro-
8 gram established under ORS 353.250 or an optional retirement plan estab-
9 lished under ORS 341.551;

10 “(h) Employees of a public university listed in ORS 352.002 who are ac-
11 tively participating in an optional retirement plan offered under ORS 243.800;

12 “(i) Any employee who belongs to a class of employees that was not eli-
13 gible on August 28, 2003, for membership in the system under the provisions
14 of ORS chapter 238 or other law;

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

18 “(k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
19 chapter 238 and who continues to receive retirement benefits while employed;
20 and

21 “(L) Judges.

22 “(5) ‘Firefighter’ means:

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

25 “(b) The State Fire Marshal, the chief deputy state fire marshal and
26 deputy state fire marshals; and

27 “(c) An employee of the State Forestry Department who is certified by the
28 State Forester as a professional wildland firefighter and whose primary du-
29 ties include the abatement of uncontrolled fires as described in ORS 477.064.

30 “(6) ‘Fund’ means the Public Employees Retirement Fund.

1 “(7)(a) ‘Hour of service’ means:

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

5 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
6 duty or authorized leave during which an employee does not perform duties
7 but for which the employee is directly or indirectly paid or entitled to pay-
8 ment by a participating public employer for services in a qualifying position,
9 as long as the hour is within the number of hours regularly scheduled for
10 the performance of duties during the period of vacation, holiday, illness, in-
11 capacity, jury duty, military duty or authorized leave.

12 “(b) ‘Hour of service’ does not include any hour for which payment is
13 made or due under a plan maintained solely for the purpose of complying
14 with applicable workers’ compensation laws or unemployment compensation
15 laws.

16 “(8) ‘Inactive member’ means a member of the pension program or the
17 individual account program of the Oregon Public Service Retirement Plan
18 whose membership has not been terminated, who is not a retired member and
19 who is not employed in a qualifying position.

20 “(9) ‘Individual account program’ means the defined contribution individ-
21 ual account program of the Oregon Public Service Retirement Plan estab-
22 lished under ORS 238A.025.

23 “(10) ‘Institution of higher education’ means a public university listed in
24 ORS 352.002, the Oregon Health and Science University or a community
25 college, as defined in ORS 341.005.

26 “(11) ‘Member’ means an eligible employee who has established member-
27 ship in the pension program or the individual account program of the Oregon
28 Public Service Retirement Plan and whose membership has not been termi-
29 nated under ORS 238A.110 or 238A.310.

30 “(12) ‘Participating public employer’ means a public employer as defined

1 in ORS 238.005 that provides retirement benefits for employees of the public
2 employer under the system.

3 “(13) ‘Pension program’ means the defined benefit pension program of the
4 Oregon Public Service Retirement Plan established under ORS 238A.025.

5 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

6 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
7 ticipating public employers in which an eligible employee performs 600 or
8 more hours of service in a calendar year, excluding any service in a job for
9 which benefits are not provided under the Oregon Public Service Retirement
10 Plan pursuant to ORS 238A.070 (2).

11 “(16) ‘Retired member’ means a pension program member who is receiving
12 a pension as provided in ORS 238A.180 to 238A.195.

13 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
14 turn for services to the participating public employer, including
15 remuneration in the form of living quarters, board or other items of value,
16 to the extent the remuneration is includable in the employee’s taxable in-
17 come under Oregon law. ‘Salary’ includes the additional amounts specified
18 in paragraph (b) of this subsection, but does not include the amounts speci-
19 fied in paragraph (c) of this subsection, regardless of whether those amounts
20 are includable in taxable income.

21 “(b) ‘Salary’ includes the following amounts:

22 “(A) Payments of employee and employer money into a deferred compen-
23 sation plan that are made at the election of the employee.

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

26 “(C) Any amount that is contributed to a cafeteria plan or qualified
27 transportation fringe benefit plan by the employer at the election of the
28 employee and that is not includable in the taxable income of the employee
29 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2015.

30 “(D) Any amount that is contributed to a cash or deferred arrangement

1 by the employer at the election of the employee and that is not included in
2 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
3 effect on December 31, 2015.

4 “(E) Retroactive payments described in ORS 238.008.

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

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

10 “(H) Wages of a deceased member paid to a surviving spouse or dependent
11 children under ORS 652.190.

12 “(c) ‘Salary’ does not include the following amounts:

13 “(A) Travel or any other expenses incidental to employer’s business which
14 is reimbursed by the employer.

15 “(B) Payments made on account of an employee’s death.

16 “(C) Any lump sum payment for accumulated unused sick leave, vacation
17 leave or other paid leave.

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

20 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
21 payment.

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

25 “(G) Payments for instructional services rendered to public universities
26 listed in ORS 352.002 or the Oregon Health and Science University when
27 those services are in excess of full-time employment subject to this chapter.
28 A person employed under a contract for less than 12 months is subject to this
29 subparagraph only for the months covered by the contract.

30 “(H) The amount of an employee contribution to the individual account

1 program that is paid by the employer and is not deducted from the compen-
2 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

3 “(I) **For years before 2018**, any amount in excess of \$200,000 for a cal-
4 endar year. If any period over which salary is determined is less than 12
5 months, the \$200,000 limitation for that period shall be multiplied by a frac-
6 tion, the numerator of which is the number of months in the determination
7 period and the denominator of which is 12. The board shall adopt rules ad-
8 justing this dollar limit to incorporate cost-of-living adjustments authorized
9 by the Internal Revenue Service.

10 “(J) **For years beginning on or after January 1, 2018, any amount**
11 **in excess of \$100,000 for a calendar year. If any period over which sal-**
12 **ary is determined is less than 12 months, the \$100,000 limitation for**
13 **that period shall be multiplied by a fraction, the numerator of which**
14 **is the number of months in the determination period and the denom-**
15 **inator of which is 12.**

16 “(18) ‘System’ means the Public Employees Retirement System.

17 “**SECTION 26.** ORS 238.350 is amended to read:

18 “238.350. (1)(a) Upon the request by a public employer that its employees
19 be compensated for accumulated unused sick leave with pay in the form of
20 increased retirement benefits upon service or disability retirement, the board
21 shall establish a procedure for adding to the gross amount of salary used in
22 determining final average salary the monetary value of one-half of the ac-
23 cumulated unused sick leave with pay of each retiring employee of the re-
24 questing public employer and shall establish benefits of the retiring employee
25 on the basis of a final average salary reflecting that addition.

26 “(b) For employees of a common school district, a union high school dis-
27 trict, an education service district or an institution of higher education en-
28 gaged in teaching or other school activity, or employees of the school
29 operated under ORS 346.010 engaged in teaching or other school activity,
30 who are employed under contract for a period of less than 12 consecutive

1 months and who are entitled to sick leave with pay of less than 96 hours for
2 a year, each hour of accumulated unused sick leave with pay shall be valued
3 on the basis of the actual number of contract hours of employment during
4 the last year of contributing membership of an employee before retiring and
5 the salary of the employee during the same period. This paragraph does not
6 apply to any employee who is employed under contract for 12 consecutive
7 months in [*any of the three or less years*] **the period or periods** used in de-
8 termining the final average salary of the employee.

9 “(c) For the purpose of this subsection, accumulated unused sick leave
10 with pay includes unused sick leave with pay accumulated by an active
11 member of the system while in the service of any public employer partic-
12 ipating in the system that has the request described in paragraph (a) of this
13 subsection in effect at the time of the member’s separation from the service
14 of the employer, whether that employer is or is not the employer of the
15 member at the time of the member’s retirement.

16 “(d) The board shall establish rules requiring all public employers par-
17 ticipating in the system to transmit to the board reports of unused sick leave
18 with pay accumulated by their employees who are members of the system and
19 to provide timely notification to each of those employees of unused sick leave
20 with pay accumulated by the employee and reported to the board.

21 “(2) Accumulated unused sick leave with pay may be considered for the
22 purpose of subsection (1) of this section only in accordance with the follow-
23 ing requirements:

24 “(a) Sick leave not credited at the rate actually provided by the public
25 employer may not be considered. The amount of sick leave exceeding an
26 amount credited at the lowest rate in effect for any employee of the public
27 employer who is normally entitled to sick leave, and in any event exceeding
28 an amount credited at a rate of eight hours for each full month worked, may
29 not be considered.

30 “(b) Sick leave credited for periods when an employee was absent from

1 employment on sabbatical leave, educational leave or any leave without pay
2 may not be considered.

3 “(c) Any period during which an employee was absent from employment
4 for illness or injury that was charged against sick leave not qualified for
5 consideration shall be deducted from sick leave qualified for consideration.

6 “(d) Sick leave for any period for which the public employer provides no
7 sick leave with pay for its employees may not be considered.

8 “(e) Sick leave accumulated on and after July 1, 1973, may be considered
9 only to the extent it is supported by records of accumulation and use pur-
10 suant to a plan adopted formally by the public employer.

11 “(f) Accumulated unused sick leave for periods before July 1, 1973, may
12 be considered as follows:

13 “(A) If any department, bureau or other organizational unit of a public
14 employer maintained formal records of accumulation and use even though
15 the public employer did not require that those records be maintained, the
16 accumulated unused sick leave shall be considered according to those re-
17 cords.

18 “(B) Where the public employer provided sick leave before July 1, 1973,
19 but formal records of accumulation and use were not required or if required,
20 are unavailable or incomplete, or the sick leave was subject to administra-
21 tive limitations on total accumulation or transfer between public employers,
22 accumulated unused sick leave for periods before July 1, 1973, may be con-
23 sidered as equal to 2.675 hours for each full month worked or an amount per
24 month equal to the average monthly accumulation by an employee during the
25 period beginning July 1, 1973, and ending at the time of retirement, which-
26 ever amount is greater, but reduced by the amount of any accumulated un-
27 used sick leave credited to the employee on July 1, 1973.

28 “(g) The written certification of a member or former member of the Leg-
29 islative Assembly shall constitute a formal record of accumulation and use
30 in determining the amount of accumulated unused sick leave of an employee

1 of the Legislative Assembly, either of its houses or any of its committees or
2 officers for periods of employment before July 1, 1981. Sick leave accumu-
3 lated on and after July 1, 1981, by employees of the Legislative Assembly,
4 either of its houses or any of its committees or officers may be considered
5 only to the extent it is supported by records of accumulation and use main-
6 tained by the Legislative Administration Committee, or any statutory,
7 standing, special or interim committee of the Legislative Assembly or either
8 house thereof, or any constitutional or statutory office of the Legislative
9 Assembly or either house thereof, pursuant to a plan adopted formally by the
10 committee or officer.

11 **“(h) Accumulated unused sick leave accrued on or after January 1,**
12 **2018, may not be considered.**

13 “(3)(a) As used in this subsection, ‘legislative employee’ means any person
14 employed by the Legislative Assembly, either of its houses or any of its
15 committees or officers, but does not include a regular employee of a statutory
16 committee or statutory office of the Legislative Assembly described in ORS
17 173.005 (1).

18 “(b) Upon the request of a retiring legislative employee who is a member
19 of the system, and the request of the public employer of the legislative em-
20 ployee, that the legislative employee be compensated for accumulated unused
21 vacation with pay for periods of legislative employment in the form of in-
22 creased retirement benefits upon service or disability retirement, the board
23 shall add to the gross amount of salary used in determining final average
24 salary of the legislative employee the monetary value of one-half of the ac-
25 cumulated unused vacation with pay of the legislative employee and shall
26 establish the benefits of the legislative employee on the basis of a final av-
27 erage salary reflecting that addition.

28 “(c) Accumulated unused vacation with pay may be considered for the
29 purposes of paragraph (b) of this subsection only in accordance with the
30 following requirements:

1 “(A) Vacation not credited at the rate actually provided by the public
2 employer may not be considered.

3 “(B) Amounts of vacation exceeding amounts creditable to employees in
4 the classified service of the state service pursuant to ORS 240.515 (1), and
5 rules adopted pursuant thereto, in effect on June 30, 1981, shall not be con-
6 sidered.

7 “(C) Vacation accumulated before, on and after July 1, 1981, may be con-
8 sidered only to the extent it is supported by records of accumulation and use
9 pursuant to a plan adopted formally by the public employer. However, the
10 written certification of a member or former member of the Legislative As-
11 sembly shall constitute a formal record of accumulation and use in deter-
12 mining the amount of accumulated unused vacation of a legislative employee
13 for periods of legislative employment before July 1, 1981.

14 “**(D) Vacation accumulated on or after January 1, 2018, may not be**
15 **considered.**

16 “(4) Employers with plans providing payments on account of sickness in
17 lieu of sick leave with pay may request the board to consider the monetary
18 value of accumulated unused payments on account of sickness as if such
19 payments were an equivalent amount of accumulated unused sick leave with
20 pay under the same terms and conditions specified in subsections (1) and (2)
21 of this section.

22 “**SECTION 27.** ORS 238.435 is amended to read:

23 “238.435. (1) Notwithstanding the definition of ‘salary’ or ‘other advan-
24 tages’ provided by ORS 238.005, for the purpose of calculating the retirement
25 allowance of a person who establishes membership in the system on or after
26 January 1, 1996, as described in ORS 238.430, the Public Employees Retire-
27 ment Board shall not include any lump sum payment for accrued vacation
28 pay made to the member during *[the last 36 calendar months of membership*
29 *before the effective date of retirement of the member, or during any period of*
30 *time taken into account for purposes of determining the three years in which*

1 *the member was paid the highest salary for the purposes of]* **any period of**
2 **time taken into account in** determining the member's final average salary.

3 “(2) Notwithstanding the definition of ‘final average salary’ provided by
4 ORS 238.005, for the purpose of calculating the retirement allowance of a
5 person who establishes membership in the system on or after January 1, 1996,
6 as described in ORS 238.430, and who is not employed by a local government
7 as defined in ORS 174.116, the term ‘final average salary’ means whichever
8 of the following is [*greater*] **greatest**:

9 “(a) The average salary per calendar year paid to a public employee who
10 is an active member of the system in three of the calendar years of mem-
11 bership before the effective date of retirement of the employee **and before**
12 **January 1, 2018**, in which three years the employee was paid the highest
13 salary. The three calendar years in which the employee was paid the largest
14 total salary may include calendar years in which the employee was employed
15 for less than a full calendar year. If the number of calendar years of active
16 membership before the effective date of retirement of the employee is three
17 or less, the final average salary for the employee is the average salary per
18 calendar year paid to the public employee in all of those years, without re-
19 gard to whether the employee was employed for full calendar years.

20 “(b) **The average salary per calendar year paid to a public employee**
21 **who is an active member of the system in five of the calendar years**
22 **of membership before the effective date of retirement of the employee,**
23 **in which five years the employee was paid the highest salary. The five**
24 **calendar years in which the employee was paid the largest total salary**
25 **may include calendar years in which the employee was employed for**
26 **less than a full calendar year. If the number of calendar years of ac-**
27 **tive membership before the effective date of retirement of the em-**
28 **ployee is five or less, the final average salary for the employee is the**
29 **average salary per calendar year paid to the public employee in all of**
30 **those years, without regard to whether the employee was employed for**

1 **full calendar years.**

2 “[~~(b)~~] (c) One-third of the total salary paid to a public employee who is
3 an active member of the system in the last 36 calendar months of membership
4 before the effective date of retirement of the employee **and before January**
5 **1, 2018.**

6 “(d) **One-fifth of the total salary paid to a public employee who is**
7 **an active member of the system in the last 60 calendar months of**
8 **membership before the effective date of retirement of the employee.**

9 “(3) For the purposes of calculating the final average salary of a member
10 under subsection (2) of this section, the Public Employees Retirement Board
11 shall:

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

14 “(b) Exclude any salary for any pay period before the first full pay period
15 that is included in the three calendar years of membership under subsection
16 (2)(a) of this section **or in the five calendar years of membership under**
17 **subsection (2)(b) of this section** if the three **or five** calendar years were
18 consecutive; and

19 “(c) Exclude any salary for any pay period before the first full pay period
20 that is included in the last 36 calendar months of membership under sub-
21 section [(2)(b)] (2)(c) of this section **or in the last 60 calendar months of**
22 **membership under subsection (2)(d) of this section.**

23 “(4) Notwithstanding the definition of ‘final average salary’ provided by
24 ORS 238.005, for the purpose of calculating the retirement allowance of a
25 person who establishes membership in the system on or after January 1, 1996,
26 as described in ORS 238.430, and who is employed by a local government as
27 defined in ORS 174.116, the term ‘final average salary’ means whichever of
28 the following is [~~greater~~] **greatest**:

29 “(a) The average salary per calendar year earned by a public employee
30 who is an active member of the system in three of the calendar years of

1 membership before the effective date of retirement of the employee **and be-**
2 **fore January 1, 2018**, in which three years the employee earned the highest
3 salary. The three calendar years in which the employee earned the largest
4 total salary may include calendar years in which the employee was employed
5 for less than a full calendar year. If the number of calendar years of active
6 membership before the effective date of retirement of the employee is three
7 or less, the final average salary for the employee is the average salary per
8 calendar year earned by the public employee in all of those years, without
9 regard to whether the employee was employed for full calendar years.

10 **“(b) The average salary per calendar year earned by a public em-**
11 **ployee who is an active member of the system in five of the calendar**
12 **years of membership before the effective date of retirement of the**
13 **employee, in which five years the employee earned the highest salary.**
14 **The five calendar years in which the employee earned the largest total**
15 **salary may include calendar years in which the employee was em-**
16 **ployed for less than a full calendar year. If the number of calendar**
17 **years of active membership before the effective date of retirement of**
18 **the employee is five or less, the final average salary for the employee**
19 **is the average salary per calendar year earned by the public employee**
20 **in all of those years, without regard to whether the employee was**
21 **employed for full calendar years.**

22 **“[(b)] (c) One-third of the total salary earned by a public employee who**
23 **is an active member of the system in the last 36 calendar months of mem-**
24 **bership before the effective date of retirement of the employee and before**
25 **January 1, 2018.**

26 **“(d) One-fifth of the total salary earned by a public employee who**
27 **is an active member of the system in the last 60 calendar months of**
28 **membership before the effective date of retirement of the employee.**

29 **“(5) The normal retirement age is 60 years of age for a member who es-**
30 **tablishes membership in the system on or after January 1, 1996, as described**

1 in ORS 238.430, and who retires as other than a police officer or firefighter.

2 “(6) ORS 238.255 does not apply to any person who establishes membership
3 in the Public Employees Retirement System on or after January 1, 1996, as
4 described in ORS 238.430.

5 “(7) Except as provided in this section, all provisions of this chapter are
6 applicable to persons who establish membership in the system on or after
7 January 1, 1996, as described in ORS 238.430.

8 **“SECTION 28. The amendments to ORS 238.005, 238.350, 238.435 and**
9 **238A.005 by sections 24 to 27 of this 2017 Act apply only to a member**
10 **of the Public Employees Retirement System whose effective date of**
11 **retirement is on or after January 1, 2018.**

12

13 **“(Assumed interest rate)**

14

15 **“SECTION 29. Section 30 of this 2017 Act is added to and made a**
16 **part of ORS chapter 238.**

17 **“SECTION 30. For purposes of calculating the actuarial equivalent**
18 **of the annuity provided by the accumulated contributions of the**
19 **member under ORS 238.300 (2)(b)(A), the Public Employees Retirement**
20 **Board shall use an assumed interest rate of 3.5 percent.**

21 **“SECTION 31. Section 30 of this 2017 Act applies only to members**
22 **of the Public Employees Retirement System whose effective date of**
23 **retirement is on or after January 1, 2018.**

24

25 **“(Determination of unfunded actuarial liability)**

26

27 **“SECTION 32. ORS 238.605 is amended to read:**

28 **“238.605. (1) At least once every two years the board shall cause a com-**
29 **petent actuary familiar with public systems of retirement and death benefits**
30 **to prepare a report evaluating the current and prospective assets and liabil-**

1 ities of the system and indicating its current and prospective financial con-
2 dition. In preparing the report the actuary shall investigate the mortality,
3 disability, service and other experience of the members of, and employers
4 participating in the system, shall state fully the condition of the system, and
5 shall make such recommendations as the actuary deems advisable to facili-
6 tate administering it properly. The board shall publish and distribute a
7 summary of the report to all the public employers participating in the sys-
8 tem. The board may authorize the transfer of any portion of the funds col-
9 lected under the provisions of ORS 238.225 to carry out the recommendations
10 of the actuary.

11 **“(2)(a) For the purpose of evaluating the system under this section**
12 **and for the purpose of issuing reports on the system, the actuary and**
13 **the board shall determine the unfunded actuarial liability of the sys-**
14 **tem by at least the following two methods:**

15 **“(A) The board shall calculate the difference between the actuarial**
16 **value of the current and prospective liabilities of the system and the**
17 **actuarial value of the assets of the system, including any lump sum**
18 **payments made under ORS 238.229; and**

19 **“(B) The board shall calculate the difference between the actuarial**
20 **value of the current and prospective liabilities of the system and the**
21 **actuarial value of the assets of the system, excluding any lump sum**
22 **payments made under ORS 238.229.**

23 **“(b) When reporting on the unfunded actuarial liability in any of-**
24 **ficial documentation or report, the board shall provide the results of**
25 **both calculations of the unfunded actuarial liability as described in**
26 **this subsection.**

27

28 **“(Side accounts)**

29

30 **“SECTION 33.** ORS 238.229 is amended to read:

1 “238.229. (1) If a participating public employer is grouped with any other
2 public employer for the purpose of computing employer contributions under
3 ORS 238.225 and the individual public employer makes a lump sum payment
4 that is in addition to the normal employer contribution of the public em-
5 ployer, the Public Employees Retirement Board shall adjust the amount of
6 employer contributions to be made by the individual public employer to en-
7 sure that the benefit of the lump sum payment accrues only to the individual
8 public employer making the payment. An individual public employer that
9 makes a lump sum payment under the provisions of this subsection shall re-
10 main grouped with other public employers as provided by ORS 238.227 and
11 238A.220 for the purpose of all liabilities of the employer that are not paid
12 under this subsection. The board by rule may establish a minimum lump sum
13 payment that must be made by an individual public employer before adjust-
14 ing employer contributions under this subsection. Notwithstanding any
15 minimum lump sum payment established by the board, the board must allow
16 an individual public employer to make a lump sum payment under this sub-
17 section if the payment is equal to the full amount of the individual public
18 employer’s accrued unfunded liabilities under this section and ORS chapter
19 238A.

20 “(2) The board shall establish [a] **one or more** separate [account] **ac-**
21 **counts** within the Public Employees Retirement Fund for [each] **one or**
22 **more** lump sum [payment] **payments** made under this section by an indi-
23 vidual public employer. The board shall credit to each account all interest
24 and other income received from investment of the account funds during the
25 calendar year. Except as provided in subsection (3) of this section, the board
26 may not collect any administrative expense or other charge from the account
27 or from earnings on the account. Except as provided in subsections (5) and
28 (6) of this section, the account shall be used to offset contributions to the
29 system that the public employer would otherwise be required to make for the
30 liabilities against which the lump sum payment is applied.

1 “(3) The board may charge a participating public employer expenses for
2 administration of an account established under subsection (2) of this section
3 in an amount not to exceed \$2,500 for the calendar year in which the account
4 is established and for the immediately following two calendar years, and in
5 an amount not to exceed \$1,000 per year for all subsequent years.

6 “(4) If a participating public employer has any liabilities that are attrib-
7 utable to creditable service by employees of the employer before the partic-
8 ipating public employer was grouped with other public employers under ORS
9 238.227, whether under this section or pursuant to board rule, any lump sum
10 payment made under this section must be applied first against those liabil-
11 ities, with the oldest liability being paid first. Any amounts remaining after
12 application under this subsection must be deposited in a separate account
13 established under subsection (2) of this section.

14 “(5) Except as provided in subsection (6) of this section, if the board de-
15 termines at any time after an actuarial study that the amounts in an account
16 established under subsection (2) of this section exceed the amounts necessary
17 to fund the employer’s actuarial liabilities under the system, upon request
18 of the employer, the board shall apply the excess amounts to offset contri-
19 butions to the individual account program that the employer has agreed to
20 pay under ORS 238A.335 or 238A.340. The board may apply excess amounts
21 to offset contributions to the individual account program under this sub-
22 section only to the extent that the application will not result in the balance
23 in the account being reduced to less than the outstanding principal balance
24 owed on the bonds issued to fund the account. If the request is made by a
25 school district, the school district must attach to the request a copy of a
26 resolution adopted by the district school board for the district authorizing
27 the request. The board shall adopt rules governing offsets under the pro-
28 visions of this subsection.

29 “(6) The board shall apply any excess amounts in an account established
30 under subsection (2) of this section to offset contributions to the individual

1 account program pursuant to subsection (5) of this section only if the board
2 has determined that applying the excess amounts does not cause the system
3 or the Public Employees Retirement Fund to lose qualification as a qualified
4 governmental retirement plan and trust under the Internal Revenue Code and
5 under regulations adopted pursuant to the Internal Revenue Code.

6
7 **“(Recovery of administrative expenses)”**

8
9 **“SECTION 34.** ORS 238.610 is amended to read:

10 “238.610. (1)(a) The administrative expenses of the Public Employees Re-
11 tirement System shall be paid from interest earned by the Public Employees
12 Retirement Fund; provided, that if such interest be insufficient, **the Public**
13 **Employees Retirement Board shall recover** the expense in excess thereof
14 [*shall be paid from the contributions which this chapter and ORS 238A.220*
15 *and 238A.240 require participating employers to pay into the Public Employees*
16 *Retirement Fund*] **from the benefits accrued by members on and after**
17 **January 1, 2018.** The [*Public Employees Retirement*] board by rule may es-
18 tablish procedures for recovering administrative costs from members for
19 services provided in estimating retirement benefit amounts and processing
20 payments if the board determines that the services requested by an individual
21 member result in extraordinary costs to the system.

22 “(b) The board may adopt rules establishing procedures for recovering
23 administrative costs from participating public employers for providing to
24 those employers information or services needed to report in compliance with
25 generally accepted accounting principles. Administrative costs recovered
26 under this paragraph may be recovered only from interest earned on em-
27 ployer contributions made under ORS 238.225 or 238A.220.

28 “(2) In order to facilitate financing the establishment and administration
29 of the system the board may designate fiscal periods and may provide that
30 extraordinary expenses incurred during one such period, such as expenses for

1 equipment and actuarial studies, may, for purposes of equitably distributing
2 part of the burden of the expenses, be apportioned to subsequent fiscal peri-
3 ods in such manner as to the board seems equitable.

4 “(3) For each fiscal period designated by the board there shall be deducted
5 from the interest earned by the fund, the administrative expenses of the
6 system for that period; provided, that if such interest be insufficient for such
7 purpose, the excess expense shall be paid by deducting from the account of
8 each employer participating in the system that fraction of the administrative
9 expense of the system for that period which the employer’s total contribution
10 to the fund for the period is of the sum of all the employers’ contributions
11 to the fund for the period.

12 “(4) Amounts payable as refunds and retirement allowances shall not for
13 any purpose be deemed expenses of the board and shall not be included in
14 its biennial departmental budget.

15

16 **“(Reduction of employer rates)”**

17

18 **“SECTION 35. The Public Employees Retirement Board shall reduce**
19 **the contribution rates of all employers calculated under ORS 238.225**
20 **for the two years beginning on July 1, 2017, by 3.3 percent of salary.**
21 **The board shall issue corrected contribution rate orders to all em-**
22 **ployers as soon as is practicable after the effective date of this 2017**
23 **Act. The corrected rates are effective for the two years beginning on**
24 **July 1, 2017.**

25

26 **“(Provisions do not create contract rights)”**

27

28 **“SECTION 36. This 2017 Act does not constitute a statutory con-**
29 **tractual promise to members of the Public Employees Retirement**
30 **System.”**

1 In line 12, delete “13” and insert “37” and delete “14” and insert “38”.
2 In line 14, delete “14” and insert “38”.
3 In line 37, delete “15” and insert “39”.
4 On page 13, line 6, delete “16” and insert “40”.
5 On page 14, line 29, delete “17” and insert “41”.
6 On page 15, line 21, delete “18” and insert “42”.
7 On page 16, line 39, delete “19” and insert “43”.
8 On page 17, line 3, delete “20” and insert “44”.
9 In line 31, delete “21” and insert “45”.
10 On page 18, line 35, delete “22” and insert “46”.
11 On page 19, line 30, delete “23” and insert “47”.
12 In line 44, delete “24” and insert “48”.
13 In line 45, delete “15 to 23” and insert “39 to 47”.
14 On page 20, line 7, delete “15 to 23” and insert “39 to 47”.
15 In line 14, delete “25” and insert “49”.
16 In line 30, delete “26” and insert “50”.
17 In line 40, delete “25” and insert “49”.
18 In line 44, delete “27” and insert “51”.
19 On page 22, line 5, delete “28” and insert “52”.
20 On page 23, delete lines 12 through 45 and delete pages 24 through 26.
21 On page 27, delete lines 1 through 22 and insert:

22
23 **“(Maximum employer contribution)**
24

25 **“SECTION 53. (1) The maximum employer contribution for a health**
26 **benefit plan offered under ORS 243.135 or 243.866 may not exceed 110**
27 **percent of the national average of employers’ contributions to state**
28 **and school employees’ employee-only health benefit plans as deter-**
29 **mined by the Oregon Department of Administrative Services office**
30 **responsible for conducting economic analysis. The maximum employer**

1 contribution for dependent coverage for spouses or children of an
2 employee is the lesser of:

3 “(a) The national average paid for dependent coverage by state and
4 school employees; and

5 “(b) 25 percent of the additional premium cost to obtain dependent
6 coverage.

7 “(2) Employers whose contributions are subject to this section shall
8 ensure that any increased cost to employees resulting from the appli-
9 cation of this section are offset by increases in salary or other com-
10 pensation paid to the employees.

11 “SECTION 54. Notwithstanding section 53 of this 2017 Act, if the
12 employer contribution for public employee health benefit plans on the
13 operative date of section 53 of this 2017 Act exceeds the maximum
14 amounts expressed in section 53 of this 2017 Act, the employer contri-
15 bution shall remain the same amount until the plan year in which the
16 amount is less than the maximum expressed in section 53 of this 2017
17 Act.

18

19 “(Medical assistance)

20

21 “SECTION 55. At regular intervals of not less than six months, the
22 Oregon Health Authority shall reconcile the addresses listed for indi-
23 viduals receiving medical assistance with the National Change of Ad-
24 dress product licensed by the United States Postal Service to
25 determine if any recipients of medical assistance have moved out of
26 this state. If the reconciliation shows that a recipient of medical as-
27 sistance has moved out of this state, the authority shall immediately
28 take appropriate action to terminate the recipient’s medical assist-
29 ance.

30

1 **“REDUCTION OF ADMINISTRATIVE COSTS**

2
3 **“SECTION 56. (1) As used in this section:**

4 **“(a) ‘Administrative costs’ means expenses of a state agency that**
5 **are related to management, supervision, budgeting or execution of the**
6 **affairs of the state agency and that are not directly related to carrying**
7 **out the core functions and duties of the state agency.**

8 **“(b) ‘State agency’ has the meaning given that term in ORS 291.229,**
9 **except that the term also includes school districts, as defined in ORS**
10 **332.002.**

11 **“(2) In the biennium beginning July 1, 2017, each state agency may**
12 **spend an amount for administrative costs that is no greater than 90**
13 **percent of the amount the state agency spent for administrative costs**
14 **in the biennium beginning July 1, 2015.**

15 **“(3) The Oregon Department of Administrative Services may, by**
16 **rule, determine which expenses of a state agency constitute adminis-**
17 **trative costs.**

18
19 **“LIMITATION OF STATE AGENCY COMPENSATION INCREASES**

20
21 **“SECTION 57. (1) For each biennium, the Legislative Assembly may**
22 **not approve a total amount of appropriations for compensation of**
23 **personnel of state agencies that is greater than 101 percent of the total**
24 **amount of appropriations for compensation of personnel of state**
25 **agencies in the preceding biennium.**

26 **“(2) As used in this section:**

27 **“(a) ‘Appropriations’ has the meaning given that term in ORS**
28 **291.357 (3).**

29 **“(b) ‘State agency’ has the meaning given that term in ORS 291.002.**

1 **gaining agreements entered into or renewed after the effective date**
2 **of this 2017 Act.**

3
4 **“REVIEW BY SUPREME COURT**

5
6 **“SECTION 63. (1) Jurisdiction is conferred upon the Supreme Court**
7 **to determine in the manner provided by this section whether this 2017**
8 **Act breaches any contract between members of the Public Employees**
9 **Retirement System and their employers or violates any provision of**
10 **the Oregon Constitution or of the United States Constitution, includ-**
11 **ing but not limited to impairment of contract rights of members of the**
12 **Public Employees Retirement System under Article I, section 21, of the**
13 **Oregon Constitution, or Article I, section 10, clause 1, of the United**
14 **States Constitution.**

15 **“(2) A person who is adversely affected by this 2017 Act or who will**
16 **be adversely affected by this 2017 Act may institute a proceeding for**
17 **review by filing with the Supreme Court a petition that meets the**
18 **following requirements:**

19 **“(a) The petition must be filed within 60 days after the effective**
20 **date of this 2017 Act.**

21 **“(b) The petition must include the following:**

22 **“(A) A statement of the basis of the challenge; and**

23 **“(B) A statement and supporting affidavit showing how the**
24 **petitioner is adversely affected.**

25 **“(3) The petitioner shall serve a copy of the petition by registered**
26 **or certified mail upon the Public Employees Retirement Board, the**
27 **Attorney General and the Governor.**

28 **“(4) Proceedings for review under this section shall be given priority**
29 **over all other matters before the Supreme Court.**

30 **“(5) The Supreme Court shall allow public employers participating**

1 in the Public Employees Retirement System to intervene in any pro-
2 ceeding under this section.

3 “(6)(a) The Supreme Court shall allow members of the Legislative
4 Assembly to intervene in any proceeding relating to this 2017 Act. Af-
5 ter a member intervenes in a proceeding relating to this 2017 Act, the
6 member has standing to participate in the proceeding even if the
7 member ceases to be a member of the Legislative Assembly.

8 “(b) A member of the Senate or the House of Representatives who
9 intervenes in or participates in a proceeding under this subsection may
10 not use public funds to pay legal expenses incurred in intervening in
11 or participating in the proceeding.

12 “(7) In the event the Supreme Court determines that there are
13 factual issues in the petition, the Supreme Court may appoint a special
14 master to hear evidence and to prepare recommended findings of fact.

15

16

“SEVERABILITY

17

18 “SECTION 64. It is the intent of the Legislative Assembly that all
19 parts of this 2017 Act are independent and that if any part of this 2017
20 Act is held unconstitutional, all remaining parts shall remain in
21 force.”.

22 In line 26, delete “35” and insert “65”.

23 In line 32, delete “36” and insert “66”.

24
