

House Bill 4070

Sponsored by Representatives PARRISH, HAYDEN; Representative ESQUIVEL (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes retirement benefits payable under Oregon Public Service Retirement Plan to persons who establish membership in Public Employees Retirement System on or after effective date of Act. Provides that such persons do not become members of pension program of plan. Requires employers of such persons to make employer contributions to plan in amount equal to 10 percent of member's salary. Allows person to contribute additional two percent of salary, which is matched by employer.

Provides break in service and change in service rules for persons who established membership in system before effective date of Act.

Requires employer contribution rate set by Public Employees Retirement Board to be at least 18 percent of salary.

For years beginning in 2019, caps at \$200,000 annual salary used to calculate final average salary for purposes of Tiers 1 and 2 of system.

Directs Oregon Investment Council to offer high, medium and low risk options for investment of individual accounts established under system. Directs board to adopt rules allowing members to elect from risk options.

Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect savings attributable to Act.

Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.225, 238.580, 238A.050, 238A.320, 238A.330, 238A.335, 238A.340, 238A.350, 238A.375, 238A.400, 238A.410, 243.800 and 341.551; and declaring an emergency.

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

NEW TIER OF RETIREMENT BENEFITS

SECTION 1. Sections 2 and 3 of this 2018 Act are added to and made a part of ORS chapter 238A.

SECTION 2. (1) Notwithstanding any other provision of this chapter or ORS chapter 238, any person who is employed by a participating public employer on or after the effective date of this 2018 Act, and who has not established membership in the Public Employees Retirement System before the effective date of this 2018 Act, is entitled to receive only the benefits provided under section 3 of this 2018 Act for periods of service with participating public employers on and after the effective date of this 2018 Act, and has no right or claim to any benefit under this chapter except as specifically provided by section 3 of this 2018 Act.

(2) A person establishes membership in the system before the effective date of this 2018 Act for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on the effective date of this 2018 Act; or

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) The person performed any period of service for a participating public employer before
2 the effective date of this 2018 Act, that is credited to the six-month period of employment
3 required of an employee under ORS 238A.100 before an employee may become a member of
4 the system.

5 (3)(a) Any person who is an active member of the Public Employees Retirement System
6 on the effective date of this 2018 Act is entitled to receive the benefits provided by this
7 chapter and ORS chapter 238, as in effect immediately before the effective date of this 2018
8 Act, for all service performed before, on and after the effective date of this 2018 Act, unless
9 the person has a break in service or a change in service on or after the effective date of this
10 2018 Act. If the person has a break in service or a change in service on or after the effective
11 date of this 2018 Act, the person is entitled to receive the benefits provided by this chapter
12 and ORS chapter 238, as in effect immediately before the effective date of this 2018 Act, for
13 all creditable service performed before the break in service or change in service, and the
14 benefits provided under section 3 of this 2018 Act for periods of service with participating
15 public employers after the break in service or change in service.

16 (b) Except as provided in this subsection, a person has a break in service for the purposes
17 of this subsection if the person performs no service with a participating public employer in
18 a qualifying position for a period of six consecutive months.

19 (c) Except as provided in this subsection, a person has a change in service for the pur-
20 poses of this subsection if the person performs service for a participating public employer
21 during a period of six consecutive months, but none of the service is performed for a par-
22 ticipating public employer that employed the person on the effective date of this 2018 Act
23 during that period of six consecutive months.

24 (d) If a person leaves employment with a participating public employer for purposes that
25 would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a
26 break in service for the purposes of this subsection only if the person performs no service
27 with the participating public employer in a qualifying position for a period of 12 consecutive
28 months after leaving employment with the participating public employer.

29 (e) If a person leaves employment with a participating public employer for career devel-
30 opment purposes pursuant to written authorization of the participating public employer un-
31 der a written policy of the employer that applies generally to the class of employees to which
32 the member belongs, the person has a break in service or change in service for the purposes
33 of this subsection only if the person performs no service with the participating public em-
34 ployer in a qualifying position for a period of 12 consecutive months after leaving employ-
35 ment with the participating public employer.

36 (f) A person does not have a break in service or change in service for the purposes of this
37 subsection by reason of any period of time during which the person leaves employment with
38 a participating public employer for the purpose of serving as a member of the Legislative
39 Assembly during a legislative session.

40 (g) A person does not have a break in service for the purposes of this subsection by
41 reason of any period of time during which the person is absent from employment with a
42 participating public employer and receives a disability retirement allowance under ORS
43 238.320.

44 (h) A person does not have a break in service or change in service for the purposes of
45 this subsection by reason of any period of time during which the person leaves employment

1 with a participating public employer based on the seasonal nature of the person's employ-
 2 ment as long as the person returns to employment with the public employer before the ex-
 3 piration of 12 full calendar months.

4 (i) A person does not have a change in service if the participating public employer that
 5 employed the person on the effective date of this 2018 Act no longer employs the person be-
 6 cause the participating public employer merges with another participating public employer
 7 or transfers the person to another participating public employer.

8 (4) The provisions of this section do not apply to a person elected or appointed as a judge
 9 as defined in ORS 238.500.

10 **SECTION 3.** (1) A person who establishes membership in the system on or after the ef-
 11 fective date of this 2018 Act may not become a member of the pension program of the Oregon
 12 Public Service Retirement Plan described in ORS 238A.100 to 238A.250.

13 (2) A person who establishes membership in the system on or after the effective date of
 14 this 2018 Act becomes a member of the individual account program in the manner provided
 15 by this chapter.

16 **SECTION 4.** ORS 238A.320 is amended to read:

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

20 (2) A member who makes rollover contributions becomes vested in the rollover account estab-
 21 lished for the member under ORS 238A.350 (4) on the date the rollover account is established.

22 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-
 23 butions for a member under ORS 238A.340 the member becomes vested in the employer account es-
 24 tablished under ORS 238A.350 (3) on the earliest of the following dates:

25 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 26 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 27 subsection (5) of this section.

28 (b) The date on which an active member reaches the normal retirement age for the member
 29 under ORS 238A.160.

30 (c) If the individual account program is terminated, the date on which termination becomes ef-
 31 fective, but only to the extent the account is then funded.

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

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

34 (4) If on the date that a person becomes an active member the person has already reached the
 35 normal retirement age for the person under ORS 238A.160, and the employer makes employer con-
 36 tributions for the member under ORS 238A.340, the person is vested in the employer account es-
 37 tablished under ORS 238A.350 (3) on that date.

38 (5) If a member of the individual account program who is not vested in the employer account
 39 performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service
 40 performed before the first calendar year of the period of five consecutive calendar years shall be
 41 disregarded for purposes of determining whether the member is vested under subsection (3)(a) of this
 42 section.

43 (6) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this
 44 section, hours of service include creditable service, as defined in ORS 238.005, performed by the
 45 person before the person became an eligible employee, as long as the membership of the person

1 under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date
2 the person becomes an eligible employee.

3 **(7) The provisions of this section apply only to a member who establishes membership in**
4 **the system before the effective date of this 2018 Act, as described in section 2 of this 2018**
5 **Act.**

6 **SECTION 5. Section 6 of this 2018 Act is added to and made a part of ORS chapter 238A.**

7 **SECTION 6. (1) The provisions of this section apply to a member who establishes mem-**
8 **bership in the system on or after the effective date of this 2018 Act, as described in section**
9 **2 of this 2018 Act.**

10 **(2) A member of the individual account program becomes vested in the employee account**
11 **established for the member under ORS 238A.350 (2) on the date the employee account is es-**
12 **tablished.**

13 **(3) A member who makes rollover contributions becomes vested in the rollover account**
14 **established for the member under section ORS 238A.350 (4) on the date the rollover account**
15 **is established.**

16 **(4) A member becomes vested in the employer account established under ORS 238A.350**
17 **(3) on the date the employee account is established.**

18 **SECTION 7. ORS 238A.330 is amended to read:**

19 238A.330. (1) A member of the individual account program **who established membership in the**
20 **system before the effective date of this 2018 Act, as described in section 2 of this 2018 Act,**
21 **must make employee contributions to the individual account program of six percent of the member's**
22 **salary.**

23 **(2) Employee contributions made by a member of the individual account program under this**
24 **section shall be credited by the board to the employee account established for the member under**
25 **ORS 238A.350 (2).**

26 **(3) A new member of the individual account program shall first make contributions under this**
27 **section for those wages that are attributable to services performed by the employee during the first**
28 **full pay period following the six-month probationary period required under ORS 238A.300, without**
29 **regard to when those wages are considered earned for other purposes under this chapter.**

30 **SECTION 8. ORS 238A.335 is amended to read:**

31 238A.335. (1) A participating public employer may agree, by a written employment policy or by
32 a collective bargaining agreement, to pay the employee contribution required under ORS 238A.330.
33 The policy or agreement need not include all members of the individual account program employed
34 by the employer.

35 **(2) An agreement under this section to pay the required employee contribution may provide that:**

36 **(a) Employee compensation be reduced to generate the funds needed to make the employee**
37 **contributions; or**

38 **(b) Additional amounts be paid by the employer for the purpose of making the employee contri-**
39 **butions, and employee compensation not be reduced for the purpose of generating the funds needed**
40 **to make the employee contributions.**

41 **(3) A participating public employer must give written notice to the Public Employees Retirement**
42 **Board at the time that a written employment policy or collective bargaining agreement described**
43 **in subsection (1) of this section is adopted or changed. The notice must specifically indicate whether**
44 **the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner**
45 **in which employee contributions are to be paid applies only to employee contributions made on and**

1 after the date the notice is received by the board.

2 **(4) The provisions of this section apply only to employee contributions for a member who**
3 **establishes membership in the system before the effective date of this 2018 Act, as described**
4 **in section 2 of this 2018 Act.**

5 **SECTION 9.** ORS 238A.340 is amended to read:

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

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

17 **(3) The provisions of this section apply only to employer contributions for a member who**
18 **establishes membership in the system before the effective date of this 2018 Act, as described**
19 **in section 2 of this 2018 Act.**

20 **SECTION 10.** Section 11 of this 2018 Act is added to and made a part of ORS chapter
21 **238A.**

22 **SECTION 11.** (1) **The provisions of this section apply to a member who establishes**
23 **membership in the system on or after the effective date of this 2018 Act, as described in**
24 **section 2 of this 2018 Act.**

25 **(2) A participating public employer shall make employer contributions to the individual**
26 **account program in an amount equal to 10 percent of a member's salary.**

27 **(3)(a) A member of the individual account program may make employee contributions to**
28 **the program of exactly two percent of the member's salary.**

29 **(b) If a member makes contributions under this subsection, the member's employer shall**
30 **contribute to the program an additional amount equal to two percent of the member's salary.**
31 **In no event may the total contribution by the employer for a member exceed an amount**
32 **equal to 12 percent of the member's salary.**

33 **(4)(a) Contributions made by a member of the individual account program under this**
34 **section shall be credited by the board to the employee account established for the member**
35 **under ORS 238A.350 (2).**

36 **(b) Contributions made by an employer under this section shall be credited by the board**
37 **to the employer account established for the member under ORS 238A.350 (3).**

38 **SECTION 12.** ORS 238A.350 is amended to read:

39 238A.350. (1) Upon any contributions being made to the individual account program by or on
40 behalf of a member of the program, the Public Employees Retirement Board shall create the account
41 or accounts described in this section. Each account shall be adjusted at least annually in accordance
42 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
43 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
44 the assets of the program are insufficient to pay those costs. The adjustments described in this
45 subsection shall continue until the account is distributed to the member or forfeited.

1 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
2 tributions made by or on behalf of the member as adjusted under subsection (1) of this section.

3 (b) The board shall create a separate employee account for a member who becomes an active
4 member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall
5 consist of the employee contributions made by or on behalf of the member that are attributable to
6 the member's legislative service, as adjusted under subsection (1) of this section.

7 (3) If the public employer agrees to make employer contributions under ORS 238A.340, **or is**
8 **required to make employer contributions under section 11 of this 2018 Act**, the board shall
9 establish an employer account, which shall consist of the employer contributions made on behalf of
10 the member as adjusted under subsection (1) of this section.

11 (4) If the board accepts rollover contributions on behalf of the member, the board shall establish
12 a rollover account, which shall consist of the rollover contributions made by the member as adjusted
13 under subsection (1) of this section. Contributions and the earnings attributable to the contributions
14 must be accounted for separately.

15 (5) The board shall provide an annual statement to each active and inactive member of the
16 program that reflects the amount credited to the accounts established under this section. The
17 statement shall reflect whether the member is vested in the employer account under the provisions
18 of ORS 238A.320.

19 **SECTION 13.** ORS 238A.375 is amended to read:

20 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-
21 tribution of the amounts in the member's employee account, rollover account and employer account
22 to the extent the member is vested in those accounts under ORS 238A.320 **or section 6 of this 2018**
23 **Act** if the inactive member has separated from all service with participating public employers and
24 with employers who are treated as part of a participating public employer's controlled group under
25 the federal laws and rules governing the status of the system and the fund as a qualified govern-
26 mental retirement plan and trust.

27 (2) If an inactive member of the individual account program who is not vested in the employer
28 account receives a distribution under subsection (1) of this section, the employer account of the
29 member is permanently forfeited as of the date of the distribution.

30 (3) A member may not make an election under this section for less than all of the member's in-
31 dividual accounts described in ORS 238A.350 in which the member is vested.

32 (4) A member who is vested in the pension program established under this chapter and who is
33 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this
34 section only if the member also withdraws from the pension program. A member who has a member
35 account established under ORS chapter 238 may make an election under this section only if the
36 member also withdraws that member account in the manner provided by ORS 238.265. A member
37 who has an account established under ORS 238.440 may make an election under this section only
38 if the member also withdraws the account established under ORS 238.440.

39 (5) If an inactive member receives a distribution under subsection (1) of this section and is
40 subsequently reemployed by a participating public employer, any service performed before the date
41 the member became an inactive member may not be used toward the period of service required for
42 vesting in the employer account under ORS 238A.320.

43 **SECTION 14.** ORS 238A.400 is amended to read:

44 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
45 238A.165, a member of the individual account program shall receive in a lump sum the amounts in

1 the member's employee account, rollover account and employer account to the extent the member
2 is vested in those accounts under ORS 238A.320 **or section 6 of this 2018 Act.**

3 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-
4 ual account program may elect to receive the amounts in the member's employee account and em-
5 ployer account, to the extent the member is vested in those accounts under ORS 238A.320 **or**
6 **section 6 of this 2018 Act**, in substantially equal installments paid over a period of 5, 10, 15 or 20
7 years, or over a period that is equal to the anticipated life span of the member as actuarially de-
8 termined by the Public Employees Retirement Board. Installments may be made on a monthly,
9 quarterly or annual basis. In no event may the period selected by the member exceed the time al-
10 lowed by the minimum distribution requirements described in subsection (5) of this section. The
11 board shall by rule establish the manner in which installments will be adjusted to reflect investment
12 gains and losses on the unpaid balance during the payout period elected by the member under this
13 subsection. The board by rule may establish minimum monthly amounts payable under this sub-
14 section. The board may require that a lump sum payment, or an installment schedule different than
15 the schedules provided for in this subsection, be used to pay the vested amounts in the member's
16 accounts if those amounts are not adequate to generate the minimum monthly amounts specified by
17 the rule.

18 (3) A member of the individual account program electing to receive installments under sub-
19 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies
20 before all amounts in the employee and vested employer accounts are paid, all remaining installment
21 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary
22 may elect to receive a lump sum distribution of the remaining amounts.

23 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive
24 vested amounts in the member's employee account, rollover account and employer account in the
25 manner provided by this section when the member retires for service under the provisions of ORS
26 chapter 238.

27 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
28 member of the individual account program must be distributed over a time period commencing no
29 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
30 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
31 plementing that section, as in effect on December 31, 2016. The board shall adopt rules implementing
32 those minimum distribution requirements.

33 **SECTION 15.** ORS 238A.410 is amended to read:

34 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
35 in the member's employee account, rollover account and employer account, to the extent the member
36 is vested in those accounts under ORS 238A.320 **or section 6 of this 2018 Act**, shall be paid in a
37 lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this
38 section.

39 (2) If a member of the individual account program is married at the time of death, or there exists
40 at the time of death any other person who is constitutionally required to be treated in the same
41 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
42 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
43 person consents to the designation of a different beneficiary or beneficiaries before the designation
44 has been made and the consent has not been revoked by the spouse or other person as of the time
45 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a

1 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
 2 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
 3 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
 4 predeceasing the member for purposes of this section, unless the member expressly designates the
 5 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
 6 quired to be designated as a beneficiary under the provisions of ORS 238.465.

7 (3) For purposes of this section and ORS 238A.400 (3), if a member fails to designate a benefi-
 8 ciary, or if the person or persons designated do not survive the member, the death benefit provided
 9 for in this section shall be paid to the following person or persons, in the following order of priority:

10 (a) The member's surviving spouse or other person who is constitutionally required to be treated
 11 in the same manner as a spouse;

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

13 (c) The member's estate.

14 (4) The entire amount of a deceased member's vested accounts must be distributed by December
 15 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 16 provision of this chapter, distributions of death benefits under the individual account program must
 17 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 18 plementing that section, as in effect on December 31, 2016. The Public Employees Retirement Board
 19 shall adopt rules implementing those minimum distribution requirements.

20 **SECTION 16.** ORS 243.800 is amended to read:

21 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
 22 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
 23 ister an Optional Retirement Plan for administrative and academic employees of the public univer-
 24 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
 25 capable of accepting funds transferred under subsection (7) of this section without the transfer being
 26 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
 27 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
 28 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

29 (2) An administrative or academic employee who is eligible to remain or become a member of
 30 the Public Employees Retirement System may elect to participate in the Optional Retirement Plan
 31 upon completion of:

32 (a) Six hundred hours of employment, or the equivalent as determined by the governing board;
 33 and

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

35 (3) An administrative or academic employee who is eligible to remain or become a member of
 36 the Public Employees Retirement System, including an administrative or academic employee who
 37 previously participated in the Optional Retirement Plan because of employment in a position clas-
 38 sified as a post-doctoral scholar position under ORS 350.370, may make an irrevocable election to
 39 participate in the Optional Retirement Plan within six months after being employed. An election
 40 under this subsection is effective on the first day of the month following the completion of the re-
 41 quirements of subsection (2) of this section.

42 (4) An administrative or academic employee who is eligible to remain or become a member of
 43 the Public Employees Retirement System and who does not elect to participate in the Optional Re-
 44 tirement Plan:

45 (a) Remains or becomes a member of the Public Employees Retirement System in accordance

1 with ORS chapters 238 and 238A; or

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

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

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

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

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

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

44 (e) An administrative or academic employee who elects to participate in the Optional Retirement
45 Plan, and who is a vested member of the individual account program of the Oregon Public Service

1 Retirement Plan as described in ORS 238A.320 **or section 6 of this 2018 Act** on the date that the
2 election becomes effective, shall be considered an inactive member of the individual account pro-
3 gram by the Public Employees Retirement Board as of the effective date of the election. An em-
4 ployee who is subject to the provisions of this paragraph retains all the rights, privileges and
5 options of an inactive member of the individual account program. An administrative or academic
6 employee who elects to participate in the Optional Retirement Plan, and who is a member of the
7 individual account program of the Oregon Public Service Retirement Plan, may make a written re-
8 quest to the Public Employees Retirement Board that all amounts in the member's employee ac-
9 count, rollover account and employer account, to the extent the member is vested in those accounts
10 under ORS 238A.320 **or section 6 of this 2018 Act**, be transferred to the Optional Retirement Plan.
11 The request must be made at the time the member elects to participate in the Optional Retirement
12 Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts
13 directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the
14 individual account program upon making the transfer.

15 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retire-
16 ment Board may not treat any employee as an inactive member under the provisions of this sub-
17 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that
18 the employee be separated from all service with participating public employers and with employers
19 who are treated as part of a participating public employer's controlled group under the federal laws
20 and rules governing the status of the Public Employees Retirement System and the Public Employees
21 Retirement Fund as a qualified governmental retirement plan and trust.

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

25 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
26 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
27 employee would otherwise have contributed as an employee contribution to the Public Employees
28 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

29 (9) For an employee participating in the Optional Retirement Plan who was hired before July
30 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
31 age of salary of the employee equal to the percentage of salary that would otherwise have been
32 contributed as an employer contribution on behalf of the employee to the Public Employees Retire-
33 ment System, before any offset under ORS 238.229 (2), if the employee had not elected to participate
34 in the Optional Retirement Plan.

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

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

38 (b) A percentage of the employee's salary equal to the percentage of salary contributed by the
39 employee to the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to
40 four percent of the employee's salary in each pay period.

41 (11)(a) Unless otherwise prohibited by law, a person employed in a position classified as a
42 post-doctoral scholar position under ORS 350.370 is an academic employee under subsection (1) of
43 this section and becomes a participant in the Optional Retirement Plan when the person participates
44 in the public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820.

45 (b) Participation in the Optional Retirement Plan under this subsection becomes effective on the

1 first day of the month following the later of:

2 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
3 243.820; or

4 (B) Completion of:

5 (i) Six hundred hours of employment, or the equivalent as determined by the governing board;
6 and

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

8 (c) For a post-doctoral scholar participating in the Optional Retirement Plan, the governing
9 board shall contribute monthly to the Optional Retirement Plan a percentage of the post-doctoral
10 scholar's salary equal to the percentage of salary contributed by the post-doctoral scholar to the
11 public university's Tax-Deferred Investment 403(b) Plan under ORS 243.820, up to four percent of the
12 post-doctoral scholar's salary in each pay period.

13 (d) A post-doctoral scholar is an academic employee who elects to participate in the Optional
14 Retirement Plan for purposes of subsection (6) of this section.

15 (e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar participating in
16 the Optional Retirement Plan.

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

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

25 **SECTION 17.** ORS 341.551 is amended to read:

26 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Office of Community
27 Colleges and Workforce Development may establish and administer an optional retirement plan for
28 administrative employees of community college districts who are eligible for membership in the
29 Public Employees Retirement System. Any community college district may participate in the plan
30 by giving written notice to the office.

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

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

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

41 (3) An administrative employee who does not elect to participate in the optional retirement plan
42 remains or becomes a member of the Public Employees Retirement System in accordance with ORS
43 chapters 238 and 238A.

44 (4) An administrative employee may elect to participate in the optional retirement plan only if
45 at the time the election becomes effective the employee is not concurrently employed in a position

1 with any participating public employer other than the community college district in a position that
2 entitles the employee to membership in the Public Employees Retirement System. Except as pro-
3 vided in subsection (9) of this section, employees who elect to participate in the optional retirement
4 plan are ineligible for active membership in the Public Employees Retirement System for as long as
5 those employees are employed by a community college district that participates in the plan, whether
6 by reason of employment by the district or any other participating public employer.

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

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

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

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

42 (e) An administrative employee who elects to participate in the optional retirement plan and
43 who is a vested member of the individual account program of the Oregon Public Service Retirement
44 Plan as described in ORS 238A.320 **or section 6 of this 2018 Act** on the date that the election be-
45 comes effective shall be considered an inactive member of the individual account program by the

1 Public Employees Retirement Board as of the effective date of the election. An employee who is
2 subject to the provisions of this paragraph retains all the rights, privileges and options of an inac-
3 tive member of the individual account program. An administrative employee who elects to partic-
4 ipate in the optional retirement plan and who is a member of the individual account program of the
5 Oregon Public Service Retirement Plan may make a written request to the Public Employees Re-
6 tirement Board that all amounts in the member's employee account, rollover account and employer
7 account, to the extent the member is vested in those accounts under ORS 238A.320 **or section 6**
8 **of this 2018 Act**, be transferred to the optional retirement plan. The request must be made at the
9 time the member elects to participate in the optional retirement plan. Upon receiving the request,
10 the Public Employees Retirement Board shall transfer the amounts directly to the optional retire-
11 ment plan and shall terminate the membership of the employee in the individual account program.

12 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retire-
13 ment Board shall not treat any employee as an inactive member under the provisions of this sub-
14 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that
15 the employee be separated from all service with participating public employers and with employers
16 who are treated as part of a participating public employer's controlled group under the federal laws
17 and rules governing the status of the Public Employees Retirement System and the Public Employees
18 Retirement Fund as a qualified governmental retirement plan and trust.

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

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

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

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

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

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

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

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

45

EMPLOYER CONTRIBUTIONS

SECTION 18. ORS 238.225 is amended to read:

238.225. A participating public employer shall, at intervals designated by the Public Employees Retirement Board, transmit to the board those amounts the board determines to be actuarially necessary to adequately fund the benefits to be provided by the contributions of the employer under this chapter and the benefits to be provided under the pension program established by ORS 238A.100 to 238A.250, except for the disability benefit for which funding is provided under ORS 238A.240. From time to time, the board shall determine the liabilities of the system and shall set the amount of contributions to be made by participating public employers, and by other public employers who are required to make contributions on behalf of members, to ensure that those liabilities will be funded no more than 40 years after the date on which the determination is made. **The employer contribution set under this section must be in an amount that is at least 18 percent of the salary of each member employed by the participating public employer.**

FINAL AVERAGE SALARY

SECTION 19. ORS 238.005 is amended to read:

238.005. For purposes of this chapter:

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

(2) "Annuity" means payments for life derived from contributions made by a member as provided in this chapter.

(3) "Board" means the Public Employees Retirement Board.

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

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

(a) An employee who had returned to the service of the employer as of January 1, 1945, and who remained in that employment until having established membership in the Public Employees Retirement System.

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

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

(7) "Earliest service retirement age" means the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.

(8) "Employee" includes, in addition to employees, public officers, but does not include:

- 1 (a) Persons engaged as independent contractors.
- 2 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
3 ployer or public employers do not total 600 hours in any calendar year.
- 4 (c) Persons provided sheltered employment or made-work by a public employer in an employment
5 or industries program maintained for the benefit of such persons.
- 6 (d) Persons employed and paid from federal funds received under a federal program intended
7 primarily to alleviate unemployment. However, any such person shall be considered an “employee”
8 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
9 to have the person so considered by an irrevocable written notice to the board.
- 10 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
11 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
12 shall be deemed to have been in effect since the inception of the system.
- 13 (f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-
14 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.
- 15 (9) “Final average salary” means whichever of the following is greater:
- 16 (a) The average salary per calendar year paid by one or more participating public employers to
17 an employee who is an active member of the system in three of the calendar years of membership
18 before the effective date of retirement of the employee, in which three years the employee was paid
19 the highest salary. The three calendar years in which the employee was paid the largest total salary
20 may include calendar years in which the employee was employed for less than a full calendar year.
21 If the number of calendar years of active membership before the effective date of retirement of the
22 employee is three or fewer, the final average salary for the employee is the average salary per cal-
23 endar year paid by one or more participating public employers to the employee in all of those years,
24 without regard to whether the employee was employed for the full calendar year.
- 25 (b) One-third of the total salary paid by a participating public employer to an employee who is
26 an active member of the system in the last 36 calendar months of active membership before the ef-
27 fective date of retirement of the employee.
- 28 (10) “Firefighter” does not include a volunteer firefighter, but does include:
- 29 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and
30 (b) An employee of the State Forestry Department who is certified by the State Forester as a
31 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
32 fires as described in ORS 477.064.
- 33 (11) “Fiscal year” means 12 calendar months commencing on July 1 and ending on June 30 fol-
34 lowing.
- 35 (12) “Fund” means the Public Employees Retirement Fund.
- 36 (13) “Inactive member” means a member who is not employed in a qualifying position, whose
37 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
38 for service or disability.
- 39 (14) “Institution of higher education” means a public university listed in ORS 352.002, the
40 Oregon Health and Science University and a community college, as defined in ORS 341.005.
- 41 (15) “Member” means a person who has established membership in the system and whose mem-
42 bership has not been terminated as described in ORS 238.095. “Member” includes active, inactive
43 and retired members.
- 44 (16) “Member account” means the regular account and the variable account.
- 45 (17) “Normal retirement age” means:

1 (a) For a person who establishes membership in the system before January 1, 1996, as described
 2 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
 3 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

4 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
 5 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
 6 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
 7 firefighter.

8 (18) "Pension" means annual payments for life derived from contributions by one or more public
 9 employers.

10 (19) "Police officer" includes:

11 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
 12 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
 13 persons committed to the custody of or transferred to the Department of Corrections and employees
 14 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
 15 whether or not such classification was authorized by law.

16 (b) Employees of the Department of State Police who are classified as police officers by the
 17 Superintendent of State Police.

18 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
 19 cialists by the administrator of the commission.

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

22 (e) Police chiefs and police personnel of a city who are classified as police officers by the
 23 council or other governing body of the city.

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

26 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
 27 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
 28 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
 29 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
 30 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
 31 ented by a labor organization, any proposal by the county to change that classification or to cease
 32 to classify adult parole and probation officers as police officers for the purposes of this chapter is
 33 a mandatory subject of bargaining.

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

35 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
 36 missioners of the Port of Portland.

37 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
 38 ficers by the Director of Agriculture.

39 (k) Employees of the Department of Public Safety Standards and Training who are classified by
 40 the department as other than secretarial or clerical personnel.

41 (L) Investigators of the Criminal Justice Division of the Department of Justice.

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

43 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
 44 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

45 (o) The Director of the Department of Corrections.

1 (p) An employee who for seven consecutive years has been classified as a police officer as de-
2 fined by this section, and who is employed or transferred by the Department of Corrections to fill
3 a position designated by the Director of the Department of Corrections as being eligible for police
4 officer status.

5 (q) An employee of the Department of Corrections classified as a police officer on or prior to
6 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
7 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
8 tem implemented pursuant to ORS 240.190 does not affect police officer status.

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

12 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
13 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
14 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
15 Department of Corrections or the Oregon Youth Authority.

16 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
17 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
18 in such facilities.

19 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
20 bation officers.

21 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
22 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
23 443.400, that house individuals with intellectual or developmental disabilities.

24 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
25 to (6) (1999 Edition).

26 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
27 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
28 created by one or more such governmental organizations to provide governmental services. For
29 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
30 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
31 sue and be sued.

32 (22) "Qualifying position" means one or more jobs with one or more participating public em-
33 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
34 any service in a job for which a participating public employer does not provide benefits under this
35 chapter pursuant to an application made under ORS 238.035.

36 (23) "Regular account" means the account established for each active and inactive member un-
37 der ORS 238.250.

38 (24) "Retired member" means a member who is retired for service or disability.

39 (25) "Retirement credit" means a period of time that is treated as creditable service for the
40 purposes of this chapter.

41 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
42 employer in return for services to the employer, plus the monetary value, as determined by the
43 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
44 other advantages the employer furnishes the employee in return for services.

45 (b) "Salary" includes but is not limited to:

1 (A) Payments of employee and employer money into a deferred compensation plan, which are
2 deemed salary paid in each month of deferral;

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

5 (C) Retroactive payments described in ORS 238.008; and

6 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
7 652.190.

8 (c) "Salary" or "other advantages" does not include:

9 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
10 employer;

11 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
12 dependents, for which the employee has no cash option;

13 (C) Payments made on account of an employee's death;

14 (D) Any lump sum payment for accumulated unused sick leave;

15 (E) Any accelerated payment of an employment contract for a future period or an advance
16 against future wages;

17 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
18 gratuitous payment;

19 (G) Payments for periods of leave of absence after the date the employer and employee have
20 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
21 sick leave and vacation;

22 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or
23 the Oregon Health and Science University when such services are in excess of full-time employment
24 subject to this chapter. A person employed under a contract for less than 12 months is subject to
25 this subparagraph only for the months to which the contract pertains; *or*

26 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
27 employee; **or**

28 **(J) For years beginning on or after January 1, 2019, any amount in excess of \$100,000 for**
29 **a calendar year. If any period over which salary is determined is less than 12 months, the**
30 **\$100,000 limitation for that period shall be multiplied by a fraction, the numerator of which**
31 **is the number of months in the determination period and the denominator of which is 12.**

32 (27) "School year" means the period beginning July 1 and ending June 30 next following.

33 (28) "System" means the Public Employees Retirement System.

34 (29) "Variable account" means the account established for a member who participates in the
35 Variable Annuity Account under ORS 238.260.

36 (30) "Vested" means being an active member of the system in each of five calendar years.

37 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
38 hours of service per year.

39 **SECTION 20.** ORS 238.580 is amended to read:

40 238.580. (1) **Except as provided in subsection (3) of this section,** ORS 238.005 (4) and (26),
41 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.364, 238.410,
42 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630,
43 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the increases provided
44 by ORS 238.366 for members of the system who are serving as other than police officers or fire-
45 fighters apply in respect to service as a judge member.

1 (2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to
 2 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

3 **(3) ORS 238.005 (26)(c)(J) does not apply in respect to service as a judge member.**

4
 5 **INVESTMENT OF INDIVIDUAL ACCOUNTS**

6
 7 **SECTION 21.** ORS 238A.050 is amended to read:

8 238A.050. (1) The Oregon Public Service Retirement Plan is part of the Public Employees Re-
 9 tirement System and is administered by the Public Employees Retirement Board.

10 (2) ORS 238.008, 238.225, 238.229, 238.231, 238.285, 238.410, 238.445, 238.447, 238.450, 238.455,
 11 238.458, 238.460, 238.465, 238.470, 238.600, 238.601, 238.605, 238.610, 238.615, 238.618, 238.630, 238.635,
 12 238.640, 238.645, 238.655, 238.660, 238.661, 238.665, 238.675, 238.692, 238.694, 238.695, 238.696, 238.698,
 13 238.700, 238.705, 238.710 and 238.715 apply to the Oregon Public Service Retirement Plan.

14 (3)(a) The Oregon Investment Council shall invest the assets of the Oregon Public Service Re-
 15 tirement Plan as a part of the Public Employees Retirement Fund. Except as provided by subsection
 16 (4) of this section, the investment of Oregon Public Service Retirement Plan assets is subject to the
 17 provisions of ORS 293.701 to 293.857.

18 (b) The Oregon Investment Council may invest assets of the individual account program and
 19 pension program differently than the other assets of the Public Employees Retirement System.

20 (c) **The Oregon Investment Council shall offer high, medium and low risk options for in-**
 21 **vestment of a member's individual accounts established under ORS 238A.350.**

22 (4) Investment of the assets of the Oregon Public Service Retirement Plan is not subject to the
 23 limitations imposed by ORS 293.726 (6).

24 (5) The board may contract with a private provider for the administration of the individual ac-
 25 count program. The board is not subject to the provisions of ORS chapter 279A or 279B in awarding
 26 a contract under the provisions of this subsection. The board shall establish procedures for inviting
 27 proposals and awarding contracts under this subsection.

28 **SECTION 22. Section 23 of this 2018 Act is added to and made a part of ORS chapter**
 29 **238A.**

30 **SECTION 23. The Public Employees Retirement Board shall adopt rules allowing a**
 31 **member to elect one of the risk options offered under ORS 238A.050 (3)(c) for investment of**
 32 **the member's individual accounts established under ORS 238A.350.**

33 **SECTION 24. The Public Employees Retirement Board shall allow a member of the indi-**
 34 **vidual account program to make an election under section 23 of this 2018 Act to become ef-**
 35 **fective on January 1, 2019.**

36
 37 **RECALCULATION OF EMPLOYER CONTRIBUTION RATES**

38
 39 **SECTION 25. (1) As soon as practicable after the effective date of this 2018 Act, the**
 40 **Public Employees Retirement Board shall:**

41 (a) **Determine the amount of savings in employer contributions that are attributable to**
 42 **the provisions of this 2018 Act; and**

43 (b) **Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**
 44 **fect the provisions of this 2018 Act.**

45 (2) **The board shall issue corrected contribution rate orders to employers affected by**

1 rates recalculated under this section as soon as is practicable after the effective date of this
2 2018 Act. The corrected rates are effective July 1, 2018.

3
4 **REVIEW BY SUPREME COURT**

5
6 **SECTION 26.** (1) Jurisdiction is conferred upon the Supreme Court to determine in the
7 manner provided by this section whether this 2018 Act breaches any contract between
8 members of the Public Employees Retirement System and their employers or violates any
9 provision of the Oregon Constitution or of the United States Constitution, including but not
10 limited to impairment of contract rights of members of the Public Employees Retirement
11 System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause
12 1, of the United States Constitution.

13 (2) A person who is adversely affected by this 2018 Act or who will be adversely affected
14 by this 2018 Act may institute a proceeding for review by filing with the Supreme Court a
15 petition that meets the following requirements:

16 (a) The petition must be filed within 60 days after the effective date of this 2018 Act.

17 (b) The petition must include the following:

18 (A) A statement of the basis of the challenge; and

19 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
20 fected.

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

23 (4) Proceedings for review under this section shall be given priority over all other mat-
24 ters before the Supreme Court.

25 (5) The Supreme Court shall allow public employers participating in the Public Employees
26 Retirement System to intervene in any proceeding under this section.

27 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene
28 in any proceeding relating to this 2018 Act. After a member intervenes in a proceeding re-
29 lating to this 2018 Act, the member has standing to participate in the proceeding even if the
30 member ceases to be a member of the Legislative Assembly.

31 (b) A member of the Senate or the House of Representatives who intervenes in a pro-
32 ceeding under this subsection may not use public funds to pay legal expenses incurred in
33 intervening in or participating in the proceeding.

34 (7) In the event the Supreme Court determines that there are factual issues in the peti-
35 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
36 commended findings of fact.

37 (8) The Supreme Court may not award attorney fees to a petitioner in a proceeding under
38 this section.

39
40 **CAPTIONS**

41
42 **SECTION 27.** The unit captions used in this 2018 Act are provided only for the conven-
43 ience of the reader and do not become part of the statutory law of this state or express any
44 legislative intent in the enactment of this 2018 Act.

EMERGENCY CLAUSE

1
2
3
4
5
6

SECTION 28. This 2018 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2018 Act takes effect on its passage.
