

D R A F T

SUMMARY

Provides that employees of Oregon State Hospital qualify as police officers under Public Employees Retirement System.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to members of the Public Employees Retirement System employed
3 by the Oregon State Hospital; creating new provisions; amending ORS
4 238.005; and declaring an emergency.

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

6 **SECTION 1.** ORS 238.005, as amended by section 4, chapter 54, Oregon
7 Laws 2018, is amended to read:

8 238.005. For purposes of this chapter:

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

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

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

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

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

20 (a) An employee who had returned to the service of the employer as of

1 January 1, 1945, and who remained in that employment until having estab-
2 lished membership in the Public Employees Retirement System.

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

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

15 (7) "Earliest service retirement age" means the age attained by a member
16 when the member could first make application for retirement under the pro-
17 visions of ORS 238.280.

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

20 (a) Persons engaged as independent contractors.

21 (b) Seasonal, emergency or casual workers whose periods of employment
22 with any public employer or public employers do not total 600 hours in any
23 calendar year.

24 (c) Persons provided sheltered employment or made-work by a public em-
25 ployer in an employment or industries program maintained for the benefit
26 of such persons.

27 (d) Persons employed and paid from federal funds received under a federal
28 program intended primarily to alleviate unemployment. However, any such
29 person shall be considered an "employee" if not otherwise excluded by para-
30 graphs (a) to (c) of this subsection and the public employer elects to have
31 the person so considered by an irrevocable written notice to the board.

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

5 (f) Persons employed in positions classified as post-doctoral scholar posi-
6 tions by a public university listed in ORS 352.002, or by the Oregon Health
7 and Science University, under ORS 350.370.

8 (9) "Final average salary" means whichever of the following is greater:

9 (a) The average salary per calendar year paid by one or more participat-
10 ing public employers to an employee who is an active member of the system
11 in three of the calendar years of membership before the effective date of re-
12 tirement of the employee, in which three years the employee was paid the
13 highest salary. The three calendar years in which the employee was paid the
14 largest total salary may include calendar years in which the employee was
15 employed for less than a full calendar year. If the number of calendar years
16 of active membership before the effective date of retirement of the employee
17 is three or fewer, the final average salary for the employee is the average
18 salary per calendar year paid by one or more participating public employers
19 to the employee in all of those years, without regard to whether the em-
20 ployee was employed for the full calendar year.

21 (b) One-third of the total salary paid by a participating public employer
22 to an employee who is an active member of the system in the last 36 calendar
23 months of active membership before the effective date of retirement of the
24 employee.

25 (10) "Firefighter" does not include a volunteer firefighter, but does in-
26 clude:

27 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state
28 fire marshals; and

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

1 (11) "Fiscal year" means 12 calendar months commencing on July 1 and
2 ending on June 30 following.

3 (12) "Fund" means the Public Employees Retirement Fund.

4 (13) "Inactive member" means a member who is not employed in a quali-
5 fying position, whose membership has not been terminated in the manner
6 described by ORS 238.095 and who is not retired for service or disability.

7 (14) "Institution of higher education" means a public university listed in
8 ORS 352.002, the Oregon Health and Science University and a community
9 college, as defined in ORS 341.005.

10 (15) "Member" means a person who has established membership in the
11 system and whose membership has not been terminated as described in ORS
12 238.095. "Member" includes active, inactive and retired members.

13 (16) "Member account" means the regular account and the variable ac-
14 count.

15 (17) "Normal retirement age" means:

16 (a) For a person who establishes membership in the system before January
17 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires
18 at that age as a police officer or firefighter or 58 years of age if the employee
19 retires at that age as other than a police officer or firefighter.

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

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

26 (19) "Police officer" includes:

27 (a) Employees of institutions defined in ORS 421.005 as Department of
28 Corrections institutions whose duties, as assigned by the Director of the
29 Department of Corrections, include the custody of persons committed to the
30 custody of or transferred to the Department of Corrections and employees
31 of the Department of Corrections who were classified as police officers on

1 or before July 27, 1989, whether or not such classification was authorized
2 by law.

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

5 (c) Employees of the Oregon Liquor Control Commission who are classi-
6 fied as regulatory specialists by the administrator of the commission.

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

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

12 (f) Police officers who are commissioned by a university under ORS
13 352.121 or 353.125 and who are classified as police officers by the university.

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

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

25 (i) Employees of the Port of Portland who are classified as airport police
26 by the Board of Commissioners of the Port of Portland.

27 (j) Employees of the State Department of Agriculture who are classified
28 as livestock police officers by the Director of Agriculture.

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

1 (L) Investigators of the Criminal Justice Division of the Department of
2 Justice.

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

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

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

8 (p) An employee who for seven consecutive years has been classified as
9 a police officer as defined by this section, and who is employed or transferred
10 by the Department of Corrections to fill a position designated by the Direc-
11 tor of the Department of Corrections as being eligible for police officer sta-
12 tus.

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

18 (r) Employees of a school district who are appointed and duly sworn
19 members of a law enforcement agency of the district as provided in ORS
20 332.531 or otherwise employed full-time as police officers commissioned by
21 the district.

22 (s) Employees at youth correction facilities and juvenile detention facili-
23 ties under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
24 to hold valid Oregon teaching licenses and who have supervisory, control or
25 teaching responsibilities over juveniles committed to the custody of the De-
26 partment of Corrections or the Oregon Youth Authority.

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

30 (u) Employees of the Oregon Youth Authority who are classified as juve-
31 nile parole and probation officers.

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

5 **(w) Employees of the Oregon State Hospital who are:**

6 **(A) Prohibited from striking under ORS 243.726; or**

7 **(B) Employed as registered nurses or licensed practical nurses.**

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

10 (21) "Public employer" means the state, one of its agencies[,] **or** any city,
11 county, or municipal or public corporation, [any] political subdivision of the
12 state or [any] instrumentality thereof, or an agency created by one or more
13 such governmental organizations to provide governmental services. For pur-
14 poses of this chapter, such agency created by one or more governmental or-
15 ganizations is a governmental instrumentality and a legal entity with power
16 to enter into contracts, hold property and sue and be sued.

17 (22) "Qualifying position" means one or more jobs with one or more par-
18 ticipating public employers in which an employee performs 600 or more hours
19 of service in a calendar year, excluding any service in a job for which a
20 participating public employer does not provide benefits under this chapter
21 pursuant to an application made under ORS 238.035.

22 (23) "Regular account" means the account established for each active and
23 inactive member under ORS 238.250.

24 (24) "Retired member" means a member who is retired for service or dis-
25 ability.

26 (25) "Retirement credit" means a period of time that is treated as credit-
27 able service for the purposes of this chapter.

28 (26)(a) "Salary" means the remuneration paid an employee in cash out of
29 the funds of a public employer in return for services to the employer, plus
30 the monetary value, as determined by the Public Employees Retirement
31 Board, of whatever living quarters, board, lodging, fuel, laundry and other

1 advantages the employer furnishes the employee in return for services.

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

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

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

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

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

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

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

13 (B) Payments for insurance coverage by an employer on behalf of em-
14 ployee or employee and dependents, for which the employee has no cash op-
15 tion;

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

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

18 (E) Any accelerated payment of an employment contract for a future pe-
19 riod or an advance against future wages;

20 (F) Any retirement incentive, retirement severance pay, retirement bonus
21 or retirement gratuitous payment;

22 (G) Payments for periods of leave of absence after the date the employer
23 and employee have agreed that no future services qualifying pursuant to ORS
24 238.015 (3) will be performed, except for sick leave and vacation;

25 (H) Payments for instructional services rendered to public universities
26 listed in ORS 352.002 or the Oregon Health and Science University when
27 such 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 to which the contract pertains;

30 (I) Payments made by an employer for insurance coverage provided to a
31 domestic partner of an employee;

1 (J) Compensation described and authorized under ORS 341.556 that is not
2 paid by the community college employing the faculty member;

3 (K) Compensation described and authorized under ORS 352.232 that is not
4 paid by the public university employing the officer or employee; or

5 (L) Compensation described and authorized under ORS 353.270 that is not
6 paid by Oregon Health and Science University.

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

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

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

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

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

16 **SECTION 2. (1) The amendments to ORS 238.005 by section 1 of this**
17 **2019 Act become operative on June 30, 2019.**

18 **(2) The amendments to ORS 238.005 by section 1 of this 2019 Act**
19 **apply only to a person:**

20 **(a) Who is employed by the Oregon State Hospital on the operative**
21 **date specified in subsection (1) of this section as a person who is pro-**
22 **hibited from striking under ORS 243.726 or as a registered nurse or li-**
23 **icensed practical nurse; or**

24 **(b) Who becomes employed by the Oregon State Hospital after the**
25 **operative date specified in subsection (1) of this section as a person**
26 **who is prohibited from striking under ORS 243.726 or as a registered**
27 **nurse or licensed practical nurse.**

28 **(3) A person who is employed by the Oregon State Hospital under**
29 **subsection (2)(a) of this section is entitled to service under the Public**
30 **Employees Retirement System as a police officer only for service per-**
31 **formed on or after the operative date specified in subsection (1) of this**

1 **section as an employee of the Oregon State Hospital who is prohibited**
2 **from striking under ORS 243.726 or who is employed as a registered**
3 **nurse or licensed practical nurse.**

4 **SECTION 3.** ORS 238.005, as amended by section 4, chapter 54, Oregon
5 Laws 2018, and section 1 of this 2019 Act, is amended to read:

6 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

1 service” includes all retirement credit received by a member.

2 (7) “Earliest service retirement age” means the age attained by a member
3 when the member could first make application for retirement under the pro-
4 visions of ORS 238.280.

5 (8) “Employee” includes, in addition to employees, public officers, but
6 does not include:

7 (a) Persons engaged as independent contractors.

8 (b) Seasonal, emergency or casual workers whose periods of employment
9 with any public employer or public employers do not total 600 hours in any
10 calendar year.

11 (c) Persons provided sheltered employment or made-work by a public em-
12 ployer in an employment or industries program maintained for the benefit
13 of such persons.

14 (d) Persons employed and paid from federal funds received under a federal
15 program intended primarily to alleviate unemployment. However, any such
16 person shall be considered an “employee” if not otherwise excluded by para-
17 graphs (a) to (c) of this subsection and the public employer elects to have
18 the person so considered by an irrevocable written notice to the board.

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

23 (f) Persons employed in positions classified as post-doctoral scholar posi-
24 tions by a public university listed in ORS 352.002, or by the Oregon Health
25 and Science University, under ORS 350.370.

26 (9) “Final average salary” means whichever of the following is greater:

27 (a) The average salary per calendar year paid by one or more participat-
28 ing public employers to an employee who is an active member of the system
29 in three of the calendar years of membership before the effective date of re-
30 tirement of the employee, in which three years the employee was paid the
31 highest salary. The three calendar years in which the employee was paid the

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

8 (b) One-third of the total salary paid by a participating public employer
9 to an employee who is an active member of the system in the last 36 calendar
10 months of active membership before the effective date of retirement of the
11 employee.

12 (10) "Firefighter" does not include a volunteer firefighter, but does in-
13 clude:

14 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state
15 fire marshals; and

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

19 (11) "Fiscal year" means 12 calendar months commencing on July 1 and
20 ending on June 30 following.

21 (12) "Fund" means the Public Employees Retirement Fund.

22 (13) "Inactive member" means a member who is not employed in a quali-
23 fying position, whose membership has not been terminated in the manner
24 described by ORS 238.095 and who is not retired for service or disability.

25 (14) "Institution of higher education" means a public university listed in
26 ORS 352.002, the Oregon Health and Science University and a community
27 college, as defined in ORS 341.005.

28 (15) "Member" means a person who has established membership in the
29 system and whose membership has not been terminated as described in ORS
30 238.095. "Member" includes active, inactive and retired members.

31 (16) "Member account" means the regular account and the variable ac-

1 count.

2 (17) “Normal retirement age” means:

3 (a) For a person who establishes membership in the system before January
4 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires
5 at that age as a police officer or firefighter or 58 years of age if the employee
6 retires at that age as other than a police officer or firefighter.

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

11 (18) “Pension” means annual payments for life derived from contributions
12 by one or more public employers.

13 (19) “Police officer” includes:

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

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

23 (c) Employees of the Oregon Liquor Control Commission who are classi-
24 fied as regulatory specialists by the administrator of the commission.

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

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

30 (f) Police officers who are commissioned by a university under ORS
31 352.121 or 353.125 and who are classified as police officers by the university.

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

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

12 (i) Employees of the Port of Portland who are classified as airport police
13 by the Board of Commissioners of the Port of Portland.

14 (j) Employees of the State Department of Agriculture who are classified
15 as livestock police officers by the Director of Agriculture.

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

19 (L) Investigators of the Criminal Justice Division of the Department of
20 Justice.

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

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

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

26 (p) An employee who for seven consecutive years has been classified as
27 a police officer as defined by this section, and who is employed or transferred
28 by the Department of Corrections to fill a position designated by the Direc-
29 tor of the Department of Corrections as being eligible for police officer sta-
30 tus.

31 (q) An employee of the Department of Corrections classified as a police

1 officer on or prior to July 27, 1989, whether or not that classification was
2 authorized by law, as long as the employee remains in the position held on
3 July 27, 1989. The initial classification of an employee under a system im-
4 plemented pursuant to ORS 240.190 does not affect police officer status.

5 (r) Employees of a school district who are appointed and duly sworn
6 members of a law enforcement agency of the district as provided in ORS
7 332.531 or otherwise employed full-time as police officers commissioned by
8 the district.

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

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

17 (u) Employees of the Oregon Youth Authority who are classified as juve-
18 nile parole and probation officers.

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

23 (w) Employees of the Oregon State Hospital who are:

24 (A) Prohibited from striking under ORS 243.726; *[or]*

25 (B) Employed as **physicians licensed under ORS chapter 677**, registered
26 nurses or licensed practical nurses[.]; **or**

27 **(C) Required to be in areas populated by patients to perform the**
28 **primary function of the employees' positions.**

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

31 (21) "Public employer" means the state, one of its agencies or any city,

1 county, or municipal or public corporation, political subdivision of the state
2 or instrumentality thereof, or an agency created by one or more such gov-
3 ernmental organizations to provide governmental services. For purposes of
4 this chapter, such agency created by one or more governmental organizations
5 is a governmental instrumentality and a legal entity with power to enter into
6 contracts, hold property and sue and be sued.

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

12 (23) “Regular account” means the account established for each active and
13 inactive member under ORS 238.250.

14 (24) “Retired member” means a member who is retired for service or dis-
15 ability.

16 (25) “Retirement credit” means a period of time that is treated as credit-
17 able service for the purposes of this chapter.

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

23 (b) “Salary” includes but is not limited to:

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

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

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

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

31 (c) “Salary” or “other advantages” does not include:

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

3 (B) Payments for insurance coverage by an employer on behalf of em-
4 ployee or employee and dependents, for which the employee has no cash op-
5 tion;

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

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

8 (E) Any accelerated payment of an employment contract for a future pe-
9 riod or an advance against future wages;

10 (F) Any retirement incentive, retirement severance pay, retirement bonus
11 or retirement gratuitous payment;

12 (G) Payments for periods of leave of absence after the date the employer
13 and employee have agreed that no future services qualifying pursuant to ORS
14 238.015 (3) will be performed, except for sick leave and vacation;

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

20 (I) Payments made by an employer for insurance coverage provided to a
21 domestic partner of an employee;

22 (J) Compensation described and authorized under ORS 341.556 that is not
23 paid by the community college employing the faculty member;

24 (K) Compensation described and authorized under ORS 352.232 that is not
25 paid by the public university employing the officer or employee; or

26 (L) Compensation described and authorized under ORS 353.270 that is not
27 paid by Oregon Health and Science University.

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

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

31 (29) "Variable account" means the account established for a member who

1 participates in the Variable Annuity Account under ORS 238.260.

2 (30) “Vested” means being an active member of the system in each of five
3 calendar years.

4 (31) “Volunteer firefighter” means a firefighter whose position normally
5 requires less than 600 hours of service per year.

6 **SECTION 4. (1) The amendments to ORS 238.005 by section 3 of this
7 2019 Act become operative on June 30, 2021.**

8 **(2) The amendments to ORS 238.005 by section 3 of this 2019 Act
9 apply only to a person:**

10 **(a) Who is employed by the Oregon State Hospital on the operative
11 date specified in subsection (1) of this section as a physician licensed
12 under ORS chapter 677 or as a person who is required to be in areas
13 populated by patients to perform the primary function of the person’s
14 position; or**

15 **(b) Who becomes employed by the Oregon State Hospital after the
16 operative date specified in subsection (1) of this section as a physician
17 licensed under ORS chapter 677 or as a person who is required to be
18 in areas populated by patients to perform the primary function of the
19 person’s position.**

20 **(3) A person who is employed by the Oregon State Hospital under
21 subsection (2)(a) of this section and who was not entitled to service
22 as a police officer under the amendments to ORS 238.005 by section 1
23 of this 2019 Act is entitled to service under the Public Employees Re-
24 tirement System as a police officer only for service performed on or
25 after the operative date specified in subsection (1) of this section as
26 an employee of the Oregon State Hospital who is employed as a phy-
27 sician licensed under ORS chapter 677 or who is required to be in areas
28 populated by patients to perform the primary function of the person’s
29 position.**

30 **SECTION 5.** ORS 238.005, as amended by section 4, chapter 54, Oregon
31 Laws 2018, and sections 1 and 3 of this 2019 Act, is amended to read:

1 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

28 (7) "Earliest service retirement age" means the age attained by a member
29 when the member could first make application for retirement under the pro-
30 visions of ORS 238.280.

31 (8) "Employee" includes, in addition to employees, public officers, but

1 does not include:

2 (a) Persons engaged as independent contractors.

3 (b) Seasonal, emergency or casual workers whose periods of employment
4 with any public employer or public employers do not total 600 hours in any
5 calendar year.

6 (c) Persons provided sheltered employment or made-work by a public em-
7 ployer in an employment or industries program maintained for the benefit
8 of such persons.

9 (d) Persons employed and paid from federal funds received under a federal
10 program intended primarily to alleviate unemployment. However, any such
11 person shall be considered an “employee” if not otherwise excluded by para-
12 graphs (a) to (c) of this subsection and the public employer elects to have
13 the person so considered by an irrevocable written notice to the board.

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

18 (f) Persons employed in positions classified as post-doctoral scholar posi-
19 tions by a public university listed in ORS 352.002, or by the Oregon Health
20 and Science University, under ORS 350.370.

21 (9) “Final average salary” means whichever of the following is greater:

22 (a) The average salary per calendar year paid by one or more participat-
23 ing public employers to an employee who is an active member of the system
24 in three of the calendar years of membership before the effective date of re-
25 tirement of the employee, in which three years the employee was paid the
26 highest salary. The three calendar years in which the employee was paid the
27 largest total salary may include calendar years in which the employee was
28 employed for less than a full calendar year. If the number of calendar years
29 of active membership before the effective date of retirement of the employee
30 is three or fewer, the final average salary for the employee is the average
31 salary per calendar year paid by one or more participating public employers

1 to the employee in all of those years, without regard to whether the em-
2 ployee was employed for the full calendar year.

3 (b) One-third of the total salary paid by a participating public employer
4 to an employee who is an active member of the system in the last 36 calendar
5 months of active membership before the effective date of retirement of the
6 employee.

7 (10) "Firefighter" does not include a volunteer firefighter, but does in-
8 clude:

9 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state
10 fire marshals; and

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

14 (11) "Fiscal year" means 12 calendar months commencing on July 1 and
15 ending on June 30 following.

16 (12) "Fund" means the Public Employees Retirement Fund.

17 (13) "Inactive member" means a member who is not employed in a quali-
18 fying position, whose membership has not been terminated in the manner
19 described by ORS 238.095 and who is not retired for service or disability.

20 (14) "Institution of higher education" means a public university listed in
21 ORS 352.002, the Oregon Health and Science University and a community
22 college, as defined in ORS 341.005.

23 (15) "Member" means a person who has established membership in the
24 system and whose membership has not been terminated as described in ORS
25 238.095. "Member" includes active, inactive and retired members.

26 (16) "Member account" means the regular account and the variable ac-
27 count.

28 (17) "Normal retirement age" means:

29 (a) For a person who establishes membership in the system before January
30 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires
31 at that age as a police officer or firefighter or 58 years of age if the employee

1 retires at that age as other than a police officer or firefighter.

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

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

8 (19) "Police officer" includes:

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

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

18 (c) Employees of the Oregon Liquor Control Commission who are classi-
19 fied as regulatory specialists by the administrator of the commission.

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

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

25 (f) Police officers who are commissioned by a university under ORS
26 352.121 or 353.125 and who are classified as police officers by the university.

27 (g) Parole and probation officers employed by the Department of Cor-
28 rections, parole and probation officers who are transferred to county em-
29 ployment under ORS 423.549 and adult parole and probation officers, as
30 defined in ORS 181A.355, who are classified as police officers for the pur-
31 poses of this chapter by the county governing body. If a county classifies

1 adult parole and probation officers as police officers for the purposes of this
2 chapter, and the employees so classified are represented by a labor organ-
3 ization, any proposal by the county to change that classification or to cease
4 to classify adult parole and probation officers as police officers for the pur-
5 poses of this chapter is a mandatory subject of bargaining.

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

7 (i) Employees of the Port of Portland who are classified as airport police
8 by the Board of Commissioners of the Port of Portland.

9 (j) Employees of the State Department of Agriculture who are classified
10 as livestock police officers by the Director of Agriculture.

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

14 (L) Investigators of the Criminal Justice Division of the Department of
15 Justice.

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

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

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

21 (p) An employee who for seven consecutive years has been classified as
22 a police officer as defined by this section, and who is employed or transferred
23 by the Department of Corrections to fill a position designated by the Direc-
24 tor of the Department of Corrections as being eligible for police officer sta-
25 tus.

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

31 (r) Employees of a school district who are appointed and duly sworn

1 members of a law enforcement agency of the district as provided in ORS
2 332.531 or otherwise employed full-time as police officers commissioned by
3 the district.

4 (s) Employees at youth correction facilities and juvenile detention facili-
5 ties under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
6 to hold valid Oregon teaching licenses and who have supervisory, control or
7 teaching responsibilities over juveniles committed to the custody of the De-
8 partment of Corrections or the Oregon Youth Authority.

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

12 (u) Employees of the Oregon Youth Authority who are classified as juve-
13 nile parole and probation officers.

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

18 (w) Employees of the Oregon State Hospital. [*who are:*]

19 [(A) *Prohibited from striking under ORS 243.726;*]

20 [(B) *Employed as physicians licensed under ORS chapter 677, registered*
21 *nurses or licensed practical nurses; or*]

22 [(C) *Required to be in areas populated by patients to perform the primary*
23 *function of the employees' positions.*]

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

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

1 contracts, hold property and sue and be sued.

2 (22) “Qualifying position” means one or more jobs with one or more par-
3 ticipating public employers in which an employee performs 600 or more hours
4 of service in a calendar year, excluding any service in a job for which a
5 participating public employer does not provide benefits under this chapter
6 pursuant to an application made under ORS 238.035.

7 (23) “Regular account” means the account established for each active and
8 inactive member under ORS 238.250.

9 (24) “Retired member” means a member who is retired for service or dis-
10 ability.

11 (25) “Retirement credit” means a period of time that is treated as credit-
12 able service for the purposes of this chapter.

13 (26)(a) “Salary” means the remuneration paid an employee in cash out of
14 the funds of a public employer in return for services to the employer, plus
15 the monetary value, as determined by the Public Employees Retirement
16 Board, of whatever living quarters, board, lodging, fuel, laundry and other
17 advantages the employer furnishes the employee in return for services.

18 (b) “Salary” includes but is not limited to:

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

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

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

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

26 (c) “Salary” or “other advantages” does not include:

27 (A) Travel or any other expenses incidental to employer’s business which
28 is reimbursed by the employer;

29 (B) Payments for insurance coverage by an employer on behalf of em-
30 ployee or employee and dependents, for which the employee has no cash op-
31 tion;

- 1 (C) Payments made on account of an employee's death;
- 2 (D) Any lump sum payment for accumulated unused sick leave;
- 3 (E) Any accelerated payment of an employment contract for a future pe-
4 riod or an advance against future wages;
- 5 (F) Any retirement incentive, retirement severance pay, retirement bonus
6 or retirement gratuitous payment;
- 7 (G) Payments for periods of leave of absence after the date the employer
8 and employee have agreed that no future services qualifying pursuant to ORS
9 238.015 (3) will be performed, except for sick leave and vacation;
- 10 (H) Payments for instructional services rendered to public universities
11 listed in ORS 352.002 or the Oregon Health and Science University when
12 such services are in excess of full-time employment subject to this chapter.
13 A person employed under a contract for less than 12 months is subject to this
14 subparagraph only for the months to which the contract pertains;
- 15 (I) Payments made by an employer for insurance coverage provided to a
16 domestic partner of an employee;
- 17 (J) Compensation described and authorized under ORS 341.556 that is not
18 paid by the community college employing the faculty member;
- 19 (K) Compensation described and authorized under ORS 352.232 that is not
20 paid by the public university employing the officer or employee; or
- 21 (L) Compensation described and authorized under ORS 353.270 that is not
22 paid by Oregon Health and Science University.
- 23 (27) "School year" means the period beginning July 1 and ending June 30
24 next following.
- 25 (28) "System" means the Public Employees Retirement System.
- 26 (29) "Variable account" means the account established for a member who
27 participates in the Variable Annuity Account under ORS 238.260.
- 28 (30) "Vested" means being an active member of the system in each of five
29 calendar years.
- 30 (31) "Volunteer firefighter" means a firefighter whose position normally
31 requires less than 600 hours of service per year.

1 **SECTION 6. (1) The amendments to ORS 238.005 by section 5 of this**
2 **2019 Act become operative on June 30, 2023.**

3 **(2) The amendments to ORS 238.005 by section 5 of this 2019 Act**
4 **apply only to a person:**

5 **(a) Who is employed by the Oregon State Hospital on the operative**
6 **date specified in subsection (1) of this section; or**

7 **(b) Who becomes employed by the Oregon State Hospital after the**
8 **operative date specified in subsection (1) of this section.**

9 **(3) A person who is employed by the Oregon State Hospital under**
10 **subsection (2)(a) of this section and who was not entitled to service**
11 **as a police officer under the amendments to ORS 238.005 by section 1**
12 **or 3 of this 2019 Act is entitled to service under the Public Employees**
13 **Retirement System as a police officer only for service performed on**
14 **or after the operative date specified in subsection (1) of this section.**

15 **SECTION 7. This 2019 Act being necessary for the immediate pres-**
16 **ervation of the public peace, health and safety, an emergency is de-**
17 **clared to exist, and this 2019 Act takes effect on its passage.**

18