

Senate Bill 148

Sponsored by Senator KNOPP (Presession 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**.

Requires members of Public Employees Retirement System to elect to participate in pension programs and traditional individual account program, or to participate in alternative individual account program, on and after July 1, 2020.

For traditional individual account program, requires employee contributions of six percent of salary, to be used to pay costs of pension or other benefits payable to member upon retirement.

For alternative individual account program, requires employee contributions of six percent of salary and employer contributions of six percent of salary. Provides for lump sum payment or annuitization of account upon retirement.

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

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238A.100, 238A.320,
3 238A.330, 238A.350, 238A.370, 238A.375, 238A.400, 238A.410, 243.800 and 341.551; and declaring
4 an emergency.

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

6 **SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS chapter**
7 **238A.**

8 **SECTION 2. (1) Before the first day of the month after an eligible employee who is em-**
9 **ployed in a qualifying position completes six full calendar months of employment, the eligible**
10 **employee shall elect:**

11 **(a) To become a member of the pension program under ORS 238A.100 and to participate**
12 **in the traditional individual account program on the first day of the month after the em-**
13 **ployee completes six full calendar months of employment; or**

14 **(b) To participate in the alternative individual account program on the first day of the**
15 **month after the employee completes six full calendar months of employment and to decline**
16 **to become a member of the pension program under ORS 238A.100.**

17 **(2) An election under this section is irrevocable.**

18 **SECTION 3. (1) On July 1, 2020, an active member of the pension program shall elect:**

19 **(a) To remain a member of the pension program and to remain a member of the tradi-**
20 **tional individual account program, on July 1, 2020; or**

21 **(b) To become a member of the alternative individual account program on July 1, 2020.**

22 **(2) On July 1, 2020, an active member as defined in ORS 238.005 shall elect:**

23 **(a) To continue to accrue benefits under ORS chapter 238 and to participate in the tra-**
24 **ditional individual account program, on July 1, 2020; or**

25 **(b) To participate in the alternative individual account program on July 1, 2020.**

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 **(3) An inactive member of the pension program who returns to active membership on**
2 **or after July 1, 2020, shall elect, on the date the member returns to active membership:**

3 **(a) To remain a member of the pension program and to participate in the traditional in-**
4 **dividual account program; or**

5 **(b) To participate in the alternative individual account program on the date the member**
6 **returns to active membership.**

7 **(4) An inactive member as defined in ORS 238.005 who returns to active membership on**
8 **or after July 1, 2020, shall elect, on the date the member returns to active membership:**

9 **(a) To continue to accrue benefits under ORS chapter 238 and to participate in the tra-**
10 **ditional individual account program; or**

11 **(b) To participate in the alternative individual account program on the date the member**
12 **returns to active membership.**

13 **(5)(a) A member who elects to participate in the alternative individual account program**
14 **under this section, who has creditable service under ORS chapter 238 as defined by ORS**
15 **238.005 and who is not vested shall be considered by the Public Employees Retirement Board**
16 **to be a terminated member under the provisions of ORS 238.095 as of the date of the election,**
17 **and the amount credited to the member account of the member shall be transferred directly**
18 **to the alternative employee account established for the member under ORS 238A.350 by the**
19 **board.**

20 **(b) A member who elects to participate in the alternative individual account program**
21 **under this section, who has creditable service under ORS chapter 238 as defined by ORS**
22 **238.005 and who is vested shall be considered to be an inactive member by the board as of**
23 **the date of the election and shall retain all the rights, privileges and options under ORS**
24 **chapter 238 unless the member makes a written request to the board for a transfer of the**
25 **amounts credited to the member account of the member to the alternative employee account**
26 **established for the member under ORS 238A.350. A request for a transfer must be made at**
27 **the time the member elects to participate in the alternative individual account program.**
28 **Upon receiving the request, the board shall transfer all amounts credited to the member**
29 **account of the member directly to the alternative employee account established for the**
30 **member under ORS 238A.350, and shall terminate all rights, privileges and options of the**
31 **member under ORS chapter 238.**

32 **(c) A member who elects to participate in the alternative individual account program**
33 **under this section and who is not a vested member of the pension program as described in**
34 **ORS 238A.115 on the date of the election shall be considered to be a terminated member of**
35 **the pension program by the board as of the date of the election.**

36 **(d) A member who elects to participate in the alternative individual account program**
37 **under this section and who is a vested member of the pension program as described in ORS**
38 **238A.115 on June 30, 2020, shall be considered an inactive member of the pension program**
39 **by the board as of the date of the election. A member who is subject to the provisions of this**
40 **paragraph retains all the rights, privileges and options of an inactive member of the pension**
41 **program. If the actuarial equivalent of the member's benefit under the pension program at**
42 **the time that the election becomes effective is \$5,000 or less, the member may make a**
43 **written request to the board for a transfer of the member's interest under the pension pro-**
44 **gram to the alternative employee account established for the member under ORS 238A.350.**
45 **The request must be made at the time the member elects to participate in the alternative**

1 individual account program. Upon receiving the request, the board shall transfer the amount
 2 determined to be the actuarial equivalent of the member's benefit under the pension program
 3 directly to the alternative employee account established for the member under ORS 238A.350,
 4 and shall terminate the membership of the member in the pension program.

5 (e) Notwithstanding paragraphs (b) and (d) of this subsection, the board may not treat
 6 any member as an inactive member of the pension program or as an inactive member as
 7 defined in ORS 238.005 under the provisions of this subsection for the purpose of receiving
 8 any benefit under ORS chapter 238 or 238A that requires that the member be separated from
 9 all service with participating public employers and with employers who are treated as part
 10 of a participating public employer's controlled group under the federal laws and rules gov-
 11 erning the status of the Public Employees Retirement System and the Public Employees
 12 Retirement Fund as a qualified governmental retirement plan and trust.

13 (6) Any amounts transferred under subsection (5) of this section shall be transferred di-
 14 rectly to the individual account program and may not be made available to the member.

15 (7) This section does not apply to a judge member as defined in ORS 238.500.

16 (8) An election under this section is irrevocable.

17 **SECTION 4.** (1) Section 2 of this 2019 Act applies to persons who become active members
 18 of the pension program of the Oregon Public Service Retirement Plan, after July 1, 2020.

19 (2) Section 3 of this 2019 Act applies to persons who are active members of the pension
 20 program of the Oregon Public Service Retirement Plan or active members as defined in ORS
 21 238.005 on July 1, 2020, and persons who return to active membership after being an inactive
 22 member of the Public Employees Retirement System on or after July 1, 2020.

23 **SECTION 5.** ORS 238A.100 is amended to read:

24 238A.100. (1)(a) Except as provided by subsection (2) of this section **and section 2 of this 2019**
 25 **Act**, an eligible employee who is employed in a qualifying position on or after August 29, 2003, by
 26 a public employer that is participating in the pension program and who will not receive benefits
 27 under ORS chapter 238 for service with the participating public employer pursuant to the provisions
 28 of ORS 238A.025 becomes a member of the pension program on the first day of the month after the
 29 employee completes six full calendar months of employment. The six-month requirement may not be
 30 interrupted by more than 30 consecutive working days.

31 (b) Employer contributions for new members of the pension program shall first be made under
 32 ORS 238A.220 for those wages that are attributable to services performed by the employee during
 33 the first full pay period following the six-month period, without regard to when those wages are
 34 considered earned for other purposes under this chapter.

35 (2) A person who is elected or appointed to an office with a fixed term other than as a member
 36 of the Legislative Assembly, or who is appointed by the Governor to an office as head of a depart-
 37 ment, may elect not to become a member of the pension program by giving the Public Employees
 38 Retirement Board written notice not later than 30 days after taking office. An election under this
 39 subsection also operates as an election not to become a member of the individual account program.
 40 An election under this subsection is irrevocable during the term of office for which the election is
 41 made.

42 **SECTION 6.** ORS 238A.330 is amended to read:

43 238A.330. (1)(a) A member *[of]* **who elects to participate in the traditional** individual account
 44 program **under section 2 or 3 of this 2019 Act** must make employee contributions to the individual
 45 account program of six percent of the member's salary.

1 [(2)] (b) Employee contributions made by a member of the individual account program under this
 2 [section] subsection shall be credited by the board to the [employee] contributions account estab-
 3 lished for the member under ORS 238A.350 [(2)] (3).

4 (2)(a) A member who elects to participate in the alternative individual account program
 5 under section 2 or 3 of this 2019 Act must make employee contributions to the individual
 6 account program of six percent of the member's salary.

7 (b) A participating public employer that employs a member who elects to participate in
 8 the alternative individual account program under section 2 or 3 of this 2019 Act must make
 9 employer contributions to the individual account program for the member of six percent of
 10 the member's salary.

11 (c) Employee contributions made by a member of the individual account program under
 12 this subsection shall be credited by the board to the alternative employee account established
 13 for the member under ORS 238A.350 (6).

14 (3) A new member of the individual account program and the member's employer shall first
 15 make contributions under this section for those wages that are attributable to services performed
 16 by the employee during the first full pay period following the six-month probationary period required
 17 under ORS 238A.300, without regard to when those wages are considered earned for other purposes
 18 under this chapter.

19 **SECTION 7.** ORS 238A.350 is amended to read:

20 238A.350. (1) Upon any contributions being made to the individual account program by or on
 21 behalf of a member of the program, the Public Employees Retirement Board shall create the account
 22 or accounts described in this section. Each account shall be adjusted at least annually in accordance
 23 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
 24 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
 25 the assets of the program are insufficient to pay those costs. The adjustments described in this
 26 subsection shall continue until the account is distributed to the member [or], forfeited or applied
 27 to pay the costs of a pension or other retirement benefits under subsection (3) of this
 28 section.

29 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 30 tributions made by or on behalf of the member under ORS 238A.330 before July 1, 2020, as ad-
 31 justed under subsection (1) of this section.

32 (b) The board shall create a separate employee account for a member who becomes an active
 33 member for the purpose of service in the Legislative Assembly under ORS 237.650, which shall
 34 consist of the employee contributions made by or on behalf of the member under ORS 238A.330
 35 before July 1, 2020, that are attributable to the member's legislative service, as adjusted under
 36 subsection (1) of this section.

37 (3)(a) The board shall establish a contributions account, which shall consist of the em-
 38 ployee contributions made by or on behalf of the member under ORS 238A.330 on and after
 39 July 1, 2020, as adjusted under subsection (1) of this section.

40 (b) Unless the amounts in a contributions account established under this subsection are
 41 withdrawn under ORS 238A.375, the amounts in the account shall be applied by the board to
 42 pay the costs of the pension or other retirement benefits payable to the member or the
 43 member's beneficiary under this chapter or ORS chapter 238 that are earned on or after July
 44 1, 2020.

45 (c) If the amounts in the contributions account established under this subsection exceed

1 **the actuarially projected costs of the pension or other retirement benefits payable to the**
 2 **member or the member's beneficiary under this chapter or ORS chapter 238 that are earned**
 3 **on or after July 1, 2020, the board shall refund the excess amounts to the member upon re-**
 4 **irement.**

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

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

12 **(6) The board shall create an alternative employee account for each member who elects**
 13 **to participate in the alternative individual account program under section 2 or 3 of this 2019**
 14 **Act, which shall consist of the contributions made by or on behalf of the member under ORS**
 15 **238A.330 (2), as adjusted under subsection (1) of this section.**

16 [(5)] (7) The board shall provide an annual statement to each active and inactive member of the
 17 program that reflects the amount credited to the accounts established under this section. The
 18 statement shall reflect whether the member is vested in the employer account under the provisions
 19 of ORS 238A.320.

20 **SECTION 8.** ORS 238A.320 is amended to read:

21 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 22 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 23 tablished.

24 (2) A member who makes rollover contributions becomes vested in the rollover account estab-
 25 lished for the member under ORS 238A.350 [(4)] (5) on the date the rollover account is established.

26 **(3) A member becomes vested in the contributions account established for the member**
 27 **under ORS 238A.350 (3) on the date the account is established.**

28 [(3)] (4) Except as provided in subsection [(4)] (6) of this section, if an employer makes employer
 29 contributions for a member under ORS 238A.340, the member becomes vested in the employer ac-
 30 count established under ORS 238A.350 [(3)] (4) on the earliest of the following dates:

31 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 32 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 33 subsection [(5)] (7) of this section.

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

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

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

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

40 **(5) A member who elects to participate in the alternative individual account program**
 41 **under section 2 or 3 of this 2019 Act becomes vested in the alternative employee account**
 42 **established for the member under ORS 238A.350 (6) on the date the alternative employee**
 43 **account is established.**

44 [(4)] (6) If on the date that a person becomes an active member the person has already reached
 45 the normal retirement age for the person under ORS 238A.160, and the employer makes employer

1 contributions for the member under ORS 238A.340, the person is vested in the employer account
2 established under ORS 238A.350 [(3)] (4) on that date.

3 [(5)] (7) If a member of the individual account program who is not vested in the employer ac-
4 count performs fewer than 600 hours of service in each of five consecutive calendar years, hours
5 of service performed before the first calendar year of the period of five consecutive calendar years
6 shall be disregarded for purposes of determining whether the member is vested under subsection
7 [(3)(a)] (4)(a) of this section.

8 [(6)] (8) Solely for purposes of determining whether a member is vested under subsection
9 [(3)(a)] (4)(a) of this section, hours of service include creditable service, as defined in ORS 238.005,
10 performed by the person before the person became an eligible employee, as long as the membership
11 of the person under ORS chapter 238 has not been terminated under the provisions of ORS 238.095
12 on the date the person becomes an eligible employee.

13 **SECTION 9.** ORS 238A.370, as amended by section 7, chapter 101, Oregon Laws 2018, is
14 amended to read:

15 238A.370. Notwithstanding any other provision of ORS 238A.300 to 238A.415, the annual addition
16 to the employee **account, alternative employee account** and employer [*accounts*] **account** of a
17 member of the individual account program for a calendar year, together with the annual additions
18 to the accounts of the member under any other defined contribution plan maintained by the partic-
19 ipating public employer for a calendar year, may not exceed the lesser of \$40,000, or 100 percent
20 of the member's compensation for that calendar year. For purposes of this section, "annual
21 addition" has the meaning given that term in 26 U.S.C. 415(c)(2), as in effect on December 31, 2017,
22 and "compensation" has the meaning given the term "participant's compensation" in 26 U.S.C.
23 415(c)(3), as in effect on December 31, 2017. The Public Employees Retirement Board shall adopt
24 rules for the administration of this limitation, including adjustments in the annual dollar limitation
25 to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

26 **SECTION 10.** ORS 238A.375 is amended to read:

27 238A.375. (1)(a) An inactive member of the individual account program may elect to receive a
28 distribution of the amounts in the member's employee account, **alternative employee account,**
29 rollover account and employer account to the extent the member is vested in those accounts under
30 ORS 238A.320 if the inactive member has separated from all service with participating public em-
31 ployers and with employers who are treated as part of a participating public employer's controlled
32 group under the federal laws and rules governing the status of the system and the fund as a quali-
33 fied governmental retirement plan and trust.

34 **(b)(A) An inactive member of the individual account program may elect to receive a dis-**
35 **tribution of the amounts in the member's contributions account established for the member**
36 **under ORS 238A.350 (3) if:**

37 **(i) The inactive member has separated from all service with participating public employ-**
38 **ers and with employers who are treated as part of a participating public employer's con-**
39 **trolled group under the federal laws and rules governing the status of the system and the**
40 **fund as a qualified governmental retirement plan and trust; and**

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

43 **(B) The withdrawal of the member's accounts under this paragraph cancels all member-**
44 **ship rights in the Public Employees Retirement System.**

45 (2) If an inactive member of the individual account program who is not vested in the employer

1 account receives a distribution under subsection (1) of this section, the employer account of the
2 member is permanently forfeited as of the date of the distribution.

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

5 (4) A member who is vested in the pension program established under this chapter and who is
6 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this
7 section only if the member also withdraws from the pension program.

8 (5) A member who has a member account established under ORS chapter 238 may make an
9 election under this section only if the member also withdraws that member account in the manner
10 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make
11 an election under this section only if the member also withdraws the account established under ORS
12 238.440.

13 [(5)] (6) If an inactive member receives a distribution under subsection (1) of this section and is
14 subsequently reemployed by a participating public employer, any service performed before the date
15 the member became an inactive member may not be used toward the period of service required for
16 vesting in the employer account under ORS 238A.320.

17 **SECTION 11.** ORS 238A.400, as amended by section 8, chapter 101, Oregon Laws 2018, is
18 amended to read:

19 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
20 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
21 the member's employee account, **alternative employee account**, rollover account and employer
22 account to the extent the member is vested in those accounts under ORS 238A.320.

23 (2)(a)(A) In lieu of a lump sum payment under subsection (1) of this section, a member of the
24 individual account program may elect to receive the amounts in the member's employee account and
25 employer account, to the extent the member is vested in those accounts under ORS 238A.320, in
26 substantially equal installments paid over a period of 5, 10, 15 or 20 years, or over a period that is
27 equal to the anticipated life span of the member as actuarially determined by the Public Employees
28 Retirement Board.

29 (B) Installments may be made on a monthly, quarterly or annual basis. In no event may the
30 period selected by the member exceed the time allowed by the minimum distribution requirements
31 described in subsection (5) of this section.

32 (C) The board shall by rule establish the manner in which installments will be adjusted to re-
33 flect investment gains and losses on the unpaid balance during the payout period elected by the
34 member under this [subsection] **paragraph**. The board by rule may establish minimum monthly
35 amounts payable under this [subsection] **paragraph**.

36 (D) The board may require that a lump sum payment, or an installment schedule different
37 [than] **from** the schedules provided for in this subsection, be used to pay the vested amounts in the
38 member's accounts if those amounts are not adequate to generate the minimum monthly amounts
39 specified by the rule.

40 (b)(A) **In lieu of a lump sum payment under subsection (1) of this section, a member of**
41 **the individual account program may elect to receive the amounts in the member's alterna-**
42 **tive employee account, to the extent the member is vested in that account under ORS**
43 **238A.320, in substantially equal installments over a period that is equal to the anticipated life**
44 **span of the member as actuarially determined by the board.**

45 (B) **For purposes of calculating payments under this paragraph, the board shall use, at**

1 the member's election, the assumed earnings rate for the system or the assumed earnings
2 rate for the system minus any amount assumed for inflation. If the member elects to use
3 the assumed earnings rate for the system minus any amount assumed for inflation, the
4 board shall increase the payment each year as provided in ORS 238A.210.

5 (C) Installments may be made on a monthly, quarterly or annual basis. In no event may
6 the period selected by the member exceed the time allowed by the minimum distribution re-
7 quirements described in subsection (5) of this section.

8 (D) The board shall by rule establish the manner in which installments will be adjusted
9 to reflect investment gains and losses on the unpaid balance during the payout period elected
10 by the member under this paragraph. The board by rule may establish minimum monthly
11 amounts payable under this paragraph.

12 (E) The board may require that a lump sum payment, or an installment schedule differ-
13 ent from the schedules provided for in this paragraph, be used to pay the vested amounts in
14 the member's accounts if those amounts are not adequate to generate the minimum monthly
15 amounts specified by the rule.

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

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

25 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
26 member of the individual account program must be distributed over a time period commencing no
27 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
28 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
29 plementing that section, as in effect on December 31, 2017. The board shall adopt rules implementing
30 those minimum distribution requirements.

31 **SECTION 12.** ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is
32 amended to read:

33 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
34 amounts in the member's employee account, **alternative employee account**, rollover account and
35 employer account, to the extent the member is vested in those accounts under ORS 238A.320, shall
36 be paid in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes
37 of this section.

38 (b) **If a member of the individual account program dies before retirement, the amounts**
39 **in the contributions account established for the member under ORS 238A.350 (3) shall be**
40 **applied by the Public Employees Retirement Board to pay the costs of any benefit payable**
41 **under ORS 238A.230. If the amounts in the contributions account exceed the costs of the**
42 **benefit payable under ORS 238A.230, the excess amounts shall be paid in a lump sum to the**
43 **beneficiary or beneficiaries designated by the member for the purposes of this section.**

44 (2) If a member of the individual account program is married at the time of death, or there exists
45 at the time of death any other person who is constitutionally required to be treated in the same

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

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

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

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

18 (c) The member's estate.

19 (4) The entire amount of a deceased member's vested accounts must be distributed by December
 20 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 21 provision of this chapter, distributions of death benefits under the individual account program must
 22 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 23 plementing that section, as in effect on December 31, 2017. The [*Public Employees Retirement*] board
 24 shall adopt rules implementing those minimum distribution requirements.

25 **SECTION 13.** ORS 243.800 is amended to read:

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

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

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

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

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

1 requirements of subsection (2) of this section.

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

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

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

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

13 (6)(a) An administrative or academic employee who elects to participate in the Optional Retirement
14 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
15 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
16 member under the provisions of ORS 238.095 as of the effective date of the election, and the
17 [amount] **amounts** credited to the member [account] **accounts** of the member **established under**
18 **ORS 238.250 and 238.260** shall be transferred directly to the Optional Retirement Plan by the Public
19 Employees Retirement Board in the manner provided by subsection (7) of this section.

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

32 (c) [An administrative or academic employee who elects to participate in the Optional Retirement
33 Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement
34 Plan as described in ORS 238A.115] **An administrative or academic employee who elects to**
35 **participate in the Optional Retirement Plan and who is a member of the pension program**
36 **of the Oregon Public Service Retirement Plan as described in ORS 238A.100 on the date that**
37 **the election becomes effective, but who has not vested in the program under ORS 238A.115**
38 on the date that the election becomes effective, shall be considered to be a terminated member of
39 the pension program by the Public Employees Retirement Board as of the effective date of the
40 election. **The board shall transfer the amounts credited to the member accounts of the**
41 **member directly to the Optional Retirement Plan.**

42 (d) An administrative or academic employee who elects to participate in the Optional Retirement
43 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
44 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-
45 ered an inactive member of the pension program by the Public Employees Retirement Board as of

1 the effective date of the election. An employee who is subject to the provisions of this paragraph
2 retains all the rights, privileges and options of an inactive member of the pension program. If the
3 actuarial equivalent of the employee's benefit under the pension program at the time that the
4 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
5 Employees Retirement Board for a transfer of the employee's interest under the pension program to
6 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
7 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
8 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
9 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
10 bership of the employee in the pension program.

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

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

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

37 (8) An employee participating in the Optional Retirement Plan who was hired before July 1,
38 2014, shall contribute monthly an amount equal to the percentage of the employee's salary that the
39 employee would otherwise have contributed as an employee contribution to the Public Employees
40 Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

41 (9) For an employee participating in the Optional Retirement Plan who was hired before July
42 1, 2014, the governing board shall contribute monthly to the Optional Retirement Plan the percent-
43 age of salary of the employee equal to the percentage of salary that would otherwise have been
44 contributed as an employer contribution on behalf of the employee to the Public Employees Retire-
45 ment System, before any offset under ORS 238.229 (2), if the employee had not elected to participate

1 in the Optional Retirement Plan.

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

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

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

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

12 (b) Participation in the Optional Retirement Plan under this subsection becomes effective on the
13 first day of the month following the later of:

14 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
15 243.820; or

16 (B) Completion of:

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

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

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

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

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

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

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

37 **SECTION 14.** ORS 341.551 is amended to read:

38 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Office of Community
39 Colleges and Workforce Development may establish and administer an optional retirement plan for
40 administrative employees of community college districts who are eligible for membership in the
41 Public Employees Retirement System. Any community college district may participate in the plan
42 by giving written notice to the office.

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

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

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

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

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

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

26 (b) An administrative employee who elects to participate in the optional retirement plan, who
 27 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
 28 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
 29 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
 30 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
 31 member [account] **accounts** of the member **established under ORS 238.250 and 238.260** to the op-
 32 tional retirement plan. A request for a transfer must be made at the time the member elects to
 33 participate in the optional retirement plan. Upon receiving the request, the Public Employees Re-
 34 tirement Board shall transfer all amounts credited to the member [account] **accounts** of the member
 35 **established under ORS 238.250 and 238.260** directly to the optional retirement plan and shall ter-
 36 minate all rights, privileges and options of the employee [under ORS chapter 238] **as provided in**
 37 **ORS 238.095.**

38 (c) [An administrative employee who elects to participate in the optional retirement plan and who
 39 is not a vested member of the pension program of the Oregon Public Service Retirement Plan as de-
 40 scribed in ORS 238A.115] **An administrative employee who elects to participate in the optional**
 41 **retirement plan and who is a member of the pension program of the Oregon Public Service**
 42 **Retirement Plan as described in ORS 238A.100 on the date that the election becomes effec-**
 43 **tive, but who has not vested in the program under ORS 238A.115** on the date that the election
 44 becomes effective, shall be considered to be a terminated member of the pension program by the
 45 Public Employees Retirement Board as of the effective date of the election. **The board shall**

1 **transfer the amounts credited to the member accounts of the member directly to the op-**
2 **tional retirement plan in the manner provided by subsection (6) of this section.**

3 (d) An administrative employee who elects to participate in the optional retirement plan and
4 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
5 described in ORS 238A.115 on the date that the election becomes effective shall be considered an
6 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
7 fective date of the election. An employee who is subject to the provisions of this paragraph retains
8 all the rights, privileges and options of an inactive member of the pension program. If the actuarial
9 equivalent of the employee's benefit under the pension program at the time that the election be-
10 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees
11 Retirement Board for a transfer of the employee's interest under the pension program to the optional
12 retirement plan. The request must be made at the time the member elects to participate in the op-
13 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall
14 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the
15 pension program directly to the optional retirement plan and shall terminate the membership of the
16 employee in the pension program.

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

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

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

43 (7) An employee participating in the optional retirement plan shall contribute monthly an
44 amount equal to the percentage of the employee's salary that the employee would otherwise have
45 contributed as an employee contribution to the Public Employees Retirement System if the employee

1 had not elected to participate in the optional retirement plan.

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

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

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

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

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

18 (10) For the purposes of this section, “administrative employee” means a president, vice presi-
 19 dent or dean, or a person holding a position that is the equivalent of a president, vice president or
 20 dean.

21
 22 **OPERATIVE DATE**
 23

24 **SECTION 15. (1) The amendments to ORS 238A.330 by section 6 of this 2019 Act become**
 25 **operative on July 1, 2020.**

26 **(2) The Public Employees Retirement Board may take any action before the operative**
 27 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
 28 **the operative date specified in subsection (1) of this section, all the duties, functions and**
 29 **powers conferred on the board by the amendments to ORS 238A.330 by section 6 of this 2019**
 30 **Act.**

31
 32 **RECALCULATION OF EMPLOYER RATES**
 33

34 **SECTION 16. (1) As soon as practicable after the effective date of this 2019 Act, the**
 35 **Public Employees Retirement Board shall:**

36 **(a) Determine the amount of savings in employer contributions that are attributable to**
 37 **the provisions of this 2019 Act; and**

38 **(b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-**
 39 **fect the provisions of this 2019 Act.**

40 **(2) The board shall issue corrected contribution rate orders to employers affected by**
 41 **rates recalculated under this section as soon as is practicable after the effective date of this**
 42 **2019 Act. The corrected rates are effective July 1, 2019.**

43
 44 **REVIEW BY SUPREME COURT**
 45

