

Senate Bill 343

Sponsored by Senator BAERTSCHIGER JR (Pre-session filed.)

SUMMARY

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

Redirects employee contribution to Public Employees Retirement System to account to be transferred to School Districts Unfunded Liability Fund upon employee's 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 employee contributions to the Public Employees Retirement System; creating new pro-
3 visions; amending ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410, 243.800 and 341.551;
4 and declaring an emergency.

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

REDIRECTION OF EMPLOYEE CONTRIBUTIONS

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9 **SECTION 1.** ORS 238A.330 is amended to read:

10 238A.330. (1) A member of the individual account program must make employee contributions
11 to the individual account program of six percent of the member's salary.

12 (2) Employee contributions made by a member of the individual account program under this
13 section shall be credited by the board to the [*employee*] **contributions** account established for the
14 member under ORS 238A.350 [(2)] **(3)**.

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

19 **SECTION 2.** 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 trans-**
27 **ferred to the School Districts Unfunded Liability Fund established in section 24, chapter 105,**
28 **Oregon Laws 2018, as provided in subsection (3) of this section.**

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 (2)(a) The board shall establish an employee account, which shall consist of the employee con-
 2 tributions made by or on behalf of the member **before January 1, 2020**, as adjusted under subsection
 3 (1) of this section.

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

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

11 **(b) Unless the amounts in a contributions account established under this subsection are
 12 withdrawn under ORS 238A.375, upon the member's retirement the amounts in the account
 13 shall be transferred to the School Districts Unfunded Liability Fund established in section
 14 24, chapter 105, Oregon Laws 2018.**

15 [(3)] (4) If the public employer agrees to make employer contributions under ORS 238A.340, the
 16 board shall establish an employer account, which shall consist of the employer contributions made
 17 on behalf of the member as adjusted under subsection (1) of this section.

18 [(4)] (5) If the board accepts rollover contributions on behalf of the member, the board shall
 19 establish a rollover account, which shall consist of the rollover contributions made by the member
 20 as adjusted under subsection (1) of this section. Contributions and the earnings attributable to the
 21 contributions must be accounted for separately.

22 [(5)] (6) The board shall provide an annual statement to each active and inactive member of the
 23 program that reflects the amount credited to the accounts established under this section. The
 24 statement shall reflect whether the member is vested in the employer account under the provisions
 25 of ORS 238A.320.

26 **SECTION 3.** ORS 238A.320 is amended to read:

27 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 28 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 29 tablished.

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

32 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-
 33 butions for a member under ORS 238A.340, the member becomes vested in the employer account
 34 established under ORS 238A.350 [(3)] (4) on the earliest of the following dates:

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

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

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

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

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

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

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

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

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

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

15 **SECTION 4.** ORS 238A.375 is amended to read:

16 238A.375. (1)(a) An inactive member of the individual account program may elect to receive a
 17 distribution of the amounts in the member's employee account, rollover account and employer ac-
 18 count to the extent the member is vested in those accounts under ORS 238A.320 if the inactive
 19 member has separated from all service with participating public employers and with employers who
 20 are treated as part of a participating public employer's controlled group under the federal laws and
 21 rules governing the status of the system and the fund as a qualified governmental retirement plan
 22 and trust.

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

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

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

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

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

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

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

42 (5) A member who has a member account established under ORS chapter 238 may make an
 43 election under this section only if the member also withdraws that member account in the manner
 44 provided by ORS 238.265. A member who has an account established under ORS 238.440 may make
 45 an election under this section only if the member also withdraws the account established under ORS

1 238.440.

2 [(5)] (6) If an inactive member receives a distribution under subsection (1) of this section and is
 3 subsequently reemployed by a participating public employer, any service performed before the date
 4 the member became an inactive member may not be used toward the period of service required for
 5 vesting in the employer account under ORS 238A.320.

6 **SECTION 5.** ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is
 7 amended to read:

8 238A.410. (1)(a) If a member of the individual account program dies before retirement, the
 9 amounts in the member's employee account, rollover account and employer account, to the extent
 10 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the
 11 beneficiary or beneficiaries designated by the member for the purposes of this section.

12 **(b) If a member of the individual account program dies before retirement, the amounts**
 13 **in the contributions account established for the member under ORS 238A.350 (3) shall be**
 14 **transferred to the School Districts Unfunded Liability Fund established in section 24, chapter**
 15 **105, Oregon Laws 2018.**

16 (2) If a member of the individual account program is married at the time of death, or there exists
 17 at the time of death any other person who is constitutionally required to be treated in the same
 18 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the
 19 beneficiary for purposes of the death benefit payable under this section unless the spouse or other
 20 person consents to the designation of a different beneficiary or beneficiaries before the designation
 21 has been made and the consent has not been revoked by the spouse or other person as of the time
 22 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a
 23 notary public, and submitted to the Public Employees Retirement Board in accordance with rules
 24 adopted by the board. If the member's spouse is designated as the member's beneficiary and the
 25 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as
 26 predeceasing the member for purposes of this section, unless the member expressly designates the
 27 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-
 28 quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

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

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

35 (c) The member's estate.

36 (4) The entire amount of a deceased member's vested accounts must be distributed by December
 37 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 38 provision of this chapter, distributions of death benefits under the individual account program must
 39 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 40 plementing that section, as in effect on December 31, 2017. The [*Public Employees Retirement*] board
 41 shall adopt rules implementing those minimum distribution requirements.

42 **SECTION 6.** ORS 243.800 is amended to read:

43 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
 44 243.945, the governing board of a public university listed in ORS 352.002 shall establish and admin-
 45 ister an Optional Retirement Plan for administrative and academic employees of the public univer-

1 sity. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code,
2 capable of accepting funds transferred under subsection (7) of this section without the transfer being
3 treated as a taxable event under the Internal Revenue Code, and willing to accept those funds.
4 Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts,
5 fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

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

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

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

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

37 (b) An administrative or academic employee who elects to participate in the Optional Retirement
38 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
39 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
40 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
41 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
42 to the member [account] **accounts** of the member **established under ORS 238.250 and 238.260** to
43 the Optional Retirement Plan. A request for a transfer must be made at the time the member elects
44 to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees
45 Retirement Board shall transfer all amounts credited to the member [account] **accounts** of the

1 member **established under ORS 238.250 and 238.260** directly to the Optional Retirement Plan, and
2 shall terminate all rights, privileges and options of the employee [*under ORS chapter 238*] **as pro-**
3 **vided in ORS 238.095.**

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

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

29 (e) An administrative or academic employee who elects to participate in the Optional Retirement
30 Plan, and who is a vested member of the individual account program of the Oregon Public Service
31 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall
32 be considered an inactive member of the individual account program by the Public Employees Re-
33 tirement Board as of the effective date of the election. An employee who is subject to the provisions
34 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-
35 vidual account program. An administrative or academic employee who elects to participate in the
36 Optional Retirement Plan, and who is a member of the individual account program of the Oregon
37 Public Service Retirement Plan, may make a written request to the Public Employees Retirement
38 Board that all amounts [*in the member's employee account, rollover account and employer account*]
39 **credited to the member accounts of the member established under ORS 238A.350**, to the extent
40 the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retire-
41 ment Plan. The request must be made at the time the member elects to participate in the Optional
42 Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer
43 the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the
44 employee in the individual account program upon making the transfer.

45 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retire-

1 ment Board may not treat any employee as an inactive member under the provisions of this sub-
2 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that
3 the employee be separated from all service with participating public employers and with employers
4 who are treated as part of a participating public employer's controlled group under the federal laws
5 and rules governing the status of the Public Employees Retirement System and the Public Employees
6 Retirement Fund as a qualified governmental retirement plan and trust.

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

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

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

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

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

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

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

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

32 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
33 243.820; or

34 (B) Completion of:

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

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

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

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

45 (e) Subsections (8) to (10) of this section do not apply to a post-doctoral scholar participating in

1 the Optional Retirement Plan.

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

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

10 **SECTION 7.** ORS 341.551 is amended to read:

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

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

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

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

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

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

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

44 (b) An administrative employee who elects to participate in the optional retirement plan, who
45 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall

1 be considered to be an inactive member by the Public Employees Retirement Board and shall retain
 2 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
 3 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
 4 member [*account*] **accounts** of the member **established under ORS 238.250 and 238.260** to the op-
 5 tional retirement plan. A request for a transfer must be made at the time the member elects to
 6 participate in the optional retirement plan. Upon receiving the request, the Public Employees Re-
 7 tirement Board shall transfer all amounts credited to the member [*account*] **accounts** of the member
 8 **established under ORS 238.250 and 238.260** directly to the optional retirement plan and shall ter-
 9 minate all rights, privileges and options of the employee [*under ORS chapter 238*] **as provided in**
 10 **ORS 238.095.**

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

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

36 (e) An administrative employee who elects to participate in the optional retirement plan and
 37 who is a vested member of the individual account program of the Oregon Public Service Retirement
 38 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
 39 ered an inactive member of the individual account program by the Public Employees Retirement
 40 Board as of the effective date of the election. An employee who is subject to the provisions of this
 41 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
 42 count program. An administrative employee who elects to participate in the optional retirement plan
 43 and who is a member of the individual account program of the Oregon Public Service Retirement
 44 Plan may make a written request to the Public Employees Retirement Board that all amounts [*in the*
 45 *member's employee account, rollover account and employer account*] **credited to the member ac-**

1 **counts of the member established under ORS 238A.350**, to the extent the member is vested in
 2 those accounts under ORS 238A.320, be transferred to the optional retirement plan. The request
 3 must be made at the time the member elects to participate in the optional retirement plan. Upon
 4 receiving the request, the Public Employees Retirement Board shall transfer the amounts directly
 5 to the optional retirement plan and shall terminate the membership of the employee in the individual
 6 account program.

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

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

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

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

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

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

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

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

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

40 **SECTION 8. (1) The amendments to ORS 238A.320, 238A.330, 238A.350, 238A.375, 238A.410,**
 41 **243.800 and 341.551 by sections 1 to 7 of this 2019 Act become operative on January 1, 2020.**

42 **(2) The Public Employees Retirement Board may take any action before the operative**
 43 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
 44 **the operative date specified in subsection (1) of this section, all the duties, functions and**
 45 **powers conferred on the board by the amendments to ORS 238A.320, 238A.330, 238A.350,**

1 238A.375, 238A.410, 243.800 and 341.551 by sections 1 to 7 of this 2019 Act.

2
3 **RECALCULATION OF EMPLOYER RATES**

4
5 **SECTION 9.** (1) As soon as practicable after the effective date of this 2019 Act, the Public
6 Employees Retirement Board shall:

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

9 (b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-
10 flect the provisions of this 2019 Act.

11 (2) The board shall issue corrected contribution rate orders to employers affected by
12 rates recalculated under this section as soon as is practicable after the effective date of this
13 2019 Act. The corrected rates are effective July 1, 2019.

14
15 **REVIEW BY SUPREME COURT**

16
17 **SECTION 10.** (1) Jurisdiction is conferred upon the Supreme Court to determine in the
18 manner provided by this section whether this 2019 Act breaches any contract between
19 members of the Public Employees Retirement System and their employers or violates any
20 provision of the Oregon Constitution or of the United States Constitution, including but not
21 limited to impairment of contract rights of members of the Public Employees Retirement
22 System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause
23 1, of the United States Constitution.

24 (2) A person who is adversely affected by this 2019 Act or who will be adversely affected
25 by this 2019 Act may institute a proceeding for review by filing with the Supreme Court a
26 petition that meets the following requirements:

27 (a) The petition must be filed within 60 days after the effective date of this 2019 Act.

28 (b) The petition must include the following:

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

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

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

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

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

38 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene
39 in any proceeding relating to this 2019 Act. After a member intervenes in a proceeding re-
40 lating to this 2019 Act, the member has standing to participate in the proceeding even if the
41 member ceases to be a member of the Legislative Assembly.

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

45 (7) In the event the Supreme Court determines that there are factual issues in the peti-

1 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
2 commended findings of fact.

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

5
6 **CAPTIONS**

7
8 **SECTION 11.** The unit captions used in this 2019 Act are provided only for the conven-
9 ience of the reader and do not become part of the statutory law of this state or express any
10 legislative intent in the enactment of this 2019 Act.

11
12 **EMERGENCY CLAUSE**

13
14 **SECTION 12.** This 2019 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
16 on its passage.

17 _____