

Senate Bill 641

Sponsored by Senators KNOPP, ROBLAN

SUMMARY

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

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

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

Requires employer contribution rate set by Public Employees Retirement Board, including employer contributions to individual account program, to be at least 18 percent of salary.

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

Directs board to recalculate employer contribution rates to reflect savings attributable to Act.

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

Declares emergency, effective on passage.

A BILL FOR AN ACT

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

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

NEW TIER OF RETIREMENT BENEFITS

SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS chapter 238A.

SECTION 2. (1) Notwithstanding any other provision of this chapter or ORS chapter 238, any person who is employed by a participating public employer on or after the effective date of this 2019 Act, and who has not established membership in the Public Employees Retirement System before the effective date of this 2019 Act, is entitled to receive only the benefits provided under section 3 of this 2019 Act for periods of service with participating public employers on and after the effective date of this 2019 Act, and has no right or claim to any benefit under this chapter except as specifically provided by section 3 of this 2019 Act.

(2) A person establishes membership in the system before the effective date of this 2019 Act for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on the effective date of this 2019 Act; or

(b) The person performed any period of service for a participating public employer before the effective date of this 2019 Act that is credited to the six-month period of employment required of an employee under ORS 238A.100 before an employee may become a member of

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 the system.

2 (3)(a) Any person who is an active member of the Public Employees Retirement System
3 on the effective date of this 2019 Act is entitled to receive the benefits provided by this
4 chapter and ORS chapter 238, as in effect immediately before the effective date of this 2019
5 Act, for all service performed before, on and after the effective date of this 2019 Act, unless
6 the person has a break in service on or after the effective date of this 2019 Act. If the person
7 has a break in service on or after the effective date of this 2019 Act, the person is entitled
8 to receive the benefits provided by this chapter and ORS chapter 238, as in effect imme-
9 diately before the effective date of this 2019 Act, for all creditable service performed before
10 the break in service, and the benefits provided under section 3 of this 2019 Act for periods
11 of service with participating public employers after the break in service.

12 (b) Except as provided in this subsection, a person has a break in service for the purposes
13 of this subsection if the person performs no service with a participating public employer in
14 a qualifying position for a period of six consecutive months that begins on or after the ef-
15 fective date of this 2019 Act.

16 (c) If a person leaves employment with a participating public employer for purposes that
17 would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a
18 break in service for the purposes of this subsection only if the person performs no service
19 with the participating public employer in a qualifying position for a period of 12 consecutive
20 months after leaving employment with the participating public employer.

21 (d) If a person leaves employment with a participating public employer for career devel-
22 opment purposes pursuant to written authorization of the participating public employer un-
23 der a written policy of the employer that applies generally to the class of employees to which
24 the member belongs, the person has a break in service for the purposes of this subsection
25 only if the person performs no service with the participating public employer in a qualifying
26 position for a period of 12 consecutive months after leaving employment with the partic-
27 ipating public employer.

28 (e) A person does not have a break in service for the purposes of this subsection by
29 reason of any period of time during which the person leaves employment with a participating
30 public employer for the purpose of serving as a member of the Legislative Assembly during
31 a legislative session.

32 (f) A person does not have a break in service for the purposes of this subsection by rea-
33 son of any period of time during which the person is absent from employment with a par-
34 ticipating public employer and receives a disability retirement allowance under ORS 238.320
35 or a disability benefit under ORS 238A.235.

36 (g) A person does not have a break in service for the purposes of this subsection by
37 reason of any period of time during which the person leaves employment with a participating
38 public employer based on the seasonal nature of the person's employment as long as the
39 person returns to employment with the public employer before the expiration of 12 full cal-
40 endar months.

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

43 **SECTION 3.** (1) A person who establishes membership in the system on or after the ef-
44 fective date of this 2019 Act may not become a member of the pension program of the Oregon
45 Public Service Retirement Plan described in ORS 238A.100 to 238A.250.

1 **(2) A person who establishes membership in the system on or after the effective date of**
 2 **this 2019 Act becomes a member of the individual account program in the manner provided**
 3 **by this chapter.**

4 **(3) A person who establishes membership in the system before the effective date of this**
 5 **2019 Act and has a break in service on or after the effective date of this 2019 Act, as de-**
 6 **scribed in section 2 of this 2019 Act, may not accrue benefits under the pension program**
 7 **after the break in service.**

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

9 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 10 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 11 tablished.

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

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

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

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

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

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

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

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

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

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

40 **(7) A member becomes vested in the contributions account established under ORS**
 41 **238A.350 (4) on the date the contributions account is established.**

42 **SECTION 5.** ORS 238A.330 is amended to read:

43 238A.330. (1) A member of the individual account program **who established membership in the**
 44 **system before the effective date of this 2019 Act and who has not had a break in service on**
 45 **or after the effective date of this 2019 Act, as described in section 2 of this 2019 Act, must**

1 make employee contributions to the individual account program of six percent of the member's sal-
2 ary.

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

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

10 **SECTION 6.** ORS 238A.335 is amended to read:

11 238A.335. (1) A participating public employer may agree, by a written employment policy or by
12 a collective bargaining agreement, to pay the employee contribution required under ORS 238A.330.
13 The policy or agreement need not include all members of the individual account program employed
14 by the employer.

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

16 (a) Employee compensation be reduced to generate the funds needed to make the employee
17 contributions; or

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

21 (3) A participating public employer must give written notice to the Public Employees Retirement
22 Board at the time that a written employment policy or collective bargaining agreement described
23 in subsection (1) of this section is adopted or changed. The notice must specifically indicate whether
24 the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner
25 in which employee contributions are to be paid applies only to employee contributions made on and
26 after the date the notice is received by the board.

27 **(4) The provisions of this section apply only to employee contributions for a member who**
28 **establishes membership in the system before the effective date of this 2019 Act and who has**
29 **not had a break in service on or after the effective date of this 2019 Act, as described in**
30 **section 2 of this 2019 Act.**

31 **SECTION 7.** ORS 238A.340 is amended to read:

32 238A.340. (1) A participating public employer may agree, by a written employment policy or
33 agreement, to make employer contributions for members of the individual account program employed
34 by the employer. The percentage of salary paid as employer contributions may not be less than one
35 percent of salary or more than six percent of salary, and must be a whole number. A participating
36 public employer may make an agreement under this section for specific groups of employees em-
37 ployed by the public employer.

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

43 **(3) The provisions of this section apply only to employer contributions for a member who**
44 **establishes membership in the system before the effective date of this 2019 Act and who has**
45 **not had a break in service on or after the effective date of this 2019 Act, as described in**

1 section 2 of this 2019 Act.

2 **SECTION 8.** Section 9 of this 2019 Act is added to and made a part of ORS chapter 238A.

3 **SECTION 9.** (1) The provisions of this section apply to a member who establishes mem-
4 bership in the system on or after the effective date of this 2019 Act, or who returns to ser-
5 vice with a participating public employer after a break in service on or after the effective
6 date of this 2019 Act, as described in section 2 of this 2019 Act.

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

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

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

15 (4)(a) Contributions made by a member of the individual account program under this
16 section shall be credited by the Public Employees Retirement Board to the employee account
17 established for the member under ORS 238A.350 (2).

18 (b) Contributions made by an employer under this section shall be credited by the board
19 to the contributions account established for the member under ORS 238A.350 (4).

20 **SECTION 10.** ORS 238A.350 is amended to read:

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

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

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

34 (3) If the public employer agrees to make employer contributions under ORS 238A.340, the board
35 shall establish an employer account, which shall consist of the employer contributions made on be-
36 half of the member as adjusted under subsection (1) of this section.

37 (4) If the public employer makes employer contributions under section 9 of this 2019 Act,
38 the board shall establish a contributions account, which shall consist of the employer con-
39 tributions made on behalf of the member under section 9 of this 2019 Act as adjusted under
40 subsection (1) of this section.

41 [(4)] (5) If the board accepts rollover contributions on behalf of the member, the board shall
42 establish a rollover account, which shall consist of the rollover contributions made by the member
43 as adjusted under subsection (1) of this section. Contributions and the earnings attributable to the
44 contributions must be accounted for separately.

45 [(5)] (6) The board shall provide an annual statement to each active and inactive member of the

1 program that reflects the amount credited to the accounts established under this section. The
2 statement shall reflect whether the member is vested in the employer account under the provisions
3 of ORS 238A.320.

4 **SECTION 11.** ORS 238A.375 is amended to read:

5 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-
6 tribution of the amounts in the member's employee account, rollover account [*and*], employer ac-
7 count **and contributions account**, to the extent the member is vested in those accounts under ORS
8 238A.320 if the inactive member has separated from all service with participating public employers
9 and with employers who are treated as part of a participating public employer's controlled group
10 under the federal laws and rules governing the status of the system and the fund as a qualified
11 governmental retirement plan and trust.

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

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

17 (4) A member who is vested in the pension program established under this chapter and who is
18 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this
19 section only if the member also withdraws from the pension program. A member who has a member
20 account established under ORS chapter 238 may make an election under this section only if the
21 member also withdraws that member account in the manner provided by ORS 238.265. A member
22 who has an account established under ORS 238.440 may make an election under this section only
23 if the member also withdraws the account established under ORS 238.440.

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

28 **SECTION 12.** ORS 238A.400, as amended by section 8, chapter 101, Oregon Laws 2018, is
29 amended to read:

30 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
31 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
32 the member's employee account, rollover account [*and*], employer account **and contributions ac-**
33 **count** to the extent the member is vested in those accounts under ORS 238A.320.

34 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-
35 ual account program may elect to receive the amounts in the member's employee account [*and*],
36 employer account **and contributions account**, to the extent the member is vested in those accounts
37 under ORS 238A.320, in substantially equal installments paid over a period of 5, 10, 15 or 20 years,
38 or over a period that is equal to the anticipated life span of the member as actuarially determined
39 by the Public Employees Retirement Board. Installments may be made on a monthly, quarterly or
40 annual basis. In no event may the period selected by the member exceed the time allowed by the
41 minimum distribution requirements described in subsection (5) of this section. The board shall by
42 rule establish the manner in which installments will be adjusted to reflect investment gains and
43 losses on the unpaid balance during the payout period elected by the member under this subsection.
44 The board by rule may establish minimum monthly amounts payable under this subsection. The
45 board may require that a lump sum payment, or an installment schedule different than the schedules

1 provided for in this subsection, be used to pay the vested amounts in the member's accounts if those
2 amounts are not adequate to generate the minimum monthly amounts specified by the rule.

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

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

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

18 **SECTION 13.** ORS 238A.410, as amended by section 9, chapter 101, Oregon Laws 2018, is
19 amended to read:

20 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
21 in the member's employee account, rollover account [*and*], employer account **and contributions**
22 **account**, to the extent the member is vested in those accounts under ORS 238A.320, shall be paid
23 in a lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this
24 section.

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

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

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

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

44 (c) The member's estate.

45 (4) The entire amount of a deceased member's vested accounts must be distributed by December

1 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
2 provision of this chapter, distributions of death benefits under the individual account program must
3 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
4 plementing that section, as in effect on December 31, 2017. The Public Employees Retirement Board
5 shall adopt rules implementing those minimum distribution requirements.

6 **SECTION 14.** ORS 243.800 is amended to read:

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

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

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

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

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

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

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

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

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

39 (6)(a) An administrative or academic employee who elects to participate in the Optional Retire-
40 ment Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who
41 is not vested shall be considered by the Public Employees Retirement Board to be a terminated
42 member under the provisions of ORS 238.095 as of the effective date of the election, and the amount
43 credited to the member account of the member shall be transferred directly to the Optional Retire-
44 ment Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of
45 this section.

1 (b) An administrative or academic employee who elects to participate in the Optional Retirement
2 Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is
3 vested shall be considered to be an inactive member by the Public Employees Retirement Board and
4 shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes
5 a written request to the Public Employees Retirement Board for a transfer of the amounts credited
6 to the member account of the member to the Optional Retirement Plan. A request for a transfer
7 must be made at the time the member elects to participate in the Optional Retirement Plan. Upon
8 receiving the request, the Public Employees Retirement Board shall transfer all amounts credited
9 to the member account of the member directly to the Optional Retirement Plan, and shall terminate
10 all rights, privileges and options of the employee under ORS chapter 238.

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

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

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

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

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

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

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

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

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

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

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

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

33 (A) Enrollment in the public university's Tax-Deferred Investment 403(b) Plan under ORS
34 243.820; or

35 (B) Completion of:

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

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

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

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

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

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

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

11 **SECTION 15.** ORS 341.551 is amended to read:

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

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

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

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

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

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

38 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
39 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
40 be considered by the Public Employees Retirement Board to be a terminated member under the
41 provisions of ORS 238.095 as of the effective date of the election, and the amount credited to the
42 member account of the member shall be transferred directly to the optional retirement plan by the
43 Public Employees Retirement Board 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 of the member to the optional retirement plan. A request for a transfer must be
5 made at the time the member elects to participate in the optional retirement plan. Upon receiving
6 the request, the Public Employees Retirement Board shall transfer all amounts credited to the
7 member account of the member directly to the optional retirement plan and shall terminate all
8 rights, privileges and options of the employee under ORS chapter 238.

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

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

28 (e) An administrative employee who elects to participate in the optional retirement plan and
29 who is a vested member of the individual account program of the Oregon Public Service Retirement
30 Plan as described in ORS 238A.320 on the date that the election becomes effective shall be consid-
31 ered an inactive member of the individual account program by the Public Employees Retirement
32 Board as of the effective date of the election. An employee who is subject to the provisions of this
33 paragraph retains all the rights, privileges and options of an inactive member of the individual ac-
34 count program. An administrative employee who elects to participate in the optional retirement plan
35 and who is a member of the individual account program of the Oregon Public Service Retirement
36 Plan may make a written request to the Public Employees Retirement Board that all amounts in the
37 member's employee account, rollover account [*and*], employer account **and contributions account**,
38 to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the
39 optional retirement plan. The request must be made at the time the member elects to participate in
40 the optional retirement plan. Upon receiving the request, the Public Employees Retirement Board
41 shall transfer the amounts directly to the optional retirement plan and shall terminate the mem-
42 bership of the employee in the individual account program.

43 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retire-
44 ment Board shall not treat any employee as an inactive member under the provisions of this sub-
45 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that

1 the employee be separated from all service with participating public employers and with employers
 2 who are treated as part of a participating public employer’s controlled group under the federal laws
 3 and rules governing the status of the Public Employees Retirement System and the Public Employees
 4 Retirement Fund as a qualified governmental retirement plan and trust.

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

8 (7) An employee participating in the optional retirement plan shall contribute monthly an
 9 amount equal to the percentage of the employee’s salary that the employee would otherwise have
 10 contributed as an employee contribution to the Public Employees Retirement System if the employee
 11 had not elected to participate in the optional retirement plan.

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

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

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

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

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

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

31
 32 **EMPLOYER CONTRIBUTIONS**

33
 34 **SECTION 16.** ORS 238.225 is amended to read:

35 238.225. A participating public employer shall, at intervals designated by the Public Employees
 36 Retirement Board, transmit to the board those amounts the board determines to be actuarially nec-
 37 essary to adequately fund the benefits to be provided by the contributions of the employer under this
 38 chapter and the benefits to be provided under the pension program established by ORS 238A.100 to
 39 238A.250, except for the disability benefit for which funding is provided under ORS 238A.240. From
 40 time to time, the board shall determine the liabilities of the system and shall set the amount of
 41 contributions to be made by participating public employers, and by other public employers who are
 42 required to make contributions on behalf of members, to ensure that those liabilities will be funded
 43 no more than 40 years after the date on which the determination is made. **The amount of the**
 44 **employer contribution set under this section plus the amount of the employer contribution**
 45 **required under section 9 of this 2019 Act must equal at least 18 percent of the salary of each**

1 **member employed by the participating public employer.**

2
3 **INVESTMENT OF INDIVIDUAL ACCOUNTS**

4
5 **SECTION 17.** ORS 238A.050 is amended to read:

6 238A.050. (1) The Oregon Public Service Retirement Plan is part of the Public Employees Re-
7 tirement System and is administered by the Public Employees Retirement Board.

8 (2) ORS 238.008, 238.225, 238.229, 238.231, 238.285, 238.410, 238.445, 238.447, 238.450, 238.455,
9 238.458, 238.460, 238.465, 238.470, 238.600, 238.601, 238.605, 238.610, 238.615, 238.618, 238.630, 238.635,
10 238.640, 238.645, 238.655, 238.660, 238.661, 238.665, 238.675, 238.692, 238.694, 238.695, 238.696, 238.698,
11 238.700, 238.705, 238.710 and 238.715 apply to the Oregon Public Service Retirement Plan.

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

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

18 (c) **The Oregon Investment Council shall allow members to choose from at least two risk**
19 **options for investment of a member's individual accounts established under ORS 238A.350.**

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

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

26 **SECTION 18. Section 19 of this 2019 Act is added to and made a part of ORS chapter**
27 **238A.**

28 **SECTION 19. The Public Employees Retirement Board shall adopt rules allowing a**
29 **member to elect one of the risk options offered under ORS 238A.050 (3)(c) for investment of**
30 **the member's individual accounts established under ORS 238A.350.**

31 **SECTION 20. The Public Employees Retirement Board shall allow a member of the indi-**
32 **vidual account program to make an election under section 19 of this 2019 Act to become ef-**
33 **fective on January 1, 2020.**

34
35 **RECALCULATION OF EMPLOYER CONTRIBUTION RATES**

36
37 **SECTION 21. (1) As soon as practicable after the effective date of this 2019 Act, the**
38 **Public Employees Retirement Board shall:**

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

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

43 (2) **The board shall issue corrected contribution rate orders to employers affected by**
44 **rates recalculated under this section as soon as is practicable after the effective date of this**
45 **2019 Act. The corrected rates are effective July 1, 2019.**

REVIEW BY SUPREME COURT

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

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

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

(b) The petition must include the following:

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

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

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

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

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

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

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

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

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

CAPTIONS

SECTION 23. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EMERGENCY CLAUSE

SECTION 24. This 2019 Act being necessary for the immediate preservation of the public

1 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
2 **on its passage.**

3
