

SB 111-3  
(LC 588)  
2/15/21 (MNJ/ps)

Requested by SENATE COMMITTEE ON LABOR AND BUSINESS

**PROPOSED AMENDMENTS TO  
SENATE BILL 111**

1 On page 1 of the printed bill, line 3, delete “and 238A.375” and insert “,  
2 238A.375 and 243.815”.

3 On page 10, delete lines 33 through 40 and insert:

4 **“SECTION 12.** ORS 243.815 is amended to read:

5 “243.815. (1) Notwithstanding any provision of ORS chapter 238 or 238A  
6 or ORS 243.910 to 243.945, the governing board of a public university listed  
7 in ORS 352.002 shall establish and administer an Optional Retirement Plan  
8 for administrative and academic employees of the public university. The  
9 Optional Retirement Plan must be a qualified plan under the Internal Reve-  
10 nue Code, capable of accepting funds transferred under subsection (7) of this  
11 section without the transfer being treated as a taxable event under the  
12 Internal Revenue Code, and willing to accept those funds. Retirement and  
13 death benefits shall be provided under the plan by the purchase of annuity  
14 contracts, fixed or variable or a combination thereof, or by contracts for in-  
15 vestments in mutual funds.

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

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

21 “(b) Six months of employment that is not interrupted by more than 30

1 consecutive working days.

2 “(3) An administrative or academic employee who is eligible to remain  
3 or become a member of the Public Employees Retirement System, including  
4 an administrative or academic employee who previously participated in the  
5 Optional Retirement Plan because of employment in a position classified as  
6 a post-doctoral scholar position under ORS 350.370, [*may*] **shall** make an  
7 irrevocable election to participate in **either the Public Employees Retirement  
8 System or the** Optional Retirement Plan within six months after be-  
9 ing employed. **If an administrative or academic employee does not make  
10 an election under this subsection, the employee is deemed to have  
11 elected to participate in the Optional Retirement Plan.** An election un-  
12 der this subsection is effective on the first day of the month following the  
13 completion of the requirements of subsection (2) of this section.

14 “(4) An administrative or academic employee who is eligible to remain  
15 or become a member of the Public Employees Retirement System and who  
16 [*does not elect to participate in the Optional Retirement Plan*] **elects to par-  
17 ticipate in the Public Employees Retirement System:**

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

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

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

27 “(6)(a) An administrative or academic employee who elects to participate  
28 in the Optional Retirement Plan, who has creditable service under ORS  
29 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-  
30 sidered by the Public Employees Retirement Board to be a terminated mem-

1 ber under the provisions of ORS 238.095 as of the effective date of the  
2 election, and the amounts credited to the member accounts of the member  
3 established under ORS 238.250, 238.260, 238A.350 and 238A.353 shall be  
4 transferred directly to the Optional Retirement Plan by the Public Employ-  
5 ees Retirement Board in the manner provided by subsection (7) of this sec-  
6 tion.

7 “(b) An administrative or academic employee who elects to participate in  
8 the Optional Retirement Plan, who has creditable service under ORS chapter  
9 238 as defined by ORS 238.005 and who is vested shall be considered to be  
10 an inactive member by the Public Employees Retirement Board and shall  
11 retain all the rights, privileges and options under ORS chapter 238 unless the  
12 employee makes a written request to the Public Employees Retirement Board  
13 for a transfer of the amounts credited to the member accounts of the member  
14 established under ORS 238.250, 238.260, 238A.350 and 238A.353 to the Op-  
15 tional Retirement Plan. A request for a transfer must be made at the time  
16 the member elects to participate in the Optional Retirement Plan. Upon re-  
17 ceiving the request, the Public Employees Retirement Board shall transfer  
18 all amounts credited to the member accounts of the member established un-  
19 der ORS 238.250, 238.260, 238A.350 and 238A.353 directly to the Optional Re-  
20 tirement Plan in the manner provided by subsection (7) of this section, and  
21 shall terminate all rights, privileges and options of the employee under the  
22 Public Employees Retirement System.

23 “(c) An administrative or academic employee who elects to participate in  
24 the Optional Retirement Plan and who is a member of the pension program  
25 of the Oregon Public Service Retirement Plan as described in ORS 238A.100  
26 on the date that the election becomes effective, but who has not vested in  
27 the program under ORS 238A.115 on the date that the election becomes ef-  
28 fective, shall be considered to be a terminated member of the Public Em-  
29 ployees Retirement System by the Public Employees Retirement Board as of  
30 the effective date of the election. The board shall transfer the amounts

1 credited to the member accounts of the member established under ORS  
2 238A.350 and 238A.353 directly to the Optional Retirement Plan in the man-  
3 ner provided by subsection (7) of this section.

4 “(d) An administrative or academic employee who elects to participate in  
5 the Optional Retirement Plan, and who is a vested member of the pension  
6 program of the Oregon Public Service Retirement Plan as described in ORS  
7 238A.115 on the date that the election becomes effective, shall be considered  
8 an inactive member of the pension program by the Public Employees Re-  
9 tirement Board as of the effective date of the election. A member who is  
10 subject to the provisions of this paragraph retains all the rights, privileges  
11 and options of an inactive member of the pension program, unless the mem-  
12 ber makes a written request to the Public Employees Retirement Board for  
13 a transfer of the amounts credited to the member accounts of the member  
14 established under ORS 238A.350 and 238A.353 to the Optional Retirement  
15 Plan. The request must be made at the time the member elects to participate  
16 in the Optional Retirement Plan. Upon receiving the request, the Public  
17 Employees Retirement Board shall transfer the amounts credited to the  
18 member accounts of the member established under ORS 238A.350 and  
19 238A.353 directly to the Optional Retirement Plan in the manner provided  
20 by subsection (7) of this section, and shall terminate the membership of the  
21 employee in the Public Employees Retirement System.

22 “(e) Notwithstanding paragraphs (b) and (d) of this subsection, the Public  
23 Employees Retirement Board may not treat any employee as an inactive  
24 member under the provisions of this subsection for the purpose of receiving  
25 any benefit under ORS chapter 238 or 238A that requires that the employee  
26 be separated from all service with participating public employers and with  
27 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  
29 Public Employees Retirement System and the Public Employees Retirement  
30 Fund as a qualified governmental retirement plan and trust.

1 “(7) Any amounts transferred from the Public Employees Retirement Fund  
2 under subsection (6) of this section shall be transferred directly to the Op-  
3 tional Retirement Plan by the Public Employees Retirement Board and may  
4 not be made available to the employee.

5 “(8) An employee participating in the Optional Retirement Plan who was  
6 hired before July 1, 2014, shall contribute monthly an amount equal to the  
7 percentage of the employee’s salary that the employee would otherwise have  
8 contributed as an employee contribution to the Public Employees Retirement  
9 System if the employee had not elected to participate in the Optional Re-  
10 tirement Plan.

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

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

21 “(a) Eight percent of the employee’s salary; and

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

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

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

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

5       “(B) Completion of:

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

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

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

16       “(d) A post-doctoral scholar is an academic employee who elects to par-  
17 ticipate in the Optional Retirement Plan for purposes of subsection (6) of this  
18 section.

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

21       “(12) Both employee and employer contributions to an Optional Retirement  
22 Plan shall be remitted directly to the companies that have issued an-  
23 nuity contracts to the participating employees or directly to the mutual  
24 funds.

25       “(13) Benefits under the Optional Retirement Plan are payable to em-  
26 ployees who elect to participate in the plan and their beneficiaries by the  
27 selected annuity provider or mutual fund in accordance with the terms of the  
28 annuity contracts or the terms of the contract with the mutual fund. Em-  
29 ployees electing to participate in the Optional Retirement Plan agree that  
30 benefits payable under the plan are not obligations of the State of Oregon

1 or of the Public Employees Retirement System.

2 **“SECTION 13. The amendments to ORS 238.082 and sections 35 and**  
3 **37, chapter 355, Oregon Laws 2019, by sections 1 to 3 of this 2021 Act**  
4 **apply to determinations made under ORS 238.082 and sections 35 and**  
5 **37, chapter 355, Oregon Laws 2019, on or after the effective date of this**  
6 **2021 Act for all service performed by a retired member employed by a**  
7 **participating public employer, whether performed before, on or after**  
8 **the effective date of this 2021 Act.**

9 **“SECTION 14. The amendments to ORS 238A.005 by section 11 of**  
10 **this 2021 Act apply to remuneration paid to an active member of the**  
11 **Public Employees Retirement System on or after January 1, 2020.**

12 **“SECTION 15. The amendments to ORS 243.815 by section 12 of this**  
13 **2021 Act apply to administrative and academic employees of public**  
14 **universities who are entitled to make an election under ORS 243.815**  
15 **(3) on or after the effective date of this 2021 Act.”.**

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