

SB 111-6
(LC 588)
3/5/21 (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, 338.135 and 353.100”.

3 Delete lines 6 through 31 and delete pages 2 through 10 and insert:

4 **“SECTION 1.** ORS 238.082 is amended to read:

5 “238.082. (1) Subject to the limitations in this section, any public employer
6 may employ any member who is retired for service if the administrative head
7 of the public employer is satisfied that such employment is in the public in-
8 terest.

9 “(2) Except as provided in this section, the period or periods of employ-
10 ment by one or more public employers of a retired member who is reemployed
11 under this section may not total 1,040 hours or more in any calendar year.

12 “(3) A retired member who is receiving old-age, survivors or disability
13 insurance benefits under the federal Social Security Act may be employed
14 under this section for the number of hours permitted by subsection (2) of this
15 section, or for the number of hours for which the salary equals the maximum
16 allowed for receipt of the full amount of those benefits to which the person
17 is entitled, whichever is greater.

18 “(4) Except as provided in subsection (9) of this section, the limitations
19 on employment imposed by subsections (2) and (3) of this section do not apply
20 to a retired member who is employed as a teacher or as an administrator,
21 as those terms are defined in ORS 342.120, if the retired member is employed

1 by a school district or community college district located within a county
2 with a population of not more than 35,000 inhabitants according to the latest
3 federal decennial census, or is employed by an education service district and
4 the retired member's primary work duties are performed in a county with a
5 population of not more than 35,000 inhabitants according to the latest federal
6 decennial census. A retired member who is employed under this subsection
7 as a teacher, as defined in ORS 342.120, by the same public employer that
8 employed the member at the time of retirement remains in the same collec-
9 tive bargaining unit that included the member before retirement.

10 “(5) Except as provided in subsection (9) of this section, the limitations
11 on employment imposed by subsections (2) and (3) of this section do not apply
12 to a retired member who is employed:

13 “(a) By the sheriff of a county with a population of fewer than 75,000
14 inhabitants, according to the latest federal decennial census;

15 “(b) By the municipal police department of a city with a population of
16 fewer than 15,000 inhabitants, according to the latest federal decennial cen-
17 sus;

18 “(c) By the state or a county for work in a correctional institution located
19 in a county with a population of fewer than 75,000 inhabitants, according to
20 the latest federal decennial census;

21 “(d) By the Black Butte Ranch Rural Fire Protection District, the Black
22 Butte Ranch Service District or the Sunriver Service District;

23 “(e) By the Oregon State Police for work in a county with a population
24 of fewer than 75,000 inhabitants, according to the latest federal decennial
25 census;

26 “(f) As a deputy director or assistant director of the Department of Hu-
27 man Services, if the Governor approves the exemption for the person from
28 the limitations on employment imposed in subsections (2) and (3) of this
29 section;

30 “(g) As a deputy director or assistant director of the Oregon Health Au-

1 thority, if the Governor approves the exemption for the person from the
2 limitations on employment imposed in subsections (2) and (3) of this section;

3 “(h) As a special campus security officer commissioned by the governing
4 board of a public university listed in ORS 352.002 under ORS 352.118;

5 “(i) As a security officer for a community college, as defined in ORS
6 341.005; or

7 “(j) By the Harney County Health District as a person licensed, registered
8 or certified to provide health services.

9 “(6) Except as provided in subsection (9) of this section, the limitations
10 on employment imposed by subsections (2) and (3) of this section do not apply
11 to a retired member who is employed to temporarily replace an employee who
12 serves in the National Guard or in a reserve component of the Armed Forces
13 of the United States and who is called to federal active duty.

14 “(7) Except as provided in subsection (9) of this section, the limitations
15 on employment imposed by subsections (2) and (3) of this section do not apply
16 to a retired member who is employed by a road assessment district organized
17 under ORS 371.405 to 371.535.

18 “(8) Except as provided in subsection (9) of this section, the limitations
19 on employment imposed by subsections (2) and (3) of this section do not apply
20 to a retired member who is a nurse and is employed by a public employer
21 as a nurse or for the purpose of teaching nursing during the period in which
22 a nursing workforce shortage declared by the Legislative Assembly or the
23 Governor is in effect.

24 “(9)(a) Except as provided in paragraph (b) of this subsection, subsections
25 (4) to (8) of this section do not apply to any member who retires under the
26 provisions of ORS 238.280 (1), (2) or (3).

27 “(b) Subsection (4) of this section applies to a person who retires under
28 the provisions of ORS 238.280 (1), (2) or (3) as long as the [*person’s date of*
29 *retirement is more than*] **person is absent from service with all partic-**
30 **ipating public employers for at least** six months before the date the person

1 is employed under subsection (4) of this section.

2 “(10) Employment under this section does not affect the status of a person
3 as a retired member of the system and a recipient of retirement benefits un-
4 der this chapter.

5 “(11) Hours worked by a person employed under subsections (4) to (8) of
6 this section shall not be counted for the purpose of the limitations on em-
7 ployment imposed by subsections (2) and (3) of this section.

8 “**SECTION 2.** Section 35, chapter 355, Oregon Laws 2019, is amended to
9 read:

10 “**Sec. 35.** (1) Notwithstanding ORS [238.082 (2)] **237.650 and any pro-**
11 **vision of this chapter** and subject to the limitations in this section, during
12 calendar year 2020, 2021, 2022, 2023 or 2024, a participating public employer
13 may employ any retired member without limitation on the hours worked by
14 the retired member if the administrative head of the public employer is sat-
15 isfied that the employment is in the public interest.

16 “(2) A public employer that employs a retired member [*under ORS 238.082*
17 *or 238.088 (2)*] during calendar year 2020, 2021, 2022, 2023 or 2024 shall con-
18 tribute to the Public Employees Retirement Board the percentage of the
19 member’s wages that would have been contributed to the board under ORS
20 238.225 if the member were an active member of the Public Employees Re-
21 tirement System. Employer contributions made under this section are in ad-
22 dition to employer contributions made under ORS 238.225. The board shall
23 apply contributions made by a public employer under this subsection against
24 the liabilities of the public employer. The board shall adopt rules governing
25 payments made under this subsection.

26 “[*(3) A retired member who is receiving old-age, survivors or disability in-*
27 *surance benefits under the federal Social Security Act may be employed during*
28 *calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of*
29 *hours for which the salary equals the maximum allowed for receipt of the full*
30 *amount of those benefits to which the person is entitled.*]

1 “[(4)] (3) This section does not apply to any member who retires under the
2 provisions of ORS 238.280 (1), (2) or (3), unless the [*person’s date of retirement*
3 *is more than*] **person is absent from employment with all participating**
4 **public employers for at least** six months before the date the person is
5 employed under this section.

6 “[(5)] (4) Employment under this section does not affect the status of a
7 person as a retired member of the system and a recipient of retirement ben-
8 efits under this chapter.

9 “**SECTION 3.** Section 37, chapter 355, Oregon Laws 2019, is amended to
10 read:

11 “**Sec. 37.** (1) Notwithstanding ORS [238A.245] **237.650 and any provision**
12 **of this chapter** and subject to the limitations in this section, during calen-
13 dar year 2020, 2021, 2022, 2023 or 2024, a participating public employer may
14 employ any retired member without limitation on the hours worked by the
15 retired member if the administrative head of the public employer is satisfied
16 that the employment is in the public interest. The Public Employees Retire-
17 ment Board shall continue making pension payments to a retired member of
18 the pension program who is reemployed under this section.

19 “(2) A public employer that employs a retired member during calendar
20 year 2020, 2021, 2022, 2023 or 2024 shall contribute to the board the percent-
21 age of the member’s wages that would have been contributed to the board
22 under ORS 238A.220 if the member were an active member of the Public
23 Employees Retirement System. Employer contributions made under this
24 section are in addition to employer contributions made under ORS 238A.220.
25 The board shall apply contributions made by a public employer under this
26 subsection against the liabilities of the public employer. The board shall
27 adopt rules governing payments made under this subsection.

28 “[(3) A retired member who is receiving old-age, survivors or disability in-
29 surance benefits under the federal Social Security Act may be employed during
30 calendar year 2020, 2021, 2022, 2023 or 2024 for no more than the number of

1 *hours for which the salary equals the maximum allowed for receipt of the full*
2 *amount of those benefits to which the person is entitled.]*

3 “[~~(4)~~] **(3)** This section does not apply to any member who retires under the
4 provisions of ORS 238A.185, unless the [*person’s date of retirement is more*
5 *than*] **person is absent from employment with all participating public**
6 **employers for at least** six months before the date the person is employed
7 under this section.

8 “[~~(5)~~] **(4)** Employment under this section does not affect the status of a
9 person as a retired member of the pension program and a recipient of re-
10 tirement benefits under this chapter.

11 **“SECTION 4.** ORS 238A.120 is amended to read:

12 “238A.120. [*A vested*] **An** inactive member who withdraws from the indi-
13 vidual account program under ORS 238A.375 cancels the person’s membership
14 in the Public Employees Retirement System. If the person is thereafter re-
15 employed by a participating public employer:

16 “(1) The person may reestablish membership in the pension program only
17 for the purpose of service performed after the person is reemployed; and

18 “(2) Any service performed before the withdrawal may not be credited
19 toward the period of service required by ORS 238A.100 or 238A.115 or toward
20 the accrual of retirement credit under ORS 238A.140, 238A.150 or 238A.155.

21 **“SECTION 5.** ORS 238A.375 is amended to read:

22 “238A.375. (1)**(a)** An inactive member of the individual account program
23 may elect to receive a distribution of the amounts in the member’s employee
24 account, rollover account, employer account and employee pension stability
25 account to the extent the member is vested in those accounts under ORS
26 238A.320 if the inactive member:

27 **“(A)** Has [*separated*] **a bona fide separation** from all service with par-
28 ticipating public employers [*and with*];

29 **“(B)** **Is not employed with, or has a bona fide separation from, all**
30 **employers who are treated as part of a participating public employer’s con-**

1 trolled group under the federal laws and rules governing the status of the
2 Public Employees Retirement System and the Public Employees Retirement
3 Fund as a qualified governmental retirement plan and trust; **and**

4 **“(C) Has not attained earliest retirement age.**

5 **“(b) The board shall deny the distribution, or take all steps neces-**
6 **sary to recover distributed amounts, if the board determines that the**
7 **member’s separation is not a bona fide separation.**

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

12 “(3) A member may not make an election under this section for less than
13 all of the member’s individual accounts described in ORS 238A.350, and the
14 member’s employee pension stability account described in ORS 238A.353, in
15 which the member is vested.

16 “(4) A member who is [*vested in*] **also a member of** the pension program
17 established under this chapter and who withdraws the member’s accounts
18 under this section cancels all membership rights in the system.

19 “(5) A member who has a member account established under ORS chapter
20 238 may make an election under this section only if the member also with-
21 draws that member account in the manner provided by ORS 238.265. A
22 member who has an account established under ORS 238.440 may make an
23 election under this section only if the member also withdraws the account
24 established under ORS 238.440.

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

30 **“SECTION 6.** ORS 238.105 is amended to read:

1 “238.105. (1) Whenever, within five years after the employee is separated
2 from all service entitling the employee to membership in the Public Em-
3 ployees Retirement System, an employee who has withdrawn the amount
4 credited to the member account of the member reenters the service of an
5 employer participating in the system, the employee’s rights in the system
6 that were forfeited by the withdrawal shall be restored upon repaying to the
7 Public Employees Retirement Board within one year after reentering the
8 service of the employer, the full amount so withdrawn, **including the**
9 **amount withdrawn from the member’s account established under ORS**
10 **238A.353**, together with the interest that would have been accumulated on
11 the sum had the amount not been withdrawn.

12 “(2) Restoration of rights under this section does not affect any forfeiture
13 of rights of a person by reason of[:]

14 “[*(a)*] withdrawal of an account established under ORS 238.440[; *or*]

15 “[*(b)* *Withdrawal of individual accounts pursuant to ORS 238A.375*].

16 **“SECTION 7.** ORS 238.730 is amended to read:

17 “238.730. (1) The Public Employees Retirement Board shall establish an
18 Unfunded Actuarial Liability Resolution Program. Under the program, the
19 board shall provide technical expertise [*to participating public employers in*
20 *developing funding plans to improve the employers’ funded status and*] to
21 manage projected employer contribution rate changes. Funding plans devel-
22 oped under the program must be based on actuarial reports prepared under
23 ORS 238.605.

24 “(2) A participating public employer shall participate in the program.

25 “(3) The board may use moneys in the Employer Incentive Fund estab-
26 lished in section 1, chapter 105, Oregon Laws 2018, for reasonable adminis-
27 trative costs incurred under this section.

28 **“SECTION 8.** ORS 238.730, as amended by section 55, chapter 355, Oregon
29 Laws 2019, is amended to read:

30 “238.730. (1) The Public Employees Retirement Board shall establish an

1 Unfunded Actuarial Liability Resolution Program. Under the program, the
2 board shall provide technical expertise [*to participating public employers in*
3 *developing funding plans to improve the employers' funded status and*] to
4 manage projected employer contribution rate changes. Funding plans devel-
5 oped under the program must be based on actuarial reports prepared under
6 ORS 238.605.

7 “(2) A participating public employer shall participate in the program.

8 “**SECTION 9.** Section 2, chapter 105, Oregon Laws 2018, as amended by
9 section 47, chapter 355, Oregon Laws 2019, is amended to read:

10 “**Sec. 2.** (1)(a) The Public Employees Retirement Board shall establish a
11 process for distributing the moneys in the Employer Incentive Fund estab-
12 lished under section 1, chapter 105, Oregon Laws 2018.

13 “(b) The process must allow a participating public employer to apply to
14 reserve matching amounts in the Employer Incentive Fund by committing to
15 make a qualifying lump sum payment of at least \$25,000 to an account es-
16 tablished under ORS 238.229.

17 “(2) The board shall adopt rules establishing:

18 “(a) The percentage of a lump sum payment that may be matched by dis-
19 tributions from the fund, not to exceed 25 percent of a qualifying lump sum
20 payment.

21 “(b) The maximum matching amount that may be reserved by a partic-
22 ipating public employer, not to exceed the greater of:

23 “(A) Five percent of the unfunded actuarial liability attributable to the
24 employer, as determined in the most recent report prepared under ORS
25 238.605; or

26 “(B) \$300,000.

27 “(c) The qualifications for lump sum payments that may be matched under
28 this section, including a requirement that a qualifying lump sum payment
29 may not be a payment from moneys borrowed by the employer.

30 “(d) A requirement that the participating public employer participate in

1 the Unfunded Actuarial Liability Resolution Program to develop a plan un-
2 der [section 26, chapter 105, Oregon Laws 2018] **ORS 238.730**.

3 “(3)(a) For 90 days after the board begins accepting applications under
4 subsection (1) of this section, a participating public employer may apply to
5 reserve matching amounts from the Employer Incentive Fund under sub-
6 section (1) of this section only if the unfunded actuarial liability attributable
7 to the employer, as determined in the most recent report prepared under ORS
8 238.605, is more than 200 percent of the employer’s payroll for members of
9 the Public Employees Retirement System.

10 “(b) After the 90-day period described in paragraph (a) of this subsection,
11 any participating public employer may apply to reserve matching funds from
12 the Employer Incentive Fund under subsection (1) of this section.

13 “(4)(a) The board shall approve applications that meet the qualifications
14 established under subsection (2) of this section in the order in which the
15 applications are submitted. The board shall continue approving applications
16 as long as adequate moneys in the Employer Incentive Fund are [*projected*
17 *to become*] available.

18 “(b) After all of the moneys [*projected to become*] available in the Em-
19 ployer Incentive Fund are reserved for matching under paragraph (a) of this
20 subsection, the board may establish a waiting list for the remaining timely
21 submitted applications and, if sufficient moneys in the Employer Incentive
22 Fund become available, shall approve, in the order in which the applications
23 were submitted, applications that meet the qualifications established under
24 subsection (2) of this section.

25 “(5) The board shall transfer matching amounts approved under sub-
26 section (4) of this section from the Employer Incentive Fund to the approved
27 employers’ accounts established under ORS 238.229.

28 “(6) The board may transfer moneys from the Employer Incentive Fund
29 to the Public Employees Retirement Fund established under ORS 238.660 for
30 crediting to the reserves for pension accounts and annuities as provided in

1 ORS 238.670 (2).

2 “(7) The board may use moneys in the Employer Incentive Fund for rea-
3 sonable administrative costs incurred under this section.

4 **“SECTION 10.** ORS 238.395 is amended to read:

5 “238.395. (1)(a) In addition to any other benefits under this chapter, a
6 death benefit, provided by contributions of the public employer under ORS
7 238.225 and, for benefits that accrue on or after July 1, 2020, amounts in the
8 employee pension stability account established for the member under ORS
9 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1)
10 of a person who is an active or inactive member of the Public Employees
11 Retirement System and who dies as a result of injuries received while em-
12 ployed in the service of the public employer or within 120 days after termi-
13 nation from service with a participating public employer. A member who is
14 on a leave of absence without pay from employment with a participating
15 public employer has not terminated service with that participating public
16 employer for the purposes of this section.

17 “(b) The death benefit under this subsection is an amount equal to the
18 amount in the member account of the deceased member at the time of death.

19 “(c) In the event that a beneficiary has not been named as provided in
20 paragraph (a) of this subsection and ORS 238.390 (1), the death benefit under
21 this subsection shall be paid in the manner provided for payment of money
22 credited to the member account of the member in ORS 238.390 (2).

23 “(d) The beneficiary designated under paragraph (a) of this subsection and
24 ORS 238.390 (1) may elect to receive the amount payable in actuarially de-
25 termined monthly payments for the life of such beneficiary as long as such
26 monthly payments, plus the monthly amount if elected under ORS 238.390 (3),
27 are at least \$200.

28 “(e) Interest upon the death benefit provided by this subsection accrues
29 until the date that the benefit is distributed. The Public Employees Retire-
30 ment Board shall establish procedures for computing interest to be credited

1 on the benefit for the period between the date of death and date of distrib-
2 ution.

3 “(2)(a) If a member of the system dies while employed in the service of a
4 participating public employer or within 120 days after termination from ser-
5 vice with a participating public employer and the member’s spouse is the
6 member’s beneficiary under ORS 238.390, the member’s spouse may elect to
7 receive the benefit provided under this subsection in lieu of the death bene-
8 fits provided under ORS 238.390 and subsection (1) of this section.

9 “(b) The member’s spouse must notify the board in writing of an election
10 under this section no later than 60 days after the date of death of the mem-
11 ber.

12 “[*(c) The death benefit to be paid under this subsection is for the life of the*
13 *member’s spouse and is the actuarial equivalent of 50 percent of the service*
14 *retirement allowance that would otherwise have been paid to the deceased*
15 *member, which shall be calculated:*]

16 “[*(A) As of the date of death, if the member dies after the earliest retire-*
17 *ment date for the member under ORS 238.280; or]*

18 “[*(B) As if the member became an inactive member on the date of death and*
19 *retired at the earliest retirement date for the member under ORS 238.280.]*

20 “**(c) The death benefit to be paid under this subsection is for the life**
21 **of the member’s spouse and is:**

22 “**(A) If the member dies before the earliest retirement date for the**
23 **member under ORS 238.280, the actuarial equivalent of 50 percent of**
24 **the service retirement allowance that would otherwise have been paid**
25 **to the deceased member, which shall be calculated as if the member**
26 **became an inactive member on the date of death and retired at the**
27 **earliest retirement date for the member under ORS 238.280;**

28 “**(B) If the member dies on or after the earliest retirement date for**
29 **the member under ORS 238.280 and before normal retirement age, as**
30 **defined in ORS 238.005, the actuarial equivalent of the service retire-**

1 **ment allowance that would otherwise have been paid to the deceased**
2 **member, which shall be calculated as if the member retired under ORS**
3 **238.280 and as if the member's retirement date was the first of the**
4 **month following the date of death of the member; or**

5 **“(C) If the member dies on or after reaching normal retirement age**
6 **as defined in ORS 238.005, the actuarial equivalent of the benefit that**
7 **would otherwise have been paid to the deceased member, which shall**
8 **be calculated under ORS 238.300 as if the member's retirement date**
9 **was the first of the month following the date of death of the member.**

10 **“(d) The death benefit provided under this subsection shall be funded in**
11 **the same manner as described under ORS 238.300 and** is first effective
12 on the first day of the month following the election of the member's spouse
13 to receive the death benefit under this subsection. The member's spouse may
14 elect to delay payment of the death benefit, but payment must commence no
15 later than December 31 of the calendar year in which the deceased member
16 would have reached 70-1/2 years of age.

17 **“(3) Payment by the board of additional death benefits in the manner**
18 **provided by this section completely discharges the board and system on ac-**
19 **count of the death, and shall hold the board and system harmless from any**
20 **claim for wrongful payment.**

21 **“SECTION 11. ORS 238A.005 is amended to read:**

22 **“238A.005. For the purposes of this chapter:**

23 **“(1) ‘Active member’ means a member of the pension program or the in-**
24 **dividual account program of the Oregon Public Service Retirement Plan who**
25 **is actively employed in a qualifying position.**

26 **“(2) ‘Actuarial equivalent’ means a payment or series of payments having**
27 **the same value as the payment or series of payments replaced, computed on**
28 **the basis of interest rate and mortality assumptions adopted by the board.**

29 **“(3) ‘Board’ means the Public Employees Retirement Board.**

30 **“(4) ‘Eligible employee’ means a person who performs services for a par-**

1 participating public employer, including elected officials other than judges. ‘El-
2 ible employee’ does not include:

3 “(a) Persons engaged as independent contractors;

4 “(b) Aliens working under a training or educational visa;

5 “(c) Persons provided sheltered employment or make-work by a public
6 employer;

7 “(d) Persons categorized by a participating public employer as student
8 employees;

9 “(e) Any person who is in custody in a state institution;

10 “(f) Employees of foreign trade offices of the Oregon Business Develop-
11 ment Department who live and perform services in foreign countries under
12 the provisions of ORS 285A.075 (1)(g);

13 “(g) An employee actively participating in an alternative retirement pro-
14 gram established under ORS 353.250 or an optional retirement plan estab-
15 lished under ORS 341.551;

16 “(h) Employees of a public university listed in ORS 352.002 who are ac-
17 tively participating in an optional retirement plan offered under ORS 243.815;

18 “(i) Persons employed in positions classified as post-doctoral scholar po-
19 sitions by a public university listed in ORS 352.002, or by the Oregon Health
20 and Science University, under ORS 350.370;

21 “(j) Any employee who belongs to a class of employees that was not eli-
22 gible on August 28, 2003, for membership in the system under the provisions
23 of ORS chapter 238 or other law;

24 “(k) Any person who belongs to a class of employees who are not eligible
25 to become members of the Oregon Public Service Retirement Plan under the
26 provisions of ORS 238A.070 (2);

27 “(L) Any person who is retired under ORS 238A.100 to 238A.250 or ORS
28 chapter 238 and who continues to receive retirement benefits while employed;
29 and

30 “(m) Judges.

1 “(5) ‘Firefighter’ means:

2 “(a) A person employed by a local government, as defined in ORS 174.116,
3 whose primary job duties include the fighting of fires;

4 “(b) The State Fire Marshal, the chief deputy state fire marshal and
5 deputy state fire marshals;

6 “(c) An employee of the State Forestry Department who is certified by the
7 State Forester as a professional wildland firefighter and whose primary du-
8 ties include the abatement of uncontrolled fires as described in ORS 477.064;
9 and

10 “(d) An employee of the Oregon Military Department whose primary du-
11 ties include fighting structural, aircraft, wildland or other fires.

12 “(6) ‘Fund’ means the Public Employees Retirement Fund.

13 “(7)(a) ‘Hour of service’ means:

14 “(A) An hour for which an eligible employee is directly or indirectly paid
15 or entitled to payment by a participating public employer for performance
16 of duties in a qualifying position; and

17 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
18 duty or authorized leave during which an employee does not perform duties
19 but for which the employee is directly or indirectly paid or entitled to pay-
20 ment by a participating public employer for services in a qualifying position,
21 as long as the hour is within the number of hours regularly scheduled for
22 the performance of duties during the period of vacation, holiday, illness, in-
23 capacity, jury duty, military duty or authorized leave.

24 “(b) ‘Hour of service’ does not include any hour for which payment is
25 made or due under a plan maintained solely for the purpose of complying
26 with applicable unemployment compensation laws.

27 “(8) ‘Inactive member’ means a member of the pension program or the
28 individual account program of the Oregon Public Service Retirement Plan
29 whose membership has not been terminated, who is not a retired member and
30 who is not employed in a qualifying position.

1 “(9) ‘Individual account program’ means the defined contribution individ-
2 ual account program of the Oregon Public Service Retirement Plan estab-
3 lished under ORS 238A.025.

4 “(10) ‘Institution of higher education’ means a public university listed in
5 ORS 352.002, the Oregon Health and Science University or a community
6 college, as defined in ORS 341.005.

7 “(11) ‘Member’ means an eligible employee who has established member-
8 ship in the pension program or the individual account program of the Oregon
9 Public Service Retirement Plan and whose membership has not been termi-
10 nated under ORS 238A.110 or 238A.310.

11 “(12) ‘Participating public employer’ means a public employer as defined
12 in ORS 238.005 that provides retirement benefits for employees of the public
13 employer under the system.

14 “(13) ‘Pension program’ means the defined benefit pension program of the
15 Oregon Public Service Retirement Plan established under ORS 238A.025.

16 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

17 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
18 ticipating public employers in which an eligible employee performs 600 or
19 more hours of service in a calendar year, excluding any service in a job for
20 which benefits are not provided under the Oregon Public Service Retirement
21 Plan pursuant to ORS 238A.070 (2).

22 “(16) ‘Retired member’ means a pension program member who is receiving
23 a pension as provided in ORS 238A.180 to 238A.195.

24 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
25 turn for services to the participating public employer, including
26 remuneration in the form of living quarters, board or other items of value,
27 to the extent the remuneration is, **or would be if the member were an**
28 **Oregon resident**, includable in the employee’s taxable income under Oregon
29 law. ‘Salary’ includes the additional amounts specified in paragraph (b) of
30 this subsection, but does not include the amounts specified in paragraph (c)

1 of this subsection, regardless of whether those amounts are includable in
2 taxable income.

3 “(b) ‘Salary’ includes the following amounts:

4 “(A) Payments of employee and employer money into a deferred compen-
5 sation plan that are made at the election of the employee.

6 “(B) Contributions to a tax-sheltered or deferred annuity that are made
7 at the election of the employee.

8 “(C) Any amount that is contributed to a cafeteria plan or qualified
9 transportation fringe benefit plan by the employer at the election of the
10 employee and that is not includable in the taxable income of the employee
11 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2018.

12 “(D) Any amount that is contributed to a cash or deferred arrangement
13 by the employer at the election of the employee and that is not included in
14 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
15 effect on December 31, 2018.

16 “(E) Retroactive payments described in ORS 238.008.

17 “(F) The amount of an employee contribution to the individual account
18 program that is paid by the employer and deducted from the compensation
19 of the employee, as provided under ORS 238A.335 (1) and (2)(a).

20 “(G) The amount of an employee contribution to the individual account
21 program that is not paid by the employer under ORS 238A.335.

22 “(H) Wages of a deceased member paid to a surviving spouse or dependent
23 children under ORS 652.190.

24 “(c) ‘Salary’ does not include the following amounts:

25 “(A) Travel or any other expenses incidental to employer’s business which
26 is reimbursed by the employer.

27 “(B) Payments made on account of an employee’s death.

28 “(C) Any lump sum payment for accumulated unused sick leave, vacation
29 leave or other paid leave.

30 “(D) Any severance payment, accelerated payment of an employment

1 contract for a future period or advance against future wages.

2 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
3 payment.

4 “(F) Payment for a leave of absence after the date the employer and em-
5 ployee have agreed that no future services in a qualifying position will be
6 performed.

7 “(G) Payments for instructional services rendered to public universities
8 listed in ORS 352.002 or the Oregon Health and Science University when
9 those services are in excess of full-time employment subject to this chapter.
10 A person employed under a contract for less than 12 months is subject to this
11 subparagraph only for the months covered by the contract.

12 “(H) The amount of an employee contribution to the individual account
13 program that is paid by the employer and is not deducted from the compen-
14 sation of the employee, as provided under ORS 238A.335 (1) and (2)(b).

15 “(I) Compensation described and authorized under ORS 341.556 that is not
16 paid by the community college employing the faculty member.

17 “(J) Compensation described and authorized under ORS 352.232 that is not
18 paid by the public university employing the officer or employee.

19 “(K) Compensation described and authorized under ORS 353.270 that is
20 not paid by Oregon Health and Science University.

21 “(L) For years before 2020, any amount in excess of \$200,000 for a calen-
22 dar year. If any period over which salary is determined is less than 12
23 months, the \$200,000 limitation for that period shall be multiplied by a frac-
24 tion, the numerator of which is the number of months in the determination
25 period and the denominator of which is 12. The board shall adopt rules ad-
26 justing this dollar limit to incorporate cost-of-living adjustments authorized
27 by the Internal Revenue Service.

28 “(M) For years beginning on or after January 1, 2020, any amount in ex-
29 cess of \$195,000 for a calendar year. If any period over which salary is de-
30 termined is less than 12 months, the \$195,000 limitation for that period shall

1 be multiplied by a fraction, the numerator of which is the number of months
2 in the determination period and the denominator of which is 12. On January
3 1 of each year, the board shall adjust the dollar limit provided by this sub-
4 paragraph to reflect any percentage changes in the Consumer Price Index for
5 All Urban Consumers, West Region (All Items), as published by the Bureau
6 of Labor Statistics of the United States Department of Labor.

7 “(18) ‘System’ means the Public Employees Retirement System.

8 “(19) ‘Workers’ compensation benefits’ means:

9 “(a) Payments made under ORS chapter 656; or

10 “(b) Payments provided in lieu of workers’ compensation benefits under
11 ORS 656.027 (6).

12 **“SECTION 12.** ORS 353.100 is amended to read:

13 “353.100. (1) The provisions of ORS chapters 35, 190, 192, 244 and 295 and
14 ORS 30.260 to 30.460, 200.005 to 200.025, 200.045 to 200.090, 236.605 to 236.640,
15 243.650 to 243.806, 297.040, 307.090 and 307.112 apply to Oregon Health and
16 Science University under the same terms as they apply to public bodies other
17 than the state.

18 “(2) Except as otherwise provided by law, the provisions of ORS chapters
19 182, 183, 240, 270, 273, 276, 279A, 279B, 279C, 283, 291, 292, 293, 294 and 297
20 and ORS 35.550 to 35.575, 180.060, 180.210 to 180.235, 183.710 to 183.730,
21 183.745, 183.750, 184.305 to 184.345, 190.430, 190.480, 190.490, 192.105, 200.035,
22 243.105 to 243.585, 243.696, 278.011 to 278.120, 278.315 to 278.415, 279.835 to
23 279.855, 282.010 to 282.150, 283.085 to 283.092, 357.805 to 357.895 and 656.017
24 (2) do not apply to the university or any not-for-profit organization or other
25 entity if the equity of the entity is owned exclusively by the university and
26 if the organization or entity is created by the university to advance any of
27 the university’s statutory missions.

28 “(3) The university, as a distinct governmental entity, or any organization
29 or entity described in subsection (2) of this section is not subject to any
30 provision of law enacted after January 1, 1995, with respect to any govern-

1 mental entity, unless the provision specifically provides that it applies to the
2 university or to the organization or entity.

3 **“(4) For purposes of determining the salary, as defined in ORS**
4 **238A.005 (17), paid between August 29, 2003, and January 1, 2020, to a**
5 **member of the Public Employees Retirement System, remuneration**
6 **paid to a member of the system in return for services to the university**
7 **is deemed includable in the member’s taxable income under Oregon**
8 **law during a period of continuous employment with the Oregon Health**
9 **and Science University if:**

10 **“(a) The member was hired in a qualifying position, as defined in**
11 **ORS 238A.005, by the university on or after August 29, 2003; and**

12 **“(b) The remuneration was, or would have been if the member were**
13 **an Oregon resident, includable in the member’s taxable income under**
14 **Oregon law during the period of continuous employment.**

15 **“SECTION 13. ORS 338.135 is amended to read:**

16 **“338.135. (1) Employee assignment to a public charter school shall be**
17 **voluntary.**

18 **“(2)(a) A public charter school or the sponsor of the public charter school**
19 **is considered the employer of any employees of the public charter school. If**
20 **a school district board is not the sponsor of the public charter school, the**
21 **school district board may not be the employer of the employees of the public**
22 **charter school and the school district board may not collectively bargain**
23 **with the employees of the public charter school. The public charter school**
24 **governing body shall control the selection of employees at the public charter**
25 **school.**

26 **“(b) If a virtual public charter school or the sponsor of a virtual public**
27 **charter school contracts with a for-profit entity to provide educational ser-**
28 **vices through the virtual public charter school, the for-profit entity may not**
29 **be the employer of any employees of the virtual public charter school unless:**

30 **“(A) The employee is an administrator who does not have any teaching**

1 responsibilities; and

2 “(B) Both the executive officer of the sponsor and the public charter
3 school governing body approve employment by the for-profit entity. The
4 executive officer or governing body may choose to grant approval under this
5 subparagraph:

6 “(i) For all employees of the for-profit entity who meet the description in
7 subparagraph (A) of this paragraph;

8 “(ii) Based on the job categories of the employees who meet the de-
9 scription in subparagraph (A) of this paragraph; or

10 “(iii) On a case-by-case basis for each employee who meets the description
11 in subparagraph (A) of this paragraph.

12 “(3) The school district board of the school district within which the
13 public charter school is located shall grant a leave of absence to any em-
14 ployee who chooses to work in the public charter school. The length and
15 terms of the leave of absence shall be set by negotiated agreement or by
16 board policy. However, the length of the leave of absence may not be less
17 than two years unless:

18 “(a) The charter of the public charter school is terminated or the public
19 charter school is dissolved or closed during the leave of absence; or

20 “(b) The employee and the school district board have mutually agreed to
21 a different length of time.

22 “(4) An employee of a public charter school operating within a school
23 district who is granted a leave of absence from the school district and re-
24 turns to employment with the school district shall retain seniority and ben-
25 efits as an employee pursuant to the terms of the leave of absence.
26 Notwithstanding ORS 243.650 to 243.806, a school district that was the em-
27 ployer of an employee of a public charter school not operating within the
28 school district may make provisions for the return of the employee to em-
29 ployment with the school district.

30 “(5)(a) For purposes of ORS chapters 238 and 238A, a public charter

1 school shall be considered a public employer and as such shall participate
2 in the Public Employees Retirement System.

3 **“(b) For purposes of determining the salary paid between August**
4 **29, 2003, and January 1, 2020, to a member of the Public Employees**
5 **Retirement System under ORS 238A.005 (17), remuneration paid to a**
6 **member in return for services to a public charter school is deemed**
7 **includable in the member’s taxable income under Oregon law during**
8 **a period of continuous employment with any public charter school if:**

9 **“(A) The member was hired in a qualifying position by any public**
10 **charter school on or after August 29, 2003;**

11 **“(B) The remuneration was, or would have been if the member were**
12 **an Oregon resident, includable in the member’s taxable income under**
13 **Oregon law during the period of continuous employment; and**

14 **“(C) The member resided and performed services in the United**
15 **States during the period of continuous employment.**

16 **“(c) As used in this subsection, ‘continuous employment’ means**
17 **employment with a public charter school that is not interrupted by a**
18 **period of more than 30 consecutive calendar days.**

19 **“(6) For teacher licensing, employment experience in public charter**
20 **schools shall be considered equivalent to experience in public schools.**

21 **“(7)(a) Any person employed as an administrator in a public charter**
22 **school shall be licensed or registered to administer by the Teacher Standards**
23 **and Practices Commission.**

24 **“(b) Any person employed as a teacher in a public charter school shall**
25 **be licensed or registered to teach by the commission.**

26 **“(c) Notwithstanding paragraph (a) or (b) of this subsection, at least**
27 **one-half of the total full-time equivalent (FTE) teaching and administrative**
28 **staff at the public charter school shall be licensed by the commission pur-**
29 **suant to ORS 342.125.**

30 **“(8) Notwithstanding ORS 243.650, a public charter school shall be con-**

1 sidered a school district for purposes of ORS 243.650 to 243.806. An employee
2 of a public charter school may be a member of a labor organization or or-
3 ganize with other employees to bargain collectively. Bargaining units at the
4 public charter school may be separate from other bargaining units of the
5 sponsor or of the school district in which the public charter school is lo-
6 cated. Employees of a public charter school may be part of the bargaining
7 units of the sponsor or of the school district in which the public charter
8 school is located.

9 “(9) An entity described in ORS 338.005 (4) may not waive the right to
10 sponsor a public charter school in a collective bargaining agreement.

11 **“SECTION 14. The amendments to ORS 238.082 and sections 35 and**
12 **37, chapter 355, Oregon Laws 2019, by sections 1 to 3 of this 2021 Act**
13 **apply to determinations made under ORS 238.082 and sections 35 and**
14 **37, chapter 355, Oregon Laws 2019, on or after the effective date of this**
15 **2021 Act for all service performed by a retired member employed by a**
16 **participating public employer, whether performed before, on or after**
17 **the effective date of this 2021 Act.**

18 **“SECTION 15. The amendments to ORS 238A.005 by section 11 of**
19 **this 2021 Act apply to remuneration paid to an active member of the**
20 **Public Employees Retirement System on or after January 1, 2020.”.**

21
