

SB 112-2
(LC 589)
3/5/21 (MNJ/ps)

Requested by Senator LIEBER

**PROPOSED AMENDMENTS TO
SENATE BILL 112**

1 On page 1 of the printed bill, line 2, delete “and 238A.005” and insert “,
2 238A.005, 243.815 and 341.551”.

3 On page 9, after line 13, insert:

4 **“SECTION 3.** 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 make an irrevocable
7 election to participate in the Optional Retirement Plan within six months
8 after being employed. An election under this subsection is effective on the
9 first day of the month following the completion of the requirements of sub-
10 section (2) of this section.

11 “(4) **Unless a collective bargaining agreement provides otherwise,** an
12 administrative or academic employee who is eligible to remain or become a
13 member of the Public Employees Retirement System and who does not elect
14 to participate in the Optional Retirement Plan:

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

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

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

24 “(6)(a) An administrative or academic employee who elects to participate
25 in the Optional Retirement Plan, who has creditable service under ORS
26 chapter 238 as defined by ORS 238.005 and who is not vested shall be con-
27 sidered by the Public Employees Retirement Board to be a terminated mem-
28 ber under the provisions of ORS 238.095 as of the effective date of the
29 election, and the amounts credited to the member accounts of the member
30 established under ORS 238.250, 238.260, 238A.350 and 238A.353 shall be

1 transferred directly to the Optional Retirement Plan by the Public Employ-
2 ees Retirement Board in the manner provided by subsection (7) of this sec-
3 tion.

4 “(b) An administrative or academic employee who elects to participate in
5 the Optional Retirement Plan, who has creditable service under ORS chapter
6 238 as defined by ORS 238.005 and who is vested shall be considered to be
7 an inactive member by the Public Employees Retirement Board and shall
8 retain all the rights, privileges and options under ORS chapter 238 unless the
9 employee makes a written request to the Public Employees Retirement Board
10 for a transfer of the amounts credited to the member accounts of the member
11 established under ORS 238.250, 238.260, 238A.350 and 238A.353 to the Op-
12 tional Retirement Plan. A request for a transfer must be made at the time
13 the member elects to participate in the Optional Retirement Plan. Upon re-
14 ceiving the request, the Public Employees Retirement Board shall transfer
15 all amounts credited to the member accounts of the member established un-
16 der ORS 238.250, 238.260, 238A.350 and 238A.353 directly to the Optional Re-
17 tirement Plan in the manner provided by subsection (7) of this section, and
18 shall terminate all rights, privileges and options of the employee under the
19 Public Employees Retirement System.

20 “(c) An administrative or academic employee who elects to participate in
21 the Optional Retirement Plan and who is a member of the pension program
22 of the Oregon Public Service Retirement Plan as described in ORS 238A.100
23 on the date that the election becomes effective, but who has not vested in
24 the program under ORS 238A.115 on the date that the election becomes ef-
25 fective, shall be considered to be a terminated member of the Public Em-
26 ployees Retirement System by the Public Employees Retirement Board as of
27 the effective date of the election. The board shall transfer the amounts
28 credited to the member accounts of the member established under ORS
29 238A.350 and 238A.353 directly to the Optional Retirement Plan in the man-
30 ner provided by subsection (7) of this section.

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

19 “(e) Notwithstanding paragraphs (b) and (d) of this subsection, the Public
20 Employees Retirement Board may not treat any employee as an inactive
21 member under the provisions of this subsection for the purpose of receiving
22 any benefit under ORS chapter 238 or 238A that requires that the employee
23 be separated from all service with participating public employers and with
24 employers who are treated as part of a participating public employer’s con-
25 trolled group under the federal laws and rules governing the status of the
26 Public Employees Retirement System and the Public Employees Retirement
27 Fund as a qualified governmental retirement plan and trust.

28 “(7) Any amounts transferred from the Public Employees Retirement Fund
29 under subsection (6) of this section shall be transferred directly to the Op-
30 tional Retirement Plan by the Public Employees Retirement Board and may

1 not be made available to the employee.

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

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

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

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

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

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

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

30 “(A) Enrollment in the public university’s Tax-Deferred Investment 403(b)

1 Plan under ORS 243.820; or

2 “(B) Completion of:

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

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

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

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

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

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

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

29 **“SECTION 4.** ORS 341.551 is amended to read:

30 “341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A,

1 the Office of Community Colleges and Workforce Development may establish
2 and administer an optional retirement plan for administrative employees of
3 community college districts who are eligible for membership in the Public
4 Employees Retirement System. Any community college district may partic-
5 ipate in the plan by giving written notice to the office.

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

10 “(a) An administrative employee who is an active member of the Public
11 Employees Retirement System may make an election to participate in the
12 plan within 180 days after the community college district commences partic-
13 ipation in the plan, effective on the first day of the month following the
14 election.

15 “(b) An administrative employee who is hired after the community college
16 district commences participation in the plan may make an election to par-
17 ticipate in the plan within the first six months of employment, effective on
18 the first day of the month following six full months of employment.

19 “(3) **Unless a collective bargaining agreement provides otherwise**, an
20 administrative employee who does not elect to participate in the optional
21 retirement plan remains or becomes a member of the Public Employees Re-
22 tirement System in accordance with ORS chapters 238 and 238A.

23 “(4) An administrative employee may elect to participate in the optional
24 retirement plan only if at the time the election becomes effective the em-
25 ployee is not concurrently employed in a position with any participating
26 public employer other than the community college district in a position that
27 entitles the employee to membership in the Public Employees Retirement
28 System. Except as provided in subsection (9) of this section, employees who
29 elect to participate in the optional retirement plan are ineligible for active
30 membership in the Public Employees Retirement System for as long as those

1 employees are employed by a community college district that participates in
2 the plan, whether by reason of employment by the district or any other par-
3 ticipating public employer.

4 “(5)(a) An administrative employee who elects to participate in the op-
5 tional retirement plan, who has creditable service under ORS chapter 238 as
6 defined by ORS 238.005 and who is not vested shall be considered by the
7 Public Employees Retirement Board to be a terminated member under the
8 provisions of ORS 238.095 as of the effective date of the election, and the
9 amounts credited to the member accounts of the member established under
10 ORS 238.250, 238.260, 238A.350 and 238A.353 shall be transferred directly to
11 the optional retirement plan by the Public Employees Retirement Board in
12 the manner provided by subsection (6) of this section.

13 “(b) An administrative employee who elects to participate in the optional
14 retirement plan, who has creditable service under ORS chapter 238 as defined
15 by ORS 238.005 and who is vested shall be considered to be an inactive
16 member by the Public Employees Retirement Board and shall retain all the
17 rights, privileges and options under ORS chapter 238 unless the employee
18 makes a written request to the Public Employees Retirement Board for a
19 transfer of the amounts credited to the member accounts of the member es-
20 tablished under ORS 238.250, 238.260, 238A.350 and 238A.353 to the optional
21 retirement plan. A request for a transfer must be made at the time the
22 member elects to participate in the optional retirement plan. Upon receiving
23 the request, the Public Employees Retirement Board shall transfer all
24 amounts credited to the member accounts of the member established under
25 ORS 238.250, 238.260, 238A.350 and 238A.353 directly to the optional retire-
26 ment plan in the manner provided by subsection (6) of this section and shall
27 terminate all rights, privileges and options of the employee under the Public
28 Employees Retirement System.

29 “(c) An administrative employee who elects to participate in the optional
30 retirement plan and who is a member of the pension program of the Oregon

1 Public Service Retirement Plan as described in ORS 238A.100 on the date
2 that the election becomes effective, but who has not vested in the program
3 under ORS 238A.115 on the date that the election becomes effective, shall
4 be considered to be a terminated member of the Public Employees Retirement
5 System by the Public Employees Retirement Board as of the effective date
6 of the election. The board shall transfer the amounts credited to the member
7 accounts of the member established under ORS 238A.350 and 238A.353 di-
8 rectly to the optional retirement plan in the manner provided by subsection
9 (6) of this section.

10 “(d) An administrative employee who elects to participate in the optional
11 retirement plan and who is a vested member of the pension program of the
12 Oregon Public Service Retirement Plan as described in ORS 238A.115 on the
13 date that the election becomes effective shall be considered an inactive
14 member of the pension program by the Public Employees Retirement Board
15 as of the effective date of the election. A member who is subject to the pro-
16 visions of this paragraph retains all the rights, privileges and options of an
17 inactive member of the pension program, unless the member makes a written
18 request to the Public Employees Retirement Board for a transfer of the
19 amounts credited to the member accounts of the member established under
20 ORS 238A.350 and 238A.353 to the optional retirement plan. The request must
21 be made at the time the member elects to participate in the optional retire-
22 ment plan. Upon receiving the request, the Public Employees Retirement
23 Board shall transfer the amounts credited to the member accounts of the
24 member established under ORS 238A.350 and 238A.353 directly to the optional
25 retirement plan in the manner provided by subsection (6) of this section and
26 shall terminate the membership of the employee in the Public Employees
27 Retirement System.

28 “(e) Notwithstanding paragraphs (b) and (d) of this subsection, the Public
29 Employees Retirement Board shall not treat any employee as an inactive
30 member under the provisions of this subsection for the purpose of receiving

1 any benefit under ORS chapter 238 or 238A that requires that the employee
2 be separated from all service with participating public employers and with
3 employers who are treated as part of a participating public employer's con-
4 trolled group under the federal laws and rules governing the status of the
5 Public Employees Retirement System and the Public Employees Retirement
6 Fund as a qualified governmental retirement plan and trust.

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

11 “(7) An employee participating in the optional retirement plan shall con-
12 tribute monthly an amount equal to the percentage of the employee's salary
13 that the employee would otherwise have contributed as an employee contri-
14 bution to the Public Employees Retirement System if the employee had not
15 elected to participate in the optional retirement plan.

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

25 “(9) An administrative employee who elects to participate in the optional
26 retirement plan may make an election to withdraw from the plan. An em-
27 ployee may make an election under this subsection only once. Upon with-
28 drawing from the plan:

29 “(a) All contributions made to the plan before the effective date of the
30 withdrawal remain credited to the employee;

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

4 “(c) The employee is barred from ever again electing to participate in the
5 optional retirement plan.

6 “(10) For the purposes of this section, ‘administrative employee’ means a
7 president, vice president or dean, or a person holding a position that is the
8 equivalent of a president, vice president or dean.”.

9 In line 14, delete “3” and insert “5”.

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