

(Including Amendments to Resolve Conflicts)

# B-Engrossed House Bill 2283

Ordered by the Senate May 15  
Including House Amendments dated April 10 and Senate Amendments  
dated May 15

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for  
Public Employees Retirement System)

## 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.

Modifies provisions relating to public employee retirement.  
Provides for expedited review of Act by Supreme Court upon petition by adversely affected party.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; and amending ORS 238.005, 238.095,  
3 238.364, 238.390, 238.395, 238.440, 238.450, 238.545, 238.565, 238.580, 238A.005, 238A.155, 238A.160,  
4 238A.165, 238A.230, 238A.235, 238A.320 and 238A.410.

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

## JUDGE MEMBERS

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7  
8  
9 **SECTION 1.** ORS 238.545 is amended to read:

10 238.545. (1) Except as otherwise provided in this section[.]:

11 (a) A judge member **who has five or more years of service as a judge** may withdraw from  
12 the Public Employees Retirement Fund the amount credited to the member account of the judge  
13 member if:

14 [(a)] (A) The judge member is separated from all service with participating public employers;

15 [(b)] (B) The judge member is separated from all service with employers who are treated as part  
16 of a participating public employer's controlled group under the federal laws and rules governing the  
17 status of the Public Employees Retirement System and the Public Employees Retirement Fund as a  
18 qualified governmental retirement plan and trust;

19 [(c)] (C) The judge member has not attained 60 years of age; and

20 [(d)] (D) The separation from service is not by reason of death or disability.

21 (b) A judge member **who has fewer than five years of service as a judge may withdraw**  
22 **from the Public Employees Retirement Fund the amount credited to the member account**  
23 **of the judge member if:**

24 (A) The judge member is separated from all service with participating public employers;

25 (B) The judge member is separated from all service with employers who are treated as

**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 **part of a participating public employer's controlled group under the federal laws and rules**  
2 **governing the status of the Public Employees Retirement System and the Public Employees**  
3 **Retirement Fund as a qualified governmental retirement plan and trust; and**

4 **(C) The separation from service is not by reason of death or disability.**

5 (2) If a judge member wishes to withdraw the member account balance under this section, the  
6 judge member must transmit to the Public Employees Retirement Board a withdrawal request. The  
7 board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn amounts,  
8 if:

9 (a) The board determines that the separation is not a bona fide separation; or

10 (b) The judge member fails to remain absent from the service of all employers described in  
11 subsection (1) of this section for at least one calendar month following the month in which the judge  
12 member separates from service.

13 (3) If a judge member who is eligible to withdraw as provided in subsection (1) of this section  
14 does not elect to withdraw, the member account of the judge member shall remain to the credit of  
15 the judge member, and the judge member is entitled to such death benefits and disability retirement  
16 allowance as ORS 238.500 to 238.585 provide. Before attaining 60 years of age, a judge member who  
17 is eligible to withdraw as provided in subsection (1) of this section but who does not withdraw must  
18 elect in writing to retire under either ORS 238.535 (1)(a) or (b). The election is irrevocable after the  
19 judge member attains 60 years of age. Any inactive judge member who fails to make the election  
20 provided for in this subsection prior to attaining 60 years of age shall be retired under the pro-  
21 visions of ORS 238.535 (1)(a). The service retirement allowance of an inactive judge member who  
22 retires under ORS 238.535 (1)(a) shall be a reduced service retirement allowance that is the actuarial  
23 equivalent of the service retirement allowance provided for in ORS 238.535 (1)(a). An inactive judge  
24 member who elects to retire under ORS 238.535 (1)(b) must meet all other requirements imposed by  
25 ORS 238.535 for retirement under ORS 238.535 (1)(b).

26 (4) If approved by the Chief Justice of the Supreme Court, an inactive judge member who elects  
27 to retire under ORS 238.535 (1)(b) pursuant to the provisions of subsection (3) of this section may  
28 commence to serve the pro tem service obligation imposed by ORS 238.535 before the judge  
29 member's date of retirement. If the Chief Justice determines, at any time after the judge member  
30 commences performing the pro tem service obligation, that the judge member has failed to perform  
31 the pro tem services in the manner required by ORS 238.535 (1)(c), and the judge member has not  
32 been relieved of the obligation to perform those services in the manner provided by ORS 238.535  
33 (1)(c), the Chief Justice shall notify the Public Employees Retirement Board. If the judge member  
34 has not yet retired, the board shall calculate the service retirement allowance of the noncomplying  
35 judge member at the time of retirement in the manner provided by ORS 238.535 (1)(a). If the judge  
36 member has retired, the board shall recalculate the service retirement allowance of the noncomply-  
37 ing judge member in the manner provided by ORS 238.535 (1)(a), and the noncomplying judge member  
38 shall receive only that recalculated amount thereafter. An inactive judge member may be relieved  
39 of the pro tem service obligation imposed by ORS 238.535 (1)(c) in the same manner as provided in  
40 ORS 238.535 for retired judge members.

41 (5) Withdrawal of the member account balance under this section cancels all membership rights  
42 in the system, including the right to claim credit for any employment before withdrawal.

43 (6) ORS 238.105 and 238.115 (1) apply to a former judge member who has withdrawn the member  
44 account balance under this section.

45 **SECTION 2.** ORS 238.565 is amended to read:

1 238.565. (1) For the purposes of this section, a judge member may designate a beneficiary or  
2 beneficiaries by written designation duly acknowledged and filed with the **Public Employees Re-**  
3 **irement** Board before the death of the judge member. Beneficiaries designated by a judge member  
4 may include any persons, the personal representative of the estate of the judge member or the  
5 trustee named by the judge member to execute an express trust.

6 (2)(a) If a judge member who has six or more years of service as a judge dies before retiring,  
7 and the judge member is not an inactive judge member who is performing a pro tem service obli-  
8 gation under the provisions of ORS 238.545 (4), the surviving spouse of the judge member shall re-  
9 ceive a life pension, payable monthly, equal to two-thirds of the service retirement allowance the  
10 judge member would have received under ORS 238.535 (1)(a) had the judge member retired on the  
11 date of death.

12 (b) If a judge member who has six or more years of service as a judge dies before retiring, and  
13 the judge member is an inactive member who is performing a pro tem service obligation under the  
14 provisions of ORS 238.545 (4), the surviving spouse of the judge member shall receive a life pension,  
15 payable monthly, equal to two-thirds of the service retirement allowance the judge member would  
16 have received under ORS 238.535 (1)(b) had the judge member retired on the date of death.

17 (c) If a surviving spouse receiving a pension under paragraph (a) or (b) of this subsection dies  
18 and the total amount received as pension by the surviving spouse is less than the amount credited  
19 to the member account of the judge member in the fund on the date of death of the judge member,  
20 the beneficiary or beneficiaries shall receive a lump sum amount equal to the difference between the  
21 total amount received by the surviving spouse and the amount so credited to the member account  
22 of the judge member.

23 (d) If a judge member [*who has six or more years of service as a judge*] dies before retiring and  
24 has no surviving spouse, the beneficiary or beneficiaries shall receive a lump sum amount equal to  
25 the amount credited to the member account of the judge member in the fund on the date of death  
26 of the judge member. **If the judge has not designated a beneficiary, or if the named beneficiary**  
27 **predeceases the judge member, the amount credited to the account shall be paid to a per-**  
28 **sonal representative appointed for the estate of the deceased judge member.**

29 (e) If the surviving spouse of a judge member who dies before retiring is not entitled to a pen-  
30 sion under paragraph (a) or (b) of this subsection, the surviving spouse shall receive a lump sum  
31 amount equal to the amount credited to the member account of the judge member in the fund on the  
32 date of death of the judge member.

33 (3)(a) If a judge member dies after retiring, the surviving spouse of the judge member shall re-  
34 ceive a life pension, payable monthly, equal to two-thirds of the retirement allowance the judge  
35 member is receiving or is entitled to receive on the date of death.

36 (b) If a surviving spouse receiving a pension under paragraph (a) [*or (b)*] of this subsection dies  
37 and the total amount received as retirement allowance by the retired judge member and as pension  
38 by the surviving spouse is less than the amount credited to the member account of the judge member  
39 on the date of retirement of the judge member, the beneficiary or beneficiaries shall receive a lump  
40 sum amount equal to the difference between the total amount received as retirement allowance and  
41 pension and the amount so credited to the member account of the judge member.

42 (c) If a judge member dies after retiring and has no surviving spouse, and the total amount re-  
43 ceived as retirement allowance by the retired judge member is less than the amount credited to the  
44 member account of the judge member on the date of retirement of the judge member, the beneficiary  
45 or beneficiaries shall receive a lump sum amount equal to the difference between the total amount

1 received as retirement allowance and the amount so credited to the member account of the judge  
2 member.

3 (4) At any time after becoming a judge member, but not later than the date on which the first  
4 payment on account of retirement is due, a judge member may elect to provide an addition to the  
5 pension of the surviving spouse of the judge member under subsection (3)(a) of this section by se-  
6 lecting a reduced retirement allowance for the judge member. The additional pension to the surviv-  
7 ing spouse shall be the actuarial equivalent of the reduction in the retirement allowance of the  
8 judge member and, in no event, when added to the pension under subsection (3)(a) of this section,  
9 shall it exceed the reduced retirement allowance elected by the judge member.

10 (5) Any accrued retirement allowance due a retired judge member that is unpaid at the time of  
11 death of the judge member shall be paid to the surviving spouse of the judge member. If there is no  
12 surviving spouse, the accrued retirement allowance shall be paid to the beneficiary or beneficiaries  
13 of the judge member. If there is no surviving spouse or beneficiary, the accrued retirement allow-  
14 ance shall be paid as provided in ORS 238.390 (2).

15 (6) Notwithstanding any other provision of this section, a judge member shall be considered to  
16 have died with no surviving spouse if:

17 (a) The judge member has entered into a prenuptial or antenuptial agreement with the spouse  
18 of the judge that provides that the spouse shall have no right or claim to a surviving spouse's pen-  
19 sion; and

20 (b) The judge member has filed a copy of the prenuptial or antenuptial agreement with the board  
21 before the death of the judge member.

22 (7) The board shall not be liable for any payment made to a beneficiary by reason of a prenuptial  
23 or antenuptial agreement filed with the board under subsection (6) of this section unless the board  
24 has actual knowledge that the agreement has been revoked.

25 (8) A judge member may elect to have all or part of the pension that is payable to a surviving  
26 spouse under this section be paid to a former spouse of the judge member. The election may be made  
27 before or after the judge member retires. If a judge member makes an election under this subsection,  
28 the board shall pay the designated portion of pension to the former spouse for the life of the former  
29 spouse. If a judge member is married at the time an election is made under this subsection, the  
30 spouse of the judge member must give written consent to the election. An election under this sub-  
31 section does not affect the amount of any additional pension elected by a judge member under sub-  
32 section (4) of this section. If a judge member makes an election under this subsection and the judge  
33 member does not have a surviving spouse when the judge member dies, the former spouse shall re-  
34 ceive a life pension for only that part of the pension specified in the election. If a judge member  
35 makes an election under this subsection and the judge member has a surviving spouse when the  
36 judge member dies:

37 (a) The surviving spouse shall receive no benefit if the judge member elected to have the entire  
38 pension payable under this section paid to the former spouse; or

39 (b) The surviving spouse shall receive that part of the pension not paid to the former spouse  
40 until the death of the former spouse.

41 **SECTION 3.** ORS 238.580 is amended to read:

42 238.580. (1) Except as provided in subsection (3) of this section, ORS 238.005 (4) and (26), 238.025,  
43 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, **238.362**, 238.364, **238.372 to**  
44 **238.384**, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610,  
45 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the in-

1 creases provided by ORS 238.366 for members of the system who are serving as other than police  
2 officers or firefighters apply in respect to service as a judge member.

3 (2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to  
4 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

5 (3) ORS 238.005 (26)(c)(M) does not apply in respect to service as a judge member.

6  
7 **DEFINITIONS**

8  
9 **SECTION 4.** ORS 238.005 is amended to read:

10 238.005. For purposes of this chapter:

11 (1) "Active member" means a member who is presently employed by a participating public em-  
12 ployer in a qualifying position and who has completed the six-month period of service required by  
13 ORS 238.015.

14 (2) "Annuity" means payments for life derived from contributions made by a member as provided  
15 in this chapter.

16 (3) "Board" means the Public Employees Retirement Board.

17 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-  
18 cember 31 following.

19 (5) "Continuous service" means service not interrupted for more than five years, except that  
20 such continuous service shall be computed without regard to interruptions in the case of:

21 (a) An employee who had returned to the service of the employer as of January 1, 1945, and  
22 who remained in that employment until having established membership in the Public Employees  
23 Retirement System.

24 (b) An employee who was in the armed services on January 1, 1945, and returned to the service  
25 of the employer within one year of the date of being otherwise than dishonorably discharged and  
26 remained in that employment until having established membership in the Public Employees Retire-  
27 ment System.

28 (6) "Creditable service" means any period of time during which an active member is being paid  
29 a salary by a participating public employer and for which benefits under this chapter are funded by  
30 employer contributions and earnings on the fund. For purposes of computing years of "creditable  
31 service," full months and major fractions of a month shall be considered to be one-twelfth of a year  
32 and shall be added to all full years. "Creditable service" includes all retirement credit received by  
33 a member.

34 (7) "Earliest service retirement age" means the age attained by a member when the member  
35 could first make application for retirement under the provisions of ORS 238.280.

36 (8) "Employee" means a person who performs services for a participating public employer, in-  
37 cluding persons considered employees of a participating public employer under 26 U.S.C. 3121(d)(2),  
38 as in effect on December 31, 2019, and public officers. "Employee" does not include:

39 (a) Persons engaged as independent contractors.

40 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-  
41 ployer or public employers do not total 600 hours in any calendar year.

42 (c) Persons provided sheltered employment or made-work by a public employer in an employment  
43 or industries program maintained for the benefit of such persons.

44 (d) Persons employed and paid from federal funds received under a federal program intended  
45 primarily to alleviate unemployment. However, any such person shall be considered an "employee"

1 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects  
2 to have the person so considered by an irrevocable written notice to the board.

3 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-  
4 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph  
5 shall be deemed to have been in effect since the inception of the system.

6 (f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-  
7 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

8 (9) "Final average salary" means whichever of the following is greater:

9 (a) The average salary per calendar year paid by one or more participating public employers to  
10 an employee who is an active member of the system in three of the calendar years of membership  
11 before the effective date of retirement of the employee, in which three years the employee was paid  
12 the highest salary. The three calendar years in which the employee was paid the largest total salary  
13 may include calendar years in which the employee was employed for less than a full calendar year.  
14 If the number of calendar years of active membership before the effective date of retirement of the  
15 employee is three or fewer, the final average salary for the employee is the average salary per cal-  
16 endar year paid by one or more participating public employers to the employee in all of those years,  
17 without regard to whether the employee was employed for the full calendar year.

18 (b) One-third of the total salary paid by a participating public employer to an employee who is  
19 an active member of the system in the last 36 calendar months of active membership before the ef-  
20 fective date of retirement of the employee.

21 (10) "Firefighter" does not include a volunteer firefighter, but does include:

22 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals;

23 (b) An employee of the State Fire Marshal whose primary duties include fire investigation, fire  
24 prevention, fire safety, fire control or fire suppression;

25 (c) An employee of the State Forestry Department who is certified by the State Forester as a  
26 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
27 fires as described in ORS 477.064; and

28 (d) An employee of the Oregon Military Department whose primary duties include fighting  
29 structural, aircraft, wildland or other fires.

30 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-  
31 lowing.

32 (12) "Fund" means the Public Employees Retirement Fund.

33 (13) "Inactive member" means a member who is not employed in a qualifying position, whose  
34 membership has not been terminated in the manner described by ORS 238.095 and who is not retired  
35 for service or disability.

36 (14) "Institution of higher education" means a public university listed in ORS 352.002, the  
37 Oregon Health and Science University and a community college, as defined in ORS 341.005.

38 (15) "Member" means a person who has established membership in the system and whose mem-  
39 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive  
40 and retired members.

41 (16) "Member account" means the regular account and the variable account.

42 (17) "Normal retirement age" means:

43 (a) For a person who establishes membership in the system before January 1, 1996, as described  
44 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter  
45 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

1 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-  
2 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or  
3 firefighter or 60 years of age if the employee retires at that age as other than a police officer or  
4 firefighter.

5 (18) "Pension" means annual payments for life derived from contributions by one or more public  
6 employers.

7 (19) "Police officer" includes:

8 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions  
9 whose duties, as assigned by the Director of the Department of Corrections, include the custody of  
10 persons committed to the custody of or transferred to the Department of Corrections and employees  
11 of the Department of Corrections who were classified as police officers on or before July 27, 1989,  
12 whether or not such classification was authorized by law.

13 (b) Employees of the Department of State Police who are classified as police officers by the  
14 Superintendent of State Police.

15 (c) Employees of the Oregon Liquor and Cannabis Commission who are classified as regulatory  
16 specialists by the administrator of the commission.

17 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified  
18 by the sheriff, are the regular duties of police officers or corrections officers.

19 (e) Police chiefs and police personnel of a city who are classified as police officers by the  
20 council or other governing body of the city.

21 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who  
22 are classified as police officers by the university.

23 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-  
24 bation officers who are transferred to county employment under ORS 423.549 and adult parole and  
25 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes  
26 of this chapter by the county governing body. If a county classifies adult parole and probation offi-  
27 cers as police officers for the purposes of this chapter, and the employees so classified are repres-  
28 ented by a labor organization, any proposal by the county to change that classification or to cease  
29 to classify adult parole and probation officers as police officers for the purposes of this chapter is  
30 a mandatory subject of bargaining.

31 (h) Police officers appointed under ORS 276.021 or 276.023.

32 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-  
33 missioners of the Port of Portland.

34 (j) Employees of the State Department of Agriculture who are classified as livestock police of-  
35 ficers by the Director of Agriculture.

36 (k) Employees of the Department of Public Safety Standards and Training who are classified by  
37 the department as other than secretarial or clerical personnel.

38 (L) Investigators of the Criminal Justice Division of the Department of Justice.

39 (m) Corrections officers as defined in ORS 181A.355.

40 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the  
41 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

42 (o) The Director of the Department of Corrections.

43 (p) An employee who for seven consecutive years has been classified as a police officer as de-  
44 fined by this section, and who is employed or transferred by the Department of Corrections to fill  
45 a position designated by the Director of the Department of Corrections as being eligible for police

1 officer status.

2 (q) An employee of the Department of Corrections classified as a police officer on or prior to  
3 July 27, 1989, whether or not that classification was authorized by law, as long as the employee  
4 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-  
5 tem implemented pursuant to ORS 240.190 does not affect police officer status.

6 (r) Employees of a school district who are appointed and duly sworn members of a law  
7 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as  
8 police officers commissioned by the district.

9 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,  
10 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who  
11 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the  
12 Department of Corrections or the Oregon Youth Authority.

13 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-  
14 scription involves the custody, control, treatment, investigation or supervision of juveniles placed  
15 in such facilities.

16 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-  
17 bation officers.

18 (v) Employees of the Department of Human Services who are prohibited from striking under ORS  
19 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS  
20 443.400, that house individuals with intellectual or developmental disabilities.

21 (w) Employees appointed as judicial marshals under ORS 1.177 who are certified under ORS  
22 181A.540.

23 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)  
24 to (6) (1999 Edition).

25 (21) "Public employer" means the state, one of its agencies or any city, county, municipal or  
26 public corporation, political subdivision of the state or instrumentality thereof, or an agency created  
27 by one or more such governmental organizations to provide governmental services. For purposes of  
28 this chapter, such agency created by one or more governmental organizations is a governmental  
29 instrumentality and a legal entity with power to enter into contracts, hold property and sue and be  
30 sued.

31 (22) "Qualifying position" means one or more jobs with one or more participating public em-  
32 ployers in which an employee performs 600 or more hours of service in a **full** calendar year, **or**  
33 **would perform 600 or more hours of service if the employee were employed for the full cal-**  
34 **endar year**, excluding any service in a job for which a participating public employer does not pro-  
35 vide benefits under this chapter pursuant to an application made under ORS 238.035.

36 (23) "Regular account" means the account established for each active and inactive member un-  
37 der ORS 238.250.

38 (24) "Retired member" means a member who is retired for service or disability.

39 (25) "Retirement credit" means a period of time that is treated as creditable service for the  
40 purposes of this chapter.

41 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public  
42 employer in return for services to the employer, plus the monetary value, as determined by the  
43 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and  
44 other advantages the employer furnishes the employee in return for services.

45 (b) "Salary" includes but is not limited to:



1 (A) Payments of employee and employer money into a deferred compensation plan, which are  
2 deemed salary paid in each month of deferral;

3 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary  
4 paid in each month of participation;

5 (C) Retroactive payments described in ORS 238.008; [and]

6 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
7 652.190[.]; and

8 **(E) The full amount of required employee contributions under ORS 238A.330 that are paid**  
9 **by the employer on behalf of its employees under ORS 238A.335 (2)(b), solely for the purpose**  
10 **of computing a member's final average salary, and not for any other purpose.**

11 (c) "Salary" or "other advantages" does not include:

12 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the  
13 employer;

14 (B) Payments for insurance coverage by an employer on behalf of employee or employee and  
15 dependents, for which the employee has no cash option;

16 (C) Payments made on account of an employee's death;

17 (D) Any lump sum payment for accumulated unused sick leave;

18 (E) Any accelerated payment of an employment contract for a future period or an advance  
19 against future wages;

20 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
21 gratuitous payment;

22 (G) Payments for periods of leave of absence after the date the employer and employee have  
23 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for  
24 sick leave and vacation;

25 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or  
26 the Oregon Health and Science University when such services are in excess of full-time employment  
27 subject to this chapter. A person employed under a contract for less than 12 months is subject to  
28 this subparagraph only for the months to which the contract pertains;

29 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an  
30 employee;

31 (J) Compensation described and authorized under ORS 341.556 that is not paid by the community  
32 college employing the faculty member;

33 (K) Compensation described and authorized under ORS 352.232 that is not paid by the public  
34 university employing the officer or employee;

35 (L) Compensation described and authorized under ORS 353.270 that is not paid by Oregon Health  
36 and Science University; or

37 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a  
38 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000  
39 limitation for that period shall be multiplied by a fraction, the numerator of which is the number  
40 of months in the determination period and the denominator of which is 12. On January 1 of each  
41 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage  
42 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-  
43 lished by the Bureau of Labor Statistics of the United States Department of Labor.

44 (27) "School year" means the period beginning July 1 and ending June 30 next following.

45 (28) "System" means the Public Employees Retirement System.

1 (29) "Variable account" means the account established for a member who participates in the  
2 Variable Annuity Account under ORS 238.260.

3 (30) "Vested" means being an active member of the system in each of five calendar years.

4 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600  
5 hours of service per year.

6 **SECTION 5.** ORS 238A.005, as amended by section 3, chapter 83, Oregon Laws 2022, is amended  
7 to read:

8 238A.005. For the purposes of this chapter:

9 (1) "Active member" means a member of the pension program or the individual account program  
10 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

11 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the  
12 payment or series of payments replaced, computed on the basis of interest rate and mortality as-  
13 sumptions adopted by the board.

14 (3) "Board" means the Public Employees Retirement Board.

15 (4) "Eligible employee" means a person who performs services for a participating public em-  
16 ployer, including persons considered employees of a participating public employer under 26 U.S.C.  
17 3121(d)(2), as in effect on January 1, 2022, and elected officials other than judges. "Eligible  
18 employee" does not include:

19 (a) Persons engaged as independent contractors;

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

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

22 (d) Persons categorized by a participating public employer as student employees;

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

24 (f) Employees of foreign trade offices of the Oregon Business Development Department who live  
25 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

26 (g) An employee actively participating in an alternative retirement program established under  
27 ORS 353.250 or an optional retirement plan established under ORS 341.551;

28 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an  
29 optional retirement plan offered under ORS 243.815;

30 (i) Persons employed in positions classified as post-doctoral scholar positions by a public uni-  
31 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370;

32 (j) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,  
33 for membership in the system under the provisions of ORS chapter 238 or other law;

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

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

38 (m) Judges.

39 (5) "Firefighter" means:

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

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

43 (c) An employee of the State Fire Marshal whose primary duties include fire investigation, fire  
44 prevention, fire safety, fire control or fire suppression;

45 (d) An employee of the State Forestry Department who is certified by the State Forester as a

1 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
2 fires as described in ORS 477.064; and

3 (e) An employee of the Oregon Military Department whose primary duties include fighting  
4 structural, aircraft, wildland or other fires.

5 (6) "Fund" means the Public Employees Retirement Fund.

6 (7)(a) "Hour of service" means:

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

9 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave  
10 during which an employee does not perform duties but for which the employee is directly or indi-  
11 rectly paid or entitled to payment by a participating public employer for services in a qualifying  
12 position, as long as the hour is within the number of hours regularly scheduled for the performance  
13 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-  
14 thorized leave.

15 (b) "Hour of service" does not include any hour for which payment is made or due under a plan  
16 maintained solely for the purpose of complying with applicable unemployment compensation laws.

17 (8) "Inactive member" means a member of the pension program or the individual account pro-  
18 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who  
19 is not a retired member and who is not employed in a qualifying position.

20 (9) "Individual account program" means the defined contribution individual account program of  
21 the Oregon Public Service Retirement Plan established under ORS 238A.025.

22 (10) "Institution of higher education" means a public university listed in ORS 352.002, the  
23 Oregon Health and Science University or a community college, as defined in ORS 341.005.

24 (11) "Member" means an eligible employee who has established membership in the pension pro-  
25 gram or the individual account program of the Oregon Public Service Retirement Plan and whose  
26 membership has not been terminated under ORS 238A.110 or 238A.310.

27 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that  
28 provides retirement benefits for employees of the public employer under the system.

29 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service  
30 Retirement Plan established under ORS 238A.025.

31 (14) "Police officer" means a police officer as described in ORS 238.005.

32 (15) "Qualifying position" means one or more jobs with one or more participating public em-  
33 ployers in which an eligible employee performs 600 or more hours of service in a **full** calendar year,  
34 **or would perform 600 or more hours of service if the employee were employed for the full**  
35 **calendar year**, excluding any service in a job for which benefits are not provided under the Oregon  
36 Public Service Retirement Plan pursuant to ORS 238A.070 (2).

37 (16) "Retired member" means a pension program member who is receiving a pension as provided  
38 in ORS 238A.180 to 238A.195.

39 (17)(a) "Salary" means the remuneration paid to an active member in return for services to the  
40 participating public employer, including remuneration in the form of living quarters, board or other  
41 items of value, to the extent the remuneration is, or would be if the member were an Oregon resi-  
42 dent, includable in the employee's taxable income under Oregon law. "Salary" includes the addi-  
43 tional amounts specified in paragraph (b) of this subsection, but does not include the amounts  
44 specified in paragraph (c) of this subsection, regardless of whether those amounts are includable in  
45 taxable income.

1 (b) "Salary" includes the following amounts:

2 (A) Payments of employee and employer money into a deferred compensation plan that are made  
3 at the election of the employee.

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

6 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit  
7 plan by the employer at the election of the employee and that is not includable in the taxable in-  
8 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2021.

9 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the  
10 election of the employee and that is not included in the taxable income of the employee by reason  
11 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2021.

12 (E) Retroactive payments described in ORS 238.008.

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

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

18 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
19 652.190.

20 (c) "Salary" does not include the following amounts:

21 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the  
22 employer.

23 (B) Payments made on account of an employee's death.

24 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid  
25 leave.

26 (D) Any severance payment, accelerated payment of an employment contract for a future period  
27 or advance against future wages.

28 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

29 (F) Payment for a leave of absence after the date the employer and employee have agreed that  
30 no future services in a qualifying position will be performed.

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

35 (H) The amount of an employee contribution to the individual account program that is paid by  
36 the employer and is not deducted from the compensation of the employee, as provided under ORS  
37 238A.335 (1) and (2)(b).

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

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

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

44 (L) For years before 2020, any amount in excess of \$200,000 for a calendar year. If any period  
45 over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall

1 be multiplied by a fraction, the numerator of which is the number of months in the determination  
2 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit  
3 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

4 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a  
5 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000  
6 limitation for that period shall be multiplied by a fraction, the numerator of which is the number  
7 of months in the determination period and the denominator of which is 12. On January 1 of each  
8 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage  
9 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-  
10 lished by the Bureau of Labor Statistics of the United States Department of Labor.

11 (18) "System" means the Public Employees Retirement System.

12 (19) "Workers' compensation benefits" means:

13 (a) Payments made under ORS chapter 656; or

14 (b) Payments provided in lieu of workers' compensation benefits under ORS 656.027 (6).

15  
16 **WITHDRAWAL BY INACTIVE MEMBERS**

17  
18 **SECTION 6.** ORS 238.095 is amended to read:

19 238.095. (1) An employee shall cease to be a member of the Public Employees Retirement System  
20 if the employee withdraws the member account, if any, of the member in the manner provided by  
21 ORS 238.265.

22 (2) Except as provided in subsection (3) of this section, an inactive member ceases to be a  
23 member of the system if the member is not vested and is inactive for a period of five consecutive  
24 years.

25 (3) A school district employee does not cease to be a member of the system under subsection (2)  
26 of this section if:

27 (a) After completing a school year, the member is inactive for the next following five school  
28 years; and

29 (b) The member either is reemployed by a school district in a qualifying position at the begin-  
30 ning of the sixth school year, or reaches earliest service retirement age before the beginning of the  
31 sixth school year.

32 (4) Interest shall not accrue on the amount in the member account of the former member from  
33 the date that membership is terminated under subsection (2) of this section. Upon request by the  
34 former member, the Public Employees Retirement Board shall pay the amount in a member account  
35 to a former member upon the termination of the membership of the former member under subsection  
36 (2) of this section if the former member is separated from all service with **all participating public**  
37 **employers and all** employers who are treated as part of a participating public employer's controlled  
38 group under the federal laws and rules governing the status of the system and the Public Employees  
39 Retirement Fund as a qualified governmental retirement plan and trust. The board may deduct, from  
40 the amount paid to a former member under this subsection, all reasonable costs incurred by the  
41 system in locating the member.

42 (5) If the membership of a person in the system is terminated under subsection (2) of this section,  
43 and the person subsequently becomes an active member of the system, any amounts that were not  
44 paid to the person under subsection (4) of this section:

45 (a) Shall be credited with net earnings and losses. [*Crediting*] Under this subsection, **crediting**

1 commences upon the person becoming an active member of the system and continues as long as the  
2 person remains an active member.

3 **(b) May be withdrawn by a member who is:**

4 **(A) Separated from all service with all participating public employers and all employers**  
5 **who are treated as part of a participating public employer's controlled group under the fed-**  
6 **eral laws and rules governing the status of the system and the Public Employees Retirement**  
7 **Fund as a qualified governmental retirement plan and trust;**

8 **(B) Receiving a disability retirement allowance under ORS 238.320; or**

9 **(C) Receiving a service retirement allowance under ORS 238.280 or 238.300.**

10  
11 **TAX REMEDY**

12  
13 **SECTION 7.** ORS 238.364 is amended to read:

14 238.364. (1)(a) Upon retirement of an employee who is a member of the Public Employees Re-  
15 tirement System and computation of that member's service retirement allowance under ORS 238.300,  
16 238.305 or 238.425, or computation of any disability retirement allowance under ORS 238.320,  
17 238.325, 238.330, 238.345 or 238.425, the Public Employees Retirement Board shall add to the amount  
18 of the allowance, including amounts attributable to prior service credit and the amount of any re-  
19 fund of accumulated employee contributions, the greater of the percentage increase calculated under  
20 ORS 238.366 or a percentage increase calculated under subsection (4) of this section. No benefit  
21 shall be paid to a member or beneficiary under ORS 238.366 if the benefit payable to the member  
22 or beneficiary under this section is larger than the benefit payable under ORS 238.366.

23 (b) The percentage increase provided for in this section shall be adjusted by the board to reflect  
24 increases or decreases in a member's retirement allowance that are attributable to the member's  
25 participation in the Variable Annuity Account established by ORS 238.260, that are attributable to  
26 a change in the member's beneficiary or payment option under ORS 238.305 or 238.325, or that are  
27 attributable to corrections to the member's retirement allowance calculation.

28 (c) The percentage increase provided for in this section shall be applied to any lump sum pay-  
29 ment made to a member or a beneficiary of a member on or after January 1, 1991, that is attribut-  
30 able to a retroactive correction or adjustment of the amount payable to the member or beneficiary  
31 as a retirement allowance or that is attributable to a retroactive correction or adjustment to any  
32 other benefit that entitles a member or beneficiary to an increased benefit under this section. The  
33 percentage increase payable under this paragraph applies only to the principal amounts included in  
34 the lump sum payment as a retroactive correction or adjustment and does not apply to any interest  
35 on the retroactive correction or adjustment paid as part of the lump sum payment.

36 (2) The amount of any death benefit under ORS 238.390, 238.395, 238.400 or 238.405, including  
37 the amount of any monthly payments, shall be increased by the greater of the percentage provided  
38 for in ORS 238.366 or the percentage calculated under subsection (4) of this section.

39 (3)(a) A member of the system who elects to receive a lump sum in lieu of a retirement allow-  
40 ance or other benefit under ORS 238.315 shall receive an increase based on the greater of the per-  
41 centage provided for in ORS 238.366 or the percentage calculated under subsection (4) of this  
42 section.

43 (b) A member of the system who withdraws the amount credited to the member account, if any,  
44 of the member in the fund under the provisions of ORS 238.265, or whose member account is re-  
45 turned to the employee after the membership of the employee is terminated under the provisions of



1 (8) If a member is entitled to receive an increased benefit under the provisions of this section,  
2 and any portion of the member's retirement allowance or other benefit payable under the system is  
3 payable to an alternate payee under the provisions of ORS 238.465, the increased benefits payable  
4 under this section shall be divided between the member and the alternate payee in proportion to the  
5 share of the total benefit received by each person. If an alternate payee elects to begin receiving  
6 benefits under ORS 238.465 (1) before the member's effective date of retirement, the alternate payee  
7 may not begin receiving the increased benefit provided for in this section until benefits are first paid  
8 from the system on behalf of the member.

9 (9) A person establishes membership in the system before July 14, 1995, for the purposes of  
10 subsection (7) of this section if:

11 (a) The person is a member of the system, or a judge member of the system, on July 14, 1995;

12 (b) The person was a member of the system before July 14, 1995, ceased to be a member of the  
13 system under the provisions of ORS 238.095, 238.265 or 238.545 before July 14, 1995, but restores  
14 part or all of the forfeited creditable service from before July 14, 1995, under the provisions of ORS  
15 238.105 or 238.115 after July 14, 1995; or

16 (c) The person performed any period of service for a participating public employer before July  
17 14, 1995, that is credited to the six-month period of employment required of an employee under ORS  
18 238.015 before an employee may become a member of the system.

19  
20 **PURCHASE OF POLICE AND FIREFIGHTER CREDIT**

21  
22 **SECTION 8.** ORS 238.440 is amended to read:

23 238.440. (1) A police officer or firefighter who is a member of the system may elect to make  
24 additional contributions to the fund to purchase increased benefits between the date of retirement  
25 and age 65. The rate of additional contribution shall be determined by the actuary, dependent upon  
26 the age of the police officer or firefighter at the date of election, so as to provide monthly payments  
27 on the basis of \$10 per unit of benefits purchased. No police officer or firefighter may elect to pur-  
28 chase more than eight units. For each \$10 unit purchased by the police officer or firefighter, the  
29 employer shall purchase an equal \$10 unit. A police officer or firefighter who is retained until age  
30 65 shall receive a lump sum refund of the additional contributions made toward units purchased,  
31 plus interest thereon, but shall receive no benefits from the additional contributions by the employer  
32 for such units. If a police officer or firefighter retires after age 60 but prior to age 65, the units  
33 purchased by additional contributions shall provide increased monthly benefits based on life ex-  
34 pectancy, but the matching units purchased by the employer shall not, regardless of age, exceed \$10  
35 per month per unit purchased by the police officer or firefighter. If a police officer or firefighter is  
36 absent from the employment of a participating employer for any reason and because of such absence  
37 is unable to make monthly additional contributions, the benefits provided under this section shall  
38 be actuarially reduced upon the retirement of the police officer or firefighter. The Public Employees  
39 Retirement Board shall establish an account for each member who elects to make additional con-  
40 tributions under this section and shall credit all contributions made by that member and interest  
41 on those contributions to the account.

42 (2) Notwithstanding subsection (1) of this section, a police officer or firefighter who retires prior  
43 to age 60 may apply for and receive an actuarially reduced unit income commencing at any date  
44 between the date of early retirement and age 60, with monthly benefits payable for at least 60  
45 months or any other monthly formula in excess of 60 months but always terminating by age 65. Such



1 a police officer or firefighter may elect to pay in a lump sum within the [60] 90 days immediately  
2 preceding early retirement the contribution that the police officer or firefighter would have made  
3 to the account had the police officer or firefighter worked to age 60.

4 (3) Any police officer or firefighter who elects to make additional contributions to purchase in-  
5 creased benefits may elect at any time before termination to cancel such election. Having once  
6 canceled such election, no police officer or firefighter shall be again permitted to make additional  
7 contributions.

8 (4) A member may withdraw the amounts credited to the account established for the member  
9 under this section if:

10 (a) The member is separated from all service with participating public employers; and

11 (b) The member is separated from all service with employers who are treated as part of a par-  
12 ticipating public employer's controlled group under the federal laws and rules governing the status  
13 of the system and the fund as a qualified governmental retirement plan and trust.

14 (5) A member who withdraws the amounts credited to the account established for the member  
15 pursuant to subsection (4) of this section may not thereafter make additional contributions under  
16 this section.

17 (6) A police officer or firefighter who has elected to make additional contributions under this  
18 section and who transfers to employment in which not entitled to make such additional contributions  
19 may retain the account established under subsection (1) of this section for five years immediately  
20 following such transfer by not requesting a withdrawal. If, at the end of the five-year period, the  
21 police officer or firefighter has not reached age 50, or has not returned to employment in which  
22 entitled to make additional contributions under this section, the election shall be canceled and the  
23 amount of the account established under subsection (1) of this section shall be refunded to the police  
24 officer or firefighter.

25 (7) Any election to make additional contributions under this section and any cancellation of  
26 such election shall be submitted to the employer and to the board in writing.

27  
28 **BENEFICIARIES**

29  
30 **SECTION 9.** ORS 238.390 is amended to read:

31 238.390. (1) If a member of the system dies before retiring, the amount of money, if any, credited  
32 at the time of death to the member account of the member in the fund shall be paid to the benefi-  
33 ciaries designated by the member. For this purpose a member may designate as a beneficiary any  
34 person or the executor or administrator of the estate of the member or a trustee named by the  
35 member to execute an express trust in regard to such amount. The termination of a person's mem-  
36 bership in the system pursuant to ORS 238.095 (1) or (2) invalidates any designation of beneficiary  
37 made by the person before the termination of membership.

38 (2)(a) If a member dies before retiring and has not designated a beneficiary under subsection (1)  
39 of this section, **or if the designated beneficiary or beneficiaries do not survive the member**, the  
40 Public Employees Retirement Board shall pay the amount of money, if any, credited at the time of  
41 death to the member account of the deceased member to [*a personal representative appointed for the*  
42 *estate of the deceased member*] **the following person or persons, in the following order of prior-**  
43 **ity:**

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

1       **(B) The member's surviving children, in equal shares; or**

2       **(C) The member's estate.**

3       **(b)** If a small estate affidavit has been filed under ORS 114.505 to 114.560, and the amount of  
4 money credited to the account does not exceed the maximum amount of personal property for which  
5 a small estate affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the amount  
6 to the person who filed the affidavit, **if the member's estate is the designated beneficiary or is**  
7 **receiving the payment under paragraph (a) of this subsection.**

8       (3) [*The beneficiary designated*] **A beneficiary** under subsection (1) **or (2)** of this section may  
9 elect to receive the amount payable in actuarially determined monthly payments for the life of such  
10 beneficiary as long as such monthly payments are at least \$200.

11       (4) Accrued benefits due a retired member at the time of death are payable to the designated  
12 beneficiary or as provided in subsection (2) of this section. For the purpose of determining accrued  
13 benefits due a retired member at the time of death, accrued benefits are considered to have ceased  
14 as of the last day of the month preceding the month in which the retired member dies; but if Option  
15 2 or Option 3 under ORS 238.305 has been elected as provided in this chapter and the beneficiary  
16 survives the retired member, the benefits to the beneficiary shall commence as of the first day of  
17 the month in which the retired member dies, and payment of benefits under Option 2 or Option 3  
18 shall cease with the payment for the month preceding the month in which the beneficiary dies.

19       (5) If a member dies before retiring and has designated a beneficiary under subsection (1) of this  
20 section, but the beneficiary [*dies before the member, or*] dies **after the member and** before distrib-  
21 ution is made under this section, the Public Employees Retirement Board shall pay the amount of  
22 money, if any, that would otherwise have been paid to the beneficiary to a personal representative  
23 appointed for the estate of the deceased beneficiary. If a small estate affidavit has been filed under  
24 ORS 114.505 to 114.560, and the amount of money that would have been paid to the beneficiary does  
25 not exceed the maximum amount of personal property for which a small estate affidavit may be filed  
26 under ORS 114.505 to 114.560, the board shall pay the amount to the person who filed the small es-  
27 tate affidavit on behalf of the estate of the beneficiary.

28       (6) Interest upon the member account of the member shall accrue until the date that the amount  
29 in the member account is distributed. Any balance in the variable account of the deceased member  
30 is considered to be transferred to the regular account of the member as of the date of death. The  
31 board shall establish procedures for computing and crediting interest on the balance in the member  
32 account for the period between the date of death and date of distribution.

33       (7) Payment by the board of amounts in the manner provided by this section completely dis-  
34 charges the board and system on account of the death, and shall hold the board and system harmless  
35 from any claim for wrongful payment.

36       **SECTION 9a. If Senate Bill 308 becomes law, section 9 of this 2023 Act (amending ORS**  
37 **238.390) is repealed and ORS 238.390, as amended by section 6, chapter 17, Oregon Laws 2023**  
38 **(Enrolled Senate Bill 308), is amended to read:**

39       238.390. (1) If a member of the system dies before retiring, the amount of money, if any, credited  
40 at the time of death to the member account of the member in the fund shall be paid to the benefi-  
41 ciaries designated by the member. For this purpose a member may designate as a beneficiary any  
42 person or the executor or administrator of the estate of the member or a trustee named by the  
43 member to execute an express trust in regard to such amount. The termination of a person's mem-  
44 bership in the system pursuant to ORS 238.095 (1) or (2) invalidates any designation of beneficiary  
45 made by the person before the termination of membership.

1 (2)(a) If a member dies before retiring and has not designated a beneficiary under subsection (1)  
2 of this section, **or if the designated beneficiary or beneficiaries do not survive the member**, the  
3 Public Employees Retirement Board shall pay the amount of money, if any, credited at the time of  
4 death to the member account of the deceased member to [*a personal representative appointed for the*  
5 *estate of the deceased member*] **the following person or persons, in the following order of prior-**  
6 **ity:**

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

9 (B) **The member's surviving children, in equal shares; or**

10 (C) **The member's estate.**

11 (b) If a simple estate affidavit has been filed under ORS 114.515, the board shall pay the amount  
12 to the person who filed the affidavit if:

13 (A) **The member's estate is the designated beneficiary or is receiving the payment under**  
14 **paragraph (a) of this subsection; and**

15 [(a)] (B)(i) The estate of the decedent remains within the limits prescribed by ORS 114.510 (1)(a)  
16 after consideration of the amount of money credited at the time of death to the member account;  
17 or

18 [(b)] (ii) The estate of the decedent meets the requirements of ORS 114.510 (1)(b).

19 (3) [*The beneficiary designated*] **A beneficiary** under subsection (1) **or (2)** of this section may  
20 elect to receive the amount payable in actuarially determined monthly payments for the life of such  
21 beneficiary as long as such monthly payments are at least \$200.

22 (4) Accrued benefits due a retired member at the time of death are payable to the designated  
23 beneficiary or as provided in subsection (2) of this section. For the purpose of determining accrued  
24 benefits due a retired member at the time of death, accrued benefits are considered to have ceased  
25 as of the last day of the month preceding the month in which the retired member dies; but if Option  
26 2 or Option 3 under ORS 238.305 has been elected as provided in this chapter and the beneficiary  
27 survives the retired member, the benefits to the beneficiary shall commence as of the first day of  
28 the month in which the retired member dies, and payment of benefits under Option 2 or Option 3  
29 shall cease with the payment for the month preceding the month in which the beneficiary dies.

30 (5) If a member dies before retiring and has designated a beneficiary under subsection (1) of this  
31 section, but the beneficiary [*dies before the member, or*] **dies after the member and** before distrib-  
32 ution is made under this section, the Public Employees Retirement Board shall pay the amount of  
33 money, if any, that would otherwise have been paid to the beneficiary to a personal representative  
34 appointed for the estate of the deceased beneficiary. If a simple estate affidavit regarding the de-  
35 ceased beneficiary's estate has been filed under ORS 114.515, the board shall pay the amount to the  
36 person who filed the simple estate affidavit if:

37 (a) The estate of the deceased beneficiary remains within the limits prescribed by ORS 114.510  
38 (1)(a) after consideration of the amount of money that would have been payable to the deceased  
39 beneficiary; or

40 (b) The estate of the deceased beneficiary meets the requirements of ORS 114.510 (1)(b).

41 (6) Interest upon the member account of the member shall accrue until the date that the amount  
42 in the member account is distributed. Any balance in the variable account of the deceased member  
43 is considered to be transferred to the regular account of the member as of the date of death. The  
44 board shall establish procedures for computing and crediting interest on the balance in the member  
45 account for the period between the date of death and date of distribution.

1 (7) Payment by the board of amounts in the manner provided by this section completely dis-  
2 charges the board and system on account of the death, and shall hold the board and system harmless  
3 from any claim for wrongful payment.

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

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

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

19 (d) The beneficiary designated under paragraph (a) of this subsection and ORS 238.390 (1) **or (2)**  
20 may elect to receive the amount payable in actuarially determined monthly payments for the life of  
21 such beneficiary as long as such monthly payments, plus the monthly amount if elected under ORS  
22 238.390 (3), are at least \$200.

23 (e) Interest upon the death benefit provided by this subsection accrues until the date that the  
24 benefit is distributed. The Public Employees Retirement Board shall establish procedures for com-  
25 puting interest to be credited on the benefit for the period between the date of death and date of  
26 distribution.

27 (2)(a) If a member of the system dies while employed in the service of a participating public  
28 employer or within 120 days after termination from service with a participating public employer and  
29 the member's spouse is the member's beneficiary under ORS 238.390, the member's spouse may elect  
30 to receive the benefit provided under this subsection in lieu of the death benefits provided under  
31 ORS 238.390 and subsection (1) of this section.

32 **(b) The board shall provide the member's spouse with an estimate of the benefits avail-**  
33 **able under this section once the board:**

34 **(A) Has been notified of the member's death; and**

35 **(B) Has determined that the member's spouse is the sole beneficiary.**

36 **[(b)] (c) If the member's spouse elects to receive the benefit described in this subsection,**  
37 **the member's spouse must notify the board in writing of [an] the election [under this section] no later**  
38 **than 60 days after the date of [death of the member] the estimate provided under paragraph (b)**  
39 **of this subsection.**

40 **[(c)] (d)** The death benefit to be paid under this subsection is for the life of the member's spouse  
41 and is:

42 (A) If the member dies before the earliest retirement date for the member under ORS 238.280,  
43 the actuarial equivalent of 50 percent of the service retirement allowance that would otherwise have  
44 been paid to the deceased member, which shall be calculated as if the member became an inactive  
45 member on the date of death and retired at the earliest retirement date for the member under ORS

1 238.280;

2 (B) If the member dies on or after the earliest retirement date for the member under ORS  
3 238.280 and before normal retirement age, as defined in ORS 238.005, the actuarial equivalent of the  
4 service retirement allowance that would otherwise have been paid to the deceased member, which  
5 shall be calculated as if the member retired under ORS 238.280 and as if the member's retirement  
6 date was the first of the month following the date of death of the member; or

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

11 [(d)] (e) The death benefit provided under this subsection shall be funded in the same manner  
12 as described under ORS 238.300 and is first effective on the first day of the month following the date  
13 of death of the member.

14 (f) The member's spouse may elect to delay payment of the death benefit **provided under this**  
15 **subsection**, which shall be actuarially adjusted for age and interest when payments commence, but  
16 payment must commence no later than December 31 of the calendar year in which the deceased  
17 member would have reached 72 years of age. **If the member's spouse elects to delay payment**  
18 **under this paragraph and dies before payments commence:**

19 (A) **The beneficiary of the member's spouse shall receive, in a lump sum, the sum of the**  
20 **payments the member's spouse would have received had the member's spouse not elected to**  
21 **delay payment of the death benefit.**

22 (B) **If the member's spouse has not designated a beneficiary, the member's spouse's**  
23 **benefit shall be paid to a personal representative appointed for the estate of the member's**  
24 **spouse.**

25 (3) Payment by the board of additional death benefits in the manner provided by this section  
26 completely discharges the board and system on account of the death, and shall hold the board and  
27 system harmless from any claim for wrongful payment.

28 **SECTION 11.** ORS 238A.230, as amended by section 7, chapter 83, Oregon Laws 2022, is  
29 amended to read:

30 238A.230. (1) If a member of the pension program who is vested dies before the member's effec-  
31 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided  
32 for in this section to:

33 (a) The spouse of the member to the extent not provided to a former spouse in accordance with  
34 a judgment or order under ORS 238.465;

35 (b) The former spouse of the member as provided in a judgment or order under ORS 238.465; or

36 (c) Any other person who is constitutionally required to be treated in the same manner as a  
37 spouse for the purpose of retirement benefits.

38 (2) The death benefit to be paid under this subsection is for the life of the member's spouse,  
39 former spouse or other person who is constitutionally required to be treated in the same manner  
40 as a spouse, and is:

41 (a) If the member dies before the earliest retirement date for the member under ORS 238A.165,  
42 the actuarial equivalent of 50 percent of the pension that would otherwise have been paid to the  
43 deceased member, which shall be calculated as if the member became an inactive member on the  
44 date of death and retired at the earliest retirement date for the member as described in ORS  
45 238A.165;

1 (b) If the member dies on or after the earliest retirement date for the member under ORS  
2 238A.165 and before normal retirement age under ORS 238A.160, the actuarial equivalent of the  
3 pension that would otherwise have been paid to the deceased member, which shall be calculated as  
4 if the member retired under ORS 238A.185 and as if the member's retirement date was the first of  
5 the month following the date of death of the member; or

6 (c) If the member dies on or after reaching normal retirement age as described in ORS 238A.160,  
7 the actuarial equivalent of the pension that would otherwise have been paid to the deceased mem-  
8 ber, which shall be calculated under ORS 238A.125 as if the member's retirement date was the first  
9 of the month following the date of death of the member.

10 (3) The death benefit provided under this section is first effective on the first day of the month  
11 following the date of death of the member.

12 (4) The surviving spouse[, *former spouse or other person entitled to the death benefit*] **or other**  
13 **person who is constitutionally required to be treated in the same manner as a spouse for the**  
14 **purpose of retirement benefits** may elect to delay payment of the death benefit, which shall be  
15 actuarially adjusted for age and interest when payments commence, but payment must commence  
16 no later than December 31 of the calendar year in which the member would have reached 72 years  
17 of age. **If a person who delays payment under this subsection dies before payments com-**  
18 **mence:**

19 (a) **The person's beneficiary shall receive, in a lump sum, the sum of the payments the**  
20 **person would have received had the person not elected to delay payment of the death benefit.**

21 (b) **If the person who delays payment under this subsection has not designated a benefi-**  
22 **ciary, the person's benefit shall be paid to a personal representative appointed for the**  
23 **person's estate.**

24 [(4)] (5) Notwithstanding any other provision of ORS 238A.100 to 238A.250, distributions of death  
25 benefits under the pension program must comply with the minimum distribution requirements of 26  
26 U.S.C. 401(a)(9) and the regulations implementing that section, as in effect on January 1, 2022. The  
27 board shall adopt rules implementing those minimum distribution requirements.

28 **SECTION 12.** ORS 238A.410, as amended by section 10, chapter 83, Oregon Laws 2022, is  
29 amended to read:

30 238A.410. (1)(a) If a member of the individual account program dies before retirement, the  
31 amounts in the member's employee account, rollover account and employer account, to the extent  
32 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the  
33 beneficiary or beneficiaries designated by the member for the purposes of this section.

34 (b) If a member of the individual account program dies before retirement, the amounts in the  
35 employee pension stability account established for the member under ORS 238A.353 shall be applied  
36 by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS  
37 238.395 or 238A.230 that accrues on or after July 1, 2020. If the amounts in the employee pension  
38 stability account exceed the costs of the benefit payable under ORS 238.395 or 238A.230 that accrues  
39 on or after July 1, 2020, the excess amounts shall be paid in a lump sum to the beneficiary or ben-  
40 efiaries designated by the member for the purposes of this section.

41 (2) If a member of the individual account program is married at the time of death, or there exists  
42 at the time of death any other person who is constitutionally required to be treated in the same  
43 manner as a spouse for the purpose of retirement benefits, the spouse or other person shall be the  
44 beneficiary for purposes of the death benefit payable under this section unless the spouse or other  
45 person consents to the designation of a different beneficiary or beneficiaries before the designation

1 has been made and the consent has not been revoked by the spouse or other person as of the time  
2 of the member's death. Consent and revocation of consent must be in writing, acknowledged by a  
3 notary public, and submitted to the Public Employees Retirement Board in accordance with rules  
4 adopted by the board. If the member's spouse is designated as the member's beneficiary and the  
5 marriage of the member and spouse is subsequently dissolved, the former spouse shall be treated as  
6 predeceasing the member for purposes of this section, unless the member expressly designates the  
7 former spouse as beneficiary after the effective date of the dissolution or the former spouse is re-  
8 quired to be designated as a beneficiary under the provisions of ORS 238.465.

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

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

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

15 (c) The member's estate.

16 (4) **If a small estate affidavit has been filed under ORS 114.505 to 114.560, and the death**  
17 **benefit does not exceed the maximum amount of personal property for which a small estate**  
18 **affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the death benefit to**  
19 **the person who filed the affidavit, if the member's estate is the designated beneficiary or is**  
20 **receiving the payment under subsection (3) of this section.**

21 [(4)] (5) The entire amount of a deceased member's vested accounts must be distributed by De-  
22 cember 31 of the fifth calendar year after the year in which the member died. Notwithstanding any  
23 other provision of this chapter, distributions of death benefits under the individual account program  
24 must comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations  
25 implementing that section, as in effect on January 1, 2022. The Public Employees Retirement Board  
26 shall adopt rules implementing those minimum distribution requirements.

## 27 28 RETIREMENT CREDIT DURING PERIOD OF DISABILITY

29  
30 **SECTION 13.** ORS 238A.155 is amended to read:

31 238A.155. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an active  
32 member of the pension program [*described in subsection (2) of this section*] who becomes disabled  
33 shall accrue retirement credit and hours of service credit for vesting purposes for the period during  
34 which the member is disabled.

35 [(2) *The provisions of this section apply only to:*]

36 [(a) *A member who has accrued 10 years or more of retirement credit before the member becomes*  
37 *disabled; or*]

38 [(b) *A member who becomes disabled by reason of injury or disease sustained while in the actual*  
39 *performance of duty.*]

40 [(3)] (2) Retirement credit accrues under this section only for as long as the member remains  
41 disabled or until the member reaches the normal retirement age under ORS 238A.160.

42 [(4)] (3) If a disabled member does not return to employment with a participating public em-  
43 ployer after the period of disability, the member shall receive a pension under ORS 238A.180,  
44 238A.185 or 238A.190 upon retirement based on an adjusted salary. The adjusted salary shall be the  
45 salary paid to the disabled member on the date the member left active employment with the partic-

1 ipating public employer by reason of disability, adjusted for each year after the member left em-  
2 ployment and before the member's effective date of retirement to reflect cost-of-living changes, based  
3 on the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the  
4 Bureau of Labor Statistics of the United States Department of Labor. Adjustments under this sub-  
5 section may not exceed a two percent increase or decrease for any year. An adjustment shall be  
6 made under this subsection only for calendar years in which the member is disabled for at least six  
7 months during the year.

8 **(4) Retirement credit for the period of disability under this section shall be classified the**  
9 **same as the member's last qualifying position prior to the disability.**

10 (5) A pension program member is considered to be disabled for the purpose of this section if:

11 (a) The member is found, after being examined by one or more physicians selected by the Public  
12 Employees Retirement Board, to be mentally or physically incapacitated for an extended duration  
13 and unable to perform any work for which qualified, by reason of injury or disease that was not  
14 intentionally self-inflicted; or

15 (b) The member receives workers' compensation benefits by reason of injury or disease that was  
16 sustained while in actual performance of duty with a participating public employer and that was not  
17 intentionally self-inflicted and returns to employment with a participating public employer after the  
18 period of disability.

19 **SECTION 14.** ORS 238A.320 is amended to read:

20 238A.320. (1) A member of the individual account program becomes vested in the employee ac-  
21 count established for the member under ORS 238A.350 (2) on the date the employee account is es-  
22 tablished.

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

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

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

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

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

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

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

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

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



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

6 (7) A member becomes vested in the employee pension stability account established for the  
7 member under ORS 238A.353 on the date the employee pension stability account is established.

8  
9 **LOCKING MEMBER DATA**

10  
11 **SECTION 15.** ORS 238.450 is amended to read:

12 238.450. (1) Upon receiving an application for a retirement allowance or benefit from a member  
13 of the Public Employees Retirement System and obtaining information necessary for computation of  
14 the retirement allowance or benefit to which the member is entitled upon retirement, the system  
15 shall provide to the member a written computation of the retirement allowance or benefit to which  
16 the member is entitled upon retirement and summary of the information used in making that com-  
17 putation.

18 (2) A member of the system may dispute the accuracy of the information used by the system in  
19 making the computation only by filing a written notice of dispute with the system not later than  
20 whichever of the following days occurs last:

21 (a) The 240th day after the date on which the computation and information summary is provided  
22 to the member pursuant to subsection (1) of this section.

23 (b) The 240th day after the date on which the retirement allowance or benefit to which the  
24 member is entitled first becomes payable.

25 (3) The filing of a notice of dispute under subsection (2) of this section extends the time allowed  
26 for election of an optional form of retirement allowance or benefit until the 30th day after the con-  
27 clusion of the proceeding and any judicial review thereof if the proceeding or review results in a  
28 change in the computation of the retirement allowance or benefit.

29 (4) Upon receiving a notice of dispute under subsection (2) of this section, the system shall de-  
30 termine the accuracy of the disputed information and make a written decision either affirming the  
31 accuracy of the information and computation based thereon or changing the computation using  
32 corrected information. The system shall provide to the member a copy of the decision and a written  
33 explanation of any applicable statutes and rules. The member is entitled to judicial review of the  
34 decision as provided in ORS 183.484 and rules of the [board] **Public Employees Retirement Board**  
35 consistent with applicable statutes.

36 **(5) After the last date for filing a written notice of dispute under subsection (2) of this**  
37 **section, a participating public employer may not modify information that is provided to the**  
38 **system and that relates to a member's creditable service, retirement credit, salary, employee**  
39 **contributions or accumulated unused sick leave, unless specifically required by one of the**  
40 **following circumstances:**

41 **(a) To comply with a judgment, administrative order, arbitration award, conciliation**  
42 **agreement, settlement agreement or other legal agreement entered into after the last date**  
43 **for filing a written notice of dispute under subsection (2) of this section;**

44 **(b) To comply with ORS 238.156 or 238A.150; or**

45 **(c) To make a correction or modification as a result of a dispute under subsection (2) of**

1 **this section.**

2 [(5)] (6) This section does not affect any authority of the system, on its own initiative, to correct  
3 an incorrect computation of any retirement allowance or benefit.

4 **SECTION 16. Section 17 of this 2023 Act is added to and made a part of ORS chapter 238.**

5 **SECTION 17. (1) In accordance with ORS 238.705, a participating public employer shall**  
6 **submit timely and accurate data regarding members' demographic information, salary, hours**  
7 **worked and unused sick leave.**

8 **(2) The Public Employees Retirement Board may, at its discretion, prevent an employer**  
9 **from altering member data reported and a member from challenging the data once the em-**  
10 **ployer and member have had the opportunity to review and correct the data.**

11 **(3) If the board exercises its discretion under subsection (2) of this section, after the**  
12 **employer and member have had an opportunity to review the member data, the employer**  
13 **may not modify information that is provided to the board and that relates to the member's**  
14 **creditable service, retirement credit, salary, employee contributions or accumulated unused**  
15 **sick leave, unless specifically required by one of the following circumstances:**

16 **(a) To comply with a judgment, administrative order, arbitration award, conciliation**  
17 **agreement, settlement agreement, appeal determination or other legal agreement entered**  
18 **into after the review; or**

19 **(b) To comply with ORS 238.156 or 238A.150.**

20 **(4) The board shall adopt administrative rules and establish procedures to lock member**  
21 **data under this section.**

22  
23 **RETIREMENT AGE**  
24

25 **SECTION 18. ORS 238A.160 is amended to read:**

26 238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age  
27 for a member of the pension program is the earlier of:

28 (a) 65 years of age; or

29 (b) 58 years of age if the member has 30 years or more of retirement credit.

30 (2)(a) Normal retirement age for a member of the pension program who retires from service as  
31 a police officer or firefighter, and *[who has held a position as a police officer or firefighter contin-*  
32 *uously for a period of not less than five years immediately preceding the effective date of retirement]*  
33 **whose last 60 months of retirement credit preceding retirement eligibility under this section**  
34 **is classified as retirement credit for service as a police officer or a firefighter, is the earlier**  
35 **of:**

36 [(a)] (A) 60 years of age; or

37 [(b)] (B) 53 years of age if the member has 25 years or more of retirement credit.

38 **(b) A member who establishes retirement eligibility under this subsection retains retire-**  
39 **ment eligibility as a police officer or firefighter, even if the member performs service**  
40 **thereafter only as other than a police officer or firefighter.**

41 **(c) A period of leave from a position as a police officer or firefighter for which a member**  
42 **is entitled to retirement credit for service as a police officer or firefighter and which is part**  
43 **of the member's last 60 months of retirement credit preceding retirement eligibility under**  
44 **this section shall be counted as part of the last 60 months of retirement credit required for**  
45 **retirement eligibility under this section.**

1        **(d) Retirement credit for a month in which a member performs service as both a police**  
2 **officer or firefighter and as other than a police officer or firefighter shall be classified as**  
3 **retirement credit for service as a police officer or firefighter for purposes of this section.**

4        **(e) A member employed as a police officer or firefighter is not required to restart the last**  
5 **60 months of retirement credit required for retirement eligibility under this section when the**  
6 **member:**

7            **(A) Is on unpaid leave from the member's position as a police officer or firefighter and**  
8 **is receiving insurance payments for short-term or long-term disability for which retirement**  
9 **credit is not available under ORS 238A.155; and**

10          **(B) Is concurrently employed and performing service as other than a police officer or**  
11 **firefighter.**

12        (3) Normal retirement age for a member of the pension program who retires from service as a  
13 school employee as defined by ORS 238A.140 is the earlier of:

14            (a) 65 years of age; or

15            (b) 58 years of age if the member has been an active member in 30 or more calendar years.

16        (4) The normal retirement date of a member is the first day of the month beginning on or after  
17 the date the member reaches normal retirement age.

18        **SECTION 19.** ORS 238A.165 is amended to read:

19        238A.165. (1) Except as provided in this section, earliest retirement age for a member of the  
20 pension program is 55 years of age.

21        (2)(a) Earliest retirement age for a member of the pension program who retires from service as  
22 a police officer or firefighter is 50 years of age if the [*member has held a position as a police officer*  
23 *or firefighter continuously for a period of not less than five years immediately before the effective date*  
24 *of retirement*] **member's last 60 months of retirement credit preceding retirement eligibility**  
25 **under this section is classified as retirement credit for service as a police officer or a fire-**  
26 **fighter.** Earliest retirement date for a member described in this subsection is not later than the date  
27 the member reaches 55 years of age.

28        **(b) A member who establishes retirement eligibility under this subsection retains retire-**  
29 **ment eligibility under this section as a police officer or firefighter, even if the member per-**  
30 **forms service thereafter only as other than a police officer or firefighter.**

31        **(c) A period of leave from a position as a police officer or firefighter for which a member**  
32 **is entitled to retirement credit for service as a police officer or firefighter and which is part**  
33 **of the member's last 60 months of retirement credit preceding retirement eligibility under**  
34 **this section shall be counted as part of the last 60 months of retirement credit required for**  
35 **retirement eligibility under this section.**

36        **(d) Retirement credit for a month in which a member performs service as both a police**  
37 **officer or firefighter and as other than a police officer or firefighter shall be classified as**  
38 **retirement credit for service as a police officer or firefighter for purposes of this section.**

39        **(e) A member employed as a police officer or firefighter is not required to restart the last**  
40 **60 months of retirement credit required for retirement eligibility under this section when the**  
41 **member:**

42            **(A) Is on unpaid leave from the member's position as a police officer or firefighter and**  
43 **is receiving insurance payments for short-term or long-term disability for which retirement**  
44 **credit is not available under ORS 238A.155; and**

45            **(B) Is concurrently employed and performing service as other than a police officer or**

1 **firefighter.**

2 (3) If a member of the pension program has 25 years or more of retirement credit as a tele-  
3 communicator, as defined in ORS 181A.355, earliest retirement age for the member is 55 years of  
4 age or the age of the member when the member acquires a total of 25 years or more of retirement  
5 credit as a telecommunicator, whichever occurs first. A member who retires under this subsection  
6 before attaining the age of 55 shall not receive a cost-of-living adjustment under ORS 238A.210 until  
7 the member attains the age of 55.

8 (4) A member of the pension program who has reached earliest retirement age may retire on an  
9 early retirement date that is the first day of any month on or after the member has reached earliest  
10 retirement age.

11  
12 **DISABILITY BENEFIT**

13  
14 **SECTION 20.** ORS 238A.235 is amended to read:

15 238A.235. (1) An active member of the pension program described in subsection (2) of this sec-  
16 tion who becomes disabled shall receive a disability benefit in the amount of 45 percent of the salary  
17 of the member determined as of the last full month of employment before the disability commences.

18 (2) The provisions of this section apply only to:

19 (a) A member, other than a school employee as defined by ORS 238A.140, who has accrued 10  
20 years or more of retirement credit before the member becomes disabled;

21 (b) A member who is a school employee as defined by ORS 238A.140 and who was an active  
22 member in 10 or more calendar years before the member becomes disabled; or

23 (c) A member who becomes disabled by reason of injury or disease sustained while in the actual  
24 performance of duty.

25 (3) A disability benefit under this section shall be paid until:

26 (a) The member is no longer disabled; [or]

27 (b) The member attains normal retirement age under ORS 238A.160; or

28 **(c) The member retires on or after the earliest normal retirement date for the member**  
29 **under ORS 238A.165.**

30 (4) A member is considered to be disabled for the purpose of this section if the member is found,  
31 after being examined by one or more physicians selected by the board, to be mentally or physically  
32 incapacitated for an extended duration and unable to perform any work for which qualified, by  
33 reason of injury or disease that was not intentionally self-inflicted.

34  
35 **TREATMENT OF SHARED WORK BENEFITS**

36  
37 **SECTION 21.** Section 22 of this 2023 Act is added to and made a part of ORS chapter 238.

38 **SECTION 22.** Notwithstanding any other provision of this chapter or ORS chapter 238A,  
39 **benefits received by a member under ORS 657.370 to 657.390 shall be treated as salary.**

40 **SECTION 23.** Section 24 of this 2023 Act is added to and made a part of ORS chapter  
41 **238A.**

42 **SECTION 24.** Notwithstanding any other provision of this chapter or ORS chapter 238,  
43 **benefits received by a member under ORS 657.370 to 657.390 shall be treated as salary.**

44  
45 **APPLICABILITY**



**CAPTIONS**

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**SECTION 27. The unit captions used in this 2023 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 2023 Act.**

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