

# House Bill 2283

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 **as introduced**.

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

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

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

## JUDGE MEMBERS

**SECTION 1.** ORS 238.545 is amended to read:

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

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

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

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

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

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

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

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

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

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

(2) If a judge member wishes to withdraw the member account balance under this section, the

**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 judge member must transmit to the Public Employees Retirement Board a withdrawal request. The  
 2 board shall deny the withdrawal, or shall take all reasonable steps to recover withdrawn amounts,  
 3 if:

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

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

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

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

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

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

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

41 238.565. (1) For the purposes of this section, a judge member may designate a beneficiary or  
 42 beneficiaries by written designation duly acknowledged and filed with the **Public Employees Re-**  
 43 **irement** Board before the death of the judge member. Beneficiaries designated by a judge member  
 44 may include any persons, the personal representative of the estate of the judge member or the  
 45 trustee named by the judge member to execute an express trust.

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

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

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

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

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

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

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

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

43 (4) At any time after becoming a judge member, but not later than the date on which the first  
 44 payment on account of retirement is due, a judge member may elect to provide an addition to the  
 45 pension of the surviving spouse of the judge member under subsection (3)(a) of this section by se-

lecting a reduced retirement allowance for the judge member. The additional pension to the surviving spouse shall be the actuarial equivalent of the reduction in the retirement allowance of the judge member and, in no event, when added to the pension under subsection (3)(a) of this section, shall it exceed the reduced retirement allowance elected by the judge member.

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

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

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

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

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

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

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

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

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

238.580. (1) Except as provided in subsection (3) of this section, ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, **238.362**, 238.364, **238.372 to 238.384**, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the increases provided by ORS 238.366 for members of the system who are serving as other than police officers or firefighters apply in respect to service as a judge member.

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

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

**DEFINITIONS****SECTION 4.** ORS 238.005 is amended to read:

238.005. For purposes of this chapter:

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

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

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

(4) "Calendar year" means 12 calendar months commencing on January 1 and ending on December 31 following.

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

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

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

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

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

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

(a) Persons engaged as independent contractors.

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

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

(d) Persons employed and paid from federal funds received under a federal program intended primarily to alleviate unemployment. However, any such person shall be considered an "employee" if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to have the person so considered by an irrevocable written notice to the board.

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

(f) Persons employed in positions classified as post-doctoral scholar positions by a public uni-

1 versity listed in ORS 352.002, or by the Oregon Health and Science University, under ORS 350.370.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (17) "Normal retirement age" means:

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

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

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

- 1 (19) "Police officer" includes:
- 2 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
- 3 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
- 4 persons committed to the custody of or transferred to the Department of Corrections and employees
- 5 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
- 6 whether or not such classification was authorized by law.
- 7 (b) Employees of the Department of State Police who are classified as police officers by the
- 8 Superintendent of State Police.
- 9 (c) Employees of the Oregon Liquor and Cannabis Commission who are classified as regulatory
- 10 specialists by the administrator of the commission.
- 11 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
- 12 by the sheriff, are the regular duties of police officers or corrections officers.
- 13 (e) Police chiefs and police personnel of a city who are classified as police officers by the
- 14 council or other governing body of the city.
- 15 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
- 16 are classified as police officers by the university.
- 17 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
- 18 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
- 19 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
- 20 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
- 21 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
- 22 ented by a labor organization, any proposal by the county to change that classification or to cease
- 23 to classify adult parole and probation officers as police officers for the purposes of this chapter is
- 24 a mandatory subject of bargaining.
- 25 (h) Police officers appointed under ORS 276.021 or 276.023.
- 26 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
- 27 missioners of the Port of Portland.
- 28 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
- 29 ficers by the Director of Agriculture.
- 30 (k) Employees of the Department of Public Safety Standards and Training who are classified by
- 31 the department as other than secretarial or clerical personnel.
- 32 (L) Investigators of the Criminal Justice Division of the Department of Justice.
- 33 (m) Corrections officers as defined in ORS 181A.355.
- 34 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
- 35 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.
- 36 (o) The Director of the Department of Corrections.
- 37 (p) An employee who for seven consecutive years has been classified as a police officer as de-
- 38 fined by this section, and who is employed or transferred by the Department of Corrections to fill
- 39 a position designated by the Director of the Department of Corrections as being eligible for police
- 40 officer status.
- 41 (q) An employee of the Department of Corrections classified as a police officer on or prior to
- 42 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
- 43 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
- 44 tem implemented pursuant to ORS 240.190 does not affect police officer status.
- 45 (r) Employees of a school district who are appointed and duly sworn members of a law

1 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as  
 2 police officers commissioned by the district.

3 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,  
 4 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who  
 5 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the  
 6 Department of Corrections or the Oregon Youth Authority.

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

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

12 (v) Employees of the Department of Human Services who are prohibited from striking under ORS  
 13 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS  
 14 443.400, that house individuals with intellectual or developmental disabilities.

15 (w) Employees appointed as judicial marshals under ORS 1.177 who are certified under ORS  
 16 181A.540.

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

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

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

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

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

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

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

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

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

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

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

45 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS



1 652.190[.]; and

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

5 (c) “Salary” or “other advantages” does not include:

6 (A) Travel or any other expenses incidental to employer’s business which is reimbursed by the  
 7 employer;

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

10 (C) Payments made on account of an employee’s death;

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

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

14 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
 15 gratuitous payment;

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

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

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

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

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

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

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

38 (27) “School year” means the period beginning July 1 and ending June 30 next following.

39 (28) “System” means the Public Employees Retirement System.

40 (29) “Variable account” means the account established for a member who participates in the  
 41 Variable Annuity Account under ORS 238.260.

42 (30) “Vested” means being an active member of the system in each of five calendar years.

43 (31) “Volunteer firefighter” means a firefighter whose position normally requires less than 600  
 44 hours of service per year.

45 **SECTION 5.** ORS 238A.005, as amended by section 3, chapter 83, Oregon Laws 2022, is amended

1 to read:

2 238A.005. For the purposes of this chapter:

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

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

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

9 (4) "Eligible employee" means a person who performs services for a participating public em-  
10 ployer, including persons considered employees of a participating public employer under 26 U.S.C.  
11 3121(d)(2), as in effect on January 1, 2022, and elected officials other than judges. "Eligible  
12 employee" does not include:

13 (a) Persons engaged as independent contractors;

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

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

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

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

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

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

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

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

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

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

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

32 (m) Judges.

33 (5) "Firefighter" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit

1 plan by the employer at the election of the employee and that is not includable in the taxable in-  
 2 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2021.

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

6 (E) Retroactive payments described in ORS 238.008.

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

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

12 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
 13 652.190.

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

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

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

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

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

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

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

25 (G) Payments for instructional services rendered to public universities listed in ORS 352.002 or  
 26 the Oregon Health and Science University when those 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 covered by the contract.

29 (H) The amount of an employee contribution to the individual account program that is paid by  
 30 the employer and is not deducted from the compensation of the employee, as provided under ORS  
 31 238A.335 (1) and (2)(b).

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

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

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

38 (L) For years before 2020, any amount in excess of \$200,000 for a calendar year. If any period  
 39 over which salary is determined is less than 12 months, the \$200,000 limitation for that period shall  
 40 be multiplied by a fraction, the numerator of which is the number of months in the determination  
 41 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit  
 42 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

43 (M) For years beginning on or after January 1, 2020, any amount in excess of \$195,000 for a  
 44 calendar year. If any period over which salary is determined is less than 12 months, the \$195,000  
 45 limitation for that period shall be multiplied by a fraction, the numerator of which is the number

1 of months in the determination period and the denominator of which is 12. On January 1 of each  
 2 year, the board shall adjust the dollar limit provided by this subparagraph to reflect any percentage  
 3 changes in the Consumer Price Index for All Urban Consumers, West Region (All Items), as pub-  
 4 lished by the Bureau of Labor Statistics of the United States Department of Labor.

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

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

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

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

9  
 10 **WITHDRAWAL BY INACTIVE MEMBERS**

11  
 12 **SECTION 6.** ORS 238.095 is amended to read:

13 238.095. (1) An employee shall cease to be a member of the Public Employees Retirement System  
 14 if the employee withdraws the member account, if any, of the member in the manner provided by  
 15 ORS 238.265.

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

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

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

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

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

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

39 (a) Shall be credited with net earnings and losses. [*Crediting*] Under this subsection, **crediting**  
 40 commences upon the person becoming an active member of the system and continues as long as the  
 41 person remains an active member.

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

43 (A) **Separated from all service with all participating public employers and all employers**  
 44 **who are treated as part of a participating public employer's controlled group under the fed-**  
 45 **eral laws and rules governing the status of the system and the Public Employees Retirement**

**Fund as a qualified governmental retirement plan and trust;**

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

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

**TAX REMEDY**

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

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

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

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

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

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

(b) A member of the system who withdraws the amount credited to the member account, if any, of the member in the fund under the provisions of ORS 238.265, or whose member account is returned to the employee after the membership of the employee is terminated under the provisions of ORS 238.095, shall receive an additional amount calculated by multiplying the amount of the member account of the member by the greater of the percentage provided for in ORS 238.366 or the percentage calculated under subsection (4) of this section. If a member thereafter elects to obtain restoration of creditable service by repaying the amount of the withdrawn member account pursuant to the provisions of ORS 238.105, the member must also repay all amounts paid under this section, together with interest from the date of withdrawal at the same rate as applied to the withdrawn

1 member account under ORS 238.105. If a member repays only part of the withdrawn member account  
 2 pursuant to the provisions of ORS 238.115, the member must repay that part of the amount paid  
 3 under this section that is proportionate to the portion of the withdrawn member account that is  
 4 repaid under ORS 238.115, together with interest from the date of withdrawal at the same rate as  
 5 applied to the withdrawn member account under ORS 238.115. All amounts paid to the member that  
 6 are subsequently repaid under ORS 238.105 or 238.115 shall be deposited by the board to the em-  
 7 ployer reserve for pension accounts in the fund.

8 (4)(a) The Public Employees Retirement Board shall calculate a multiplier for the purposes of  
 9 this section equal to the percentage produced by the following formula:

$$\begin{array}{r}
 [I] \\
 \hline
 [.9I] \\
 1 \\
 \hline
 .91
 \end{array}
 \quad - 1$$

16 (b) Upon the retirement or death of a member of the system, the board shall determine the  
 17 fraction of the member's retirement allowance or death benefit, including any refund or lump sum  
 18 payment, that is attributable to service rendered by the member before October 1, 1991. The board  
 19 shall then calculate a percentage that is equal to that fraction multiplied by the multiplier deter-  
 20 mined by the board under paragraph (a) of this subsection. The percentage so calculated shall be  
 21 used to determine the amount of the increase in benefits provided to a member, if any, under this  
 22 section.

23 (5) For the purpose of determining that portion of a retirement allowance or death benefit at-  
 24 tributable to service rendered before October 1, 1991, the board shall divide the number of years  
 25 of creditable service performed before October 1, 1991, by the total number of years of creditable  
 26 service during which the pension income was earned. For the purposes of this subsection:

27 (a) The number of years of creditable service does not include any period of employment for  
 28 which a benefit is paid for prior service credit.

29 (b) Except as provided in subsection (7) of this section, the number of years of creditable service  
 30 includes all retirement credit of the member, and any retirement credit of a member that is attrib-  
 31 utable to periods of service, employment or other activity performed before October 1, 1991, shall  
 32 be considered creditable service performed before October 1, 1991.

33 (6) The increased benefits provided for in this section shall be funded by employer contributions.

34 (7) The increased benefits provided by this section apply only to members who establish mem-  
 35 bership in the Public Employees Retirement System before July 14, 1995, and whose effective date  
 36 of retirement or date of death is on or after January 1, 1991. The increased benefits provided by this  
 37 section do not apply to any creditable service or prior service credit acquired by a member under  
 38 the terms of a contract of integration entered into pursuant to ORS 238.035, 238.680 or 238.690 on  
 39 or after October 1, 1991.

40 (8) If a member is entitled to receive an increased benefit under the provisions of this section,  
 41 and any portion of the member's retirement allowance or other benefit payable under the system is  
 42 payable to an alternate payee under the provisions of ORS 238.465, the increased benefits payable  
 43 under this section shall be divided between the member and the alternate payee in proportion to the  
 44 share of the total benefit received by each person. If an alternate payee elects to begin receiving  
 45 benefits under ORS 238.465 (1) before the member's effective date of retirement, the alternate payee

1 may not begin receiving the increased benefit provided for in this section until benefits are first paid  
 2 from the system on behalf of the member.

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

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

6 (b) The person was a member of the system before July 14, 1995, ceased to be a member of the  
 7 system under the provisions of ORS 238.095, 238.265 or 238.545 before July 14, 1995, but restores  
 8 part or all of the forfeited creditable service from before July 14, 1995, under the provisions of ORS  
 9 238.105 or 238.115 after July 14, 1995; or

10 (c) The person performed any period of service for a participating public employer before July  
 11 14, 1995, that is credited to the six-month period of employment required of an employee under ORS  
 12 238.015 before an employee may become a member of the system.

13  
 14 **PURCHASE OF POLICE AND FIREFIGHTER CREDIT**

15  
 16 **SECTION 8.** ORS 238.440 is amended to read:

17 238.440. (1) A police officer or firefighter who is a member of the system may elect to make  
 18 additional contributions to the fund to purchase increased benefits between the date of retirement  
 19 and age 65. The rate of additional contribution shall be determined by the actuary, dependent upon  
 20 the age of the police officer or firefighter at the date of election, so as to provide monthly payments  
 21 on the basis of \$10 per unit of benefits purchased. No police officer or firefighter may elect to pur-  
 22 chase more than eight units. For each \$10 unit purchased by the police officer or firefighter, the  
 23 employer shall purchase an equal \$10 unit. A police officer or firefighter who is retained until age  
 24 65 shall receive a lump sum refund of the additional contributions made toward units purchased,  
 25 plus interest thereon, but shall receive no benefits from the additional contributions by the employer  
 26 for such units. If a police officer or firefighter retires after age 60 but prior to age 65, the units  
 27 purchased by additional contributions shall provide increased monthly benefits based on life ex-  
 28 pectancy, but the matching units purchased by the employer shall not, regardless of age, exceed \$10  
 29 per month per unit purchased by the police officer or firefighter. If a police officer or firefighter is  
 30 absent from the employment of a participating employer for any reason and because of such absence  
 31 is unable to make monthly additional contributions, the benefits provided under this section shall  
 32 be actuarially reduced upon the retirement of the police officer or firefighter. The Public Employees  
 33 Retirement Board shall establish an account for each member who elects to make additional con-  
 34 tributions under this section and shall credit all contributions made by that member and interest  
 35 on those contributions to the account.

36 (2) Notwithstanding subsection (1) of this section, a police officer or firefighter who retires prior  
 37 to age 60 may apply for and receive an actuarially reduced unit income commencing at any date  
 38 between the date of early retirement and age 60, with monthly benefits payable for at least 60  
 39 months or any other monthly formula in excess of 60 months but always terminating by age 65. Such  
 40 a police officer or firefighter may elect to pay in a lump sum within the [60] 90 days immediately  
 41 preceding early retirement the contribution that the police officer or firefighter would have made  
 42 to the account had the police officer or firefighter worked to age 60.

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



1 contributions.

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

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

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

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

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

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

21  
22 **BENEFICIARIES**  
23

24 **SECTION 9.** ORS 238.390 is amended to read:

25 238.390. (1) If a member of the system dies before retiring, the amount of money, if any, credited  
26 at the time of death to the member account of the member in the fund shall be paid to the benefi-  
27 ciaries designated by the member. For this purpose a member may designate as a beneficiary any  
28 person or the executor or administrator of the estate of the member or a trustee named by the  
29 member to execute an express trust in regard to such amount. The termination of a person's mem-  
30 bership in the system pursuant to ORS 238.095 (1) or (2) invalidates any designation of beneficiary  
31 made by the person before the termination of membership.

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

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

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

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

42 **(b)** If a small estate affidavit has been filed under ORS 114.505 to 114.560, and the amount of  
43 money credited to the account does not exceed the maximum amount of personal property for which  
44 a small estate affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the amount  
45 to the person who filed the affidavit, **if the member's estate is the designated beneficiary or is**

1 **receiving the payment under paragraph (a) of this subsection.**

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

5 (4) Accrued benefits due a retired member at the time of death are payable to the designated  
 6 beneficiary or as provided in subsection (2) of this section. For the purpose of determining accrued  
 7 benefits due a retired member at the time of death, accrued benefits are considered to have ceased  
 8 as of the last day of the month preceding the month in which the retired member dies; but if Option  
 9 2 or Option 3 under ORS 238.305 has been elected as provided in this chapter and the beneficiary  
 10 survives the retired member, the benefits to the beneficiary shall commence as of the first day of  
 11 the month in which the retired member dies, and payment of benefits under Option 2 or Option 3  
 12 shall cease with the payment for the month preceding the month in which the beneficiary dies.

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

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

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

30 **SECTION 10.** ORS 238.395 is amended to read:

31 238.395. (1)(a) In addition to any other benefits under this chapter, a death benefit, provided by  
 32 contributions of the public employer under ORS 238.225 and, for benefits that accrue on or after July  
 33 1, 2020, amounts in the employee pension stability account established for the member under ORS  
 34 238A.353, shall be paid to the beneficiaries designated under ORS 238.390 (1) of a person who is an  
 35 active or inactive member of the Public Employees Retirement System and who dies as a result of  
 36 injuries received while employed in the service of the public employer or within 120 days after ter-  
 37 mination from service with a participating public employer. A member who is on a leave of absence  
 38 without pay from employment with a participating public employer has not terminated service with  
 39 that participating public employer for the purposes of this section.

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

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

45 (d) The beneficiary designated under paragraph (a) of this subsection and ORS 238.390 (1) **or (2)**

1 may elect to receive the amount payable in actuarially determined monthly payments for the life of  
 2 such beneficiary as long as such monthly payments, plus the monthly amount if elected under ORS  
 3 238.390 (3), are at least \$200.

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

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

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

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

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

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

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

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

28 (B) If the member dies on or after the earliest retirement date for the member under ORS  
 29 238.280 and before normal retirement age, as defined in ORS 238.005, the actuarial equivalent of the  
 30 service retirement allowance that would otherwise have been paid to the deceased member, which  
 31 shall be calculated as if the member retired under ORS 238.280 and as if the member's retirement  
 32 date was the first of the month following the date of death of the member; or

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

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

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

45 **(A) The beneficiary of the member's spouse shall receive, in a lump sum, the sum of the**

1 **payments the member’s spouse would have received had the member’s spouse not elected to**  
 2 **delay payment of the death benefit.**

3 **(B) If the member’s spouse has not designated a beneficiary, the member’s spouse’s**  
 4 **benefit shall be paid to a personal representative appointed for the estate of the member’s**  
 5 **spouse.**

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

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

11 238A.230. (1) If a member of the pension program who is vested dies before the member’s effec-  
 12 tive date of retirement, the Public Employees Retirement Board shall pay the death benefit provided  
 13 for in this section to:

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

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

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

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

22 (a) If the member dies before the earliest retirement date for the member under ORS 238A.165,  
 23 the actuarial equivalent of 50 percent of the pension that would otherwise have been paid to the  
 24 deceased member, which shall be calculated as if the member became an inactive member on the  
 25 date of death and retired at the earliest retirement date for the member as described in ORS  
 26 238A.165;

27 (b) If the member dies on or after the earliest retirement date for the member under ORS  
 28 238A.165 and before normal retirement age under ORS 238A.160, the actuarial equivalent of the  
 29 pension that would otherwise have been paid to the deceased member, which shall be calculated as  
 30 if the member retired under ORS 238A.185 and as if the member’s retirement date was the first of  
 31 the month following the date of death of the member; or

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

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

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

45 (a) **The person’s beneficiary shall receive, in a lump sum, the sum of the payments the**

1 **person would have received had the person not elected to delay payment of the death benefit.**

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

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

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

11 238A.410. (1)(a) If a member of the individual account program dies before retirement, the  
 12 amounts in the member's employee account, rollover account and employer account, to the extent  
 13 the member is vested in those accounts under ORS 238A.320, shall be paid in a lump sum to the  
 14 beneficiary or beneficiaries designated by the member for the purposes of this section.

15 (b) If a member of the individual account program dies before retirement, the amounts in the  
 16 employee pension stability account established for the member under ORS 238A.353 shall be applied  
 17 by the Public Employees Retirement Board to pay the costs of any benefit payable under ORS  
 18 238.395 or 238A.230 that accrues on or after July 1, 2020. If the amounts in the employee pension  
 19 stability account exceed the costs of the benefit payable under ORS 238.395 or 238A.230 that accrues  
 20 on or after July 1, 2020, the excess amounts shall be paid in a lump sum to the beneficiary or ben-  
 21 efiaries designated by the member for the purposes of this section.

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

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

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

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

41 (c) The member's estate.

42 **(4) If a small estate affidavit has been filed under ORS 114.505 to 114.560, and the death**  
 43 **benefit does not exceed the maximum amount of personal property for which a small estate**  
 44 **affidavit may be filed under ORS 114.505 to 114.560, the board shall pay the death benefit to**  
 45 **the person who filed the affidavit, if the member's estate is the designated beneficiary or is**

1 **receiving the payment under subsection (3) of this section.**

2 [(4)] (5) The entire amount of a deceased member’s vested accounts must be distributed by De-  
 3 cember 31 of the fifth calendar year after the year in which the member died. Notwithstanding any  
 4 other provision of this chapter, distributions of death benefits under the individual account program  
 5 must comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations  
 6 implementing that section, as in effect on January 1, 2022. The Public Employees Retirement Board  
 7 shall adopt rules implementing those minimum distribution requirements.

8  
 9 **RETIREMENT CREDIT DURING PERIOD OF DISABILITY**

10  
 11 **SECTION 13.** ORS 238A.155 is amended to read:

12 238A.155. (1) Notwithstanding any other provision of ORS 238A.100 to 238A.250, an active  
 13 member of the pension program [*described in subsection (2) of this section*] who becomes disabled  
 14 shall accrue retirement credit and hours of service credit for vesting purposes for the period during  
 15 which the member is disabled.

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

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

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

21 [(3)] (2) Retirement credit accrues under this section only for as long as the member remains  
 22 disabled or until the member reaches the normal retirement age under ORS 238A.160.

23 [(4)] (3) If a disabled member does not return to employment with a participating public em-  
 24 ployer after the period of disability, the member shall receive a pension under ORS 238A.180,  
 25 238A.185 or 238A.190 upon retirement based on an adjusted salary. The adjusted salary shall be the  
 26 salary paid to the disabled member on the date the member left active employment with the partic-  
 27 ipating public employer by reason of disability, adjusted for each year after the member left em-  
 28 ployment and before the member’s effective date of retirement to reflect cost-of-living changes, based  
 29 on the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the  
 30 Bureau of Labor Statistics of the United States Department of Labor. Adjustments under this sub-  
 31 section may not exceed a two percent increase or decrease for any year. An adjustment shall be  
 32 made under this subsection only for calendar years in which the member is disabled for at least six  
 33 months during the year.

34 [(5)] (4) A pension program member is considered to be disabled for the purpose of this section  
 35 if:

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

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

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

45 238A.320. (1) A member of the individual account program becomes vested in the employee ac-

1 count established for the member under ORS 238A.350 (2) on the date the employee account is es-  
 2 tablished.

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

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

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

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

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

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

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

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

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

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

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

33  
 34 **LOCKING MEMBER DATA**  
 35

36 **SECTION 15.** ORS 238.450 is amended to read:

37 238.450. (1) Upon receiving an application for a retirement allowance or benefit from a member  
 38 of the Public Employees Retirement System and obtaining information necessary for computation of  
 39 the retirement allowance or benefit to which the member is entitled upon retirement, the system  
 40 shall provide to the member a written computation of the retirement allowance or benefit to which  
 41 the member is entitled upon retirement and summary of the information used in making that com-  
 42 putation.

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

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

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

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

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

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

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

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

25 **(c) To make a correction or modification as a result of a dispute under subsection (2) of**  
 26 **this section.**

27 [(5)] (6) This section does not affect any authority of the system, on its own initiative, to correct  
 28 an incorrect computation of any retirement allowance or benefit.

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

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

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

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

41 (a) To comply with a judgment, administrative order, arbitration award, conciliation  
 42 agreement, settlement agreement, appeal determination or other legal agreement entered  
 43 into after the review; or

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

45 (4) The board shall adopt administrative rules and establish procedures to lock member



1 **data under this section.**

2  
3 **NORMAL RETIREMENT AGE**

4  
5 **SECTION 18.** ORS 238A.160 is amended to read:

6 238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age  
7 for a member of the pension program is the earlier of:

8 (a) 65 years of age; or

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

10 (2) Normal retirement age for a member of the pension program who retires from service as a  
11 police officer or firefighter, and [*who has held a position as a police officer or firefighter continuously*  
12 *for a period of not less than five years immediately*] **whose last qualifying position was as a police**  
13 **officer or firefighter for a continuous period of not less than five years** preceding the effective  
14 date of retirement, is the earlier of:

15 (a) 60 years of age; or

16 (b) 53 years of age if the member has 25 years or more of retirement credit.

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

19 (a) 65 years of age; or

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

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

23  
24 **DISABILITY BENEFIT**

25  
26 **SECTION 19.** ORS 238A.235 is amended to read:

27 238A.235. (1) An active member of the pension program described in subsection (2) of this sec-  
28 tion who becomes disabled shall receive a disability benefit in the amount of 45 percent of the salary  
29 of the member determined as of the last full month of employment before the disability commences.

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

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

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

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

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

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

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

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

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

APPLICABILITY

**SECTION 20.** (1) The amendments to ORS 238.395 (1)(d) by section 10 of this 2023 Act apply to deaths that occur on or after September 1, 2021. In administering ORS 238.395 (1)(d), the Public Employees Retirement Board shall apply ORS 238.390 as that statute existed at the time of the death of the member.

(2) The amendments to ORS 238.395 (2)(f) by section 10 of this 2023 Act apply to deaths of members' spouses that occur on or after January 1, 2020.

(3) The amendments to ORS 238A.230 by section 11 of this 2023 Act apply to deaths of persons delaying payments under ORS 238A.230 that occur on or after January 1, 2020.

REVIEW BY SUPREME COURT

**SECTION 21.** (1) Jurisdiction is conferred upon the Supreme Court to determine in the manner provided by this section whether this 2023 Act breaches any contract between members of the Public Employees Retirement System and their employers or violates any provision of the Oregon Constitution or of the United States Constitution, including but not limited to impairment of contract rights of members of the Public Employees Retirement System under Article I, section 21, of the Oregon Constitution, or Article I, section 10, clause 1, of the United States Constitution.

(2) A person who is adversely affected by this 2023 Act or who will be adversely affected by this 2023 Act may institute a proceeding for review by filing with the Supreme Court a petition that meets the following requirements:

(a) The petition must be filed within 60 days after the effective date of this 2023 Act.

(b) The petition must include the following:

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

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

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

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

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

(6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene in any proceeding relating to this 2023 Act. After a member intervenes in a proceeding relating to this 2023 Act, the member has standing to participate in the proceeding even if the member ceases to be a member of the Legislative Assembly.

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

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

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

1 **this section.**

2

3

**CAPTIONS**

4

5 **SECTION 22. The unit captions used in this 2023 Act are provided only for the conven-**  
6 **ience of the reader and do not become part of the statutory law of this state or express any**  
7 **legislative intent in the enactment of this 2023 Act.**

8

---