

House Bill 4104

Sponsored by Representative CONGER; Representatives BREWER, CAMERON, MCLANE, PARRISH, SHEEHAN, WHISNANT, WINGARD (Pre-session filed.)

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 Public Employees Retirement System benefits of school employees. Defines "school employee."

Authorizes Public Employees Retirement Board to establish guaranteed interest rate for crediting member accounts of school employees that is lower than assumed interest rate.

Provides that Tier 1 and Tier 2 school employees cease to be members of individual account program on effective date of Act. Allows school employee who is already member of individual account program to continue as member for purpose of amounts in employee account, but prohibits further employee contributions to account.

Requires board to create school employee account for member who is school employee. Requires that employee contributions and earnings on contributions in account be applied against costs of member's pension or other retirement benefits payable to member. Specifies rules for withdrawal of school employee account by inactive member.

Applies cost-of-living percentage change to lesser of \$2,000 or retirement allowance, pension or other benefit payable to or on behalf of school employees.

Imposes limit on total retirement benefit payable to school employee to 100 percent of final average salary. Reduces limit to 90 percent for members who retire on or after January 1, 2017, and to 80 percent for members who retire on or after January 1, 2022. Provides that limit does not reduce retirement allowance or pension of member as calculated immediately before limitations are imposed.

Creates School Savings Account and rate stabilization subaccount.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to retirement benefits of school employees; creating new provisions; amending ORS 238.005, 238.095, 238.255, 238.300, 238.360, 238.670, 238A.005, 238A.125, 238A.140, 238A.160, 238A.210, 238A.235 and 238A.320; and declaring an emergency.

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

DEFINITION OF "SCHOOL EMPLOYEE"

SECTION 1. 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

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 such continuous service shall be computed without regard to interruptions in the case of:

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

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

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

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

17 (8) "Employee" includes, in addition to employees, public officers, but does not include:

18 (a) Persons engaged as independent contractors.

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

21 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
 22 vided sheltered employment or made-work by a public employer in an employment or industries
 23 program maintained for the benefit of such persons.

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

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

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

32 (a) The average salary per calendar year paid by one or more participating public employers to
 33 an employee who is an active member of the system in three of the calendar years of membership
 34 before the effective date of retirement of the employee, in which three years the employee was paid
 35 the highest salary. The three calendar years in which the employee was paid the largest total salary
 36 may include calendar years in which the employee was employed for less than a full calendar year.
 37 If the number of calendar years of active membership before the effective date of retirement of the
 38 employee is three or fewer, the final average salary for the employee is the average salary per cal-
 39 endar year paid by one or more participating public employers to the employee in all of those years,
 40 without regard to whether the employee was employed for the full calendar year.

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

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

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

1 (b) An employee of the State Forestry Department who is certified by the State Forester as a
 2 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
 3 fires as described in ORS 477.064.

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

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

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

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

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

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

16 (17) "Normal retirement age" means:

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

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

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

26 (19) "Police officer" includes:

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

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

34 (c) Employees of the Oregon Liquor Control Commission who are classified as enforcement of-
 35 ficers by the administrator of the commission.

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

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

40 (f) Police officers who are commissioned by a university under ORS 352.383 and who are clas-
 41 sified as police officers by the university.

42 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
 43 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
 44 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes
 45 of this chapter by the county governing body. If a county classifies adult parole and probation offi-

1 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
 2 ented by a labor organization, any proposal by the county to change that classification or to cease
 3 to classify adult parole and probation officers as police officers for the purposes of this chapter is
 4 a mandatory subject of bargaining.

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

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

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

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

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

13 (m) Corrections officers as defined in ORS 181.610.

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

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

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

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

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

28 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
 29 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
 30 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
 31 Department of Corrections or the Oregon Youth Authority.

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

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

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

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

45 (22) "Qualifying position" means one or more jobs with one or more participating public em-

1 employers in which an employee performs 600 or more hours of service in a calendar year, excluding
2 any service in a job for which a participating public employer does not provide benefits under this
3 chapter pursuant to an application made under ORS 238.035.

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

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

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

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

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

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

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

18 (C) Retroactive payments described in ORS 238.008; and

19 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
20 652.190.

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

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

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

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

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

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

30 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
31 gratuitous payment;

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

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

39 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
40 employee.

41 **(27) "School employee" means a person who is employed by a school employer.**

42 **(28) "School employer" means a common school district, a union high school district or**
43 **an education service district.**

44 [(27)] **(29)** "School year" means the period beginning July 1 and ending June 30 next following.

45 [(28)] **(30)** "System" means the Public Employees Retirement System.

1 [(29)] **(31)** “Variable account” means the account established for a member who participates in
2 the Variable Annuity Account under ORS 238.260.

3 [(30)] **(32)** “Vested” means being an active member of the system in each of five calendar years.

4 [(31)] **(33)** “Volunteer firefighter” means a firefighter whose position normally requires less than
5 600 hours of service per year.

6 **SECTION 2.** ORS 238A.005 is amended to read:

7 238A.005. For the purposes of this chapter:

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

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

13 (3) “Board” means the Public Employees Retirement Board.

14 (4) “Eligible employee” means a person who performs services for a participating public em-
15 ployer, including elected officials other than judges. “Eligible employee” does not include:

16 (a) Persons engaged as independent contractors;

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

18 (c) Persons, other than workers in the Industries for the Blind Program under ORS 346.190,
19 provided sheltered employment or make-work by a public employer;

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

21 (e) Any person who is an inmate of a state institution;

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

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

26 (h) Employees of the Oregon University System who are actively participating in an optional
27 retirement plan offered under ORS 243.800;

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

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

32 (k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS chapter 238 and who
33 continues to receive retirement benefits while employed; and

34 (L) Judges.

35 (5) “Firefighter” means:

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

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

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

43 (6) “Fund” means the Public Employees Retirement Fund.

44 (7)(a) “Hour of service” means:

45 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment

1 by a participating public employer for performance of duties in a qualifying position; and

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

8 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
 9 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
 10 employment 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 calendar year,
 28 excluding any service in a job for which benefits are not provided under the Oregon Public Service
 29 Retirement Plan pursuant to ORS 238A.070 (2).

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

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

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

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

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

43 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
 44 plan by the employer at the election of the employee and that is not includable in the taxable in-
 45 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2010.

1 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
 2 election of the employee and that is not included in the taxable income of the employee by reason
 3 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2010.

4 (E) Retroactive payments described in ORS 238.008.

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

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

10 (H) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
 11 652.190.

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

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

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

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

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

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

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

23 (G) Payments for instructional services rendered to public universities of the Oregon University
 24 System or the Oregon Health and Science University when those services are in excess of full-time
 25 employment subject to this chapter. A person employed under a contract for less than 12 months is
 26 subject to this subparagraph only for the months covered by the contract.

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

30 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is
 31 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a
 32 fraction, the numerator of which is the number of months in the determination period and the de-
 33 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate
 34 cost-of-living adjustments authorized by the Internal Revenue Service.

35 **(18) "School employee" means a person who is employed by a school employer.**

36 **(19) "School employer" means a common school district, a union high school district or**
 37 **an education service district.**

38 *[(18)]* **(20) "System" means the Public Employees Retirement System.**

39 **SECTION 3.** ORS 238A.140 is amended to read:

40 238A.140. (1) An active member of the pension program accrues one year of retirement credit
 41 for each complete year of service and one-twelfth of a year of retirement credit for each full month
 42 and each major fraction of a month of service.

43 (2) An active member who is *[a school]* **an educational** employee shall be credited with at least
 44 six months of retirement credit if the member performs service for a major fraction of each month
 45 of a school year that falls between January 1 and June 30, and at least six months of retirement

1 credit if the member performs service for a major fraction of each month of a school year that falls
2 between July 1 and December 31.

3 (3) When an eligible employee becomes a member under ORS 238A.100, the board shall credit
4 the eligible employee with retirement credit for the period of employment required of the employee
5 under ORS 238A.100.

6 (4) A member may not accrue more than one full year of retirement credit in any calendar year.

7 (5) For purposes of this section, “[school] **educational** employee” means:

8 (a) A [person who is employed by a common school district, a union high school district or an
9 education service district] **school employee**;

10 (b) An employee of an institution of higher education who is engaged in teaching or other school
11 activity; and

12 (c) An employee of the Department of Human Services, the Oregon Youth Authority, the De-
13 partment of Corrections or the State Board of Education who is engaged in teaching or other school
14 activity at an institution supervised by the authority, board or department.

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

16 238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age
17 for a member of the pension program is the earlier of:

18 (a) 65 years of age; or

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

20 (2) Normal retirement age for a member of the pension program who retires from service as a
21 police officer or firefighter, and who has held a position as a police officer or firefighter contin-
22 uously for a period of not less than five years immediately preceding the effective date of retirement,
23 is the earlier of:

24 (a) 60 years of age; or

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

26 (3) Normal retirement age for a member of the pension program who retires from service as [a
27 school] **an educational** employee as defined by ORS 238A.140 is the earlier of:

28 (a) 65 years of age; or

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

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

32 **SECTION 5.** ORS 238A.235 is amended to read:

33 238A.235. (1) An active member of the pension program described in subsection (2) of this sec-
34 tion who becomes disabled shall receive a disability benefit in the amount of 45 percent of the salary
35 of the member determined as of the last full month of employment before the disability commences.

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

37 (a) A member, other than [a school] **an educational** employee as defined by ORS 238A.140, who
38 has accrued 10 years or more of retirement credit before the member becomes disabled;

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

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

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

44 (a) The member is no longer disabled; or

45 (b) The member attains normal retirement age under ORS 238A.160.

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

5
 6 **GUARANTEED RATE OF RETURN**
 7

8 **SECTION 6.** ORS 238.255 is amended to read:

9 238.255. (1)(a) **Except as provided in paragraph (b) of this subsection, the guaranteed rate**
 10 **of return for member accounts established under ORS 238.250 is the assumed interest rate**
 11 **established by the Public Employees Retirement Board for the purposes of the Public Em-**
 12 **ployees Retirement Fund.**

13 **(b) The board may establish a guaranteed rate of return for member accounts established**
 14 **for school employees under ORS 238.250 that is lower than the assumed interest rate.**

15 [(1)] (2) The regular account for an active or inactive member of the Public Employees Retire-
 16 ment System shall be examined each year. If the regular account is credited with earnings for the
 17 previous year in an amount less than the earnings that would have been credited pursuant to the
 18 [assumed] **guaranteed** interest rate for [that year determined by the Public Employees Retirement
 19 Board] **the account**, the amount of the difference shall be credited to the regular account and
 20 charged to a reserve account in the Public Employees Retirement Fund established for the purpose.

21 (3) A reserve account [so] established **under subsection (2) of this section** may not be main-
 22 tained on a deficit basis for a period of more than five years. Earnings in excess of the [assumed
 23 interest rate for years] **amount required to be deposited in accounts pursuant to this section**
 24 **in years** following the year for which a charge is made to the reserve account shall first be applied
 25 to reduce or eliminate the amount of a deficit.

26 [(2)] (4) The regular account for an active or inactive member who established membership in
 27 the system before January 1, 1996, as described in ORS 238.430, may not be credited with earnings
 28 in excess of the [assumed] **guaranteed** interest rate **established for the account** until:

29 (a) The reserve account established under subsection [(1)] (2) of this section no longer has a
 30 deficit;

31 (b) The reserve account established under subsection [(1)] (2) of this section is fully funded with
 32 amounts determined by the board, after consultation with the actuary employed by the board, to be
 33 necessary to ensure a zero balance in the account when all members who established membership
 34 in the system before January 1, 1996, as described in ORS 238.430, have retired; and

35 (c) The reserve account established under subsection [(1)] (2) of this section has been fully
 36 funded as described in paragraph (b) of this subsection in each of the three immediately preceding
 37 calendar years.

38 **SECTION 7.** ORS 238.670 is amended to read:

39 238.670. (1) At the close of each calendar year in which the earnings on **accounts in** the Public
 40 Employees Retirement Fund equal or exceed the [assumed] **guaranteed** interest rate established **for**
 41 **those accounts** [by the Public Employees Retirement Board] under ORS 238.255, the board shall set
 42 aside, out of interest and other income received through investment of the Public Employees Re-
 43 tirement Fund during that calendar year, such part of the income as the board may deem advisable,
 44 not exceeding seven and one-half percent of the combined total of such income, which moneys so
 45 segregated shall remain in the fund and constitute therein a reserve account. The board shall con-

1 tinue to credit the reserve account in the manner required by this subsection until the board de-
 2 termines that the reserve account is adequately funded for the purposes specified in this subsection.
 3 Such reserve account shall be maintained and used by the board to prevent any deficit of moneys
 4 available for the payment of retirement allowances, due to interest fluctuations, changes in mortality
 5 rate or, except as provided in subsection (3) or (4) of this section, other contingency. In addition, the
 6 reserve account may be used by the board for the following purposes:

7 (a) To prevent any deficit in the fund by reason of the insolvency of a participating public em-
 8 ployer. Reserves under this paragraph may be funded only from the earnings on employer contribu-
 9 tions made under ORS 238.225.

10 (b) To pay any legal expenses or judgments that do not arise in the ordinary course of adjudi-
 11 cating an individual member's benefits or an individual employer's liabilities.

12 (c) To provide for any other contingency that the board may determine to be appropriate.

13 (2) At the close of each calendar year, the board shall set aside, out of interest and other income
 14 received during the calendar year, after deducting the amounts provided by law and to the extent
 15 that such income is available, a sufficient amount to credit to the reserves for pension accounts and
 16 annuities varying percentage amounts adopted by the board as a result of periodic actuarial inves-
 17 tigations. If total income available for distribution exceeds those percentages of the total accumu-
 18 lated contributions of employees and employers, the reserves for pensions and annuities shall
 19 participate in such excess.

20 (3) The board may set aside, out of interest and other income received through investment of
 21 the fund, such part of the income as the board considers necessary, which moneys so segregated
 22 shall remain in the fund and constitute one or more reserve accounts. Such reserve accounts shall
 23 be maintained and used by the board to offset gains and losses of invested capital. The board, from
 24 time to time, may cause to be transferred from the reserve account provided for in subsection (1)
 25 of this section to a reserve account provided for in this subsection such amount as the board de-
 26 termines to be unnecessary for the purposes set forth in subsection (1) of this section and to be
 27 necessary for the purposes set forth in this subsection.

28 (4) The board may provide for amortizing gains and losses of invested capital in such instances
 29 as the board determines that amortization is preferable to a reserve account provided for in sub-
 30 section (3) of this section.

31 (5) At least 30 days before crediting any interest and other income received through investment
 32 of the Public Employees Retirement Fund to any reserve account in the fund, the board shall submit
 33 a preliminary proposal for crediting to the appropriate legislative review agency, as defined in ORS
 34 291.371 (1), for its review and comment.

35 **SECTION 8. The amendments to ORS 238.255 and 238.670 by sections 6 and 7 of this 2012**
 36 **Act apply to the crediting of earnings for calendar year 2012 and for all subsequent calendar**
 37 **years.**

38
 39 **INDIVIDUAL ACCOUNT PROGRAM**

40
 41 **SECTION 9. Sections 10, 11 and 12 of this 2012 Act are added to and made a part of ORS**
 42 **chapter 238A.**

43 **SECTION 10. (1) A school employee who established membership in the Public Employees**
 44 **Retirement System before August 29, 2003, as described in ORS 238A.025 (4), ceases to be a**
 45 **member of the individual account program on the effective date of this 2012 Act.**

1 (2) A school employee who established membership in the Public Employees Retirement
2 System before August 29, 2003, as described in ORS 238A.025 (4), and who is a member of the
3 individual account program on the effective date of this 2012 Act, continues to be a member
4 for the purpose of amounts in the employee account established for the member under ORS
5 238A.350 (2), and the Public Employees Retirement Board shall continue to make adjustments
6 to the account in the manner prescribed by ORS 238A.350 (1) on and after the effective date
7 of this 2012 Act, but no further employee contributions may be deposited in the account on
8 or after the effective date of this 2012 Act by reason of service by the member as a school
9 employee.

10 (3) Employee contributions under ORS 238A.330 made on or after the effective date of
11 this 2012 Act by or on behalf of a school employee who established membership in the Public
12 Employees Retirement System before August 29, 2003, as described in ORS 238A.025 (4), may
13 not be deposited by the Public Employees Retirement Board in the employee account estab-
14 lished under ORS 238A.350 (1), but shall instead be deposited in the school employee account
15 established for the member under section 11 of this 2012 Act.

16 **SECTION 11.** (1) The Public Employees Retirement Board shall create a school employee
17 account for each member of the Public Employees Retirement System who is a school em-
18 ployee and who established membership in the system before August 29, 2003, as described
19 in ORS 238A.025 (4). The account shall be adjusted at least annually in accordance with rules
20 adopted by the board to reflect any net earnings or losses on those contributions. The ad-
21 justments described in this subsection shall continue until the account is withdrawn or ap-
22 plied against the costs of the pension or other retirement benefits payable to the member.

23 (2) Unless the amounts in a school employee account are withdrawn under section 12 of
24 this 2012 Act, the amounts in the account shall be applied by the board to pay the costs of
25 the pension or other retirement benefits payable to or on behalf of the member.

26 **SECTION 12.** (1) An inactive member may elect to receive a distribution of the amounts
27 in the member's school employee account if the inactive member has separated from all
28 service with participating public employers and with employers who are treated as part of a
29 participating public employer's controlled group under the federal laws and rules governing
30 the status of the Public Employees Retirement System and the Public Employees Retirement
31 Fund as a qualified governmental retirement plan and trust.

32 (2) A member who is a school employee, who is vested in the pension program established
33 under this chapter and who is eligible to withdraw from the pension program under ORS
34 238A.120 may make an election under this section only if the member also withdraws from
35 the pension program.

36 **SECTION 13.** ORS 238A.320 is amended to read:

37 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
38 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
39 tablished.

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

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

45 (a) The date on which the member completes at least 600 hours of service in each of five cal-

1 endar years. The five calendar years need not be consecutive, but are subject to the provisions of
 2 subsection (5) of this section.

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

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

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

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

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

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

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

23 **(7) A member becomes vested in the school employee account established for the member**
 24 **under section 11 of this 2012 Act on the date the school employee account is established.**

25
 26 **LIMIT ON COST-OF-LIVING INCREASES**

27
 28 **SECTION 14.** ORS 238.360 is amended to read:

29 238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
 30 Board shall determine the percentage increase or decrease in the cost-of-living for the previous
 31 calendar year, based on the Consumer Price Index (Portland area-all items) as published by the
 32 Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon, area. *[Prior*
 33 *to July 1 each year the allowance which the member or the member's beneficiary is receiving or is*
 34 *entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure de-*
 35 *termined, and the allowance for the next 12 months beginning July 1 adjusted to the resultant*
 36 *amount.]*

37 **(2) Before July 1 of each year, for each member who retired as other than a school em-**
 38 **ployee the board shall multiply the monthly payment that the member or the member's**
 39 **beneficiary is receiving or is entitled to receive as a retirement allowance on August 1 for**
 40 **the month of July by the percentage figure determined under subsection (1) of this section.**

41 **(3) Before July 1 of each year, for each member who retired as a school employee the**
 42 **board shall multiply by the percentage figure determined under subsection (1) of this section**
 43 **the lesser of:**

44 **(a) \$2,000; or**

45 **(b) The monthly payment that the member or the member's beneficiary is receiving or**

1 **is entitled to receive as a retirement allowance on August 1 for the month of July.**

2 **(4) The board shall adjust all monthly payments made on or after August 1 based on the**
 3 **increase or decrease calculated under this section.**

4 [(2)] (5) Such increase or decrease shall not exceed two percent of any monthly retirement al-
 5 lowance in any year and no allowance shall be adjusted to an amount less than the amount to which
 6 the recipient would be entitled if no cost-of-living adjustment were authorized.

7 [(3)] (6) The amount of any cost-of-living increase or decrease in any year in excess of the
 8 maximum annual retirement allowance adjustment of two percent shall be accumulated from year
 9 to year and included in the computation of increases or decreases in succeeding years.

10 [(4)] (7) Any increase in the allowance shall be paid from contributions of the public employer
 11 under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form
 12 of a credit against contributions of the employer under ORS 238.225.

13 **(8) A member shall be treated as having retired as a school employee for the purposes**
 14 **of this section if the member performed at least 90 days' service as a school employee within**
 15 **three years before the member's effective date of retirement.**

16 **SECTION 15.** ORS 238A.210 is amended to read:

17 238A.210. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
 18 Board shall determine the percentage increase or decrease in the cost of living for the previous
 19 calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers
 20 for All Items, as published by the Bureau of Labor Statistics of the United States Department of
 21 Labor. *[Before July 1 each year, the board shall adjust every pension payable under ORS 238A.180,*
 22 *238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit payable*
 23 *under ORS 238A.230 by multiplying the monthly payment by the percentage figure determined by the*
 24 *board. If a person has been receiving a pension or benefit for less than 12 months on July 1 of a*
 25 *calendar year, the board shall make a pro rata reduction of the adjustment based on the number of*
 26 *months that the pension or benefit was received before July 1 of the year. The adjustment shall be made*
 27 *for the payments payable on August 1 and thereafter.]*

28 **(2) Before July 1 of each year, for each member who retired as other than a school em-**
 29 **ployee the board shall multiply the pension payable under ORS 238A.180, 238A.185 or 238A.190,**
 30 **the disability benefit payable under ORS 238A.235 or the death benefit payable under ORS**
 31 **238A.230 by the percentage figure determined under subsection (1) of this section.**

32 **(3) Before July 1 of each year, for each member who retired as a school employee the**
 33 **board shall multiply by the percentage figure determined under subsection (1) of this section**
 34 **the lesser of:**

35 **(a) \$2,000; or**

36 **(b) The pension payable under ORS 238A.180, 238A.185 or 238A.190, the disability benefit**
 37 **payable under ORS 238A.235 or the death benefit payable under ORS 238A.230.**

38 **(4) The board shall adjust all monthly payments made on or after August 1 based on the**
 39 **increase or decrease calculated under this section.**

40 [(2)] (5) An increase or decrease in the benefit payments under this section may not exceed two
 41 percent in any year. A pension or death benefit may not be adjusted to an amount that is less than
 42 the amount that would have been payable if no cost-of-living adjustment had been made since the
 43 pension or death benefit first became payable.

44 **(6) A member shall be treated as having retired as a school employee for the purposes**
 45 **of this section if the member performed at least 90 days' service as a school employee within**

1 **three years before the member's effective date of retirement.**

2 **SECTION 16. The amendments to ORS 238.360 and 238A.210 by sections 14 and 15 of this**
 3 **2012 Act apply to cost-of-living adjustments for members whose effective date of retirement**
 4 **is on or after the effective date of this 2012 Act.**

5
 6 **LIMIT ON BENEFIT BASED ON FINAL AVERAGE SALARY**

7
 8 **SECTION 17.** ORS 238.300 is amended to read:

9 238.300. Upon retiring from service at normal retirement age or thereafter, a member of the
 10 **Public Employees Retirement** System shall receive a service retirement allowance which shall
 11 consist of the following annuity and pensions:

12 (1) A refund annuity which shall be the actuarial equivalent of accumulated contributions, if
 13 any, by the member and interest thereon credited at the time of retirement, which annuity shall
 14 provide an allowance payable during the life of the member and at death a lump sum equal in
 15 amount to the difference between accumulated contributions at the time of retirement and the sum
 16 of the annuity payments actually made to the member during life shall be paid to such person, if any,
 17 as the member nominates by written designation duly acknowledged and filed with the board or shall
 18 otherwise be paid according to the provisions of this chapter for disposal of an amount credited to
 19 the member account of a member at the time of death in the event the member designates no ben-
 20 eficiary to receive the amount or no such beneficiary is able to receive the amount. If death of the
 21 member occurs before the first payment is due, the member account of the member shall be treated
 22 as though death had occurred before retirement.

23 (2)(a) A life pension (nonrefund) for current service provided by the contributions of employers,
 24 which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added
 25 to the sum of the annuity, if any, under subsection (1) of this section and the annuity, if any, pro-
 26 vided on the same basis and payable from the Variable Annuity Account, both annuities considered
 27 on a refund basis, results in a total of:

28 (A) For service as a police officer or firefighter, two percent of final average salary multiplied
 29 by the number of years of membership in the system as a police officer or firefighter before the ef-
 30 fective date of retirement.

31 (B) For service as other than a police officer or firefighter, including service as a member of the
 32 Legislative Assembly, 1.67 percent of final average salary multiplied by the number of years of
 33 membership in the system as other than a police officer or firefighter before the effective date of
 34 retirement.

35 (b) A pension under this subsection shall be at least:

36 (A) For a member who first establishes membership in the system before July 1, 2003, the
 37 actuarial equivalent of the annuity provided by the accumulated contributions of the member. A
 38 person establishes membership in the system before July 1, 2003, for the purposes of this subpara-
 39 graph if:

40 (i) The person is a member of the system, or a judge member of the system, on the day imme-
 41 diately before July 1, 2003; or

42 (ii) The person performed any period of service for a participating public employer before July
 43 1, 2003, that is credited to the six-month period of employment required of an employee under ORS
 44 238.015 before an employee may become a member of the system.

45 (B) For a member who made contributions before August 21, 1981, the equivalent of a pension

1 computed pursuant to this subsection as it existed immediately before that date.

2 (c) As used in this subsection, “number of years of membership” means the number of full years
 3 of creditable service plus any remaining fraction of a year of creditable service. Except as other-
 4 wise provided in this paragraph, in determining a remaining fraction a full month shall be consid-
 5 ered as one-twelfth of a year and a major fraction of a month shall be considered as a full month.
 6 Membership of a school [*district*] employee, an employee of an institution of higher education en-
 7 gaged in teaching or other school activity or an employee of the Department of Human Services, the
 8 Oregon Youth Authority, the Department of Corrections or the State Board of Education engaged
 9 in teaching or other school activity at an institution supervised by the authority, board or depart-
 10 ment, for all portions of a school year in a calendar year in which the district school, institution
 11 of higher education or school activity at an institution so supervised in which the member is em-
 12 ployed is normally in session shall be considered as a full one-half year of membership. The number
 13 of years of membership of a member who received a refund of contributions as provided in ORS
 14 237.976 (2) is limited to the number of years after the day before the date on which the refund was
 15 received. The number of years of membership of a member who is separated, for any reason other
 16 than death or disability, from all service entitling the member to membership in the system, who
 17 withdraws the amount credited to the member account of the member in the fund during absence
 18 from such service and who thereafter reenters the service of an employer participating in the system
 19 but does not repay the amount so withdrawn as provided in this chapter, is limited to the number
 20 of years after the day before the date of so reentering.

21 (3) An additional life pension (nonrefund) for prior service credit, including military service,
 22 credited to the member at the time of first becoming a member of the system, as elsewhere provided
 23 in this chapter, which pension shall be provided by the contributions of the employer.

24 **(4) Notwithstanding subsection (1) of this section, the service retirement allowance for**
 25 **a school employee determined under this section may not exceed:**

26 **(a) One hundred percent of final average salary if the member retires on or after the**
 27 **effective date of this 2012 Act and before January 1, 2017.**

28 **(b) Ninety percent of final average salary if the member retires on or after January 1,**
 29 **2017, and before January 1, 2022.**

30 **(c) Eighty percent of final average salary if the member retires on or after January 1,**
 31 **2022.**

32 **SECTION 18. (1) Notwithstanding the amendments to ORS 238.300 by section 17 of this**
 33 **2012 Act, the service retirement allowance of a member of the Public Employees Retirement**
 34 **System who retires under ORS chapter 238 on or after the effective date of this 2012 Act and**
 35 **before January 1, 2017, may not be less than the service retirement allowance the member**
 36 **would have received if the member had retired on March 1, 2012.**

37 **(2) Notwithstanding the amendments to ORS 238.300 by section 17 of this 2012 Act, the**
 38 **service retirement allowance of a member of the Public Employees Retirement System who**
 39 **retires under ORS chapter 238 on or after January 1, 2017, and before January 1, 2022, may**
 40 **not be less than the service retirement allowance the member would have received if the**
 41 **member had retired on December 1, 2016.**

42 **(3) Notwithstanding the amendments to ORS 238.300 by section 17 of this 2012 Act, the**
 43 **service retirement allowance of a member of the Public Employees Retirement System who**
 44 **retires under ORS chapter 238 on or after January 1, 2022, may not be less than the service**
 45 **retirement allowance the member would have received if the member had retired on De-**

1 **ember 1, 2021.**

2 **SECTION 19.** ORS 238A.125 is amended to read:

3 238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall
4 be paid an annual pension for the life of the member as follows:

5 (a) For service as a police officer or firefighter, 1.8 percent of final average salary multiplied
6 by the number of years of retirement credit attributable to service as a police officer or firefighter.

7 (b) For service as other than a police officer or firefighter, 1.5 percent of final average salary
8 multiplied by the number of years of retirement credit attributable to service as other than a police
9 officer or firefighter.

10 (2) Notwithstanding any provision of ORS 238A.100 to 238A.245, the annual benefit payable to
11 a member under the pension program and under any other tax-qualified defined benefit plan main-
12 tained by the participating public employer may not exceed the applicable limitations set forth in
13 26 U.S.C. 415(b), as in effect on December 31, 2010. The Public Employees Retirement Board shall
14 adopt rules for the administration of this limitation, including adjustments in the annual dollar lim-
15 itation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

16 (3) The board shall make no actuarial adjustment in a member's pension calculated under this
17 section by reason of the member's retirement after normal retirement age.

18 **(4) Notwithstanding subsection (1) of this section, the pension for a school employee de-**
19 **termined under this section may not exceed:**

20 **(a) One hundred percent of final average salary if the member retires on or after the**
21 **effective date of this 2012 Act and before January 1, 2017.**

22 **(b) Ninety percent of final average salary if the member retires on or after January 1,**
23 **2017, and before January 1, 2022.**

24 **(c) Eighty percent of final average salary if the member retires on or after January 1,**
25 **2022.**

26 **SECTION 20.** (1) Notwithstanding the amendments to ORS 238A.125 by section 19 of this
27 **2012 Act, the pension payable to a member of the Public Employees Retirement System who**
28 **retires under ORS chapter 238A on or after the effective date of this 2012 Act and before**
29 **January 1, 2017, may not be less than the pension the member would have received if the**
30 **member had retired on March 1, 2012.**

31 **(2) Notwithstanding the amendments to ORS 238A.125 by section 19 of this 2012 Act, the**
32 **pension payable to a member of the Public Employees Retirement System who retires under**
33 **ORS chapter 238A on or after January 1, 2017, and before January 1, 2022, may not be less**
34 **than the pension the member would have received if the member had retired on December**
35 **1, 2016.**

36 **(3) Notwithstanding the amendments to ORS 238A.125 by section 19 of this 2012 Act, the**
37 **pension payable to a member of the Public Employees Retirement System who retires under**
38 **ORS chapter 238A on or after January 1, 2022, may not be less than the pension the member**
39 **would have received if the member had retired on December 1, 2021.**

40 **SECTION 21.** ORS 238.095 is amended to read:

41 238.095. (1) An employee shall cease to be a member of the Public Employees Retirement System
42 if the employee withdraws the member account, if any, of the member in the manner provided by
43 ORS 238.265.

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

1 years.

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

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

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

9 (4) Interest shall not accrue on the amount in the member account of the former member from
10 the date that membership is terminated under subsection (2) of this section. Upon request by the
11 former member, the Public Employees Retirement Board shall pay the amount in a member account
12 to a former member upon the termination of the membership of the former member under subsection
13 (2) of this section if the former member is separated from all service with employers who are treated
14 as part of a participating public employer's controlled group under the federal laws and rules gov-
15 erning the status of the system and the Public Employees Retirement Fund as a qualified govern-
16 mental retirement plan and trust. The board may deduct, from the amount paid to a former member
17 under this subsection, all reasonable costs incurred by the system in locating the member.

18 (5) If the membership of a person in the system is terminated under subsection (2) of this section,
19 and the person subsequently becomes an active member of the system, any amounts that were not
20 paid to the person under subsection (4) of this section shall be credited with net earnings and losses.
21 Crediting under this subsection commences upon the person becoming an active member of the sys-
22 tem and continues as long as the person remains an active member.

23 **SECTION 22. The amendments to ORS 238.300 and 238A.125 by sections 17 and 19 of this**
24 **2012 Act apply only to school employees whose effective date of retirement is on or after the**
25 **effective date of this 2012 Act.**

26
27 **SCHOOL SAVINGS ACCOUNT**
28 **AND RATE STABILIZATION SUBACCOUNT**
29

30 **SECTION 23. Section 24 of this 2012 Act is added to and made a part of ORS chapter 238.**

31 **SECTION 24. (1) At least once every two years, the Public Employees Retirement Board**
32 **shall determine the savings in employer contributions from school employers that are at-**
33 **tributable to the provisions of this 2012 Act, and shall set aside that amount from the em-**
34 **ployer contributions of school employers. Except as provided in this section, amounts set**
35 **aside under this subsection shall be treated in the same manner as a lump sum payment by**
36 **school employers and an account shall be established for the amounts under ORS 238.229.**
37 **Amounts deposited to the account may not exceed \$500 million. The account shall be known**
38 **as the School Savings Account.**

39 **(2) The board shall create a rate stabilization subaccount within the School Savings Ac-**
40 **count, and shall deposit in the subaccount 10 percent of the amounts credited to the School**
41 **Savings Account. Moneys in the subaccount may not be applied against the employer con-**
42 **tributions of school employers except as provided in subsection (3) of this section, and shall**
43 **not be considered by the board in determining the liabilities of school employers.**

44 **(3) Upon petition of one or more school employers, the board may apply amounts in the**
45 **rate stabilization subaccount created under subsection (2) of this section against the em-**

1 **ployer contributions of school employers if:**

2 (a) The employer contribution rates of school employers will increase by more than
3 ____ percent in any fiscal year without application of those amounts to the liabilities of the
4 employers; or

5 (b) The board determines that amounts in the rate stabilization subaccount exceed any
6 anticipated need for rate stabilization as described in paragraph (a) of this subsection within
7 the following ____ years.

8
9 **EMPLOYER CONTRIBUTION RATES**

10
11 **SECTION 25.** Section 26 of this 2012 Act is added to and made a part of ORS chapter 238.

12 **SECTION 26.** (1) As soon as possible after the effective date of this 2012 Act, the Public
13 Employees Retirement Board shall:

14 (a) Determine the savings in employer contributions of school employers that are at-
15 tributable to the provisions of this 2012 Act;

16 (b) Make the determination of the amounts to be set aside in the School Savings Account
17 established under section 24 of this 2012 Act during the period beginning July 1, 2012, and
18 ending June 30, 2014;

19 (c) Make the determination of the amounts to be set aside in the rate stabilization sub-
20 account established under section 24 of this 2012 Act during the period beginning July 1, 2012,
21 and ending June 30, 2014; and

22 (d) Recalculate the contribution rates of all employers of school employees, pursuant to
23 ORS 238.225, to reflect the provisions of this 2012 Act.

24 (2) The board shall issue corrected contribution rate orders to employers affected by re-
25 calculated rates under this section within 90 days after the effective date of this 2012 Act.
26 The corrected rates are effective July 1, 2012.

27
28 **JUDICIAL REVIEW**

29
30 **SECTION 27.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
31 manner provided by this section whether this 2012 Act breaches any contract between
32 members of the Public Employees Retirement System and their employers or violates any
33 constitutional provision, including but not limited to impairment of contract rights of mem-
34 bers of the Public Employees Retirement System under section 21, Article I of the Oregon
35 Constitution, or clause 1, section 10, Article I of the United States Constitution.

36 (2) A person who is adversely affected by this 2012 Act or who will be adversely affected
37 by this 2012 Act may institute a proceeding for review by filing with the Supreme Court a
38 petition that meets the following requirements:

39 (a) The petition must be filed within 60 days after the effective date of this 2012 Act.

40 (b) The petition must include the following:

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

42 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
43 fected.

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

1 (4) Proceedings for review under this section shall be given priority over all other mat-
2 ters before the Supreme Court.

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

5 (6) In the event the Supreme Court determines that there are factual issues in the peti-
6 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
7 commended findings of fact.

8
9 MISCELLANEOUS

10
11 SECTION 28. The unit captions used in this 2012 Act are provided only for the conven-
12 ience of the reader and do not become part of the statutory law of this state or express any
13 legislative intent in the enactment of this 2012 Act.

14
15 EMERGENCY CLAUSE

16
17 SECTION 29. This 2012 Act being necessary for the immediate preservation of the public
18 peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect
19 on its passage.
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