

Enrolled House Bill 2285

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Governor Theodore R. Kulongoski for Public Employees Retirement System)

CHAPTER

AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238A.025, 238A.130, 238A.140, 238A.142, 238A.165, 238A.305 and 243.800 and section 46b, chapter 733, Oregon Laws 2003; and repealing ORS 238.180 and 238A.157 and section 2a, chapter 733, Oregon Laws 2003, and section 2, chapter ___, Oregon Laws 2007 (Enrolled House Bill 2284).

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

BREAK IN SERVICE

SECTION 1. ORS 238A.025 is amended to read:

238A.025. (1) The Oregon Public Service Retirement Plan is established. The purpose of the Oregon Public Service Retirement Plan is to provide career public employees with a secure and fair retirement income at an affordable, stable and predictable cost to the taxpayers. The Oregon Public Service Retirement Plan is composed of a pension program and an individual account program. The pension program and the individual account program are separate accounts for purposes of federal income tax qualification, and the assets of each program must be held as part of the trust established by ORS 238.660 for the exclusive benefit of the participants and beneficiaries. It is the intent of the Legislative Assembly that pursuant to section 414(k) of the Internal Revenue Code the individual account program be established and maintained as a tax-qualified defined contribution governmental plan for the purposes of sections 72(d) and 415 of the Internal Revenue Code. The Public Employees Retirement Board may create separate accounts within the Public Employees Retirement Fund for the pension program and the individual account program.

(2) Notwithstanding any provision of ORS chapter 238, any person who is employed by a participating public employer on or after August 29, 2003, and who has not established membership in the Public Employees Retirement System before August 29, 2003, is entitled to receive only the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after August 29, 2003, and has no right or claim to any benefit under ORS chapter 238 except as specifically provided by this chapter.

(3)[(a)] Any person who is [*an active*] a member of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003, **unless the person's membership in the system is subsequently terminated under ORS 238.095**, *unless the person has a break in service on or after August 29, 2003*. If the [*person has a break in service*] **person's membership in the system is terminated under ORS 238.095** on or after August 29, 2003, the person is entitled to receive [*the*

benefits provided by ORS chapter 238 for all creditable service performed before the break in service, and] the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers after the [break in service] **termination of membership.**

[(b) Except as provided in this subsection, a person has a break in service for the purposes of this subsection if the person performs no service with a participating public employer in a qualifying position for a period of six consecutive months.]

[(c) If a person leaves employment with a participating public employer for purposes that would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.]

[(d) If a person leaves employment with a participating public employer for career development purposes pursuant to written authorization of the participating public employer under a written policy of the employer that applies generally to the class of employees to which the member belongs, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.]

[(e) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer for the purpose of serving as a member of the Legislative Assembly during a legislative session.]

[(f) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is absent from employment with a participating public employer and receives a disability retirement allowance under ORS 238.320.]

[(g) A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer based on the seasonal nature of the person's employment as long as the person returns to employment with the public employer before the expiration of 12 full calendar months.]

(4) A person establishes membership in the system before August 29, 2003, for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on August 28, 2003; or

(b) The person performed any period of service for a participating public employer before August 29, 2003, that is credited to the six-month period of employment required of an employee under ORS 238.015 before an employee may become a member of the system.

(5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public Service Retirement Plan.

(6) The provisions of this section do not apply to a person elected or appointed as a judge as defined in ORS 238.500.

SECTION 1a. If House Bill 2284 becomes law, section 1 of this 2007 Act (amending ORS 238A.025) is repealed and ORS 238A.025, as amended by section 1, chapter __, Oregon Laws 2007 (Enrolled House Bill 2284), is amended to read:

238A.025. (1) The Oregon Public Service Retirement Plan is established. The purpose of the Oregon Public Service Retirement Plan is to provide career public employees with a secure and fair retirement income at an affordable, stable and predictable cost to the taxpayers. The Oregon Public Service Retirement Plan is composed of a pension program and an individual account program. The pension program and the individual account program are separate accounts for purposes of federal income tax qualification, and the assets of each program must be held as part of the trust established by ORS 238.660 for the exclusive benefit of the participants and beneficiaries. It is the intent of the Legislative Assembly that pursuant to section 414(k) of the Internal Revenue Code the individual account program be established and maintained as a tax-qualified defined contribution governmental plan for the purposes of sections 72(d) and 415 of the Internal Revenue Code. The Public

Employees Retirement Board may create separate accounts within the Public Employees Retirement Fund for the pension program and the individual account program.

(2) Notwithstanding any provision of ORS chapter 238, any person who is employed by a participating public employer on or after August 29, 2003, and who has not established membership in the Public Employees Retirement System before August 29, 2003, is entitled to receive only the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers on and after August 29, 2003, and has no right or claim to any benefit under ORS chapter 238 except as specifically provided by this chapter.

(3)[(a)] Any person who is [*an active*] a member of the Public Employees Retirement System on August 28, 2003, is entitled to receive the benefits provided by ORS chapter 238 for all service performed before, on and after August 29, 2003, **unless the person's membership in the system is subsequently terminated under ORS 238.095**[, *unless the person has a break in service on or after August 29, 2003*]. If the [*person has a break in service*] **person's membership in the system is terminated under ORS 238.095** on or after August 29, 2003, the person is entitled to receive [*the benefits provided by ORS chapter 238 for all creditable service performed before the break in service, and*] the benefits provided under the Oregon Public Service Retirement Plan for periods of service with participating public employers after the [*break in service*] **termination of membership**.

[(b) *Except as provided in this subsection, a person has a break in service for the purposes of this subsection if the person performs no service with a participating public employer in a qualifying position for a period of six consecutive months.*]

[(c) *If a person leaves employment with a participating public employer for purposes that would qualify the person for family leave under ORS 659A.150 to 659A.186, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.*]

[(d) *If a person leaves employment with a participating public employer for career development purposes pursuant to written authorization of the participating public employer under a written policy of the employer that applies generally to the class of employees to which the member belongs, the person has a break in service for the purposes of this subsection only if the person performs no service with a participating public employer in a qualifying position for a period of 12 consecutive months after leaving employment with the participating public employer.*]

[(e) *A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer for the purpose of serving as a member of the Legislative Assembly during a legislative session.*]

[(f) *A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is absent from employment with a participating public employer and receives a disability retirement allowance under ORS 238.320.*]

[(g) *A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person leaves employment with a participating public employer based on the seasonal nature of the person's employment as long as the person returns to employment with the public employer before the expiration of 12 full calendar months.*]

[(h) *A person does not have a break in service for the purposes of this subsection by reason of any period of time during which the person is absent from service with a participating public employer by reason of a disciplinary action or other administrative action if:*]

[(A) *The person challenges the disciplinary action or other administrative action;*]

[(B) *A judgment, an administrative order, a settlement or other resolution of the challenge provides for the reinstatement of the person with the public employer; and*]

[(C) *The person either accepts reinstatement with the public employer, or is employed by a different public employer, within one year after the judgment, order, settlement or other resolution becomes effective.*]

(4) A person establishes membership in the system before August 29, 2003, for the purposes of this section if:

(a) The person is a member of the system, or a judge member of the system, on August 28, 2003;
or

(b) The person performed any period of service for a participating public employer before August 29, 2003, that is credited to the six-month period of employment required of an employee under ORS 238.015 before an employee may become a member of the system.

(5) Except as provided in this chapter, ORS chapter 238 does not apply to the Oregon Public Service Retirement Plan.

(6) The provisions of this section do not apply to a person elected or appointed as a judge as defined in ORS 238.500.

SECTION 1b. If House Bill 2284 becomes law, section 2, chapter __, Oregon Laws 2007 (Enrolled House Bill 2284), is repealed.

SECTION 2. ORS 238A.165 is amended to read:

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

(2) Earliest retirement age for a member of the pension program who retires from service as a police officer or firefighter is 50 years of age if the member has held a position as a police officer or firefighter continuously for a period of not less than five years immediately before the effective date of retirement. Earliest retirement date for a member described in this subsection is not later than the date the member reaches 55 years of age.

[(3) If a member has a break in service under ORS 238A.025 and is entitled to receive a retirement allowance under ORS chapter 238 in addition to a pension under this chapter, earliest retirement age under this chapter is the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.]

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

SECTION 3. ORS 238A.305 is amended to read:

238A.305. (1) Except as provided in subsection (2) of this section, all members of the Public Employees Retirement System who established membership in the Public Employees Retirement System before August 29, 2003, as described in ORS 238A.025 become members of the individual account program on January 1, 2004.

(2) A member of the Public Employees Retirement System may not be a member of the individual account program during any period of time during which the member is required to make contributions to the system under ORS 238.200.

(3) Solely for the purpose of determining the amount of the employee contribution for persons who become members of the individual account program under this section, whether paid by the employee or by the employer, the Public Employees Retirement Board shall use the definition of "salary" provided by ORS 238.005. *[If a person who is subject to this subsection has a break in service as described in ORS 238A.025, the board shall use the definition of "salary" provided by ORS 238A.005 for the purpose of determining the amount of the employee contribution to the individual account program for all service by the member after the break in service.]*

SECTION 4. Section 46b, chapter 733, Oregon Laws 2003, is amended to read:

Sec. 46b. (1) Except as provided in subsection (2) of this section, *[section 46a of this 2003 Act]* **ORS 237.650** applies to all members of the Legislative Assembly who take office on or after *[the effective date of this 2003 Act]* **August 29, 2003**.

(2) In addition to the options provided by *[section 46a of this 2003 Act]* **ORS 237.650**, any person who is a member of the Legislative Assembly on *[the effective date of this 2003 Act]* **August 29, 2003**, and who is a member of the Public Employees Retirement System on *[the effective date of this 2003 Act]* **August 29, 2003**, may elect to remain a member of the system under ORS chapter 238 for so long as the member remains in continuous service as a member of the Legislative Assembly. An election under this subsection must be made in the manner provided by *[section 46a (2) of this 2003 Act]* **ORS 237.650 (2)**.

(3) A member of the Legislative Assembly remains in continuous service as a member of the Legislative Assembly for the purposes of subsection (2) of this section [*for so long as the member continues in office without a break in service as described in sections 2 and 2a of this 2003 Act*] **until the person resigns or otherwise leaves office.**

SECTION 5. ORS 243.800 is amended to read:

243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to 243.945, the State Board of Higher Education shall establish and administer an Optional Retirement Plan for administrative and academic employees of the Oregon University System who are eligible for membership in the Public Employees Retirement System. The Optional Retirement Plan must be a qualified plan under the Internal Revenue Code, capable of accepting funds transferred under subsection (7) of this section without the transfer being treated as a taxable event under the Internal Revenue Code, and willing to accept those funds. Retirement and death benefits shall be provided under the plan by the purchase of annuity contracts, fixed or variable or a combination thereof, or by contracts for investments in mutual funds.

(2) The State Board of Higher Education shall select at least two life insurance companies providing fixed and variable annuities and at least two investment companies providing mutual funds, but not more than five companies in total, for the purpose of providing benefits under the Optional Retirement Plan. The State Board of Higher Education shall establish selection criteria for the purpose of this subsection.

(3) An administrative or academic employee may make an irrevocable election to participate in the Optional Retirement Plan within six months after being employed. An election under this subsection is effective on the first day of the month following six full months of employment.

(4) An administrative or academic employee who does not elect to participate in the Optional Retirement Plan:

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

(b) Continues to be assisted by the State Board of Higher Education under ORS 243.920 if the employee is being so assisted.

(5) Except as provided in subsection (6) of this section, employees who elect to participate in the Optional Retirement Plan are ineligible for active membership in the Public Employees Retirement System or for any assistance by the State Board of Higher Education under ORS 243.920 as long as those employees are employed in the Oregon University System and the plan is in effect.

(6)(a) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall be considered by the Public Employees Retirement Board to be a terminated member under the provisions of ORS 238.095 as of the effective date of the election, and the amount credited to the member account of the member shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board in the manner provided by subsection (7) of this section.

(b) An administrative or academic employee who elects to participate in the Optional Retirement Plan, who has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall be considered to be an inactive member by the Public Employees Retirement Board and shall retain all the rights, privileges and options under ORS chapter 238 unless the employee makes a written request to the Public Employees Retirement Board for a transfer of the amounts credited to the member account of the member to the Optional Retirement Plan. A request for a transfer must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer all amounts credited to the member account of the member directly to the Optional Retirement Plan, and shall terminate all rights, privileges and options of the employee under ORS chapter 238.

(c) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is not a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be

considered to be a terminated member of the pension program by the Public Employees Retirement Board as of the effective date of the election.

(d) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be considered an inactive member of the pension program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the pension program. If the actuarial equivalent of the employee's benefit under the pension program at the time that the election becomes effective is \$5,000 or less, the employee may make a written request to the Public Employees Retirement Board for a transfer of the employee's interest under the pension program to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit under the pension program directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the pension program.

(e) An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a vested member of the individual account program of the Oregon Public Service Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall be considered an inactive member of the individual account program by the Public Employees Retirement Board as of the effective date of the election. An employee who is subject to the provisions of this paragraph retains all the rights, privileges and options of an inactive member of the individual account program. An administrative or academic employee who elects to participate in the Optional Retirement Plan, and who is a member of the individual account program of the Oregon Public Service Retirement Plan, may make a written request to the Public Employees Retirement Board that all amounts in the member's employee account, rollover account and employer account, to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the Optional Retirement Plan. The request must be made at the time the member elects to participate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the individual account program upon making the transfer.

(f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement Board shall not treat any employee as an inactive member under the provisions of this subsection for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that the employee be separated from all service with participating public employers and 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 system and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

(7) Any amounts transferred from the Public Employees Retirement Fund under subsection (6) of this section shall be transferred directly to the Optional Retirement Plan by the Public Employees Retirement Board and shall not be made available to the employee.

(8) An employee participating in the Optional Retirement Plan shall contribute monthly an amount equal to the percentage of the employee's salary that the employee would otherwise have contributed as an employee contribution to the Public Employees Retirement System if the employee had not elected to participate in the Optional Retirement Plan.

(9) The State Board of Higher Education shall contribute monthly to the Optional Retirement Plan the percentage of salary of each employee participating in the plan equal to the percentage of salary that would otherwise have been contributed as an employer contribution on behalf of the employee to the Public Employees Retirement System, before any offset under ORS [238.225 (9)] **238.229 (2)**, if the employee had not elected to participate in the Optional Retirement Plan.

(10) Both employee and employer contributions to an Optional Retirement Plan shall be remitted directly to the companies that have issued annuity contracts to the participating employees or directly to the mutual funds.

(11) Benefits under the Optional Retirement Plan are payable to employees who elect to participate in the plan and their beneficiaries by the selected annuity provider or mutual fund in accordance with the terms of the annuity contracts or the terms of the contract with the mutual fund. Employees electing to participate in the plan agree that benefits payable under the plan are not obligations of the State of Oregon or of the Public Employees Retirement System.

[(12) The percentage of salary contributed by the State Board of Higher Education under subsection (9) of this section on behalf of an employee is not affected by reason of the employee having a break in service, as described by ORS 238A.025.]

SECTION 6. (1) The amendments to ORS 238A.025, 238A.165, 238A.305 and 243.800 and section 46b, chapter 733, Oregon Laws 2003, by sections 1, 2, 3, 4 and 5 of this 2007 Act, and the repeal of ORS 238.180 and 238A.157 and section 2a, chapter 733, Oregon Laws 2003, by section 7 of this 2007 Act, apply to all service by members of the Public Employees Retirement System, whether performed before, on or after August 29, 2003.

(2) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall recalculate the benefits of any person who retired before the effective date of this 2007 Act if the benefits of the person were affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act.

(3) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall adjust the service credit of any active or inactive member who was affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act.

(4) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall adjust contributions and account balances of the individual accounts described in ORS 238A.350 for any active or inactive member who was affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act. The board may refund contributions, or require additional contributions, for adjustments to account balances made under this subsection.

SECTION 6a. If House Bill 2284 becomes law, section 6 of this 2007 Act is amended to read:

Sec. 6. (1) The amendments to ORS 238A.025, 238A.165, 238A.305 and 243.800 and section 46b, chapter 733, Oregon Laws 2003, by sections [1] 1a, 2, 3, 4 and 5 of this 2007 Act, and the repeal of ORS 238.180 and 238A.157 and section 2a, chapter 733, Oregon Laws 2003, by section 7 of this 2007 Act, apply to all service by members of the Public Employees Retirement System, whether performed before, on or after August 29, 2003.

(2) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall recalculate the benefits of any person who retired before the effective date of this 2007 Act if the benefits of the person were affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act.

(3) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall adjust the service credit of any active or inactive member who was affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act.

(4) As soon as possible after the effective date of this 2007 Act, the Public Employees Retirement Board shall adjust contributions and account balances of the individual accounts described in ORS 238A.350 for any active or inactive member who was affected by the application of ORS 238A.025, as in effect immediately before the effective date of this 2007 Act. The board may refund contributions, or require additional contributions, for adjustments to account balances made under this subsection.

SECTION 7. ORS 238.180 and 238A.157 and section 2a, chapter 733, Oregon Laws 2003, as amended by section 8, chapter 332, Oregon Laws 2005, are repealed.

**ACCRUAL OF CREDIT UNDER
OREGON PUBLIC SERVICE
RETIREMENT PLAN**

SECTION 8. ORS 238A.140 is amended to read:

238A.140. *[(1) A pension program member shall accrue no retirement credit for any calendar year in which the member has fewer than 600 hours of service. A member may not accrue more than one full year of retirement credit in any calendar year.]*

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

(2) An active member who is a school employee shall be credited with at least six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between January 1 and June 30, and at least six months of retirement credit if the member performs service for a major fraction of each month of a school year that falls between July 1 and December 31.

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

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

[(3) Except as provided in this section, a pension program member shall accrue one full year of retirement credit for each calendar year in which the member has 2,000 hours of service or more.]

[(4) Except as provided in this section, a pension program member shall accrue a prorated year of retirement credit for each calendar year in which the member has 600 hours of service or more but fewer than 2,000 hours of service. The prorated retirement credit shall be calculated by dividing the number of hours of service by 2,000.]

[(5) If an active member of the pension program works as a school employee for one or more participating public employers during a calendar year, and the number of hours of service required for a full-time school employee employed by the participating public employer or employers is less than 2,000, the member accrues retirement credit for the calendar year as follows:]

[(a) The member accrues one full year of retirement credit for the calendar year if the member's hours of service as a school employee are equal to or greater than the number of hours of service required of a full-time school employee employed in the same position or a comparable position by the participating public employer or employers during the calendar year.]

[(b) The member accrues a prorated year of retirement credit for each calendar year in which the member has at least 600 hours of service but less than the number of hours of service required of a full-time school employee employed in the same position or a comparable position by the participating public employer or employers during the calendar year. The prorated retirement credit shall be calculated by dividing the number of the member's hours of service as a school employee by the number of hours of service required of a full-time school employee in the same position or a comparable position.]

[(c) The Public Employees Retirement Board shall adopt rules governing the accrual of retirement credit on a prorated basis by an active member who works in both a school employee position and another qualifying position during the same calendar year, or who works as a school employee for more than one participating public employer during the same calendar year.]

[(6) An active member of the pension program who works as an academic employee of a community college during a calendar year:]

[(a) Accrues one full year of retirement credit for the calendar year if the member is employed 1.0 full-time equivalent on a nine-month or 12-month basis.]

[(b) Accrues a prorated year of retirement credit for each calendar year in which the member performs the services of less than 1.0 full-time equivalent. The member is entitled to prorated retirement

credit under this paragraph in an amount determined by dividing by 1,200 the number of hours calculated to be the equivalent of the percentage in excess of 0.375 full-time equivalent for a member employed on a 12-month basis, or in excess of 0.50 full-time equivalent for a member employed on a nine-month basis.]

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

(a) A person who is employed by a common school district, a union high school district or an education service district;

(b) An employee of the State Board of Higher Education or the Oregon Health and Science University who is engaged in teaching or other school activity at an institution of higher education;

(c) An employee of the Department of Human Services, the Oregon Youth Authority, the Department of Corrections or the State Board of Education who is engaged in teaching or other school activity at an institution supervised by the authority, board or department; and

(d) An employee of a community college district other than an academic employee.

SECTION 9. ORS 238A.130 is amended to read:

238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computation of pension program benefits under ORS 238A.125, “final average salary” means whichever of the following is greater:

(a) The average salary per calendar year paid to an active member in the three consecutive calendar years of membership that produce the highest average salary, including calendar years in which the member was employed for less than a full calendar year. If the number of consecutive calendar years of active membership before the effective date of retirement of the member is three or less, the final average salary for the member is the average salary per calendar year paid to the member in all of those years, without regard to whether the member was employed for full calendar years.

(b) One-third of the total salary paid to an active member in the last 36 calendar months of membership before the effective date of retirement of the member.

(2) For the purposes of calculating the final average salary of a member under subsection (1) of this section, the Public Employees Retirement Board shall:

(a) Include any salary paid in or for the calendar month of separation from employment;

(b) Exclude any salary for any pay period before the first full pay period that is included in the three consecutive calendar years of membership under subsection (1)(a) of this section; and

(c) Exclude any salary for any pay period before the first full pay period that is included in the last 36 calendar months of membership under subsection (1)(b) of this section.

(3) For purposes of the computation of pension program benefits under ORS 238A.125 of a person employed by a local government as defined in ORS 174.116, “final average salary” means whichever of the following is greater:

(a) The average salary per calendar year earned by an active member in the three consecutive calendar years of membership that produce the highest average salary, including calendar years in which the member was employed for less than a full calendar year. If the number of consecutive calendar years of active membership before the effective date of retirement of the member is three or less, the final average salary for the member is the average salary per calendar year earned by the member in all of those years, without regard to whether the member was employed for full calendar years.

(b) One-third of the total salary earned by an active member in the last 36 calendar months of membership before the effective date of retirement of the member.

[(4) For purposes of calculating the final average salary for a member during any period in which the member worked in a qualifying position that requires fewer than 2,000 hours of service in a calendar year, the salary of the member for that period is the salary that would have been paid if the member had worked in the same position on a full-time basis.]

[5] (4) For the purposes of calculating the final average salary of a member under this section, the salary of the member does not include any amounts attributable to hours of overtime that exceed the average number of hours of overtime for the same class of employees as established by rule of

the Public Employees Retirement Board. The Oregon Department of Administrative Services shall establish by rule more than one overtime average for a class of state employees based on the geographic placement of the employees.

SECTION 10. ORS 238A.142 is amended to read:

238A.142. (1) *[Subject to ORS 238A.140 (6),]* An academic employee of a community college who during a calendar year is employed 0.375 full-time equivalent on a 12-month basis, or is employed 0.50 full-time equivalent on a nine-month basis, is considered to have performed 600 hours of service in the calendar year for all purposes under this chapter.

[(2) Subject to ORS 238A.140 (6), an academic employee of a community college who during a calendar year is employed 1.0 full-time equivalent on a nine-month or 12-month basis is considered to have performed 1,200 hours of service in the calendar year for all purposes under this chapter.]

[(3)] (2) The governing body of a community college shall determine the duties of an academic employee of the community college that constitute a full-time equivalent in any discipline or academic activity for the purposes of this section.

SECTION 11. The amendments to ORS 238A.130, 238A.140 and 238A.142 by sections 8, 9 and 10 of this 2007 Act apply to all service by members of the Public Employees Retirement System, whether performed before, on or after the effective date of this 2007 Act.

MISCELLANEOUS

SECTION 12. The unit captions used in this 2007 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2007 Act.

Passed by House February 20, 2007

Received by Governor:

Repassed by House June 22, 2007

.....M.,....., 2007

Approved:

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Chief Clerk of House

.....M.,....., 2007

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Speaker of House

.....
Governor

Passed by Senate June 21, 2007

Filed in Office of Secretary of State:

.....M.,....., 2007

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President of Senate

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Secretary of State