

# House Bill 2551

Sponsored by COMMITTEE ON BUSINESS AND LABOR

## 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**.

Requires that State Board of Higher Education make monthly employer contribution on behalf of employee participating in Optional Retirement Plan equal to at least eight percent of employee's salary.

## A BILL FOR AN ACT

1  
2 Relating to Optional Retirement Plan; creating new provisions; and amending ORS 243.800.

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

4 **SECTION 1.** ORS 243.800 is amended to read:

5 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to  
6 243.945, the State Board of Higher Education shall establish and administer an Optional Retirement  
7 Plan for administrative and academic employees of the Oregon University System who are eligible  
8 for membership in the Public Employees Retirement System. The Optional Retirement Plan must be  
9 a qualified plan under the Internal Revenue Code, capable of accepting funds transferred under  
10 subsection (7) of this section without the transfer being treated as a taxable event under the Inter-  
11 nal Revenue Code, and willing to accept those funds. Retirement and death benefits shall be pro-  
12 vided under the plan by the purchase of annuity contracts, fixed or variable or a combination  
13 thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

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

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

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

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

23 (d) An administrative or academic employee who elects to participate in the Optional Retirement  
24 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement  
25 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-  
26 ered an inactive member of the pension program by the Public Employees Retirement Board as of  
27 the effective date of the election. An employee who is subject to the provisions of this paragraph  
28 retains all the rights, privileges and options of an inactive member of the pension program. If the  
29 actuarial equivalent of the employee's benefit under the pension program at the time that the  
30 election becomes effective is \$5,000 or less, the employee may make a written request to the Public  
31 Employees Retirement Board for a transfer of the employee's interest under the pension program to  
32 the Optional Retirement Plan. The request must be made at the time the member elects to partic-  
33 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement  
34 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit  
35 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-  
36 bership of the employee in the pension program.

37 (e) An administrative or academic employee who elects to participate in the Optional Retirement  
38 Plan, and who is a vested member of the individual account program of the Oregon Public Service  
39 Retirement Plan as described in ORS 238A.320 on the date that the election becomes effective, shall  
40 be considered an inactive member of the individual account program by the Public Employees Re-  
41 tirement Board as of the effective date of the election. An employee who is subject to the provisions  
42 of this paragraph retains all the rights, privileges and options of an inactive member of the indi-  
43 vidual account program. An administrative or academic employee who elects to participate in the  
44 Optional Retirement Plan, and who is a member of the individual account program of the Oregon  
45 Public Service Retirement Plan, may make a written request to the Public Employees Retirement

1 Board that all amounts in the member's employee account, rollover account and employer account,  
 2 to the extent the member is vested in those accounts under ORS 238A.320, be transferred to the  
 3 Optional Retirement Plan. The request must be made at the time the member elects to participate  
 4 in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement  
 5 Board shall transfer the amounts directly to the Optional Retirement Plan, and shall terminate the  
 6 membership of the employee in the individual account program upon making the transfer.

7 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retirement  
 8 Board may not treat any employee as an inactive member under the provisions of this sub-  
 9 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that  
 10 the employee be separated from all service with participating public employers and with employers  
 11 who are treated as part of a participating public employer's controlled group under the federal laws  
 12 and rules governing the status of the system and the Public Employees Retirement Fund as a qual-  
 13 ified governmental retirement plan and trust.

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

17 (8) An employee participating in the Optional Retirement Plan shall [*contribute monthly*] **make**  
 18 **an employee contribution to the plan each month in** an amount equal to the [*percentage of the*  
 19 *employee's salary that the employee would otherwise have contributed as an*] employee contribution  
 20 **that the employee would have made** to the Public Employees Retirement System if the employee  
 21 had not elected to participate in the Optional Retirement Plan.

22 (9) The State Board of Higher Education shall [*contribute monthly*] **make an employer contri-**  
 23 **bution each month** to the Optional Retirement Plan **on behalf of each employee participating**  
 24 **in the plan that is equal to the greater of:**

25 (a) **Eight percent of the salary of the employee; or**

26 (b) The [*percentage of salary of each employee participating in the plan equal to the percentage*  
 27 *of salary that*] **amount that the state board** would otherwise have [*been*] contributed as an em-  
 28 ployer contribution on behalf of the employee to the Public Employees Retirement System, before  
 29 any offset under ORS 238.229 (2), if the employee had not elected to participate in the Optional  
 30 Retirement Plan.

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

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

39 **SECTION 2. The amendments to ORS 243.800 by section 1 of this 2009 Act apply only to**  
 40 **employer contributions made by the State Board of Higher Education to the Optional Re-**  
 41 **irement Plan on or after the effective date of this 2009 Act.**