

# House Bill 3070

Sponsored by Representatives BARKER, THATCHER; Representatives BERGER, BEYER, BRUUN, CLEM, C EDWARDS, D EDWARDS, FREEMAN, GILLIAM, OLSON, SCHAUFLE, G SMITH, THOMPSON, WEIDNER, WHISNANT, WINGARD, WITT, Senators BOQUIST, FERRIOLI, GEORGE, MONROE, WHITSETT (at the request of Service Employees International Union)

## 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**.

Authorizes universities under control of State Board of Higher Education, Oregon Health and Science University and boards of education of community college districts to commission public safety officers. Grants commissioned public safety officers power and authority of peace officers.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public safety officers; amending ORS 133.005, 147.425, 181.610, 238.005, 243.005, 341.290,  
3 341.300, 352.360, 352.385 and 353.050; and declaring an emergency.

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

5 **SECTION 1.** ORS 352.385 is amended to read:

6 352.385. (1) The State Board of Higher Education:

7 (a) May, at the request of any institution under its control, authorize that institution to com-  
8 mission one or more of its employees as special campus security officers. However, the total number  
9 of special campus security officers commissioned at the institutions in the Oregon University System  
10 shall not exceed 50. Special campus security officers shall have stop and frisk authority as set forth  
11 in ORS 131.605 to 131.625 and probable cause arrest authority and the accompanying immunities as  
12 set forth in ORS 133.310 and 133.315 when acting in the scope of their employment as defined by the  
13 [*State Board of Higher Education*] **board**. Special campus security officers shall not be authorized  
14 to carry firearms as police officers and, except as provided in subsection (3) of this section, shall  
15 not be considered police officers for purposes of ORS 181.610, 238.005, 243.005 or 243.736[.]; **and**

16 (b) **Shall authorize each institution under its control to commission one or more indi-**  
17 **viduals as public safety officers. Public safety officers commissioned under this section have**  
18 **all the powers and authority given by statute to peace officers of this state.**

19 [(2)] (2)(a) The Department of Public Safety Standards and Training shall train special campus  
20 security officers at the expense of the [*State Board of Higher Education*] **board**.

21 (b) **A public safety officer commissioned under subsection (1) of this section shall com-**  
22 **plete training necessary for certification as a public safety officer at an academy operated**  
23 **or authorized by the department at the expense of the board. This paragraph does not apply**  
24 **to public safety officers who are certified under ORS 181.660 (2).**

25 (3) The [*State Board of Higher Education*] **board**, acting by and through its special campus se-  
26 curity officers **or public safety officers**, is a criminal justice agency for purposes of rules adopted  
27 pursuant to ORS 181.730 (3).

28 **SECTION 2.** ORS 352.360 is amended to read:

**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.

1 352.360. (1) The State Board of Higher Education may [*enact such regulations as it shall deem*]  
 2 **adopt rules that the board deems** convenient or necessary to provide for the policing, control and  
 3 regulation of traffic and parking of vehicles on the property of any institution under [*the jurisdiction*]  
 4 [*of the board*] **its control**. [*Such regulations*] **The rules** may provide for the registration of vehicles,  
 5 the designation of parking areas, and the assessment and collection of reasonable fees and charges  
 6 for parking[, and shall] **Rules adopted under this section shall** be filed in accordance with the  
 7 provisions of ORS chapter 183. The board may require that before a quarterly or yearly parking  
 8 privilege for any vehicle is granted to any full-time or part-time student to use board property, the  
 9 student must show that the vehicle is operated by a student holding a valid [*driver's*] **driver** license,  
 10 that the vehicle is currently registered and that the student driving the vehicle is insured under a  
 11 motor vehicle liability insurance policy that meets the requirements described under ORS 806.080  
 12 or that the student or owner of the vehicle has provided the Department of Transportation with  
 13 other satisfactory proof of compliance with the financial responsibility requirements of this state.

14 (2) [*The regulations enacted pursuant to*] **Rules adopted under** subsection (1) of this section shall  
 15 be enforced administratively under procedures adopted by the board for each institution under its  
 16 [*jurisdiction*] **control**. Administrative and disciplinary sanctions may be imposed upon students, fac-  
 17 ulty and staff for violation of the [*regulations*] **rules**, including but not limited to, a reasonable  
 18 monetary penalty [*which*] **that** may be deducted from student deposits, and faculty or staff salaries  
 19 or other funds in the possession of the institution. The board shall provide opportunity for hearing  
 20 for the determination of controversies in connection with imposition of [*finer or*] **monetary** penal-  
 21 ties. [*The board may prescribe procedures for such hearings despite the provisions of*]  
 22 **Notwithstanding** ORS 183.413 to 183.470, **the board may prescribe procedures for conducting**  
 23 **hearings under this subsection**. Persons other than students, faculty or staff may voluntarily  
 24 submit to the hearing procedures prescribed by the board[, and shall be bound by the results  
 25 [*thereof*] **of the hearing**. The powers granted to the board by this section are supplemental to the  
 26 existing powers of the board with respect to the government of activities of students, faculty and  
 27 staff and the control and management of [*property under its jurisdiction*] **each institution under its**  
 28 **control**.

29 (3) [*The regulations enacted pursuant to*] **Rules adopted under** subsection (1) of this section may  
 30 also be enforced by the impoundment of vehicles[, and] A reasonable fee may be [*enacted*] **estab-**  
 31 **lished** for the cost of impoundment and storage, if any, prior to the release of the vehicles to their  
 32 owners.

33 (4) All fees and charges for parking privileges and violations are [*hereby*] continuously appro-  
 34 priated to the State Board of Higher Education to be used to defray the costs of constructing bicycle  
 35 racks and bicycle lanes and of traffic control, enforcement of traffic and parking [*regulations*]  
 36 **rules**, and maintenance and operation of parking facilities and for the purpose of acquiring and  
 37 constructing additional parking facilities for vehicles at the various institutions, departments or  
 38 activities under the control of the board, and may also be credited to the Higher Education Bond  
 39 Sinking Fund provided for in ORS 351.460. Parking fees shall be established at levels no greater than  
 40 those required to finance the construction, operation and maintenance of parking facilities on the  
 41 same campus of the state institution of higher education on which the parking is provided.  
 42 Notwithstanding ORS 351.072, parking fees or changes in fees shall be adopted by rule of the  
 43 [*state*] board subject to the procedure for rules adopted in ORS chapter 183.

44 (5) Every peace officer may enforce the [*regulations made*] **rules adopted** by the board under  
 45 subsection (1) of this section. [*The board, for the purpose of enforcing its rules and regulations gov-*

1 *erning traffic control, may appoint peace officers who shall have the same authority as other peace of-*  
 2 *icers as defined in ORS 133.005.]*

3 (6) The [*State Board of Higher Education*] **board** and any municipal corporation or any depart-  
 4 ment, agency or political subdivision of this state may enter into agreements or contracts with each  
 5 other for the purpose of providing a uniform system of enforcement of the rules [*and regulations*]  
 6 of the board [*enacted pursuant to*] **adopted under** subsection (1) of this section.

7 (7) In proceedings brought to enforce [*regulations enacted pursuant to*] **the rules adopted under**  
 8 subsection (1) of this section, it [*shall be*] **is** sufficient to charge the defendant by an unsworn writ-  
 9 ten notice in accordance with the provisions of ORS 221.333. In any case in which the defendant is  
 10 not subject to and does not voluntarily submit to the hearing procedures prescribed under sub-  
 11 section (2) of this section, proceedings to enforce [*regulations enacted pursuant to*] **the rules adopted**  
 12 **under** subsection (1) of this section shall be brought in the name of the board in a circuit court, a  
 13 justice court or a city court for offenses committed within the territorial jurisdiction of such court.  
 14 Such courts shall have concurrent jurisdiction over offenses committed within their respective ju-  
 15 risdictions. All fines, penalties and court costs recovered shall be paid to the clerk of the court in-  
 16 volved and shall be disposed of as provided in ORS 153.630.

17 **SECTION 3.** ORS 353.050 is amended to read:

18 353.050. Except as otherwise provided in this chapter, the Oregon Health and Science University  
 19 Board of Directors, or university officials acting under the authority of the board, shall exercise all  
 20 the powers of the Oregon Health and Science University and shall govern the university. In carrying  
 21 out its powers, rights and privileges, the university shall be a governmental entity performing gov-  
 22 ernmental functions and exercising governmental powers. The university or the board may either  
 23 within or outside the state:

24 (1) Determine or approve policies for the organization, administration and development of the  
 25 university.

26 (2) Appoint and employ any instructional, administrative, professional, trade, occupational and  
 27 other personnel as are necessary or appropriate to carry out the missions of the university, and  
 28 prescribe their compensation and terms of office or employment.

29 (3) Make any and all contracts and agreements, enter into any partnership, joint venture or  
 30 other business arrangement, create and participate fully in the operation of any business structure,  
 31 including but not limited to the development of business structures for health care delivery systems  
 32 and networks with any public or private government, nonprofit or for-profit person or entity that in  
 33 the judgment of the university or the board is necessary or appropriate to carry out the university's  
 34 missions and goals.

35 (4) Acquire, purchase, receive, hold, control, convey, sell, manage, operate, lease, license, lend,  
 36 invest, improve, develop, use, dispose of and hold title to real and personal property of any nature,  
 37 including intellectual property, in its own name.

38 (5) Sue in its own name and be sued, plead and be impleaded in all actions, suits or proceedings  
 39 in any forum brought by or against it by any and all private or state, local, federal or other public  
 40 entities, agencies or persons.

41 (6) Encourage gifts and donations for the benefit of the university, and subject to the terms of  
 42 the gift, retain, invest and use such gifts as deemed appropriate by the university or the board.

43 (7) Acquire, receive, hold, keep, pledge, control, convey, manage, use, lend, expend and invest  
 44 all funds, appropriations, gifts, bequests, stock and revenue from any source to the university.

45 (8) Borrow money for the needs of the university, in such amounts and for such time and upon

1 such terms as may be determined by the university or the board.

2 (9) Erect, construct, improve, develop, repair, maintain, equip, furnish, lease, lend, convey, sell,  
3 manage, operate, use, dispose of and hold title to buildings, structures and lands for the university.

4 (10) Purchase any and all insurance, operate a self-insurance program or otherwise arrange for  
5 the equivalent of insurance coverage of any nature and the indemnity and defense of its officers,  
6 agents and employees or other persons designated by the university to carry out or further the  
7 missions of the university.

8 (11) Create, develop, supervise, control and adopt academic programs, including standards,  
9 qualifications, policies or practices relating to admissions, curriculum, academic advancement,  
10 grading policy, student conduct, credits and scholarships and the granting of academic degrees,  
11 certificates and other forms of recognition.

12 (12) Authorize, create, eliminate, establish, operate, reorganize, reduce or expand any program,  
13 school, institute, health care facility or other unit of operation.

14 (13) Establish, charge, collect and use charges for enrollment into the university, including  
15 charges such as tuition for education and general services, incidental fees and such other charges  
16 found by the university to be necessary to carry out its educational programs. Fees realized in ex-  
17 cess of amounts allocated and exceeding required reserves shall be considered surplus incidental  
18 fees and shall be allocated for programs under the control of the board and found to be advanta-  
19 geous to the cultural or physical development of students of the university upon the recommendation  
20 of the recognized student government of the university.

21 (14) Establish, charge, collect and use charges and fees for university services and the use of  
22 university facilities.

23 (15) Impose charges, fines, fees and such other regulations considered convenient or necessary  
24 to control and regulate traffic and parking of vehicles to the same extent allowed the State Board  
25 of Higher Education. This authority includes the authority to enforce the regulations of the uni-  
26 versity in a court to the extent allowed the State Board of Higher Education in enforcing the state  
27 board's regulations as provided in ORS 352.360 (7).

28 ~~[(16)]~~ **(16)(a)** Commission as special campus security officers one or more individuals who will  
29 have probable cause arrest authority and the accompanying immunities as set forth in ORS 133.310  
30 and 133.315 when acting in the scope of their duties, provided that such individuals are trained and  
31 certified by the Department of Public Safety Standards and Training, and provided further that such  
32 officers shall not be authorized to carry firearms as police officers and shall not be considered police  
33 officers for purposes of ORS 181.610, 238.005, 243.005 or 243.736. The university, **acting by and**  
34 **through its special campus security officers, is** *[shall be considered]* a criminal justice agency for  
35 purposes of ORS 181.715 and 181.720.

36 **(b) Commission one or more individuals as public safety officers who have all the powers**  
37 **and authority given by statute to peace officers of this state. The university, acting by and**  
38 **through its public safety officers, is a criminal justice agency for purposes of ORS 181.715**  
39 **and 181.720.**

40 (17) Enforce and recover for payment to the university any fines that are authorized by this  
41 chapter.

42 (18) Adopt, amend or repeal bylaws, administrative rules, regulations and orders applicable to  
43 the matters that are the subject of this chapter.

44 (19) Contract with any state agency for the performance of such duties, functions and powers  
45 as is appropriate. A state agency shall not charge the university for such services an amount that

1 is greater than the actual cost of the services.

2 (20) Purchase, receive, subscribe for or otherwise acquire, own, hold, vote, use, sell, mortgage,  
 3 lend, pledge, invest in or otherwise dispose of and deal in or with the shares, stock or other equity  
 4 or interests in or obligations of any other entity. Separate funds may be established for such in-  
 5 vestments. The State of Oregon shall have no proprietary or other interest in such investments or  
 6 such funds.

7 (21) Make available, by lease or otherwise, or control access to any health care facilities or  
 8 services or other of its properties and assets to such persons, firms, partnerships, associations or  
 9 corporations and on such terms as considered appropriate, charge and collect rent or other fees or  
 10 charges therefor and terminate or deny any such access or any such lease or other agreement for  
 11 such reasons as considered appropriate and as may be consistent with its obligations under any such  
 12 lease or other agreement.

13 (22) Contract for the operation of any department, section, equipment or holdings of the uni-  
 14 versity and enter into any agreements with any person, firm or corporation for the management by  
 15 said person, firm or corporation on behalf of the university of any of its properties or for the more  
 16 efficient or economical performance of clerical, accounting, administrative and other functions re-  
 17 lating to its health care facilities.

18 (23) Select and appoint faculty as medical and dental staff members and others licensed to  
 19 practice the healing arts, delineate and define the privileges granted each such individual, adopt and  
 20 direct a plan for faculty clinical income and set the terms and conditions of that plan (including  
 21 such modifications to any such existing plan as considered necessary or appropriate upon expiration  
 22 of the term of such plan), and determine the extent to which and the terms upon which each such  
 23 individual may provide teaching, research, consulting or other services at the university or any  
 24 other health care facility.

25 (24) Enter into affiliation, cooperation, territorial, management or other similar agreements with  
 26 other public or private universities or health care providers for the sharing, division, allocation or  
 27 furnishing of services on an exclusive or a nonexclusive basis, referral of patients, management of  
 28 facilities, formation of health care delivery systems and other similar activities.

29 (25) Perform any other acts that in the judgment of the board or university are requisite, nec-  
 30 essary or appropriate in accomplishing the purposes described in or carrying out the powers granted  
 31 by this chapter.

32 (26) Exercise these powers, notwithstanding that as a consequence of the exercise of such pow-  
 33 ers, the university engages in activities that might otherwise be deemed anticompetitive within the  
 34 contemplation of state or federal antitrust laws.

35 **SECTION 4.** ORS 341.290 is amended to read:

36 341.290. The board of education of a community college district shall be responsible for the  
 37 general supervision and control of any and all community colleges operated by the district. Con-  
 38 sistent with any applicable rules of the State Board of Education, the board may:

39 (1) Subject to ORS chapters 238 and 238A, employ administrative officers, professional personnel  
 40 and other employees, define their duties, terms and conditions of employment and prescribe com-  
 41 pensation therefor, pursuant to ORS 243.650 to 243.782.

42 (2) Enact rules for the government of the community college, including professional personnel  
 43 and other employees thereof and students therein.

44 (3) Prescribe the educational program.

45 (4) Control use of and access to the grounds, buildings, books, equipment and other property of

1 the district.

2 (5) Acquire, receive, hold, control, convey, sell, manage, operate, lease, lease-purchase, lend, in-  
 3 vest, improve and develop any and all property of whatever nature given to or appropriated for the  
 4 use, support or benefit of any activity under the control of the board, according to the terms and  
 5 conditions of such gift or appropriation.

6 (6) Purchase real property upon a contractual basis when the period of time allowed for payment  
 7 under the contract does not exceed 30 years.

8 (7) Fix standards of admission to the community college, prescribe and collect tuition for ad-  
 9 mission to the community college, including fixing different tuition rates for students who reside in  
 10 the district, students who do not reside in the district but are residents of the state and students  
 11 who do not reside in the state.

12 (8) Prescribe and collect fees and expend funds so raised for special programs and services for  
 13 the students and for programs for the cultural and physical development of the students.

14 (9) Provide and disseminate to the public information relating to the program, operation and fi-  
 15 nances of the community college.

16 (10) Establish or contract for advisory and consultant services.

17 (11) Take, hold and dispose of mortgages on real and personal property acquired by way of gift  
 18 or arising out of transactions entered into in accordance with the powers, duties and authority of  
 19 the board and institute, maintain and participate in suits and actions and other judicial proceedings  
 20 in the name of the district for the foreclosure of such mortgages.

21 (12) Maintain programs, services and facilities, and, in connection therewith, cooperate and en-  
 22 ter into agreements with any person or public or private agency.

23 (13) Provide student services including health, guidance, counseling and placement services, and  
 24 contract therefor.

25 (14) Join appropriate associations and pay any required dues therefor from resources of the  
 26 district.

27 (15) Apply for federal funds and accept and enter into any contracts or agreements for the re-  
 28 ceipt of such funds from the federal government or its agencies for educational purposes.

29 (16) Exercise any other power, duty or responsibility necessary to carry out the functions under  
 30 this section or required by law.

31 (17) Prescribe rules for the use and access to public records of the district that are consistent  
 32 with ORS 192.420, and education records of students under applicable state and federal law and  
 33 rules of the State Board of Education. Whenever a student has attained 18 years of age or is at-  
 34 tending an institution of post-secondary education, the permission or consent required of and the  
 35 rights accorded to a parent of the student regarding education records shall thereafter be required  
 36 of and accorded to only the student. However, faculty records relating to matters such as conduct,  
 37 personal and academic evaluations, disciplinary actions, if any, and other personal matters shall not  
 38 be made available to public inspection for any purpose except with the consent of the person who  
 39 is the subject of the record or upon order of a court of competent jurisdiction.

40 (18) Enter into contracts for the receipt of cash or property, or both, and establish charitable  
 41 gift annuities pursuant to ORS 731.038; and, commit, appropriate, authorize and budget for the pay-  
 42 ment of or other disposition of general funds to pay, in whole or in part, sums due under an agree-  
 43 ment for a charitable gift annuity, and to provide the necessary funding for reserves or other trust  
 44 funds pursuant to ORS 731.038.

45 (19) Encourage gifts to the district by faithfully devoting the proceeds of such gifts to the dis-

1 trict purposes for which intended.

2 (20) Build, furnish, equip, repair, lease, purchase and raze facilities; and locate, buy and acquire  
 3 lands for all district purposes. Financing may be by any prudent method including but not limited  
 4 to loans, contract purchase or lease. Leases authorized by this section include lease-purchase  
 5 agreements under which the district may acquire ownership of the leased property at a nominal  
 6 price. Such financing agreements may be for a term of up to 30 years except for lease arrangements  
 7 which may be for a term of up to 50 years.

8 (21) Participate in an educational consortium with public and private institutions that offer up-  
 9 per division and graduate instruction. Community colleges engaged in such consortiums may expend  
 10 money, provide facilities and assign staff to assist those institutions offering upper division and  
 11 graduate instruction.

12 (22) Enter into contracts of insurance or medical and hospital service contracts or may operate  
 13 a self-insurance program as provided in ORS 341.312.

14 **(23) Commission one or more individuals as public safety officers who have all the powers**  
 15 **and authority of peace officers of this state. The board, acting by and through its public**  
 16 **safety officers, is a criminal justice agency for purposes of ORS 181.715 and 181.720.**

17 **SECTION 5.** ORS 341.300 is amended to read:

18 341.300. (1) The board **of education of a community college district** may adopt such regu-  
 19 lations as it considers necessary to provide for the policing, control and regulations of traffic and  
 20 parking of vehicles on property under the jurisdiction of the board. Such regulations may provide  
 21 for the registration of vehicles, the designation and posting of parking areas, and the assessment  
 22 and collection of reasonable fees and charges for parking and shall be filed in the board business  
 23 office on the campus and shall be available for public inspection. The board may require that before  
 24 a quarterly or yearly parking privilege for any vehicle is granted to any full-time or part-time stu-  
 25 dent to use board property, the student must show that the vehicle is operated by a student holding  
 26 a valid driver license, that the vehicle is currently registered and that the student driving the ve-  
 27 hicle is insured under a motor vehicle liability insurance policy that meets the requirements de-  
 28 scribed under ORS 806.080 or that the student or owner of the vehicle has provided the Department  
 29 of Transportation with other satisfactory proof of compliance with the financial responsibility re-  
 30 quirements of this state.

31 (2) The regulations adopted pursuant to subsection (1) of this section may be enforced adminis-  
 32 tratively under procedures adopted by the board. Administrative and disciplinary sanctions may be  
 33 imposed upon students, faculty, and staff for violation of the regulations. The board may establish  
 34 hearing procedures for the determination of controversies in connection with imposition of fines or  
 35 penalties.

36 (3) Upon agreement between the board and a city or county in which all or part of the com-  
 37 munity college campus is located, proceedings to enforce regulations adopted pursuant to subsection  
 38 (1) of this section shall be brought in the name of the city or county enforcing the regulation in the  
 39 circuit, justice or municipal court in the county in which the violation occurred. The fines, penalties  
 40 and costs recovered shall be paid to the clerk of the court involved in accordance with the agree-  
 41 ment between the board and the city or county with which the agreement is made.

42 (4) The regulations adopted pursuant to subsection (1) of this section may also be enforced by  
 43 the impoundment of vehicles, and a reasonable fee may be enacted for the cost of impoundment and  
 44 storage, if any, prior to the release of the vehicles to their owners.

45 *[(5) Every peace officer acting within the jurisdictional authority of a governmental unit of the*

1 *place where the violation occurs shall enforce the regulations adopted by the board under subsection*  
 2 *(1) of this section if an agreement has been entered into pursuant to subsection (3) of this section. The*  
 3 *board, for the purpose of enforcing its regulations governing traffic control, may appoint peace officers*  
 4 *who shall have the same authority as other peace officers as defined in ORS 133.005.]*

5 **(5) The regulations adopted pursuant to subsection (1) of this section shall be enforced**  
 6 **by:**

7 **(a) Public safety officers commissioned under ORS 341.290; or**

8 **(b) If an agreement has been entered into pursuant to subsection (3) of this section, ev-**  
 9 **ery peace officer acting within the jurisdictional authority of a governmental unit of the**  
 10 **place where the violation occurs.**

11 (6) Issuance of traffic citations to enforce the regulations adopted by the board under subsection  
 12 (1) of this section shall conform to the requirements of ORS chapter 153. However, in proceedings  
 13 brought to enforce parking regulations, it shall be sufficient to charge the defendant by an unsworn  
 14 written notice in accordance with the provisions of ORS 221.333.

15 (7) Violation of any regulation adopted by the board pursuant to subsection (1) of this section  
 16 and enforced pursuant to subsection (3) of this section is a misdemeanor.

17 **SECTION 6.** ORS 133.005 is amended to read:

18 133.005. As used in ORS 131.655 and 133.005 to 133.381 and 133.410 to 133.450, unless the context  
 19 requires otherwise:

20 (1) “Arrest” means to place a person under actual or constructive restraint or to take a person  
 21 into custody for the purpose of charging that person with an offense. A “stop” as authorized under  
 22 ORS 131.605 to 131.625 is not an arrest.

23 (2) “Federal officer” means a special agent or law enforcement officer employed by a federal  
 24 agency [*and*] who is empowered to effect an arrest with or without a warrant for violations of the  
 25 United States Code and who is authorized to carry firearms in the performance of duty.

26 (3) “Peace officer” means:

27 **(a)** A member of the Oregon State Police [*or*];

28 **(b)** A sheriff, constable, marshal[,] **or** municipal police officer[.];

29 **(c)** An investigator of a district attorney’s office if the investigator is or has been certified as  
 30 a peace officer in this or any other state[, *or*];

31 **(d)** An investigator of the Criminal Justice Division of the Department of Justice of the State  
 32 of Oregon[.]; **or**

33 **(e) A public safety officer commissioned under ORS 341.290, 352.385 or 353.050.**

34 **SECTION 7.** ORS 147.425 is amended to read:

35 147.425. (1) As used in this section:

36 (a) “Health care provider” has the meaning given that term in ORS 192.519.

37 (b) “Law enforcement agency” means:

38 (A) A city or municipal police department.

39 (B) A county sheriff’s office.

40 (C) The Oregon State Police.

41 (D) A district attorney.

42 (E) A special campus security officer, **or a public safety officer**, commissioned under ORS  
 43 **341.290, 352.385 or 353.050.**

44 (c) “Person crime” means a person felony or person Class A misdemeanor, as those terms are  
 45 defined in the rules of the Oregon Criminal Justice Commission.



1 (d) "Personal representative" means a person selected under subsection (2) of this section to  
 2 accompany the victim of a crime to certain phases of an investigation and prosecution.

3 (e) "Protective service worker" means an employee or contractor of a local or state agency  
 4 whose role it is to protect children or vulnerable adults from abuse or neglect.

5 (2) A victim of a person crime, who is at least 15 years of age at the time the crime is com-  
 6 mitted, may select a person who is at least 18 years of age as the victim's personal representative  
 7 for purposes of this section. The victim may not select a person who is a suspect in, or a party or  
 8 witness to, the crime as a personal representative.

9 (3) Except for grand jury proceedings and child abuse assessments occurring at a child advocacy  
 10 center recognized by the Department of Justice, a personal representative may accompany the vic-  
 11 tim to those phases of the investigation, including medical examinations, and prosecution of the  
 12 crime at which the victim is entitled or required to be present.

13 (4) A health care provider, law enforcement agency, protective service worker or court may not  
 14 prohibit a personal representative from accompanying a victim as authorized by subsection (3) of  
 15 this section unless the health care provider, law enforcement agency, protective service worker or  
 16 court believes that the personal representative would compromise the process.

17 (5) A health care provider, law enforcement agency, protective service worker or court is im-  
 18 mune from any liability, civil or criminal, that might otherwise be incurred or imposed with respect  
 19 to a decision under subsection (4) of this section to prohibit a personal representative from accom-  
 20 panying a victim.

21 (6) The fact that a personal representative was allowed or was not allowed to accompany a  
 22 victim may not be used as a basis for excluding otherwise admissible evidence.

23 (7) The fact that a victim has or has not selected a personal representative under this section  
 24 may not be used as evidence in the criminal case.

25 **SECTION 8.** ORS 181.610 is amended to read:

26 181.610. In ORS 181.610 to 181.712, unless the context requires otherwise:

27 (1) "Abuse" has the meaning given the term in ORS 107.705.

28 (2) "Board" means the Board on Public Safety Standards and Training appointed pursuant to  
 29 ORS 181.620.

30 (3) "Certified reserve officer" means a reserve officer who has been designated by a local law  
 31 enforcement unit, has received training necessary for certification and has met the minimum stan-  
 32 dards and training requirements established under ORS 181.640.

33 (4) "Commissioned" means an authorization granting the power to perform various acts or duties  
 34 of a police officer or certified reserve officer and acting under the supervision and responsibility of  
 35 a county sheriff or as otherwise provided by law.

36 (5) "Corrections officer" means an officer or member of a law enforcement unit who is employed  
 37 full-time thereby and is charged with and primarily performs the duty of custody, control or super-  
 38 vision of individuals convicted of or arrested for a criminal offense and confined in a place of  
 39 incarceration or detention other than a place used exclusively for incarceration or detention of ju-  
 40 veniles.

41 (6) "Department" means the Department of Public Safety Standards and Training.

42 (7) "Director" means the Director of the Department of Public Safety Standards and Training.

43 (8) "Domestic violence" means abuse between family or household members.

44 (9) "Emergency medical dispatcher" means a person who has responsibility to process requests  
 45 for medical assistance from the public or to dispatch medical care providers.

1 (10) "Family or household members" has the meaning given that term in ORS 107.705.

2 (11) "Fire service professional" means a paid or volunteer firefighter, an officer or a member  
 3 of a public or private fire protection agency that is engaged primarily in fire investigation, fire  
 4 prevention, fire safety, fire control or fire suppression or providing emergency medical services, light  
 5 and heavy rescue services, search and rescue services or hazardous materials incident response.  
 6 "Fire service professional" does not include forest fire protection agency personnel.

7 (12)(a) "Law enforcement unit" means a police force or organization of the state, a city, port,  
 8 school district, mass transit district, county, county service district authorized to provide law  
 9 enforcement services under ORS 451.010, Indian reservation, Criminal Justice Division of the De-  
 10 partment of Justice, the Department of Corrections, the Oregon State Lottery Commission or com-  
 11 mon carrier railroad whose primary duty, as prescribed by law, ordinance or directive, is any one  
 12 or more of the following:

13 (A) Detecting crime and enforcing the criminal laws of this state or laws or ordinances relating  
 14 to airport security;

15 (B) The custody, control or supervision of individuals convicted of or arrested for a criminal  
 16 offense and confined to a place of incarceration or detention other than a place used exclusively for  
 17 incarceration or detention of juveniles; or

18 (C) The control, supervision and reformation of adult offenders placed on parole or sentenced  
 19 to probation and investigation of adult offenders on parole or probation or being considered for  
 20 parole or probation.

21 (b) "Law enforcement unit" also means:

22 (A) A police force or organization of a private entity with a population of more than 1,000 res-  
 23 idents in an unincorporated area whose employees are commissioned by a county sheriff; and

24 (B) A district attorney's office.

25 (13) "Parole and probation officer" means:

26 (a) Any officer who is employed full-time by the Department of Corrections, a county or a court  
 27 and who is charged with and performs the duty of:

28 (A) Community protection by controlling, investigating, supervising and providing or making  
 29 referrals to reformative services for adult parolees or probationers or offenders on post-prison  
 30 supervision; or

31 (B) Investigating adult offenders on parole or probation or being considered for parole or pro-  
 32 bation.

33 (b) Any officer who:

34 (A) Is certified and has been employed as a full-time parole and probation officer for more than  
 35 one year;

36 (B) Is employed part-time by the Department of Corrections, a county or a court; and

37 (C) Is charged with and performs the duty of:

38 (i) Community protection by controlling, investigating, supervising and providing or making re-  
 39 ferrals to reformative services for adult parolees or probationers or offenders on post-prison super-  
 40 vision; or

41 (ii) Investigating adult offenders on parole or probation or being considered for parole or pro-  
 42 bation.

43 (14) "Police officer" means an officer, member or employee of a law enforcement unit who is  
 44 employed full-time as a peace officer commissioned by a city, port, school district, mass transit dis-  
 45 trict, county, county service district authorized to provide law enforcement services under ORS

1 451.010, Indian reservation, **board of education of a community college district, the Oregon**  
 2 **University System, the Oregon Health and Science University**, the Criminal Justice Division  
 3 of the Department of Justice, the Oregon State Lottery Commission or the Governor or who is a  
 4 member of the Department of State Police and who is responsible for enforcing the criminal laws  
 5 of this state or laws or ordinances relating to airport security or is an investigator of a district  
 6 attorney's office if the investigator is or has been certified as a peace officer in this or any other  
 7 state.

8 (15) "Public or private safety agency" means any unit of state or local government, a special  
 9 purpose district or a private firm which provides, or has authority to provide, fire fighting, police,  
 10 ambulance or emergency medical services.

11 (16) "Public safety personnel" and "public safety officer" include corrections officers, youth  
 12 correction officers, emergency medical dispatchers, parole and probation officers, police officers,  
 13 certified reserve officers, telecommunicators and fire service professionals.

14 (17) "Reserve officer" means an officer or member of a law enforcement unit:

15 (a) Who is a volunteer or who is employed less than full-time as a peace officer commissioned  
 16 by a city, port, school district, mass transit district, county, county service district authorized to  
 17 provide law enforcement services under ORS 451.010, Indian reservation, **board of education of a**  
 18 **community college district, the Oregon University System, the Oregon Health and Science**  
 19 **University**, the Criminal Justice Division of the Department of Justice, the Oregon State Lottery  
 20 Commission or the Governor or who is a member of the Department of State Police;

21 (b) Who is armed with a firearm; and

22 (c) Who is responsible for enforcing the criminal laws and traffic laws of this state or laws or  
 23 ordinances relating to airport security.

24 (18) "Telecommunicator" means any person employed as an emergency telephone worker as de-  
 25 fined in ORS 243.736 or a public safety dispatcher whose primary duties are receiving, processing  
 26 and transmitting public safety information received through a 9-1-1 emergency reporting system as  
 27 defined in ORS 401.710.

28 (19) "Youth correction officer" means an employee of the Oregon Youth Authority who is  
 29 charged with and primarily performs the duty of custody, control or supervision of youth offenders  
 30 confined in a youth correction facility.

31 **SECTION 9.** ORS 238.005 is amended to read:

32 238.005. For purposes of this chapter:

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

35 (2) "Board" means the Public Employees Retirement Board.

36 (3) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-  
 37 cember 31 following.

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

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

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

1 ment System.

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

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

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

11 (a) Persons engaged as independent contractors.

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

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

17 (d) Persons employed and paid from federal funds received under the Emergency Job and Un-  
 18 employment Assistance Act of 1974 (Public Law 93-567) or any other federal program intended pri-  
 19 marily to alleviate unemployment. However, any such person shall be considered an "employee" if  
 20 not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to  
 21 have the person so considered by an irrevocable written notice to the board.

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

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

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

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

38 (9) "Firefighter" does not include a volunteer firefighter, but does include:

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

40 (b) 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 (10) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-  
 44 lowing.

45 (11) "Fund" means the Public Employees Retirement Fund.

1 (12)(a) "Member" means a person who has established membership in the system and whose  
 2 membership has not been terminated as described in ORS 238.095. "Member" includes active, inac-  
 3 tive and retired members.

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

7 (c) "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 (d) "Retired member" means a member who is retired for service or disability.

11 (13)(a) "Member account" means the regular account and the variable account.

12 (b) "Regular account" means the account established for each active and inactive member under  
 13 ORS 238.250.

14 (c) "Variable account" means the account established for a member who participates in the  
 15 Variable Annuity Account under ORS 238.260.

16 (14) "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 (15) "Pension" means annual payments for life derived from contributions by one or more public  
 25 employers.

26 (16) "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) Parole and probation officers employed by the Department of Corrections, parole and pro-  
 41 bation officers who are transferred to county employment under ORS 423.549 and adult parole and  
 42 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes  
 43 of this chapter by the county governing body. If a county classifies adult parole and probation offi-  
 44 cers as police officers for the purposes of this chapter, and the employees so classified are repres-  
 45 ented by a labor organization, any proposal by the county to change that classification or to cease

1 to classify adult parole and probation officers as police officers for the purposes of this chapter is  
 2 a mandatory subject of bargaining.

3 (g) Police officers appointed under ORS 276.021 or 276.023.

4 (h) Employees of the Port of Portland who are classified as airport police by the Board of  
 5 Commissioners of the Port of Portland.

6 (i) Employees of the State Department of Agriculture who are classified as livestock police of-  
 7 ficers by the Director of Agriculture.

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

10 (k) Investigators of the Criminal Justice Division of the Department of Justice.

11 (L) Corrections officers as defined in ORS 181.610.

12 (m) Employees of the Oregon State Lottery Commission who are classified by the Director of the  
 13 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

14 (n) The Director of the Department of Corrections.

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

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

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

26 (r) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,  
 27 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who  
 28 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the  
 29 Department of Corrections or the Oregon Youth Authority.

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

33 (t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation  
 34 officers.

35 **(u) Employees of the Oregon University System, the Oregon Health and Science Univer-**  
 36 **sity or a board of education of a community college district who are commissioned as public**  
 37 **safety officers under ORS 341.290, 352.385 or 353.050.**

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

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

1 (19) "Qualifying position" means one or more jobs with one or more participating public em-  
 2 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding  
 3 any service in a job for which a participating public employer does not provide benefits under this  
 4 chapter pursuant to an application made under ORS 238.035.

5 (20) "Retirement credit" means a period of time that is treated as creditable service for the  
 6 purposes of this chapter.

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

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

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

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

16 (C) Retroactive payments made to an employee to correct a clerical error or pursuant to an  
 17 award by a court or by order of or a conciliation agreement with an administration agency charged  
 18 with enforcing federal or state law protecting the employee's rights to employment or wages, which  
 19 shall be allocated to and deemed paid in the periods in which the work was done or in which it  
 20 would have been done; and

21 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
 22 652.190.

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

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

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

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

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

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

32 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
 33 gratuitous payment;

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

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

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

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

44 (23) "System" means the Public Employees Retirement System.

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

1 (25) "Volunteer firefighter" means a firefighter whose position normally requires less than 600  
2 hours of service per year.

3 **SECTION 10.** ORS 243.005 is amended to read:

4 243.005. As used in ORS 243.005 to 243.045:

5 (1) "Firefighter" means persons employed by a city, county or district whose duties involve fire  
6 fighting and includes a volunteer firefighter whose position normally requires less than 600 hours  
7 of service per year.

8 [(2)] (2)(a) "Police officer" includes:

9 (A) Police chiefs and police officers of a city who are classified as police officers by the council  
10 or other governing body of the city;

11 (B) Sheriffs and those deputy sheriffs whose duties, as classified by the county governing body  
12 are the regular duties of police officers;

13 (C) Employees of districts[,] whose duties, as classified by the governing body of the district,  
14 are the regular duties of police officers;

15 (D) Employees of the Department of State Police who are classified as police officers by the  
16 Superintendent of State Police;

17 (E) **Employees of the Oregon University System, the Oregon Health and Science Univer-**  
18 **sity or a board of education of a community college district who are commissioned as public**  
19 **safety officers under ORS 341.290, 352.385 or 353.050;**

20 (F) Employees of the Criminal Justice Division of the Department of Justice who are classified  
21 by the Attorney General as criminal investigators or criminal financial investigators;

22 (G) Employees of the Oregon State Lottery Commission who are classified by the Director of  
23 the Oregon State Lottery as enforcement agents; and

24 (H) Employees of Department of Corrections institutions as defined in ORS 421.005 whose du-  
25 ties, as assigned by the superintendent, include the custody of persons committed to the custody of  
26 or transferred to the Department of Corrections institution.[: *but*]

27 (b) "Police officer" does not include volunteer or reserve police officers or persons considered  
28 by the respective governing bodies to be civil deputies or clerical personnel.

29 (3) "Public employer" means a city, a county or the state[,] or one of its agencies or political  
30 subdivisions that employs police officers or firefighters.

31 **SECTION 11. This 2009 Act being necessary for the immediate preservation of the public**  
32 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**  
33 **on its passage.**

34