

House Bill 3548

Sponsored by Representative PARRISH; Representative JOHNSON, Senator OLSEN

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**.

Establishes retirement benefits payable under Oregon Public Service Retirement Plan to persons who establish membership in Public Employees Retirement System on or after effective date of Act. Provides that such persons do not become members of pension program of plan. Allows such persons to contribute up to 10 percent of salary to individual account program of plan. Requires employer match of contributions up to maximum of 10 percent of salary.

Provides break in service rules for persons who established membership in system before effective date of Act.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238A.320, 238A.330,
3 238A.335, 238A.340, 238A.350, 238A.375, 238A.400, 238A.410, 243.800 and 341.551; and declaring
4 an emergency.

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

6 **SECTION 1. Sections 2 and 3 of this 2011 Act are added to and made a part of ORS**
7 **chapter 238A.**

8 **SECTION 2. (1) Notwithstanding any other provision of this chapter or ORS chapter 238,**
9 **any person who is employed by a participating public employer on or after the effective date**
10 **of this 2011 Act, and who has not established membership in the Public Employees Retirement**
11 **System before the effective date of this 2011 Act, is entitled to receive only the benefits**
12 **provided under section 3 of this 2011 Act for periods of service with participating public em-**
13 **ployers on and after the effective date of this 2011 Act, and has no right or claim to any**
14 **benefit under this chapter except as specifically provided by section 3 of this 2011 Act.**

15 **(2) A person establishes membership in the system before the effective date of this 2011**
16 **Act for the purposes of this section if:**

17 **(a) The person is a member of the system, or a judge member of the system, on the ef-**
18 **fective date of this 2011 Act; or**

19 **(b) The person performed any period of service for a participating public employer before**
20 **the effective date of this 2011 Act, that is credited to the six-month period of employment**
21 **required of an employee under ORS 238A.100 before an employee may become a member of**
22 **the system.**

23 **(3)(a) Any person who is an active member of the Public Employees Retirement System**
24 **on the effective date of this 2011 Act is entitled to receive the benefits provided by this**
25 **chapter and ORS chapter 238, as in effect immediately before the effective date of this 2011**
26 **Act, for all service performed before, on and after the effective date of this 2011 Act, unless**
27 **the person has a break in service on or after the effective date of this 2011 Act. If the person**
28 **has a break in service on or after the effective date of this 2011 Act, the person is entitled**

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 to receive the benefits provided by this chapter and ORS chapter 238, as in effect imme-
 2 diately before the effective date of this 2011 Act, for all creditable service performed before
 3 the break in service, and the benefits provided under section 3 of this 2011 Act for periods
 4 of service with participating public employers after the break in service.

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

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

13 (d) If a person leaves employment with a participating public employer for career devel-
 14 opment purposes pursuant to written authorization of the participating public employer un-
 15 der a written policy of the employer that applies generally to the class of employees to which
 16 the member belongs, the person has a break in service for the purposes of this subsection
 17 only if the person performs no service with a participating public employer in a qualifying
 18 position for a period of 12 consecutive months after leaving employment with the partic-
 19 ipating public employer.

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

24 (f) A person does not have a break in service for the purposes of this subsection by rea-
 25 son of any period of time during which the person is absent from employment with a par-
 26 ticipating public employer and receives a disability retirement allowance under ORS 238.320.

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

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

34 **SECTION 3.** (1) A person who establishes membership in the system on or after the ef-
 35 fective date of this 2011 Act may not become a member of the pension program of the Oregon
 36 Public Service Retirement Plan described in ORS 238A.100 to 238A.245.

37 (2) A person who establishes membership in the system on or after the effective date of
 38 this 2011 Act becomes a member of the individual account program in the manner provided
 39 by this chapter.

40 **SECTION 4.** ORS 238A.320 is amended to read:

41 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 42 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 43 tablished.

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

1 (3) If an employer makes employer contributions for a member under ORS 238A.340, the member
2 becomes vested in the employer account established under ORS 238A.350 (3) on the earliest of the
3 following dates:

4 (a) The date on which the member completes at least 600 hours of service in each of five cal-
5 endar years;

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

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

10 (d) The date on which an active member becomes disabled, as described in ORS 238A.155 (4);
11 or

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

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

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

23 **(6) The provisions of this section apply only to a member who establishes membership in**
24 **the system before the effective date of this 2011 Act, as described in section 2 of this 2011**
25 **Act.**

26 **SECTION 5. Section 6 of this 2011 Act is added to and made a part of ORS chapter 238A.**

27 **SECTION 6. (1) The provisions of this section apply to a member who establishes mem-**
28 **bership in the system on or after the effective date of this 2011 Act, as described in section**
29 **2 of this 2011 Act.**

30 **(2) A member of the individual account program becomes vested in the employee account**
31 **established for the member under ORS 238A.350 (2) on the date the employee account is es-**
32 **tablished.**

33 **(3) A member who makes rollover contributions becomes vested in the rollover account**
34 **established for the member under section ORS 238A.350 (4) on the date the rollover account**
35 **is established.**

36 **(4) A member becomes vested in the employer account established under ORS 238A.350**
37 **(3) on the date the employee account is established.**

38 **SECTION 7. ORS 238A.330 is amended to read:**

39 238A.330. (1) A member of the individual account program **who established membership in the**
40 **system before the effective date of this 2011 Act, as described in section 2 of this 2011 Act,**
41 **must make employee contributions to the individual account program of six percent of the member's**
42 **salary.**

43 (2) Employee contributions made by a member of the individual account program under this
44 section shall be credited by the board to the employee account established for the member under
45 ORS 238A.350 (2).

SECTION 8. Section 9 of this 2011 Act is added to and made a part of ORS chapter 238A.

SECTION 9. (1) A member of the individual account program who established membership in the system on or after the effective date of this 2011 Act, as described in section 2 of this 2011 Act, may make employee contributions to the program equal to a specific percentage of the member's salary. The percentage may not be more than 10 percent, or more than the percentage allowed by the federal law governing the program's tax qualification. The percentage must be a whole number.

(2) A participating public employer may not assume or pay the employee contribution provided for in this section.

(3) Employee contributions made by a member of the individual account program under this section shall be credited by the board to the employee account established for the member under ORS 238A.350 (2).

SECTION 10. ORS 238A.335 is amended to read:

238A.335. (1) A participating public employer may agree, by a written employment policy or by a collective bargaining agreement, to pay the employee contribution required under ORS 238A.330. The policy or agreement need not include all members of the individual account program employed by the employer.

(2) An agreement under this section to pay the required employee contribution may provide that:

(a) Employee compensation be reduced to generate the funds needed to make the employee contributions; or

(b) Additional amounts be paid by the employer for the purpose of making the employee contributions, and employee compensation not be reduced for the purpose of generating the funds needed to make the employee contributions.

(3) A participating public employer must give written notice to the Public Employees Retirement Board at the time that a written employment policy or collective bargaining agreement described in subsection (1) of this section is adopted or changed. The notice must specifically indicate whether the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner in which employee contributions are to be paid applies only to employee contributions made on and after the date the notice is received by the board.

(4) The provisions of this section apply only to employee contributions for a member who establishes membership in the system before the effective date of this 2011 Act, as described in section 2 of this 2011 Act.

SECTION 11. ORS 238A.340 is amended to read:

238A.340. (1) A participating public employer may agree, by a written employment policy or agreement, to make employer contributions for members of the individual account program employed by the employer. The percentage of salary paid as employer contributions may not be less than one percent of salary or more than six percent of salary, and must be a whole number. A participating public employer may make an agreement under this section for specific groups of employees employed by the public employer.

(2) If a participating public employer makes employer contributions under this section and the member for which the contributions are made fails to vest in the employer account under the provisions of ORS 238A.320, the Public Employees Retirement Board shall apply the contributions in the employer account against other obligations of the employer under the Oregon Public Service Retirement Plan.

(3) The provisions of this section apply only to employer contributions for a member who

1 establishes membership in the system before the effective date of this 2011 Act, as described
 2 in section 2 of this 2011 Act.

3 **SECTION 12.** Section 13 of this 2011 Act is added to and made a part of ORS chapter
 4 238A.

5 **SECTION 13.** (1) The provisions of this section apply to a member who establishes
 6 membership in the system on or after the effective date of this 2011 Act, as described in
 7 section 2 of this 2011 Act.

8 (2) A participating public employer must contribute to the individual account program
 9 an amount equal to one percent of a member's salary for every one percent of salary con-
 10 tributed by the member under section 9 of this 2011 Act. In no event may the total contri-
 11 bution by the employer for a member exceed an amount equal to 10 percent of the member's
 12 salary.

13 **SECTION 14.** ORS 238A.350 is amended to read:

14 238A.350. (1) Upon any contributions being made to the individual account program by or on
 15 behalf of a member of the program, the Public Employees Retirement Board shall create the account
 16 or accounts described in this section. Each account shall be adjusted at least annually in accordance
 17 with rules adopted by the board to reflect any net earnings or losses on those contributions and to
 18 pay the reasonable administrative costs of maintaining the program to the extent the earnings on
 19 the assets of the program are insufficient to pay those costs. The adjustments described in this
 20 subsection shall continue until the account is distributed to the member or forfeited.

21 (2) The board shall establish an employee account, which shall consist of the employee contri-
 22 butions made by or on behalf of the member as adjusted under subsection (1) of this section.

23 (3) If the public employer agrees to make employer contributions under ORS 238A.340, **or is**
 24 **required to make employer contributions under section 13 of this 2011 Act**, the board shall
 25 establish an employer account, which shall consist of the employer contributions made on behalf of
 26 the member as adjusted under subsection (1) of this section.

27 (4) If the board accepts rollover contributions on behalf of the member, the board shall establish
 28 a rollover account, which shall consist of the rollover contributions made by the member as adjusted
 29 under subsection (1) of this section. Contributions and the earnings attributable to the contributions
 30 must be accounted for separately.

31 (5) The board shall provide an annual statement to each active and inactive member of the
 32 program that reflects the amount credited to the accounts established under this section. The
 33 statement shall reflect whether the member is vested in the employer account under the provisions
 34 of ORS 238A.320.

35 **SECTION 15.** ORS 238A.375 is amended to read:

36 238A.375. (1) An inactive member of the individual account program may elect to receive a dis-
 37 tribution of the amounts in the member's employee account, rollover account and employer account
 38 to the extent the member is vested in those accounts under ORS 238A.320 **or section 6 of this 2011**
 39 **Act** if the inactive member has separated from all service with participating public employers and
 40 with employers who are treated as part of a participating public employer's controlled group under
 41 the federal laws and rules governing the status of the system and the fund as a qualified govern-
 42 mental retirement plan and trust.

43 (2) If an inactive member of the individual account program who is not vested in the employer
 44 account receives a distribution under subsection (1) of this section, the employer account of the
 45 member is permanently forfeited as of the date of the distribution.

1 (3) A member may not make an election under this section for less than all of the member's in-
 2 dividual accounts described in ORS 238A.350 in which the member is vested.

3 (4) A member who is vested in the pension program established under this chapter and who is
 4 eligible to withdraw from the pension program under ORS 238A.120 may make an election under this
 5 section only if the member also withdraws from the pension program. A member who has a member
 6 account established under ORS chapter 238 may make an election under this section only if the
 7 member also withdraws that member account in the manner provided by ORS 238.265. A member
 8 who has an account established under ORS 238.440 may make an election under this section only
 9 if the member also withdraws the account established under ORS 238.440.

10 (5) If an inactive member receives a distribution under subsection (1) of this section and is
 11 subsequently reemployed by a participating public employer, any service performed before the date
 12 the member became an inactive member may not be used toward the period of service required for
 13 vesting in the employer account under ORS 238A.320.

14 **SECTION 16.** ORS 238A.400, as amended by section 7, chapter 82, Oregon Laws 2010, is
 15 amended to read:

16 238A.400. (1) Upon retirement on or after the earliest retirement date, as described in ORS
 17 238A.165, a member of the individual account program shall receive in a lump sum the amounts in
 18 the member's employee account, rollover account and employer account to the extent the member
 19 is vested in those accounts under ORS 238A.320 **or section 6 of this 2011 Act.**

20 (2) In lieu of a lump sum payment under subsection (1) of this section, a member of the individ-
 21 ual account program may elect to receive the amounts in the member's employee account and em-
 22 ployer account, to the extent the member is vested in those accounts under ORS 238A.320 **or**
 23 **section 6 of this 2011 Act**, in substantially equal installments paid over a period of 5, 10, 15 or 20
 24 years, or over a period that is equal to the anticipated life span of the member as actuarially de-
 25 termined by the Public Employees Retirement Board. Installments may be made on a monthly,
 26 quarterly or annual basis. In no event may the period selected by the member exceed the time al-
 27 lowed by the minimum distribution requirements described in subsection (5) of this section. The
 28 board shall by rule establish the manner in which installments will be adjusted to reflect investment
 29 gains and losses on the unpaid balance during the payout period elected by the member under this
 30 subsection. The board by rule may establish minimum monthly amounts payable under this sub-
 31 section. The board may require that a lump sum payment, or an installment schedule different than
 32 the schedules provided for in this subsection, be used to pay the vested amounts in the member's
 33 accounts if those amounts are not adequate to generate the minimum monthly amounts specified by
 34 the rule.

35 (3) A member of the individual account program electing to receive installments under sub-
 36 section (2) of this section must designate a beneficiary or beneficiaries. In the event the member dies
 37 before all amounts in the employee and vested employer accounts are paid, all remaining installment
 38 payments shall be made to the beneficiary or beneficiaries designated by the member. A beneficiary
 39 may elect to receive a lump sum distribution of the remaining amounts.

40 (4) A member who is entitled to receive retirement benefits under ORS chapter 238 may receive
 41 vested amounts in the member's employee account, rollover account and employer account in the
 42 manner provided by this section when the member retires for service under the provisions of ORS
 43 chapter 238.

44 (5) Notwithstanding any other provision of ORS 238A.300 to 238A.415, the entire interest of a
 45 member of the individual account program must be distributed over a time period commencing no

1 later than the latest retirement date set forth in ORS 238A.170, and must be distributed in a manner
 2 that satisfies all other minimum distribution requirements of 26 U.S.C. 401(a)(9) and regulations im-
 3 plementing that section, as in effect on December 31, 2009. The board shall adopt rules implementing
 4 those minimum distribution requirements.

5 **SECTION 17.** ORS 238A.410, as amended by section 8, chapter 82, Oregon Laws 2010, is
 6 amended to read:

7 238A.410. (1) If a member of the individual account program dies before retirement, the amounts
 8 in the member's employee account, rollover account and employer account, to the extent the member
 9 is vested in those accounts under ORS 238A.320 **or section 6 of this 2011 Act**, shall be paid in a
 10 lump sum to the beneficiary or beneficiaries designated by the member for the purposes of this
 11 section.

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

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

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

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

31 (c) The member's estate.

32 (4) The entire amount of a deceased member's vested accounts must be distributed by December
 33 31 of the fifth calendar year after the year in which the member died. Notwithstanding any other
 34 provision of this chapter, distributions of death benefits under the individual account program must
 35 comply with the minimum distribution requirements of 26 U.S.C. 401(a)(9) and the regulations im-
 36 plementing that section, as in effect on December 31, 2009. The Public Employees Retirement Board
 37 shall adopt rules implementing those minimum distribution requirements.

38 **SECTION 18.** ORS 243.800 is amended to read:

39 243.800. (1) Notwithstanding any provision of ORS chapter 238 or 238A or ORS 243.910 to
 40 243.945, the State Board of Higher Education shall establish and administer an Optional Retirement
 41 Plan for administrative and academic employees of the Oregon University System who are eligible
 42 for membership in the Public Employees Retirement System. The Optional Retirement Plan must be
 43 a qualified plan under the Internal Revenue Code, capable of accepting funds transferred under
 44 subsection (7) of this section without the transfer being treated as a taxable event under the Inter-
 45 nal Revenue Code, and willing to accept those funds. Retirement and death benefits shall be pro-

1 vided under the plan by the purchase of annuity contracts, fixed or variable or a combination
2 thereof, or by contracts for investments in mutual funds.

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

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

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

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

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

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

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

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

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

43 (d) An administrative or academic employee who elects to participate in the Optional Retirement
44 Plan, and who is a vested member of the pension program of the Oregon Public Service Retirement
45 Plan as described in ORS 238A.115 on the date that the election becomes effective, shall be consid-

1 ered an inactive member of the pension program by the Public Employees Retirement Board as of
2 the effective date of the election. An employee who is subject to the provisions of this paragraph
3 retains all the rights, privileges and options of an inactive member of the pension program. If the
4 actuarial equivalent of the employee's benefit under the pension program at the time that the
5 election becomes effective is \$5,000 or less, the employee may make a written request to the Public
6 Employees Retirement Board for a transfer of the employee's interest under the pension program to
7 the Optional Retirement Plan. The request must be made at the time the member elects to partic-
8 ipate in the Optional Retirement Plan. Upon receiving the request, the Public Employees Retirement
9 Board shall transfer the amount determined to be the actuarial equivalent of the employee's benefit
10 under the pension program directly to the Optional Retirement Plan, and shall terminate the mem-
11 bership of the employee in the pension program.

12 (e) An administrative or academic employee who elects to participate in the Optional Retirement
13 Plan, and who is a vested member of the individual account program of the Oregon Public Service
14 Retirement Plan as described in ORS 238A.320 **or section 6 of this 2011 Act** on the date that the
15 election becomes effective, shall be considered an inactive member of the individual account pro-
16 gram by the Public Employees Retirement Board as of the effective date of the election. An em-
17 ployee who is subject to the provisions of this paragraph retains all the rights, privileges and
18 options of an inactive member of the individual account program. An administrative or academic
19 employee who elects to participate in the Optional Retirement Plan, and who is a member of the
20 individual account program of the Oregon Public Service Retirement Plan, may make a written re-
21 quest to the Public Employees Retirement Board that all amounts in the member's employee ac-
22 count, rollover account and employer account, to the extent the member is vested in those accounts
23 under ORS 238A.320 **or section 6 of this 2011 Act**, be transferred to the Optional Retirement Plan.
24 The request must be made at the time the member elects to participate in the Optional Retirement
25 Plan. Upon receiving the request, the Public Employees Retirement Board shall transfer the amounts
26 directly to the Optional Retirement Plan, and shall terminate the membership of the employee in the
27 individual account program upon making the transfer.

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

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

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

42 (9) The State Board of Higher Education shall contribute monthly to the Optional Retirement
43 Plan the percentage of salary of each employee participating in the plan equal to the percentage
44 of salary that would otherwise have been contributed as an employer contribution on behalf of the
45 employee to the Public Employees Retirement System, before any offset under ORS 238.229 (2), if the

1 employee had not elected to participate in the Optional Retirement Plan.

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

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

10 **SECTION 19.** ORS 341.551 is amended to read:

11 341.551. (1) Notwithstanding any provision of ORS chapter 238 or 238A, the Department of
12 Community Colleges and Workforce Development may establish and administer an optional retire-
13 ment plan for administrative employees of community college districts who are eligible for member-
14 ship in the Public Employees Retirement System. Any community college district may participate in
15 the plan by giving written notice to the department.

16 (2) An administrative employee may make an election to participate in the optional retirement
17 plan if the community college district that employs the employee is participating in the plan. The
18 election must be made in the following manner:

19 (a) An administrative employee who is an active member of the Public Employees Retirement
20 System may make an election to participate in the plan within 180 days after the community college
21 district commences participation in the plan, effective on the first day of the month following the
22 election.

23 (b) An administrative employee who is hired after the community college district commences
24 participation in the plan may make an election to participate in the plan within the first six months
25 of employment, effective on the first day of the month following six full months of employment.

26 (3) An administrative employee who does not elect to participate in the optional retirement plan
27 remains or becomes a member of the Public Employees Retirement System in accordance with ORS
28 chapters 238 and 238A.

29 (4) An administrative employee may elect to participate in the optional retirement plan only if
30 at the time the election becomes effective the employee is not concurrently employed in a position
31 with any participating public employer other than the community college district in a position that
32 entitles the employee to membership in the Public Employees Retirement System. Except as pro-
33 vided in subsection (9) of this section, employees who elect to participate in the optional retirement
34 plan are ineligible for active membership in the Public Employees Retirement System for as long as
35 those employees are employed by a community college district that participates in the plan, whether
36 by reason of employment by the district or any other participating public employer.

37 (5)(a) An administrative employee who elects to participate in the optional retirement plan, who
38 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is not vested shall
39 be considered by the Public Employees Retirement Board to be a terminated member under the
40 provisions of ORS 238.095 as of the effective date of the election, and the amount credited to the
41 member account of the member shall be transferred directly to the optional retirement plan by the
42 Public Employees Retirement Board in the manner provided by subsection (6) of this section.

43 (b) An administrative employee who elects to participate in the optional retirement plan, who
44 has creditable service under ORS chapter 238 as defined by ORS 238.005 and who is vested shall
45 be considered to be an inactive member by the Public Employees Retirement Board and shall retain

1 all the rights, privileges and options under ORS chapter 238 unless the employee makes a written
2 request to the Public Employees Retirement Board for a transfer of the amounts credited to the
3 member account of the member to the optional retirement plan. A request for a transfer must be
4 made at the time the member elects to participate in the optional retirement plan. Upon receiving
5 the request, the Public Employees Retirement Board shall transfer all amounts credited to the
6 member account of the member directly to the optional retirement plan and shall terminate all
7 rights, privileges and options of the employee under ORS chapter 238.

8 (c) An administrative employee who elects to participate in the optional retirement plan and
9 who is not a vested member of the pension program of the Oregon Public Service Retirement Plan
10 as described in ORS 238A.115 on the date that the election becomes effective shall be considered to
11 be a terminated member of the pension program by the Public Employees Retirement Board as of
12 the effective date of the election.

13 (d) An administrative employee who elects to participate in the optional retirement plan and
14 who is a vested member of the pension program of the Oregon Public Service Retirement Plan as
15 described in ORS 238A.115 on the date that the election becomes effective shall be considered an
16 inactive member of the pension program by the Public Employees Retirement Board as of the ef-
17 fective date of the election. An employee who is subject to the provisions of this paragraph retains
18 all the rights, privileges and options of an inactive member of the pension program. If the actuarial
19 equivalent of the employee's benefit under the pension program at the time that the election be-
20 comes effective is \$5,000 or less, the employee may make a written request to the Public Employees
21 Retirement Board for a transfer of the employee's interest under the pension program to the optional
22 retirement plan. The request must be made at the time the member elects to participate in the op-
23 tional retirement plan. Upon receiving the request, the Public Employees Retirement Board shall
24 transfer the amount determined to be the actuarial equivalent of the employee's benefit under the
25 pension program directly to the optional retirement plan and shall terminate the membership of the
26 employee in the pension program.

27 (e) An administrative employee who elects to participate in the optional retirement plan and
28 who is a vested member of the individual account program of the Oregon Public Service Retirement
29 Plan as described in ORS 238A.320 **or section 6 of this 2011 Act** on the date that the election be-
30 comes effective shall be considered an inactive member of the individual account program by the
31 Public Employees Retirement Board as of the effective date of the election. An employee who is
32 subject to the provisions of this paragraph retains all the rights, privileges and options of an inac-
33 tive member of the individual account program. An administrative employee who elects to partic-
34 ipate in the optional retirement plan and who is a member of the individual account program of the
35 Oregon Public Service Retirement Plan may make a written request to the Public Employees Re-
36 tirement Board that all amounts in the member's employee account, rollover account and employer
37 account, to the extent the member is vested in those accounts under ORS 238A.320 **or section 6**
38 **of this 2011 Act**, be transferred to the optional retirement plan. The request must be made at the
39 time the member elects to participate in the optional retirement plan. Upon receiving the request,
40 the Public Employees Retirement Board shall transfer the amounts directly to the optional retire-
41 ment plan and shall terminate the membership of the employee in the individual account program.

42 (f) Notwithstanding paragraphs (b), (d) and (e) of this subsection, the Public Employees Retire-
43 ment Board shall not treat any employee as an inactive member under the provisions of this sub-
44 section for the purpose of receiving any benefit under ORS chapter 238 or 238A that requires that
45 the employee be separated from all service with participating public employers and with employers

1 who are treated as part of a participating public employer’s controlled group under the federal laws
2 and rules governing the status of the Public Employees Retirement System and the Public Employees
3 Retirement Fund as a qualified governmental retirement plan and trust.

4 (6) Any amounts transferred from the Public Employees Retirement Fund under subsection (5)
5 of this section shall be transferred directly to the optional retirement plan by the Public Employees
6 Retirement Board and shall not be made available to the employee.

7 (7) An employee participating in the optional retirement plan shall contribute monthly an
8 amount equal to the percentage of the employee’s salary that the employee would otherwise have
9 contributed as an employee contribution to the Public Employees Retirement System if the employee
10 had not elected to participate in the optional retirement plan.

11 (8) A participating community college district shall contribute monthly to the optional retire-
12 ment plan the percentage of salary for each employee participating in the plan that is equal to the
13 percentage of salary that is required to be made as the employer contribution under ORS 238A.220,
14 less any contributions made by reason of unfunded liabilities. The district may make contributions
15 under this subsection only during periods of time in which the employee would be eligible for
16 membership in the Public Employees Retirement System if the employee had not elected to partic-
17 ipate in the optional retirement plan.

18 (9) An administrative employee who elects to participate in the optional retirement plan may
19 make an election to withdraw from the plan. An employee may make an election under this sub-
20 section only once. Upon withdrawing from the plan:

21 (a) All contributions made to the plan before the effective date of the withdrawal remain cred-
22 ited to the employee;

23 (b) The employee becomes a member of the Public Employees Retirement System under ORS
24 chapter 238A if the member meets all requirements for membership under ORS chapter 238A; and

25 (c) The employee is barred from ever again electing to participate in the optional retirement
26 plan.

27 (10) For the purposes of this section, “administrative employee” means a president, vice presi-
28 dent or dean, or a person holding a position that is the equivalent of a president, vice president or
29 dean.

30 **SECTION 20. This 2011 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect**
32 **on its passage.**

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