

SENATE AMENDMENTS TO SENATE BILL 242

By COMMITTEE ON EDUCATION AND WORKFORCE DEVELOPMENT

March 11

1 On page 1 of the printed bill, line 3, after “238.005,” delete the rest of the line and insert
2 “238.148, 238.300, 238.350, 238.580, 238.608, 238A.005, 238A.140,”.

3 In line 16, delete “351.005, 351.007,”.

4 On page 2, line 3, after “352.750,” insert “353.080,”.

5 In line 7, after “759.445” insert “and section 2, chapter 971, Oregon Laws 1999” and delete
6 “351.003, 351.009,” and insert “351.005, 351.007,”.

7 On page 3, line 35, after “colleges” delete the comma and insert “and”.

8 In line 36, delete “and the Oregon Health and Science University”.

9 In line 38, after “attention” insert “and taking into consideration the contributions of this
10 state’s independent institutions and other organizations dedicated to helping Oregonians reach state
11 goals”.

12 On page 4, line 1, delete “institutional missions” and insert “goals and missions described for
13 community colleges in ORS 341.009 and for public universities in ORS 351.003 and 351.009”.

14 In line 4, before “missions” insert “goals and”.

15 In line 10, after “352.002” delete the rest of the line.

16 Delete line 11 and insert “in accordance with criteria set by the State Board of Higher Educa-
17 tion, with the goal of encouraging tuition affordability for students;

18 “(c) Tuition rates set by each community college governing board for community colleges in this
19 state;”.

20 In line 12, delete “(c)” and insert “(d)”.

21 In line 13, delete “(d)” and insert “(e)”.

22 In line 19, after “System” insert a semicolon and delete the rest of the line.

23 Delete line 20.

24 In line 27, after “degrees” insert “for the Oregon University System”.

25 On page 6, line 39, delete “21” and insert “21b”.

26 On page 7, line 2, after “System” delete the rest of the line and delete lines 3 through 5 and
27 insert “is an instrumentality of the state and a government entity performing governmental func-
28 tions and exercising governmental powers. Notwithstanding the status of the Oregon University
29 System as an instrumentality of the state, the Oregon University System is not eligible to request
30 or receive legal services from the Attorney General and the Department of Justice pursuant to ORS
31 chapter 180, except as otherwise expressly provided by law. The Oregon University System is not
32 considered a unit of local or municipal government.”.

33 In line 34, after “15” insert “of”.

34 Delete lines 41 through 45 and insert:

35 “(4) The Governor’s biennial budget submitted to the Legislative Assembly may include the State

1 Board of Higher Education’s funding request submitted to the Oregon Department of Administrative
2 Services for the Oregon University System. Any funding request approved by the Legislative As-
3 sembly must specify that the moneys be appropriated to the Oregon Department of Administrative
4 Services for allocation to the Oregon University System.

5 “(5) The funding request must include, in addition to the performance compact, a report on
6 performance from the previous biennium’s performance compact.

7 “(6) The State Board of Higher Education shall, by rule, establish a framework for the develop-
8 ment of a performance compact that must accompany the funding request to the Oregon Department
9 of Administrative Services. The framework must address, among other issues, the issue of tuition
10 affordability for students.

11 **“SECTION 21a. The State Board of Higher Education is authorized to:**

12 **“(1) Request, as part of the funding request under section 21 of this 2011 Act, appropri-**
13 **ations for budgetary items, including but not limited to education and general operations,**
14 **statewide public services, state funded debt service, capital improvements and other special**
15 **initiatives and investments; and**

16 **“(2) Allocate moneys, from funds appropriated to the board and other available moneys,**
17 **among the office of the Chancellor of the Oregon University System, public universities listed**
18 **in ORS 352.002 and offices, departments and activities under the control of the board.**

19 **“SECTION 21b. The State Board of Higher Education is not required to seek expenditure**
20 **limitation approval from the Legislative Assembly to spend any available moneys, including**
21 **but not limited to moneys from enrollment fees collected pursuant to section 20 of this 2011**
22 **Act.”.**

23 On page 8, delete lines 1 through 16.

24 In line 17, delete “Section 21” and insert “Sections 21 and 21a” and delete “applies” and insert
25 “apply”.

26 On page 9, delete lines 17 through 22 and insert:

27 “(2)(a) Before pledging all or a portion of higher education revenues, pursuant to ORS 286A.102,
28 to secure higher education revenue bonds, higher education credit enhancement devices or agree-
29 ments for exchange of interest rates related to such revenue bonds or credit enhancement devices,
30 the chancellor shall reserve sufficient funds each biennium to satisfy any payment or reserve re-
31 quirements relating to:

32 “(A) General obligation bonds or certificates of participation issued for the benefit of the Oregon
33 University System;

34 “(B) Credit enhancement devices or agreements for exchange of interest rates entered into in
35 connection with obligations related to general obligation bonds or certificates of participation issued
36 for the benefit of the Oregon University System; and

37 “(C) Loans to the Oregon University System funded by state general obligation bonds.

38 “(b) Pursuant to ORS 286A.010, the Oregon University System shall provide cash flow
39 projections and other information requested by the State Treasurer to determine the sufficiency of
40 higher education revenues to satisfy the requirements of paragraph (a) of this subsection and any
41 proposed revenue bonds.

42 “(c) For purposes of the issuance of bonds and ORS chapter 286A, the Oregon University System
43 shall be considered a related agency as defined in ORS 286A.001 (9).”.

44 In line 23, delete “(b)” and insert “(d)”.

45 On page 10, after line 17, insert:

1 “(8) The principal, interest and any premium and any issuance costs on a financing agreement
2 under ORS 283.085 to 283.092, any general obligation bond, any revenue bond and any related credit
3 enhancement device or interest rate exchange agreement shall be paid from the sources specified in
4 the laws and documents authorizing the financing agreement, bond, credit enhancement device or
5 interest rate exchange agreement. The Oregon University System shall pay any other expenses and
6 liabilities, including but not limited to legal expenses, costs of settling claims, judgments, federal
7 arbitrage rebates and penalties and expenses arising from an inquiry, audit or other action by a
8 federal or state regulatory body, unless the expense or liability results solely from the negligence
9 or willful misconduct of a state agency.

10 “(9) Pursuant to ORS chapter 180, on behalf of the State Treasurer or any other state agency,
11 the Attorney General shall appear, commence, prosecute or defend any action, suit, matter, cause
12 or proceeding arising from any financing agreement under ORS 283.085 to 283.092, any bond issued
13 for the benefit of the Oregon University System and any related credit enhancement device or in-
14 terest rate exchange agreement.”.

15 On page 11, after line 7, insert:

16 “**SECTION 29. The State Board of Higher Education and the Oregon University System**
17 **are responsible for the indemnity and defense of their officers, agents and employees or**
18 **other persons designated by the board or the system to carry out or further their missions**
19 **and shall assume responsibility, in accordance with agreements entered into with the De-**
20 **partment of Justice, the Oregon Department of Administrative Services regarding its risk**
21 **management function, the State Treasurer and the manager of the Insurance Fund estab-**
22 **lished in ORS 278.425, for such indemnity and defense with regard to claims asserted and**
23 **actions commenced as of the operative date of this section.**

24 “**SECTION 29a. Before the operative date of section 29 of this 2011 Act, the State Board**
25 **of Higher Education and the Oregon University System shall enter into an agreement, as**
26 **applicable, with the Department of Justice, the Oregon Department of Administrative Ser-**
27 **vices regarding its risk management function, the State Treasurer and the manager of the**
28 **Insurance Fund established in ORS 278.425 with regard to:**

29 “(1) The transfer of duties and responsibilities concerning legal actions and liabilities in
30 existence before the operative date of section 29 of this 2011 Act;

31 “(2) The reimbursement of reasonable costs and expenses associated with the legal rep-
32 resentation of the State Treasurer for general obligation bonds of the board and the system
33 on and after the operative date of section 29 of this 2011 Act; and

34 “(3) Any other topic necessary for the orderly transfer of duties and responsibilities in-
35 cident to the previous statutory duty of the Department of Justice to provide legal repre-
36 sentation to the board and the system and the responsibility of the Department of
37 Administrative Services to insure the board and the system.

38 “**SECTION 30. Except as otherwise provided by law, all liabilities, known and unknown,**
39 **of the State Board of Higher Education and the Oregon University System existing on or**
40 **arising after the operative date of this section are the sole responsibility of the board and**
41 **system. Damages, costs and other expenses arising out of and related to liabilities of the**
42 **board and the system after the operative date of this section shall be payable from the**
43 **Oregon University System Fund or from insurance purchased, a self-insurance program es-**
44 **tablished or another insurance equivalent arranged for under ORS 351.060 (11).**

45 “**SECTION 30a. The State Board of Higher Education is a continuation of the former**

1 **State Board of Higher Education with respect to its duties, liabilities, functions and powers,**
2 **and is not a new authority, for the purpose of succession to all rights and obligations of the**
3 **former State Board of Higher Education as constituted as of the effective date of this 2011**
4 **Act, except as otherwise provided by law.”.**

5 In line 8, delete “29” and insert “31”.

6 Delete lines 29 through 45.

7 On page 12, delete lines 1 through 14.

8 On page 14, delete lines 27 and 28 and insert:

9 “(9) With the approval of the State Treasurer, request that the Oregon Department of Adminis-
10 trative Services enter into financing agreements in accordance with ORS 283.085 to 283.092 on be-
11 half of the Oregon University System. The Oregon University System shall be considered a state
12 agency for purposes of ORS 286A.730.”.

13 In line 36, after the period insert “The State Board of Higher Education shall reimburse the
14 State Treasurer for legal fees incurred in connection with borrowings done at the request of the
15 Oregon University System.”.

16 On page 18, line 22, after “182.109,” insert “240.167,”.

17 In line 25, after “291.226,” insert “291.272 to 291.278,”.

18 Delete lines 36 through 41 and insert:

19 “(4) Notwithstanding subsection (6) of this section:

20 “(a) The provisions of ORS chapters 35, 190, 192, 244, 286A, 295 and 297 and ORS 30.260 to
21 30.460, 184.480, 184.483, 184.486, 184.488, 200.005 to 200.025, 200.045 to 200.090, 200.100 to 200.120,
22 200.160 to 200.200, 236.605 to 236.640, 243.650 to 243.782, 243.800, 243.820, 243.830, 243.850, 243.910
23 to 243.945, 307.090 and 307.112 apply to the Oregon University System under the same terms as they
24 apply to other public bodies other than the State of Oregon.

25 “(b) The provisions of ORS 293.115, 293.117, 293.130, 293.169, 293.171, 293.205 to 293.225, 293.250,
26 293.265 to 293.280, 293.285, 293.295, 293.321, 293.353, 293.375, 293.406, 293.465 to 293.485, 293.490,
27 293.495, 293.525, 293.701 to 293.820, 293.875, 293.880 and 293.990 apply to the Oregon University
28 System under the same terms as they apply to state agencies with moneys held by the State Treas-
29 urer, to the Oregon University System Fund established in ORS 351.506 and to any other moneys
30 deposited with or held by the State Treasurer for the Oregon University System.

31 “(5) Notwithstanding subsections (1) and (6) of this section, the Oregon University System and
32 its agents and employees remain subject to all statutes and administrative rules of this state that
33 create rights, benefits or protections in favor of military veterans, service members and families of
34 service members to the same extent as an agency of this state would be subject to such statutes and
35 administrative rules.”.

36 In line 42, delete “(5)” and insert “(6)”.

37 On page 19, line 1, delete “(6)” and insert “(7)”.

38 Delete lines 5 through 20 and insert:

39 “**SECTION 42.** ORS 351.094 is amended to read:

40 “351.094. (1) [*Notwithstanding any other provision of law, the Oregon University System*] **The**
41 **State Board of Higher Education** shall provide group insurance to [*its*] employees **of the Oregon**
42 **University System** through the Public Employees’ Benefit Board[, *but*] **or** may elect[, *at the dis-*
43 *cretion of the State Board of Higher Education,*] to provide alternative **group health and welfare**
44 **insurance** benefit plans to [*its*] employees[, *should*] **of the Oregon University System** if the same
45 level of benefits [*be*] **is** available at a lower cost than through the Public Employees’ Benefit Board.

1 “(2) For the purposes of ORS 243.555 to 243.575, if the State Board of Higher Education chooses
2 not to participate in the benefit plans offered through the Public Employees’ Benefit Board, the
3 State Board of Higher Education may have the authority granted to the Public Employees’ Benefit
4 Board under ORS 243.555 to 243.575 for the administration of an appropriate expense reimbursement
5 plan.

6 “(3) The [*Oregon University System*] **State Board of Higher Education** shall offer [*a*] **one or**
7 **more** deferred compensation [*plan for its*] **plans to** employees **of the Oregon University System.**
8 The Oregon University System shall, at the discretion of the board, choose whether to offer its em-
9 ployees the state deferred compensation plan established under ORS 243.401 to 243.507 or another
10 deferred compensation plan that the board elects to make available to the employees of the Oregon
11 University System.”.

12 In line 27, after “welfare” insert “insurance”.

13 In line 30, after “plans” delete the rest of the line and line 31 and insert “based on the report
14 until July 1, 2013. The State Board of Higher Education must make any changes to group health and
15 welfare insurance benefit plans between January 1, 2013, and May 1, 2013, to become effective on
16 January 1, 2014.”.

17 On page 43, after line 12, insert:

18 “(12) ‘Institution of higher education’ means a public university listed in ORS 352.002, the
19 Oregon Health and Science University and a community college, as defined in ORS 341.005.”.

20 In line 13, delete “(12)(a)” and insert “(13)(a)”.

21 In line 23, delete “(13)(a)” and insert “(14)(a)”.

22 In line 28, delete “(14)” and insert “(15)”.

23 In line 36, delete “(15)” and insert “(16)”.

24 In line 38, delete “(16)” and insert “(17)”.

25 On page 45, line 2, delete “(17)” and insert “(18)”.

26 In line 8, delete “(18)” and insert “(19)”.

27 In line 10, delete “(19)” and insert “(20)”.

28 In line 14, delete “(20)” and insert “(21)”.

29 In line 16, delete “(21)(a)” and insert “(22)(a)”.

30 On page 46, line 4, delete “(22)” and insert “(23)”.

31 In line 5, delete “(23)” and insert “(24)”.

32 In line 6, delete “(24)” and insert “(25)”.

33 In line 7, delete “(25)” and insert “(26)”.

34 After line 8, insert:

35 “**SECTION 72a.** ORS 238.148 is amended to read:

36 “238.148. (1) A member of the Public Employees Retirement System who is a police officer is
37 entitled to receive retirement credit as provided in subsection (2) of this section if:

38 “(a) The member was employed as a public safety officer by another state, or political subdivi-
39 sion of another state, before being employed in a position that entitled the member to credit in the
40 system; and

41 “(b) The member makes the payment required by subsection (2) of this section within the time
42 specified by that subsection.

43 “(2) Except as provided in subsection (3) of this section, a member of the system employed as
44 a police officer who meets the requirements of subsection (1) of this section is entitled to receive
45 retirement credit for the period of the member’s service with another state, or political subdivision

1 of another state, not to exceed a maximum of four years, if the member within 90 days of the
2 member's effective date of retirement:

3 "(a) Applies in writing to the Public Employees Retirement Board for such retirement credit;

4 "(b) Provides written verification to the board from the other state, or political subdivision of
5 the other state, that employed the member, verifying the period of time that the member served as
6 a public safety officer in the other state; and

7 "(c) Pays to the board, in a lump sum, for each year of retirement credit applied for under this
8 section, an amount determined by the board to represent the full cost to the system of providing the
9 retirement credit to the member, including all administrative costs incurred by the system in pro-
10 cessing the application for acquisition of the retirement credit.

11 "(3) A member may not receive retirement credit under the provisions of this section for any
12 period of service with another state, or political subdivision of another state, if the member is en-
13 titled to a pension or retirement allowance by reason of that service under a public plan or system
14 offered by the other state or by a political subdivision of the other state.

15 "(4) For the purposes of this section, 'public safety officer' means a person who serves in a po-
16 sition with another state, or political subdivision of another state, that is the other state's equiv-
17 alent of a position described in ORS 238.005 [(16)] (17)."

18 On page 47, line 7, delete "the State Board of Higher Education" and insert "an institution of
19 higher education".

20 In line 8, after "activity" delete the rest of the line.

21 In line 9, delete "listed in ORS 352.002".

22 In line 35, delete "a community college, or employees of the State Board of Higher Education"
23 and insert "an institution of higher education".

24 In line 36, after "activity" delete the rest of the line.

25 In line 37, delete "in ORS 352.002".

26 On page 49, after line 32, insert:

27 "**SECTION 74a.** ORS 238.580 is amended to read:

28 "238.580. (1) ORS 238.005 (3) and [(21)] (22), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
29 238.255, 238.260, 238.350, 238.380, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475,
30 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670
31 and 238.705 and the increases provided by ORS 238.385 for members of the system who are serving
32 as other than police officers or firefighters apply in respect to service as a judge member.

33 "(2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to
34 service as a judge member only as specifically provided in ORS 238.500 to 238.585.

35 "**SECTION 74b.** ORS 238.608 is amended to read:

36 "238.608. (1) The Public Employees Retirement Board shall conduct a study of the life expect-
37 ancy of members of the Public Employees Retirement System in the categories described in sub-
38 section (2) of this section. If the board determines that members in the categories described in
39 subsection (2) of this section have a life expectancy that is substantially shorter than the life ex-
40 pectancy of members of the system generally, the board shall adopt and use separate actuarial
41 equivalency factor tables under ORS 238.607 for the purpose of computing the payments to be made
42 to members in the categories described in subsection (2) of this section and to the beneficiaries and
43 alternate payees of those members. Any actuarial equivalency factor tables adopted under this sec-
44 tion shall first become effective January 1, 2005.

45 "(2) The provisions of this section apply to members of the system who are defined as firefight-

1 ers under ORS 238.005 (9) or as police officers under ORS 238.005 [(16)(a)] (17)(a), (b), (d), (e), (f), (k),
2 (L), (n), (o) or (p).”.

3 On page 50, after line 43, insert:

4 “(10) ‘Institution of higher education’ means a public university listed in ORS 352.002, the
5 Oregon Health and Science University or a community college, as defined in ORS 341.005.”.

6 In line 44, delete “(10)” and insert “(11)”.

7 On page 51, line 2, delete “(11)” and insert “(12)”.

8 In line 4, delete “(12)” and insert “(13)”.

9 In line 6, delete “(13)” and insert “(14)”.

10 In line 7, delete “(14)” and insert “(15)”.

11 In line 11, delete “(15)” and insert “(16)”.

12 In line 13, delete “(16)(a)” and insert “(17)(a)”.

13 On page 52, line 16, delete “(17)” and insert “(18)”.

14 After line 16, insert:

15 “**SECTION 75a.** ORS 238A.140 is amended to read:

16 “238A.140. (1) An active member of the pension program accrues one year of retirement credit
17 for each complete year of service and one-twelfth of a year of retirement credit for each full month
18 and each major fraction of a month of service.

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

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

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

29 “(5) For purposes of this section, ‘school employee’ means:

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

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

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

38 “[d) An employee of a community college district other than an academic employee].”.

39 On page 88, lines 23 through 26, restore the bracketed material and delete the boldfaced mate-
40 rial.

41 In line 25, after the period insert “With the advice of the Higher Education Coordinating Com-
42 mission,”.

43 On page 100, line 14, delete the second “and”.

44 In line 16, delete the period and insert “; and

45 “(6) That, in order to maintain affordable tuition at Oregon’s public universities and community

1 colleges, the Legislative Assembly, through the Joint Committee on Ways and Means, should review
2 tuition affordability on the basis of standards, including the Higher Education Price Index, median
3 family income and state appropriations made to public universities and community colleges in this
4 state. This review by the Legislative Assembly on maximum tuition and fee increases should occur
5 biennially.”.

6 On page 149, after line 9, insert:

7 “**SECTION 256a.** ORS 353.080 is amended to read:

8 “353.080. Oregon Health and Science University shall file with the Legislative Assembly, **the**
9 **Higher Education Coordinating Commission** and the Governor, not later than April 15 of each
10 year, a report of the university’s activities and operations for the preceding year.”.

11 On page 175, after line 28, insert:

12 “**SECTION 290a.** Section 2, chapter 971, Oregon Laws 1999, is amended to read:

13 “**Sec. 2.** (1) The amendments to ORS 238.005 by section 1, **chapter 971, Oregon Laws 1999,**
14 *[of this 1999 Act]* apply only to persons specified in ORS 238.005 [(16)(b)] **(17)(b)** who are employed
15 by the State Forestry Department on *[the effective date of this 1999 Act]* **October 23, 1999,** or who
16 become employed by the State Forestry Department after *[the effective date of this 1999 Act]* **October**
17 **23, 1999.**

18 “(2) Except as provided in subsection (3) of this section, the amendments to ORS 238.005 by
19 section 1, **chapter 971, Oregon Laws 1999,** *[of this 1999 Act]* apply only to service rendered to a
20 participating public employer on or after *[the effective date of this 1999 Act]* **October 23, 1999.**

21 “(3) Any employee who is employed by the State Forestry Department in a position described
22 in ORS 238.005 [(16)(b)] **(17)(b)** on *[the effective date of this 1999 Act]* **October 23, 1999,** may acquire
23 creditable service in the Public Employees Retirement System as a firefighter for service performed
24 by the employee in a position described in ORS 238.005 [(16)(b)] **(17)(b)** before *[the effective date of*
25 *this 1999 Act]* **October 23, 1999,** by paying to the Public Employees Retirement Board an amount
26 determined by the board to represent the full cost to the system of providing credit as a firefighter
27 to the member. The member may acquire credit as a firefighter for all or part of the service in a
28 position described in ORS 238.005 [(16)(b)] **(17)(b)** performed before *[the effective date of this 1999*
29 *Act]* **October 23, 1999.** All amounts required for acquisition of credit as a firefighter under this
30 subsection must be paid at least 90 days before a member’s effective date of retirement. The board
31 may by rule allow members to pay amounts required under this subsection in installments in lieu
32 of requiring a single lump sum payment.”.

33 In line 32, delete “351.003, 351.009” and insert “351.005, 351.007”.

34 In line 37, delete “28” and insert “29, 30, 30a”.

35 In line 38, delete “29 to” and insert “31,” and delete “290” and insert “290a”.

36 In line 44, delete “28” and insert “29, 30, 30a”.

37 In line 45, delete “29 to” and insert “31,” and delete “290” and insert “290a”.