

**PROPOSED AMENDMENTS TO
SENATE BILL 822**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete lines 3 and 4 and insert “237.635, 237.637, 238.005, 238.015,
3 238.092, 238.285, 238.360, 238.372, 238.374, 238.376, 238.378, 238.505, 238.575,
4 238.580, 238A.005, 238A.130, 238A.210, 238A.245, 238A.300, 238A.320, 238A.330,
5 238A.335, 292.180 and 314.840 and section 4, chapter 1, Oregon Laws 2010;
6 repealing ORS 237.650, 237.655, 238.350, 238.355 and 238A.475; and declaring
7 an emergency.

8 “Whereas every Oregonian deserves to have a high-quality public educa-
9 tion and to live in a safe community and reasonably expects efficient and
10 effective delivery of other needed public services; and

11 “Whereas the cost of Oregon’s Public Employees Retirement System
12 (PERS) is increasing at an unsustainable rate and diverting billions of dol-
13 lars away from schools and other critical services; and

14 “Whereas Oregon’s schools have been forced to reduce instructional days,
15 close schools and cut approximately 7,000 teachers over the last three years
16 despite increased state spending on education; and

17 “Whereas PERS is the largest single source of cost escalation driving
18 these cuts; and

19 “Whereas the annual cost of PERS is expected to increase significantly
20 over the next decade or more, placing at risk schools, public safety, the poor
21 and seniors who depend on state assistance; and

22 “Whereas it is the responsibility of the Legislative Assembly to ensure

1 that PERS is adequately funded, rationally designed as one element of a
2 reasonably competitive compensation arrangement for public employees and
3 sustainable for the sake of public employees, who may rely on PERS for a
4 material part of their retirement, and for Oregonians generally, who rightly
5 expect the state to use taxpayer dollars responsibly; and

6 “Whereas in 2011 the Governor proposed and the Legislative Assembly
7 passed comprehensive education reform based on the aspirational goal of
8 enabling 40 percent of adult Oregonians to have at least a bachelor’s degree,
9 40 percent of adult Oregonians to have at least an associate’s degree and the
10 remaining 20 percent of adult Oregonians to have at least a high school di-
11 ploma; and

12 “Whereas later that year an increase in PERS costs resulted in massive
13 layoffs of teachers, fewer instructional days for students and the closings of
14 schools; and

15 “Whereas the PERS cost increase this year will drain hundreds of
16 millions of dollars more out of schools and cripple Oregon’s efforts to
17 achieve its educational goals; and

18 “Whereas it is necessary for the Legislative Assembly to reform PERS,
19 so that the state may provide critical services efficiently and effectively and
20 provide a long-term, financially sound retirement system for public employ-
21 ees; and

22 “Whereas the savings from the reforms set forth in this 2013 Act could
23 facilitate the hiring or retention of thousands of public employees, including
24 teachers, police officers and firefighters; and

25 “Whereas it is the intent of the Legislative Assembly that the savings
26 realized by schools and agencies as a result of this 2013 Act be used, to the
27 maximum extent possible, to provide services that Oregonians need; and

28 “Whereas the Legislative Assembly accordingly urges that school districts
29 use funds saved as a result of this 2013 Act to reduce class sizes, restore
30 instructional days and hire 5,000 or more teachers throughout this state; and

1 “Whereas the Oregon Business Plan enjoys broad bipartisan support as
2 a strategy for creating jobs and growing wages; and

3 “Whereas reform of the Public Employees Retirement System is a top
4 priority in the Oregon Business Plan because it is critical to funding vital
5 public services and especially education; now, therefore,”.

6 Delete lines 9 through 27 and delete pages 2 through 12 and insert:

7

8 **“COST-OF-LIVING ADJUSTMENT**

9

10 **“SECTION 1.** ORS 238.360 is amended to read:

11 “238.360. (1) As soon as practicable after January 1 each year, the Public
12 Employees Retirement Board shall determine the percentage increase or de-
13 crease in the cost-of-living for the previous calendar year, based on the
14 Consumer Price Index (Portland area—all items) as published by the Bureau
15 of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon,
16 area. Prior to July 1 each year the allowance which the member or the
17 member’s beneficiary is receiving or is entitled to receive on August 1 for
18 the month of July shall be multiplied by the percentage figure determined,
19 and the allowance for the next 12 months beginning July 1 adjusted to the
20 resultant amount.

21 “(2) Such increase or decrease shall not exceed [*two*] **one** percent of any
22 monthly retirement allowance in any year and no allowance shall be adjusted
23 to an amount less than the amount to which the recipient would be entitled
24 if no cost-of-living adjustment were authorized.

25 “(3) The amount of any cost-of-living increase or decrease in any year in
26 excess of the maximum annual retirement allowance adjustment of [*two*] **one**
27 percent shall be accumulated from year to year and included in the compu-
28 tation of increases or decreases in succeeding years.

29 “(4) Any increase in the allowance shall be paid from contributions of the
30 public employer under ORS 238.225. Any decrease in the allowance shall be

1 returned to the employer in the form of a credit against contributions of the
2 employer under ORS 238.225.

3 **“SECTION 2. The amendments to ORS 238.360 by section 1 of this**
4 **2013 Act apply to all adjustments to allowances made under ORS**
5 **238.360 on and after July 1, 2013, and before July 1, 2014.**

6 **“SECTION 3.** ORS 238.360, as amended by section 1 of this 2013 Act, is
7 amended to read:

8 *“238.360. [(1) As soon as practicable after January 1 each year, the Public*
9 *Employees Retirement Board shall determine the percentage increase or de-*
10 *crease in the cost-of-living for the previous calendar year, based on the Con-*
11 *sumer Price Index (Portland area—all items) as published by the Bureau of*
12 *Labor Statistics of the U.S. Department of Labor for the Portland, Oregon,*
13 *area. Prior to July 1 each year the allowance which the member or the*
14 *member’s beneficiary is receiving or is entitled to receive on August 1 for the*
15 *month of July shall be multiplied by the percentage figure determined, and the*
16 *allowance for the next 12 months beginning July 1 adjusted to the resultant*
17 *amount.]* **On July 1 of each year, the Public Employees Retirement**
18 **Board shall increase the yearly allowance that a member or member’s**
19 **beneficiary receives or is entitled to receive, as provided in subsections**
20 **(2) and (3) of this section. The increase is first payable with the al-**
21 **lowance that the member or the member’s beneficiary receives or is**
22 **entitled to receive on August 1.**

23 *“[(2) Such increase or decrease shall not exceed one percent of any monthly*
24 *retirement allowance in any year and no allowance shall be adjusted to an*
25 *amount less than the amount to which the recipient would be entitled if no*
26 *cost-of-living adjustment were authorized.]*

27 *“[(3) The amount of any cost-of-living increase or decrease in any year in*
28 *excess of the maximum annual retirement allowance adjustment of one percent*
29 *shall be accumulated from year to year and included in the computation of*
30 *increases or decreases in succeeding years.]*

1 “(2)(a) If the member’s or member’s beneficiary’s yearly allowance
2 for the previous year totaled \$24,000 or less, the allowance shall be
3 increased by 1.5 percent.

4 “(b) If the member’s or member’s beneficiary’s yearly allowance for
5 the previous year totaled more than \$24,000 but not more than \$36,000,
6 the allowance shall be increased by \$360 plus 0.4 percent of the amount
7 of the yearly allowance exceeding \$24,000.

8 “(c) If the member’s or member’s beneficiary’s yearly allowance for
9 the previous year totaled more than \$36,000, the allowance shall be
10 increased by \$408 plus 0.1 percent of the amount of the yearly allow-
11 ance exceeding \$36,000.

12 “(3) If a member or member’s beneficiary has been receiving an
13 allowance for less than 12 months on July 1 of any year, the board
14 shall calculate the increase under subsection (2) of this section on the
15 basis of the yearly allowance the member or member’s beneficiary
16 would have received if the member or member’s beneficiary had re-
17 ceived the monthly allowance for 12 months.

18 “(4) Any increase in the allowance shall be paid from contributions of the
19 public employer under ORS 238.225. [*Any decrease in the allowance shall be*
20 *returned to the employer in the form of a credit against contributions of the*
21 *employer under ORS 238.225.]*

22 “**SECTION 4. The amendments to ORS 238.360 by section 3 of this**
23 **2013 Act apply to all increases to allowances made under ORS 238.360**
24 **on and after July 1, 2014.**

25 “**SECTION 5.** ORS 238A.210 is amended to read:

26 “238A.210. (1) As soon as practicable after January 1 each year, the Public
27 Employees Retirement Board shall determine the percentage increase or de-
28 crease in the cost of living for the previous calendar year, based on the
29 Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for
30 All Items, as published by the Bureau of Labor Statistics of the United

1 States Department of Labor. Before July 1 each year, the board shall adjust
2 every pension payable under ORS 238A.180, 238A.185 and 238A.190, every
3 disability benefit under ORS 238A.235 and every death benefit payable under
4 ORS 238A.230 by multiplying the monthly payment by the percentage figure
5 determined by the board. If a person has been receiving a pension or benefit
6 for less than 12 months on July 1 of a calendar year, the board shall make
7 a pro rata reduction of the adjustment based on the number of months that
8 the pension or benefit was received before July 1 of the year. The adjustment
9 shall be made for the payments payable on August 1 and thereafter.

10 “(2) An increase or decrease in the benefit payments under this section
11 may not exceed [*two*] **one** percent in any year. A pension or death benefit
12 may not be adjusted to an amount that is less than the amount that would
13 have been payable if no cost-of-living adjustment had been made since the
14 pension or death benefit first became payable.

15 **“SECTION 6. The amendments to ORS 238A.210 by section 5 of this**
16 **2013 Act apply to all adjustments to pensions or benefits made under**
17 **ORS 238A.210 on and after July 1, 2013, and before July 1, 2014.**

18 **“SECTION 7.** ORS 238A.210, as amended by section 5 of this 2013 Act,
19 is amended to read:

20 “238A.210. [*(1) As soon as practicable after January 1 each year, the Public*
21 *Employees Retirement Board shall determine the percentage increase or de-*
22 *crease in the cost of living for the previous calendar year, based on the*
23 *Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for*
24 *All Items, as published by the Bureau of Labor Statistics of the United States*
25 *Department of Labor. Before July 1 each year, the board shall adjust every*
26 *pension payable under ORS 238A.180, 238A.185 and 238A.190, every disability*
27 *benefit under ORS 238A.235 and every death benefit payable under ORS*
28 *238A.230 by multiplying the monthly payment by the percentage figure deter-*
29 *mined by the board. If a person has been receiving a pension or benefit for*
30 *less than 12 months on July 1 of a calendar year, the board shall make a pro*

1 *rata reduction of the adjustment based on the number of months that the*
2 *pension or benefit was received before July 1 of the year. The adjustment shall*
3 *be made for the payments payable on August 1 and thereafter.]*

4 “[(2) *An increase or decrease in the benefit payments under this section*
5 *may not exceed one percent in any year. A pension or death benefit may not*
6 *be adjusted to an amount that is less than the amount that would have been*
7 *payable if no cost-of-living adjustment had been made since the pension or*
8 *death benefit first became payable.]*

9 “(1) **On July 1 of each year, the Public Employees Retirement Board**
10 **shall increase every pension payable under ORS 238A.180, 238A.185 and**
11 **238A.190, every disability benefit under ORS 238A.235 and every death**
12 **benefit payable under ORS 238A.230 as provided in subsections (2) and**
13 **(3) of this section. The increase shall be made for the payments paya-**
14 **ble on August 1 and thereafter.**

15 “(2)(a) **If a person’s yearly pension or benefit for the previous year**
16 **totaled \$24,000 or less, the allowance shall be increased by 1.5 percent.**

17 “(b) **If a person’s yearly pension or benefit for the previous year**
18 **totaled more than \$24,000 but not more than \$36,000, the allowance**
19 **shall be increased by \$360 plus 0.5 percent of the amount of the yearly**
20 **allowance exceeding \$24,000.**

21 “(c) **If a person’s yearly pension or benefit for the previous year**
22 **totaled more than \$36,000, the allowance shall be increased by \$420 plus**
23 **0.1 percent of the amount of the yearly allowance exceeding \$36,000.**

24 “(3) **If a person has been receiving a pension or benefit for less than**
25 **12 months on July 1 of any year, the board shall calculate the increase**
26 **under subsection (2) of this section on the basis of the yearly allow-**
27 **ance the person would have received if the person had received the**
28 **pension or benefit for 12 months.**

29 “**SECTION 8. The amendments to ORS 238A.210 by section 7 of this**
30 **2013 Act apply to all increases to pensions or benefits made under ORS**

1 **238A.210 on and after July 1, 2014.**

2 **“SECTION 9. (1) The amendments to ORS 238.360 and 238A.210 by**
3 **sections 3 and 7 of this 2013 Act become operative on July 1, 2014.**

4 **“(2) The Public Employees Retirement Board may take any action**
5 **before the operative date specified in subsection (1) of this section to**
6 **enable the board, on and after the operative date specified in sub-**
7 **section (1) of this section, to exercise all the duties, functions and**
8 **powers conferred on the board by the amendments to ORS 238.360 and**
9 **238A.210 by sections 3 and 7 of this 2013 Act.**

10 **“SECTION 10. ORS 238.575 is amended to read:**

11 **“238.575. (1) Every monthly retirement allowance or pension payable to**
12 **a judge member or surviving spouse of a judge member under ORS 238.500**
13 **to 238.585 shall be adjusted annually [to reflect the percentage increase or**
14 **decrease in the cost of living] as provided in ORS 238.360.**

15 **“(2) ORS 238.368 applies to judge members, and for that purpose the**
16 **monthly retirement allowance referred to in ORS 238.368 shall be the**
17 **monthly retirement allowance payable to a judge member or the monthly**
18 **pension payable to the surviving spouse of a judge member under ORS**
19 **238.565 (3)(a).**

20

21 **“CALCULATION OF FINAL AVERAGE SALARY**

22

23 **“SECTION 11. ORS 238.350 and 238.355 are repealed.**

24 **“SECTION 12. ORS 238.005, as amended by section 30, chapter 54, Oregon**
25 **Laws 2012, is amended to read:**

26 **“238.005. For purposes of this chapter:**

27 **“(1) ‘Active member’ means a member who is presently employed by a**
28 **participating public employer in a qualifying position and who has completed**
29 **the six-month period of service required by ORS 238.015.**

30 **“(2) ‘Annuity’ means payments for life derived from contributions made**

1 by a member as provided in this chapter.

2 “(3) ‘Board’ means the Public Employees Retirement Board.

3 “(4) ‘Calendar year’ means 12 calendar months commencing on January
4 1 and ending on December 31 following.

5 “(5) ‘Continuous service’ means service not interrupted for more than five
6 years, except that such continuous service shall be computed without regard
7 to interruptions in the case of:

8 “(a) An employee who had returned to the service of the employer as of
9 January 1, 1945, and who remained in that employment until having estab-
10 lished membership in the Public Employees Retirement System.

11 “(b) An employee who was in the armed services on January 1, 1945, and
12 returned to the service of the employer within one year of the date of being
13 otherwise than dishonorably discharged and remained in that employment
14 until having established membership in the Public Employees Retirement
15 System.

16 “(6) ‘Creditable service’ means any period of time during which an active
17 member is being paid a salary by a participating public employer and for
18 which benefits under this chapter are funded by employer contributions and
19 earnings on the fund. For purposes of computing years of ‘creditable
20 service,’ full months and major fractions of a month shall be considered to
21 be one-twelfth of a year and shall be added to all full years. ‘Creditable
22 service’ includes all retirement credit received by a member.

23 “(7) ‘Earliest service retirement age’ means the age attained by a member
24 when the member could first make application for retirement under the pro-
25 visions of ORS 238.280.

26 “(8) ‘Employee’ includes, in addition to employees, public officers, but
27 does not include:

28 “(a) Persons engaged as independent contractors.

29 “(b) Seasonal, emergency or casual workers whose periods of employment
30 with any public employer or public employers do not total 600 hours in any

1 calendar year.

2 “(c) Persons, other than workers in the Oregon Industries for the Blind
3 under ORS 346.190, provided sheltered employment or made-work by a public
4 employer in an employment or industries program maintained for the benefit
5 of such persons.

6 “(d) Persons employed and paid from federal funds received under a fed-
7 eral program intended primarily to alleviate unemployment. However, any
8 such person shall be considered an ‘employee’ if not otherwise excluded by
9 paragraphs (a) to (c) of this subsection and the public employer elects to
10 have the person so considered by an irrevocable written notice to the board.

11 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,
12 and who, as such employees, are included in a retirement plan under federal
13 railroad retirement statutes. This paragraph shall be deemed to have been
14 in effect since the inception of the system.

15 “(9) ‘Final average salary’ means whichever of the following is greater:

16 “(a) The average salary per calendar year paid by one or more partic-
17 ipating public employers to an employee who is an active member of the
18 system in three of the calendar years of membership before the effective date
19 of retirement of the employee, in which three years the employee was paid
20 the highest salary. The three calendar years in which the employee was paid
21 the largest total salary may include calendar years in which the employee
22 was employed for less than a full calendar year. If the number of calendar
23 years of active membership before the effective date of retirement of the
24 employee is three or fewer, the final average salary for the employee is the
25 average salary per calendar year paid by one or more participating public
26 employers to the employee in all of those years, without regard to whether
27 the employee was employed for the full calendar year.

28 “(b) One-third of the total salary paid by a participating public employer
29 to an employee who is an active member of the system in the last 36 calendar
30 months of active membership before the effective date of retirement of the

1 employee.

2 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
3 clude:

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

6 “(b) An employee of the State Forestry Department who is certified by the
7 State Forester as a professional wildland firefighter and whose primary du-
8 ties include the abatement of uncontrolled fires as described in ORS 477.064.

9 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and
10 ending on June 30 following.

11 “(12) ‘Fund’ means the Public Employees Retirement Fund.

12 “(13) ‘Inactive member’ means a member who is not employed in a quali-
13 fying position, whose membership has not been terminated in the manner
14 described by ORS 238.095 and who is not retired for service or disability.

15 “(14) ‘Institution of higher education’ means a public university listed in
16 ORS 352.002, the Oregon Health and Science University and a community
17 college, as defined in ORS 341.005.

18 “(15) ‘Member’ means a person who has established membership in the
19 system and whose membership has not been terminated as described in ORS
20 238.095. ‘Member’ includes active, inactive and retired members.

21 “(16) ‘Member account’ means the regular account and the variable ac-
22 count.

23 “(17) ‘Normal retirement age’ means:

24 “(a) For a person who establishes membership in the system before Jan-
25 uary 1, 1996, as described in ORS 238.430, 55 years of age if the employee
26 retires at that age as a police officer or firefighter or 58 years of age if the
27 employee retires at that age as other than a police officer or firefighter.

28 “(b) For a person who establishes membership in the system on or after
29 January 1, 1996, as described in ORS 238.430, 55 years of age if the employee
30 retires at that age as a police officer or firefighter or 60 years of age if the

1 employee retires at that age as other than a police officer or firefighter.

2 “(18) ‘Pension’ means annual payments for life derived from contributions
3 by one or more public employers.

4 “(19) ‘Police officer’ includes:

5 “(a) Employees of institutions defined in ORS 421.005 as Department of
6 Corrections institutions whose duties, as assigned by the Director of the
7 Department of Corrections, include the custody of persons committed to the
8 custody of or transferred to the Department of Corrections and employees
9 of the Department of Corrections who were classified as police officers on
10 or before July 27, 1989, whether or not such classification was authorized
11 by law.

12 “(b) Employees of the Department of State Police who are classified as
13 police officers by the Superintendent of State Police.

14 “(c) Employees of the Oregon Liquor Control Commission who are clas-
15 sified as liquor enforcement inspectors by the administrator of the commis-
16 sion.

17 “(d) Sheriffs and those deputy sheriffs or other employees of a sheriff
18 whose duties, as classified by the sheriff, are the regular duties of police
19 officers or corrections officers.

20 “(e) Police chiefs and police personnel of a city who are classified as po-
21 lice officers by the council or other governing body of the city.

22 “(f) Police officers who are commissioned by a university under ORS
23 352.383 and who are classified as police officers by the university.

24 “(g) Parole and probation officers employed by the Department of Cor-
25 rections, parole and probation officers who are transferred to county em-
26 ployment under ORS 423.549 and adult parole and probation officers, as
27 defined in ORS 181.610, who are classified as police officers for the purposes
28 of this chapter by the county governing body. If a county classifies adult
29 parole and probation officers as police officers for the purposes of this
30 chapter, and the employees so classified are represented by a labor organ-

1 ization, any proposal by the county to change that classification or to cease
2 to classify adult parole and probation officers as police officers for the pur-
3 poses of this chapter is a mandatory subject of bargaining.

4 “(h) Police officers appointed under ORS 276.021 or 276.023.

5 “(i) Employees of the Port of Portland who are classified as airport police
6 by the Board of Commissioners of the Port of Portland.

7 “(j) Employees of the State Department of Agriculture who are classified
8 as livestock police officers by the Director of Agriculture.

9 “(k) Employees of the Department of Public Safety Standards and Train-
10 ing who are classified by the department as other than secretarial or clerical
11 personnel.

12 “(L) Investigators of the Criminal Justice Division of the Department of
13 Justice.

14 “(m) Corrections officers as defined in ORS 181.610.

15 “(n) Employees of the Oregon State Lottery Commission who are classi-
16 fied by the Director of the Oregon State Lottery as enforcement agents pur-
17 suant to ORS 461.110.

18 “(o) The Director of the Department of Corrections.

19 “(p) An employee who for seven consecutive years has been classified as
20 a police officer as defined by this section, and who is employed or transferred
21 by the Department of Corrections to fill a position designated by the Direc-
22 tor of the Department of Corrections as being eligible for police officer sta-
23 tus.

24 “(q) An employee of the Department of Corrections classified as a police
25 officer on or prior to July 27, 1989, whether or not that classification was
26 authorized by law, as long as the employee remains in the position held on
27 July 27, 1989. The initial classification of an employee under a system im-
28 plemented pursuant to ORS 240.190 does not affect police officer status.

29 “(r) Employees of a school district who are appointed and duly sworn
30 members of a law enforcement agency of the district as provided in ORS

1 332.531 or otherwise employed full-time as police officers commissioned by
2 the district.

3 “(s) Employees at youth correction facilities and juvenile detention facil-
4 ities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required
5 to hold valid Oregon teaching licenses and who have supervisory, control or
6 teaching responsibilities over juveniles committed to the custody of the De-
7 partment of Corrections or the Oregon Youth Authority.

8 “(t) Employees at youth correction facilities as defined in ORS 420.005
9 whose primary job description involves the custody, control, treatment, in-
10 vestigation or supervision of juveniles placed in such facilities.

11 “(u) Employees of the Oregon Youth Authority who are classified as ju-
12 venile parole and probation officers.

13 “(20) ‘Prior service credit’ means credit provided under ORS 238.442 or
14 under ORS 238.225 (2) to (6) (1999 Edition).

15 “(21) ‘Public employer’ means the state, one of its agencies, any city,
16 county, or municipal or public corporation, any political subdivision of the
17 state or any instrumentality thereof, or an agency created by one or more
18 such governmental organizations to provide governmental services. For pur-
19 poses of this chapter, such agency created by one or more governmental or-
20 ganizations is a governmental instrumentality and a legal entity with power
21 to enter into contracts, hold property and sue and be sued.

22 “(22) ‘Qualifying position’ means one or more jobs with one or more par-
23 ticipating public employers in which an employee performs 600 or more hours
24 of service in a calendar year, excluding any service in a job for which a
25 participating public employer does not provide benefits under this chapter
26 pursuant to an application made under ORS 238.035.

27 “(23) ‘Regular account’ means the account established for each active and
28 inactive member under ORS 238.250.

29 “(24) ‘Retired member’ means a member who is retired for service or dis-
30 ability.

1 “(25) ‘Retirement credit’ means a period of time that is treated as credit-
2 able service for the purposes of this chapter.

3 “(26)(a) ‘Salary’ means the remuneration paid an employee in cash out of
4 the funds of a public employer in return for services to the employer, plus
5 the monetary value, as determined by the Public Employees Retirement
6 Board, of whatever living quarters, board, lodging, fuel, laundry and other
7 advantages the employer furnishes the employee in return for services.

8 “(b) ‘Salary’ includes but is not limited to:

9 “(A) Payments of employee and employer money into a deferred compen-
10 sation plan, which are deemed salary paid in each month of deferral;

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

13 “(C) Retroactive payments described in ORS 238.008; and

14 “(D) Wages of a deceased member paid to a surviving spouse or dependent
15 children under ORS 652.190.

16 “(c) ‘Salary’ or ‘other advantages’ does not include:

17 “(A) Travel or any other expenses incidental to employer’s business which
18 is reimbursed by the employer;

19 “(B) Payments for insurance coverage by an employer on behalf of em-
20 ployee or employee and dependents, for which the employee has no cash op-
21 tion;

22 “(C) Payments made on account of an employee’s death;

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

24 “(E) Any accelerated payment of an employment contract for a future
25 period or an advance against future wages;

26 “(F) Any retirement incentive, retirement severance pay, retirement bonus
27 or retirement gratuitous payment;

28 “(G) Payments for periods of leave of absence after the date the employer
29 and employee have agreed that no future services qualifying pursuant to ORS
30 238.015 (3) will be performed[, *except for sick leave and vacation*];

1 “(H) Payments for instructional services rendered to public universities
2 of the Oregon University System or the Oregon Health and Science Univer-
3 sity when such services are in excess of full-time employment subject to this
4 chapter. A person employed under a contract for less than 12 months is
5 subject to this subparagraph only for the months to which the contract per-
6 tains; [or]

7 “(I) Payments made by an employer for insurance coverage provided to a
8 domestic partner of an employee[.];

9 **“(J) Any lump sum payment for accumulated unused vacation leave
10 or other unused paid leave; or**

11 **“(K) Payments for overtime paid on or after January 1, 2014.**

12 “(27) ‘School year’ means the period beginning July 1 and ending June 30
13 next following.

14 “(28) ‘System’ means the Public Employees Retirement System.

15 “(29) ‘Variable account’ means the account established for a member who
16 participates in the Variable Annuity Account under ORS 238.260.

17 “(30) ‘Vested’ means being an active member of the system in each of five
18 calendar years.

19 “(31) ‘Volunteer firefighter’ means a firefighter whose position normally
20 requires less than 600 hours of service per year.

21 **“SECTION 13. ORS 238A.130 is amended to read:**

22 “238A.130. (1) Except as provided in subsection (3) of this section, for
23 purposes of the computation of pension program benefits under ORS
24 238A.125, ‘final average salary’ means whichever of the following is greater:

25 “(a) The average salary per calendar year paid to an active member in the
26 three consecutive calendar years of membership that produce the highest
27 average salary, including calendar years in which the member was employed
28 for less than a full calendar year. If the number of consecutive calendar
29 years of active membership before the effective date of retirement of the
30 member is three or less, the final average salary for the member is the av-

1 erage salary per calendar year paid to the member in all of those years,
2 without regard to whether the member was employed for full calendar years.

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

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

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

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

14 “(c) Exclude any salary for any pay period before the first full pay period
15 that is included in the last 36 calendar months of membership under sub-
16 section (1)(b) of this section[.]; **and**

17 “(d) **Exclude amounts attributable to overtime paid on or after**
18 **January 1, 2014.**

19 “(3) For purposes of the computation of pension program benefits under
20 ORS 238A.125 of a person employed by a local government as defined in ORS
21 174.116, ‘final average salary’ means whichever of the following is greater:

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

30 “(b) One-third of the total salary earned by an active member in the last

1 36 calendar months of membership before the effective date of retirement of
2 the member.

3 “[(4) For the purposes of calculating the final average salary of a member
4 under this section, the salary of the member does not include any amounts at-
5 tributable to hours of overtime that exceed the average number of hours of
6 overtime for the same class of employees as established by rule of the Public
7 Employees Retirement Board. The Oregon Department of Administrative Ser-
8 vices shall establish by rule more than one overtime average for a class of state
9 employees based on the geographic placement of the employees.]

10 **“SECTION 14.** ORS 238.285 is amended to read:

11 “238.285. (1) Not earlier than two years before a member’s earliest service
12 retirement age, a member may request a verification of retirement data from
13 the Public Employees Retirement Board. Upon receiving a request under this
14 section, the board shall notify all of the member’s participating public em-
15 ployers of the request. In a manner specified by rules of the board, the board
16 shall allow those employers a reasonable time to confirm the records relating
17 to the member that were provided to the board before the request was made.
18 The board shall thereafter provide a verification to the member that includes
19 the following data, as reflected in the records of the Public Employees Re-
20 tirement System:

21 “(a) The service information reported by the member’s employers and the
22 number of years and months of creditable service or retirement credit derived
23 from that information, determined as of a date specified in the verification.

24 “(b) The salary data reported by the member’s employers for each calen-
25 dar year, and the final average salary for the member derived from that data.

26 “(c) If applicable, the member’s regular account balance, and any variable
27 account balance, as of the end of a calendar year specified in the verifica-
28 tion.

29 “[d) If applicable, the total amount of unused sick leave accumulated by
30 the member as of a date specified in the verification.]

1 “(2) A member of the system may dispute the accuracy of the data pro-
2 vided in the verification by filing a written notice of dispute with the board
3 not more than 60 days after the date on which the verification is provided
4 to the member. Upon receiving a notice of dispute under this subsection, the
5 board shall determine the accuracy of the disputed data and make a written
6 decision based on its determination. The board shall provide to the member
7 a copy of the decision and a written explanation of any applicable statutes
8 and rules. A member may seek judicial review of the decision as provided in
9 ORS 183.484 and rules of the board.

10 “(3) Except as provided in this section, when a member who receives a
11 verification under this section retires for service, the creditable service, re-
12 tirement credit, final average salary[,] **and** member account balances [*and*
13 *accumulated unused sick leave*] used in calculating the member’s retirement
14 allowance or pension may not be less than the amounts provided in the
15 verification, subject to adjustments for:

16 “(a) Creditable service or retirement credit accrued by the member after
17 the date specified in the verification.

18 “(b) Salary attributable to periods of employment after the date specified
19 in the verification.

20 “(c) Earnings and losses credited to the member’s accounts from the end
21 of the calendar year specified in the verification to the member’s effective
22 retirement date, in accordance with rules adopted by the board.

23 “[(d) *Sick leave used and accrued after the date specified in the*
24 *verification.*]

25 “(4) The board may use creditable service, retirement credit, final average
26 salary[,] **or** member account balances [*or accumulated unused sick leave*] in
27 calculating a member’s service retirement allowance that is less than the
28 amounts provided in a verification received under this section if the member
29 knew that the amounts were not accurate at the time the verification was
30 provided and the member did not dispute the accuracy of the amounts as

1 provided in subsection (2) of this section.

2 “(5) A participating public employer may not modify information provided
3 to the board relating to a member’s creditable service, retirement credit,
4 final average salary[,] **or** employee contributions [*or accumulated unused sick*
5 *leave*] after the board provides the member with a verification under this
6 section that is based on that information except in response to the board’s
7 request for the purpose of a determination under subsection (2) or (4) of this
8 section.

9 “(6)(a) Subject to paragraph (b) of this subsection, erroneous payments
10 or overpayments paid to or on account of a member based on a verification
11 provided under this section may not be recovered under ORS 238.715, but
12 may be charged to the reserve account established under ORS 238.670 (1), or
13 charged as an administrative expense under ORS 238.610.

14 “(b) The board shall recover erroneous payments or overpayments paid to
15 or on account of a member based on a verification provided under this sec-
16 tion if the board determines that the recovery is required to maintain the
17 status of the system and the Public Employees Retirement Fund as a quali-
18 fied governmental retirement plan and trust under the Internal Revenue
19 Code and under regulations adopted pursuant to the Internal Revenue Code.

20 “(7) A member may dispute the accuracy of data in a verification only as
21 provided under this section. A member may not dispute the accuracy of data
22 in a verification in the manner provided by ORS 238.450.

23 “(8) A member shall be provided with one verification under this section
24 at no cost. The board may establish procedures for recovering administrative
25 costs from members for services in providing additional verifications.

26 “**SECTION 15.** Section 4, chapter 1, Oregon Laws 2010, is amended to
27 read:

28 “**Sec. 4.** [(1) *Except as provided in this section, section 3 of this 2009 Act*]
29 **ORS 238.285** becomes operative on July 1, 2011.

30 “[2) *The requirement that the Public Employees Retirement Board provide*

1 *verification of the amount of a member's accumulated unused sick leave under*
2 *section 3 (1)(d) of this 2009 Act first applies to requests for verifications of*
3 *retirement data received by the board on or after July 1, 2012.]*

4 **“SECTION 16.** ORS 238.580 is amended to read:

5 “238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092,
6 238.115 (1), 238.250, 238.255, 238.260, [238.350,] 238.364, 238.410, 238.415, 238.420,
7 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618,
8 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705
9 and the increases provided by ORS 238.366 for members of the system who
10 are serving as other than police officers or firefighters apply in respect to
11 service as a judge member.

12 “(2) This chapter applies in respect to persons described in ORS 238.505
13 (1) and in respect to service as a judge member only as specifically provided
14 in ORS 238.500 to 238.585.

15 **“SECTION 17.** ORS 292.180 is amended to read:

16 “292.180. (1) The Oregon Department of Administrative Services may ren-
17 der a monthly or quarterly invoice to all state agencies utilizing or intending
18 to utilize the joint payroll system in the future. This monthly or quarterly
19 invoice shall be equal to demonstrated savings of Workers' Compensation
20 workday tax costs which are a direct result of the savings from payment of
21 the workday tax based on actual days worked by the employee.

22 “(2) It is the intention of this section to allow the department to use
23 demonstrated savings of Workers' Compensation workday tax costs to pay for
24 the implementation costs of ORS [238.350,] 240.546, 292.026, 292.033, 292.070
25 to 292.110, 292.170 and this section and the moneys received are continuously
26 appropriated for the purposes of ORS [238.350,] 240.546, 292.026, 292.033,
27 292.070 to 292.110, 292.170 and this section.

28 “(3) Any excess moneys remaining after the implementation of ORS
29 [238.350,] 240.546, 292.026, 292.033, 292.070 to 292.110, 292.170 and this section
30 shall be returned pro rata on the basis of total moneys to agency contribu-

1 tions to the agencies from which received. However, if the amount remaining
2 is less than \$10,000, that amount may be transferred to the General Fund as
3 a miscellaneous receipt.

4 **“SECTION 18. The amendments to ORS 238.005, 238.580, 238A.130 and**
5 **292.180 by sections 12, 13, 16 and 17 of this 2013 Act and the repeal of**
6 **ORS 238.350 and 238.355 by section 11 of this 2013 Act apply only to**
7 **members of the Public Employees Retirement System whose effective**
8 **date of retirement is on or after the effective date of this 2013 Act.**

9

10 “TAXATION OF OUT-OF-STATE RETIREES

11

12 **“SECTION 19.** ORS 238.372 is amended to read:

13 “238.372. (1) Except as provided in ORS 238.372 to 238.384, the Public
14 Employees Retirement Board may not pay the increased [*benefit*] **benefits**
15 provided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws
16 1995, if the board receives notice under ORS 238.372 to 238.384 that the
17 payments made to the person under this chapter are not subject to Oregon
18 personal income tax under ORS 316.127 (9).

19 “[*(2) The provisions of ORS 238.372 to 238.384 do not apply to:*]

20 “[*(a) A retired member of the system who is receiving payments under this*
21 *chapter and whose effective date of retirement is before January 1, 2012;*]

22 “[*(b) A person who is receiving payments under this chapter by reason of*
23 *the retirement of a member whose effective date of retirement is before January*
24 *1, 2012; and]*

25 “[*(c) Any other person who receives payments under this chapter that began*
26 *before January 1, 2012.*]

27 “[*(3)*] **(2)** The board shall give written notification of the provisions of
28 ORS 238.372 to 238.384 to all persons applying for or receiving payments
29 under this chapter.

30 “[*(4)*] **(3)** A person receiving payments under this chapter that are not

1 increased under **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon
2 Laws 1995, by reason of ORS 238.372 to 238.384 has no right or claim to the
3 increased benefit provided by **chapter 796, Oregon Laws 1991, or** chapter
4 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

5 **“SECTION 20.** ORS 238.374 is amended to read:

6 “238.374. (1) A person applying for payments under this chapter shall give
7 a written statement to the Public Employees Retirement Board that indicates
8 whether the payments will be subject to Oregon personal income tax under
9 ORS 316.127 (9). If the person fails to provide the statement required by this
10 subsection, or the statement indicates that the payments will not be subject
11 to Oregon personal income tax under ORS 316.127 (9), the board may not pay
12 the person the increased [*benefit*] **benefits** provided by **chapter 796, Oregon**
13 **Laws 1991, or** chapter 569, Oregon Laws 1995.

14 “(2) If a person is receiving payments under this chapter that have not
15 been increased under **chapter 796, Oregon Laws 1991, or** chapter 569,
16 Oregon Laws 1995, by reason of the provisions of subsection (1) of this sec-
17 tion, and thereafter the payments become subject to Oregon personal income
18 tax **under ORS 316.127 (9)**, the person shall promptly notify the Public
19 Employees Retirement Board by written statement that the payments are
20 subject to Oregon personal income tax **under ORS 316.127 (9)**.

21 “(3) If a person is receiving payments under this chapter that have not
22 been increased under **chapter 796, Oregon Laws 1991, or** chapter 569,
23 Oregon Laws 1995, by reason of the provisions of subsection (1) of this sec-
24 tion, and the board receives notice under subsection (2) of this section that
25 payments to the person under this chapter are subject to Oregon personal
26 income tax **under ORS 316.127 (9)**, or determines under ORS 238.378 that
27 payments to the person under this chapter are subject to Oregon personal
28 income tax **under ORS 316.127 (9)**, the board shall initiate payment of the
29 increased [*benefit*] **benefits** provided by **chapter 796, Oregon Laws 1991,**
30 **or** chapter 569, Oregon Laws 1995. The increase in benefits becomes effective

1 on the first day of the calendar year following receipt of notice by the board.

2 **“SECTION 21.** ORS 238.376 is amended to read:

3 “238.376. (1) If a person is receiving payments under this chapter, and
4 after the payments commence the payments cease to be subject to Oregon
5 personal income tax under ORS 316.127 (9), the person shall promptly notify
6 the Public Employees Retirement Board by written statement that the pay-
7 ments are no longer subject to Oregon personal income tax **under ORS**
8 **316.127 (9)**. The board shall reduce any benefits payable to the person by the
9 amount by which the benefits were increased under **chapter 796, Oregon**
10 **Laws 1991, or** chapter 569, Oregon Laws 1995. The reduction in benefits be-
11 comes effective on the first day of the calendar year following receipt of
12 notice by the board.

13 “(2) If a person is receiving payments under this chapter that have been
14 reduced [*under the provisions of subsection (1) of this section*] **because the**
15 **payments are not subject to Oregon personal income tax under ORS**
16 **316.127 (9)**, and thereafter the payments become subject to Oregon personal
17 income tax **under ORS 316.127 (9)**, the person shall promptly notify the
18 board by written statement that the payments are once again subject to
19 Oregon personal income tax **under ORS 316.129 (9)**.

20 “(3) If a person is receiving payments under this chapter that have been
21 reduced [*under the provisions of subsection (1) of this section*] **because the**
22 **payments are not subject to Oregon personal income tax under ORS**
23 **316.127 (9)**, and the board receives notice under subsection (2) of this section
24 that payments to the person under this chapter are once again subject to
25 Oregon personal income tax **under ORS 316.127 (9)**, or determines under
26 ORS 238.378 that payments to the person under this chapter are once again
27 subject to Oregon personal income tax **under ORS 316.127 (9)**, the board
28 shall resume payment of the increased [*benefit*] **benefits** provided by **chapter**
29 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995. The increase in
30 benefits becomes effective on the first day of the calendar year following

1 receipt of notice by the board.

2 **“SECTION 22.** ORS 238.378 is amended to read:

3 “238.378. (1) Not less than once each calendar year, the Public Employees
4 Retirement Board shall provide to the Department of Revenue information
5 identifying persons to whom payments have been made under this chapter.
6 The Department of Revenue shall provide to the board such information on
7 Oregon personal income tax returns as the board deems necessary to deter-
8 mine whether the payments made to the person under this chapter are sub-
9 ject to Oregon personal income tax under ORS 316.127 (9).

10 “(2) If the board determines that the payments made to a person under
11 this chapter are not subject to Oregon personal income tax under ORS
12 316.127 (9) based on information provided by the Department of Revenue
13 under this section, and the person is receiving the increased benefit provided
14 by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the
15 board shall reduce the benefits payable to the person as provided in ORS
16 238.376 (1).

17 “(3) If the board determines that the payments made to a person under
18 this chapter are subject to Oregon personal income tax **under ORS 316.127**
19 **(9)** based on information provided by the Department of Revenue under this
20 section, and the person is not receiving the increased benefit provided by
21 **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the
22 board shall increase the benefits payable to the person as provided in ORS
23 238.374 (3) or 238.376 (3).

24 **“SECTION 23.** ORS 237.635 is amended to read:

25 “237.635. (1) Any public employer that provides retirement benefits to its
26 police officers and firefighters other than by participation in the Public
27 Employees Retirement System pursuant to the provisions of ORS 237.620
28 shall provide increases to the police officers and firefighters of the public
29 employer, both active and retired, that are equal to the increases in retire-
30 ment benefits that are provided for in this 1991 Act for active and retired

1 police officers or firefighters who are members of the Public Employees Re-
2 tirement System, or shall provide to those police officers and firefighters
3 increases in retirement benefits that are the actuarial equivalent of the in-
4 creases in retirement benefits that are provided for in this 1991 Act for police
5 officers or firefighters who are members of the Public Employees Retirement
6 System. No other retirement benefit or other benefit provided by those public
7 employers shall be decreased by the employer by reason of the increases
8 mandated by this section.

9 “(2) The increased benefits provided for in this section apply only to po-
10 lice officers or firefighters who establish membership before July 14, 1995,
11 in a retirement plan or system offered by a public employer in lieu of mem-
12 bership in the Public Employees Retirement System pursuant to the pro-
13 visions of ORS 237.620.

14 **“(3) A public employer that is subject to the requirements of this**
15 **section shall cease paying increased retirement benefits under this**
16 **section if the payments made to the person are not subject to Oregon**
17 **personal income tax under ORS 316.127 (9). A public employer that is**
18 **subject to the requirements of this section shall adopt procedures**
19 **similar to those described in ORS 238.372 to 238.384 for the purpose of**
20 **implementing this subsection. The Department of Revenue shall pro-**
21 **vide to a public employer that is subject to the requirements of this**
22 **section the information regarding Oregon personal income tax returns**
23 **that the public employer deems necessary to determine whether the**
24 **retirement benefits paid to the person by the public employer are**
25 **subject to Oregon personal income tax under ORS 316.127 (9).**

26 **“SECTION 24.** ORS 237.637 is amended to read:

27 “237.637. (1) Any public employer that provides retirement benefits to its
28 police officers and firefighters other than by participation in the Public
29 Employees Retirement System pursuant to the provisions of ORS 237.620
30 shall provide increases to the police officers and firefighters of the public

1 employer, both active and retired, that are equal to the increases in retire-
2 ment benefits that are provided for in chapter 569, Oregon Laws 1995, for
3 active and retired police officers or firefighters who are members of the
4 Public Employees Retirement System, or the public employer shall provide
5 to those police officers and firefighters increases in retirement benefits that
6 are the actuarial equivalent of the increases in retirement benefits that are
7 provided for in chapter 569, Oregon Laws 1995, for police officers or fire-
8 fighters who are members of the Public Employees Retirement System. In-
9 creases provided under this section shall be reduced by the amount of any
10 benefit increase provided by ORS 237.635 in the same manner that increases
11 in retirement benefits that are provided for in chapter 569, Oregon Laws
12 1995, for active and retired police officers or firefighters who are members
13 of the Public Employees Retirement System are reduced to reflect amounts
14 paid to those members under the provisions of chapter 796, Oregon Laws
15 1991. No other retirement benefit or other benefit provided by those public
16 employers shall be decreased by the employer by reason of the increases
17 mandated by this section.

18 “(2) A public employer that is subject to the requirements of this section
19 shall cease paying increased **retirement** benefits under this section if the
20 payments made to the person are not subject to Oregon personal income tax
21 under ORS 316.127 (9). A public employer that is subject to the requirements
22 of this section shall adopt procedures similar to those described in ORS
23 238.372 to 238.384 for the purpose of implementing this subsection. The De-
24 partment of Revenue shall provide to a public employer that is subject to the
25 requirements of this section [*such*] **the** information regarding Oregon per-
26 sonal income tax returns [*as*] **that** the public employer deems necessary to
27 determine whether the retirement benefits paid to the person by the public
28 employer are subject to Oregon personal income tax under ORS 316.127 (9).

29 “[*(3) The provisions of subsection (2) of this section do not apply to:*]

30 “[*(a) A retired police officer or firefighter who is receiving payments under*”

1 *the public employer's plan and whose effective date of retirement is before*
2 *January 1, 2012;]*

3 *"[(b) A person who is receiving payments under the public employer's plan*
4 *by reason of the retirement of a police officer or firefighter whose effective date*
5 *of retirement is before January 1, 2012; and]*

6 *"[(c) Any other person who receives payments under the public employer's*
7 *plan that began before January 1, 2012.]*

8 **"SECTION 25.** ORS 314.840, as amended by section 11, chapter 107,
9 Oregon Laws 2012, is amended to read:

10 "314.840. (1) The Department of Revenue may:

11 "(a) Furnish any taxpayer, representative authorized to represent the
12 taxpayer under ORS 305.230 or person designated by the taxpayer under ORS
13 305.193, upon request of the taxpayer, representative or designee, with a copy
14 of the taxpayer's income tax return filed with the department for any year,
15 or with a copy of any report filed by the taxpayer in connection with the
16 return, or with any other information the department considers necessary.

17 "(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

18 "(c) Publish statistics so classified as to prevent the identification of in-
19 come or any particulars contained in any report or return.

20 "(d) Disclose a taxpayer's name, address, telephone number, refund
21 amount, amount due, Social Security number, employer identification number
22 or other taxpayer identification number to the extent necessary in con-
23 nection with collection activities or the processing and mailing of corre-
24 spondence or of forms for any report, return or claim required in the
25 administration of ORS 310.630 to 310.706, any local tax under ORS 305.620,
26 or any law imposing a tax upon or measured by net income.

27 "(2) The department also may disclose and give access to information de-
28 scribed in ORS 314.835 to:

29 "(a) The Governor of the State of Oregon or the authorized representative
30 of the Governor:

1 “(A) With respect to an individual who is designated as being under
2 consideration for appointment or reappointment to an office or for employ-
3 ment in the office of the Governor. The information disclosed shall be con-
4 fined to whether the individual:

5 “(i) Has filed returns with respect to the taxes imposed by ORS chapter
6 316 for those of not more than the three immediately preceding years for
7 which the individual was required to file an Oregon individual income tax
8 return.

9 “(ii) Has failed to pay any tax within 30 days from the date of mailing
10 of a deficiency notice or otherwise respond to a deficiency notice within 30
11 days of its mailing.

12 “(iii) Has been assessed any penalty under the Oregon personal income
13 tax laws and the nature of the penalty.

14 “(iv) Has been or is under investigation for possible criminal offenses
15 under the Oregon personal income tax laws. Information disclosed pursuant
16 to this paragraph shall be used only for the purpose of making the appoint-
17 ment, reappointment or decision to employ or not to employ the individual
18 in the office of the Governor.

19 “(B) For use by an officer or employee of the Oregon Department of Ad-
20 ministrative Services duly authorized or employed to prepare revenue esti-
21 mates, or a person contracting with the Oregon Department of
22 Administrative Services to prepare revenue estimates, in the preparation of
23 revenue estimates required for the Governor’s budget under ORS 291.201 to
24 291.226, or required for submission to the Emergency Board or the Joint In-
25 terim Committee on Ways and Means, or if the Legislative Assembly is in
26 session, to the Joint Committee on Ways and Means, and to the Legislative
27 Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and
28 291.445. The Department of Revenue shall disclose and give access to the
29 information described in ORS 314.835 for the purposes of this subparagraph
30 only if:

1 “(i) The request for information is made in writing, specifies the purposes
2 for which the request is made and is signed by an authorized representative
3 of the Oregon Department of Administrative Services. The form for request
4 for information shall be prescribed by the Oregon Department of Adminis-
5 trative Services and approved by the Director of the Department of Revenue.

6 “(ii) The officer, employee or person receiving the information does not
7 remove from the premises of the Department of Revenue any materials that
8 would reveal the identity of a personal or corporate taxpayer.

9 “(b) The Commissioner of Internal Revenue or authorized representative,
10 for tax administration and compliance purposes only.

11 “(c) For tax administration and compliance purposes, the proper officer
12 or authorized representative of any of the following entities that has or is
13 governed by a provision of law that meets the requirements of any applicable
14 provision of the Internal Revenue Code as to confidentiality:

15 “(A) A state;

16 “(B) A city, county or other political subdivision of a state;

17 “(C) The District of Columbia; or

18 “(D) An association established exclusively to provide services to federal,
19 state or local taxing authorities.

20 “(d) The Multistate Tax Commission or its authorized representatives, for
21 tax administration and compliance purposes only. The Multistate Tax Com-
22 mission may make the information available to the Commissioner of Internal
23 Revenue or the proper officer or authorized representative of any govern-
24 mental entity described in and meeting the qualifications of paragraph (c)
25 of this subsection.

26 “(e) The Attorney General, assistants and employees in the Department
27 of Justice, or other legal representative of the State of Oregon, to the extent
28 the department deems disclosure or access necessary for the performance of
29 the duties of advising or representing the department pursuant to ORS
30 180.010 to 180.240 and the tax laws of this state.

1 “(f) Employees of the State of Oregon, other than of the Department of
2 Revenue or Department of Justice, to the extent the department deems dis-
3 closure or access necessary for such employees to perform their duties under
4 contracts or agreements between the department and any other department,
5 agency or subdivision of the State of Oregon, in the department’s adminis-
6 tration of the tax laws.

7 “(g) Other persons, partnerships, corporations and other legal entities,
8 and their employees, to the extent the department deems disclosure or access
9 necessary for the performance of such others’ duties under contracts or
10 agreements between the department and such legal entities, in the
11 department’s administration of the tax laws.

12 “(h) The Legislative Revenue Officer or authorized representatives upon
13 compliance with ORS 173.850. Such officer or representative shall not remove
14 from the premises of the department any materials that would reveal the
15 identity of any taxpayer or any other person.

16 “(i) The Department of Consumer and Business Services, to the extent the
17 department requires such information to determine whether it is appropriate
18 to adjust those workers’ compensation benefits the amount of which is based
19 pursuant to ORS chapter 656 on the amount of wages or earned income re-
20 ceived by an individual.

21 “(j) Any agency of the State of Oregon, or any person, or any officer or
22 employee of such agency or person to whom disclosure or access is given by
23 state law and not otherwise referred to in this section, including but not
24 limited to the Secretary of State as Auditor of Public Accounts under section
25 2, Article VI of the Oregon Constitution; the Department of Human Services
26 pursuant to ORS 314.860 and 412.094; the Division of Child Support of the
27 Department of Justice and district attorney regarding cases for which they
28 are providing support enforcement services under ORS 25.080; the State
29 Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board
30 of Accountancy, pursuant to ORS 673.415.

1 “(k) The Director of the Department of Consumer and Business Services
2 to determine that a person complies with ORS chapter 656 and the Director
3 of the Employment Department to determine that a person complies with
4 ORS chapter 657, the following employer information:

5 “(A) Identification numbers.

6 “(B) Names and addresses.

7 “(C) Inception date as employer.

8 “(D) Nature of business.

9 “(E) Entity changes.

10 “(F) Date of last payroll.

11 “(L) The Director of Human Services to determine that a person has the
12 ability to pay for care that includes services provided by the Eastern Oregon
13 Training Center or the Department of Human Services to collect any unpaid
14 cost of care as provided by ORS chapter 179.

15 “(m) The Director of the Oregon Health Authority to determine that a
16 person has the ability to pay for care that includes services provided by the
17 Blue Mountain Recovery Center or the Oregon State Hospital or the Oregon
18 Health Authority to collect any unpaid cost of care as provided by ORS
19 chapter 179.

20 “(n) Employees of the Employment Department to the extent the Depart-
21 ment of Revenue deems disclosure or access to information on a combined
22 tax report filed under ORS 316.168 is necessary to performance of their duties
23 in administering the tax imposed by ORS chapter 657.

24 “(o) The State Fire Marshal to assist the State Fire Marshal in carrying
25 out duties, functions and powers under ORS 453.307 to 453.414, the employer
26 or agent name, address, telephone number and standard industrial classi-
27 fication, if available.

28 “(p) Employees of the Department of State Lands for the purposes of
29 identifying, locating and publishing lists of taxpayers entitled to unclaimed
30 refunds as required by the provisions of chapter 694, Oregon Laws 1993. The

1 information shall be limited to the taxpayer's name, address and the refund
2 amount.

3 “(q) In addition to the disclosure allowed under ORS 305.225, state or lo-
4 cal law enforcement agencies to assist in the investigation or prosecution
5 of the following criminal activities:

6 “(A) Mail theft of a check, in which case the information that may be
7 disclosed shall be limited to the stolen document, the name, address and
8 taxpayer identification number of the payee, the amount of the check and the
9 date printed on the check.

10 “(B) The counterfeiting, forging or altering of a check submitted by a
11 taxpayer to the Department of Revenue or issued by the Department of
12 Revenue to a taxpayer, in which case the information that may be disclosed
13 shall be limited to the counterfeit, forged or altered document, the name,
14 address and taxpayer identification number of the payee, the amount of the
15 check, the date printed on the check and the altered name and address.

16 “(r) The United States Postal Inspection Service or a federal law
17 enforcement agency, including but not limited to the United States Depart-
18 ment of Justice, to assist in the investigation of the following criminal ac-
19 tivities:

20 “(A) Mail theft of a check, in which case the information that may be
21 disclosed shall be limited to the stolen document, the name, address and
22 taxpayer identification number of the payee, the amount of the check and the
23 date printed on the check.

24 “(B) The counterfeiting, forging or altering of a check submitted by a
25 taxpayer to the Department of Revenue or issued by the Department of
26 Revenue to a taxpayer, in which case the information that may be disclosed
27 shall be limited to the counterfeit, forged or altered document, the name,
28 address and taxpayer identification number of the payee, the amount of the
29 check, the date printed on the check and the altered name and address.

30 “(s) The United States Financial Management Service, for purposes of

1 facilitating the offsets described in ORS 305.612.

2 “(t) A municipal corporation of this state for purposes of assisting the
3 municipal corporation in the administration of a tax of the municipal cor-
4 poration that is imposed on or measured by income, wages or net earnings
5 from self-employment. Any disclosure under this paragraph may be made only
6 pursuant to a written agreement between the Department of Revenue and the
7 municipal corporation that ensures the confidentiality of the information
8 disclosed.

9 “(u) A consumer reporting agency, to the extent necessary to carry out
10 the purposes of ORS 314.843.

11 “(v) The Public Employees Retirement Board, to the extent necessary to
12 carry out the purposes of ORS 238.372 to 238.384, and to any public employer,
13 to the extent necessary to carry out the purposes of ORS **237.635 (3) and**
14 **237.637 (2)**.

15 “(3)(a) Each officer or employee of the department and each person de-
16 scribed or referred to in subsection (2)(a), (e) to (k) or (n) to (q) of this sec-
17 tion to whom disclosure or access to the tax information is given under
18 subsection (2) of this section or any other provision of state law, prior to
19 beginning employment or the performance of duties involving such disclosure
20 or access, shall be advised in writing of the provisions of ORS 314.835 and
21 314.991, relating to penalties for the violation of ORS 314.835, and shall as
22 a condition of employment or performance of duties execute a certificate for
23 the department, in a form prescribed by the department, stating in substance
24 that the person has read these provisions of law, that the person has had
25 them explained and that the person is aware of the penalties for the violation
26 of ORS 314.835.

27 “(b) The disclosure authorized in subsection (2)(r) of this section shall be
28 made only after a written agreement has been entered into between the De-
29 partment of Revenue and the person described in subsection (2)(r) of this
30 section to whom disclosure or access to the tax information is given, pro-

1 viding that:

2 “(A) Any information described in ORS 314.835 that is received by the
3 person pursuant to subsection (2)(r) of this section is confidential informa-
4 tion that may not be disclosed, except to the extent necessary to investigate
5 or prosecute the criminal activities described in subsection (2)(r) of this
6 section;

7 “(B) The information shall be protected as confidential under applicable
8 federal and state laws; and

9 “(C) The United States Postal Inspection Service or the federal law
10 enforcement agency shall give notice to the Department of Revenue of any
11 request received under the federal Freedom of Information Act, 5 U.S.C. 552,
12 or other federal law relating to the disclosure of information.

13 “(4) The Department of Revenue may recover the costs of furnishing the
14 information described in subsection (2)(k) to (m) and (o) to (q) of this section
15 from the respective agencies.

16

17 **“TRANSFER OF EMPLOYEE CONTRIBUTIONS**

18

19 **“SECTION 26. Sections 27, 28 and 29 of this 2013 Act are added to**
20 **and made a part of ORS chapter 238A.**

21 **“SECTION 27. (1) A member of the Public Employees Retirement**
22 **System ceases to be a member of the individual account program on**
23 **January 1, 2014.**

24 **“(2) A member of the Public Employees Retirement System who is**
25 **a member of the individual account program on January 1, 2014, con-**
26 **tinues to be a member for the purpose of amounts in the employee**
27 **account established for the member under ORS 238A.350 (2), and the**
28 **Public Employees Retirement Board shall continue to make adjust-**
29 **ments to the account in the manner prescribed by ORS 238A.350 (1)**
30 **on and after January 1, 2014, but no further employee contributions**

1 may be deposited in the account on or after January 1, 2014, by reason
2 of service by the member.

3 “(3) Employee contributions under ORS 238A.330 made on or after
4 January 1, 2014, by or on behalf of a member of the Public Employees
5 Retirement System may not be deposited by the Public Employees
6 Retirement Board in the employee account established for the member
7 under ORS 238A.350 (2), but shall instead be deposited in the account
8 established for the member under section 28 of this 2013 Act.

9 **“SECTION 28. (1) The Public Employees Retirement Board shall**
10 **establish an account for each active member of the Public Employees**
11 **Retirement System. Each account shall be adjusted at least annually**
12 **in accordance with rules adopted by the board to reflect any net**
13 **earnings or losses on those contributions. The adjustments described**
14 **in this subsection shall continue until the account is withdrawn or**
15 **applied against the costs of the pension or other retirement benefits**
16 **payable to the member.**

17 “(2) Unless the amounts in an account created under this section
18 are withdrawn under section 29 of this 2013 Act, the amounts in the
19 account shall be applied by the board to pay the costs of the pension
20 or other retirement benefits payable to or on behalf of the member.

21 **“SECTION 29. (1) An inactive member may elect to receive a dis-**
22 **tribution of the amounts in the member’s account established under**
23 **section 28 of this 2013 Act if the inactive member has separated from**
24 **all service with participating public employers and with employers who**
25 **are treated as part of a participating public employer’s controlled**
26 **group under the federal laws and rules governing the status of the**
27 **Public Employees Retirement System and the Public Employees Re-**
28 **irement Fund as a qualified governmental retirement plan and trust.**

29 “(2) A member who is vested in the pension program established
30 under this chapter and who is eligible to withdraw from the pension

1 **program under ORS 238A.120 may make an election under this section**
2 **only if the member also withdraws from the pension program.**

3 **SECTION 30.** ORS 238A.300 is amended to read:

4 “238A.300. (1) Except as provided in ORS 238A.100 (2) and subsection (2)
5 of this section, an eligible employee who is employed in a qualifying position
6 on or after August 29, 2003, by a public employer that is participating in the
7 individual account program and who will not receive benefits under ORS
8 chapter 238 for service with the participating public employer pursuant to
9 the provisions of ORS 238A.025 becomes a member of the individual account
10 program on the first day of the month after the employee completes six full
11 calendar months of employment. The six-month probationary period may not
12 be interrupted by more than 30 consecutive working days.

13 “(2) An inactive member of the pension program who terminated mem-
14 bership in the individual account program pursuant to ORS 238A.310 (2) be-
15 comes a member of the individual account program immediately upon
16 reemployment in a qualifying position.

17 **“(3) Notwithstanding subsections (1) and (2) of this section, a person**
18 **may not become a member of the individual account program on or**
19 **after January 1, 2014.**

20 **SECTION 31.** ORS 238A.320 is amended to read:

21 “238A.320. (1) A member of the individual account program becomes
22 vested in the employee account established for the member under ORS
23 238A.350 (2) on the date the employee account is established.

24 “(2) A member who makes rollover contributions becomes vested in the
25 rollover account established for the member under ORS 238A.350 (4) on the
26 date the rollover account is established.

27 “(3) Except as provided in subsection (4) of this section, if an employer
28 makes employer contributions for a member under ORS 238A.340 the member
29 becomes vested in the employer account established under ORS 238A.350 (3)
30 on the earliest of the following dates:

1 “(a) The date on which the member completes at least 600 hours of service
2 in each of five calendar years. The five calendar years need not be consec-
3 utive, but are subject to the provisions of subsection (5) of this section.

4 “(b) The date on which an active member reaches the normal retirement
5 age for the member under ORS 238A.160.

6 “(c) If the individual account program is terminated, the date on which
7 termination becomes effective, but only to the extent the account is then
8 funded.

9 “(d) The date on which an active member becomes disabled, as described
10 in ORS 238A.155 (5).

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

12 “(4) If on the date that a person becomes an active member the person
13 has already reached the normal retirement age for the person under ORS
14 238A.160, and the employer makes employer contributions for the member
15 under ORS 238A.340, the person is vested in the employer account established
16 under ORS 238A.350 (3) on that date.

17 “(5) If a member of the individual account program who is not vested in
18 the employer account performs fewer than 600 hours of service in each of five
19 consecutive calendar years, hours of service performed before the first cal-
20 endar year of the period of five consecutive calendar years shall be disre-
21 garded for purposes of determining whether the member is vested under
22 subsection (3)(a) of this section.

23 “(6) Solely for purposes of determining whether a member is vested under
24 subsection (3)(a) of this section, hours of service include creditable service,
25 as defined in ORS 238.005, performed by the person before the person became
26 an eligible employee, as long as the membership of the person under ORS
27 chapter 238 has not been terminated under the provisions of ORS 238.095 on
28 the date the person becomes an eligible employee.

29 **“(7) A member becomes vested in the account established for the**
30 **member under section 28 of this 2013 Act on the date the account is**

1 **established under section 28 of this 2013 Act.**

2 **“SECTION 32.** ORS 238A.330 is amended to read:

3 *“238A.330. (1) [A member of the individual account program must make*
4 *employee contributions to the individual account program]* **An active member**
5 **of the Public Employees Retirement System shall make an employee**
6 **contribution to the account established for the member under section**
7 **28 of this 2013 Act** of six percent of the member’s salary.

8 *“(2) Employee contributions made by a member of the individual account*
9 *program under this section shall be credited by the board to the employee ac-*
10 *count established for the member under ORS 238A.350 (2).]*

11 **“(2) The employee contribution required by this section, whether**
12 **made by the member or by the employer pursuant to an agreement**
13 **under ORS 238A.335, must be remitted by the employer to the Public**
14 **Employees Retirement Board in the manner established by the board.**

15 **“SECTION 33. (1) The amendments to ORS 238A.330 by section 32**
16 **of this 2013 Act become operative on January 1, 2014.**

17 **“(2) The Public Employees Retirement Board may take any action**
18 **before the operative date specified in subsection (1) of this section to**
19 **enable the board to exercise, on and after the operative date specified**
20 **in subsection (1) of this section, all of the duties, functions and powers**
21 **conferred on the board by the amendments to ORS 238A.330 by section**
22 **32 of this 2013 Act.**

23
24 **“‘PICK-UP’ OF EMPLOYEE CONTRIBUTIONS**

25
26 **“SECTION 34.** ORS 238A.335 is amended to read:

27 *“238A.335. (1) A participating public employer may agree, by a written*
28 *employment policy or by a collective bargaining agreement, to pay **all or***
29 ***part of** the employee contribution required under ORS 238A.330. [The policy*
30 *or agreement need not include all members of the individual account program*

1 *employed by the employer.]* **The amount of the employee contribution that**
2 **is paid by the employer must be equal to a percentage of the member’s**
3 **salary that is not less than one percent and not greater than six per-**
4 **cent, and the percentage must be a whole number. The employer may**
5 **enter into an agreement under this section with all or some of the**
6 **employees employed by the employer.**

7 “(2) An agreement under this section [*to pay the required employee con-*
8 *tribution]* may provide that:

9 “(a) **Amounts be deducted from** employee compensation [*be reduced]* to
10 generate the funds needed to make [*the*] employee contributions; [*or*]

11 “(b) Additional amounts be paid by the employer for the purpose of mak-
12 ing [*the*] employee contributions[, *and employee compensation not be reduced*
13 *for the purpose of generating the funds needed to make the employee contri-*
14 *butions]; or*

15 “(c) **Amounts be deducted from employee compensation under par-**
16 **agraph (a) of this subsection to generate the funds needed to make a**
17 **portion of the employee contributions, and additional amounts be paid**
18 **by the employer under paragraph (b) of this subsection to generate the**
19 **funds needed to make a portion of the employee contributions.**

20 “(3) A participating public employer must give written notice to the
21 Public Employees Retirement Board at the time that [*a written employment*
22 *policy or collective bargaining agreement described in subsection (1) of]* **an**
23 **agreement under** this section is adopted or changed. The notice must spe-
24 cifically [*indicate whether the agreement is as described in subsection (2)(a)*
25 *or (b) of this section.*] **describe the apportionment of the employee con-**
26 **tribution between the members and the employer.** [*Any change in the*
27 *manner in which employee contributions are to be paid applies only to em-*
28 *ployee contributions made on and after the date the notice is received by the*
29 *board.*] **An agreement under this section, and any change to an agree-**
30 **ment under this section, applies only to employee contributions for**

1 **pay periods beginning on or after the date that the notice is received**
2 **by the board.**

3 **“SECTION 35.** ORS 238A.005, as amended by section 1, chapter 31,
4 Oregon Laws 2012, is amended to read:

5 “238A.005. For the purposes of this chapter:

6 “(1) ‘Active member’ means a member of the pension program or the in-
7 dividual account program of the Oregon Public Service Retirement Plan who
8 is actively employed in a qualifying position.

9 “(2) ‘Actuarial equivalent’ means a payment or series of payments having
10 the same value as the payment or series of payments replaced, computed on
11 the basis of interest rate and mortality assumptions adopted by the board.

12 “(3) ‘Board’ means the Public Employees Retirement Board.

13 “(4) ‘Eligible employee’ means a person who performs services for a par-
14 ticipating public employer, including elected officials other than judges. ‘El-
15 igible employee’ does not include:

16 “(a) Persons engaged as independent contractors;

17 “(b) Aliens working under a training or educational visa;

18 “(c) Persons, other than workers in the Industries for the Blind Program
19 under ORS 346.190, provided sheltered employment or make-work by a public
20 employer;

21 “(d) Persons categorized by a participating public employer as student
22 employees;

23 “(e) Any person who is an inmate of a state institution;

24 “(f) Employees of foreign trade offices of the Oregon Business Develop-
25 ment Department who live and perform services in foreign countries under
26 the provisions of ORS 285A.075 (1)(g);

27 “(g) An employee actively participating in an alternative retirement pro-
28 gram established under ORS 353.250 or an optional retirement plan estab-
29 lished under ORS 341.551;

30 “(h) Employees of the Oregon University System who are actively partic-

1 ipating in an optional retirement plan offered under ORS 243.800;

2 “(i) Any employee who belongs to a class of employees that was not eli-
3 gible on August 28, 2003, for membership in the system under the provisions
4 of ORS chapter 238 or other law;

5 “(j) Any person who belongs to a class of employees who are not eligible
6 to become members of the Oregon Public Service Retirement Plan under the
7 provisions of ORS 238A.070 (2);

8 “(k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS
9 chapter 238 and who continues to receive retirement benefits while employed;
10 and

11 “(L) Judges.

12 “(5) ‘Firefighter’ means:

13 “(a) A person employed by a local government, as defined in ORS 174.116,
14 whose primary job duties include the fighting of fires;

15 “(b) The State Fire Marshal, the chief deputy state fire marshal and
16 deputy state fire marshals; and

17 “(c) An employee of the State Forestry Department who is certified by the
18 State Forester as a professional wildland firefighter and whose primary du-
19 ties include the abatement of uncontrolled fires as described in ORS 477.064.

20 “(6) ‘Fund’ means the Public Employees Retirement Fund.

21 “(7)(a) ‘Hour of service’ means:

22 “(A) An hour for which an eligible employee is directly or indirectly paid
23 or entitled to payment by a participating public employer for performance
24 of duties in a qualifying position; and

25 “(B) An hour of vacation, holiday, illness, incapacity, jury duty, military
26 duty or authorized leave during which an employee does not perform duties
27 but for which the employee is directly or indirectly paid or entitled to pay-
28 ment by a participating public employer for services in a qualifying position,
29 as long as the hour is within the number of hours regularly scheduled for
30 the performance of duties during the period of vacation, holiday, illness, in-

1 capacity, jury duty, military duty or authorized leave.

2 “(b) ‘Hour of service’ does not include any hour for which payment is
3 made or due under a plan maintained solely for the purpose of complying
4 with applicable workers’ compensation laws or unemployment compensation
5 laws.

6 “(8) ‘Inactive member’ means a member of the pension program or the
7 individual account program of the Oregon Public Service Retirement Plan
8 whose membership has not been terminated, who is not a retired member and
9 who is not employed in a qualifying position.

10 “(9) ‘Individual account program’ means the defined contribution individ-
11 ual account program of the Oregon Public Service Retirement Plan estab-
12 lished under ORS 238A.025.

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

16 “(11) ‘Member’ means an eligible employee who has established member-
17 ship in the pension program or the individual account program of the Oregon
18 Public Service Retirement Plan and whose membership has not been termi-
19 nated under ORS 238A.110 or 238A.310.

20 “(12) ‘Participating public employer’ means a public employer as defined
21 in ORS 238.005 that provides retirement benefits for employees of the public
22 employer under the system.

23 “(13) ‘Pension program’ means the defined benefit pension program of the
24 Oregon Public Service Retirement Plan established under ORS 238A.025.

25 “(14) ‘Police officer’ means a police officer as described in ORS 238.005.

26 “(15) ‘Qualifying position’ means one or more jobs with one or more par-
27 ticipating public employers in which an eligible employee performs 600 or
28 more hours of service in a calendar year, excluding any service in a job for
29 which benefits are not provided under the Oregon Public Service Retirement
30 Plan pursuant to ORS 238A.070 (2).

1 “(16) ‘Retired member’ means a pension program member who is receiving
2 a pension as provided in ORS 238A.180 to 238A.195.

3 “(17)(a) ‘Salary’ means the remuneration paid to an active member in re-
4 turn for services to the participating public employer, including
5 remuneration in the form of living quarters, board or other items of value,
6 to the extent the remuneration is includable in the employee’s taxable in-
7 come under Oregon law. Salary includes the additional amounts specified
8 in paragraph (b) of this subsection, but does not include the amounts speci-
9 fied in paragraph (c) of this subsection, regardless of whether those amounts
10 are includable in taxable income.

11 “(b) ‘Salary’ includes the following amounts:

12 “(A) Payments of employee and employer money into a deferred compen-
13 sation plan that are made at the election of the employee.

14 “(B) Contributions to a tax-sheltered or deferred annuity that are made
15 at the election of the employee.

16 “(C) Any amount that is contributed to a cafeteria plan or qualified
17 transportation fringe benefit plan by the employer at the election of the
18 employee and that is not includable in the taxable income of the employee
19 by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2011.

20 “(D) Any amount that is contributed to a cash or deferred arrangement
21 by the employer at the election of the employee and that is not included in
22 the taxable income of the employee by reason of 26 U.S.C. 402(e)(3), as in
23 effect on December 31, 2011.

24 “(E) Retroactive payments described in ORS 238.008.

25 “(F) The amount of an employee contribution to the individual account
26 program **or to the account established under section 28 of this 2013 Act**
27 that is [*paid by the employer and*] deducted from the compensation of the
28 employee[, *as provided under ORS 238A.335 (1) and (2)(a)*].

29 “[*(G) The amount of an employee contribution to the individual account*
30 *program that is not paid by the employer under ORS 238A.335.*]

1 “[~~H~~] (G) Wages of a deceased member paid to a surviving spouse or de-
2 pendent children under ORS 652.190.

3 “(c) ‘Salary’ does not include the following amounts:

4 “(A) Travel or any other expenses incidental to employer’s business which
5 is reimbursed by the employer.

6 “(B) Payments made on account of an employee’s death.

7 “(C) Any lump sum payment for accumulated unused sick leave, vacation
8 leave or other paid leave.

9 “(D) Any severance payment, accelerated payment of an employment
10 contract for a future period or advance against future wages.

11 “(E) Any retirement incentive, retirement bonus or retirement gratuitous
12 payment.

13 “(F) Payment for a leave of absence after the date the employer and em-
14 ployee have agreed that no future services in a qualifying position will be
15 performed.

16 “(G) Payments for instructional services rendered to public universities
17 of the Oregon University System or the Oregon Health and Science Univer-
18 sity when those services are in excess of full-time employment subject to this
19 chapter. A person employed under a contract for less than 12 months is
20 subject to this subparagraph only for the months covered by the contract.

21 “(H) The amount of an employee contribution to the individual account
22 program that is paid by the employer and is not deducted from the compen-
23 sation of the employee[, *as provided*] under ORS 238A.335 [(1) and (2)(b)].

24 “(I) Any amount in excess of \$200,000 for a calendar year. If any period
25 over which salary is determined is less than 12 months, the \$200,000 limita-
26 tion for that period shall be multiplied by a fraction, the numerator of which
27 is the number of months in the determination period and the denominator
28 of which is 12. The board shall adopt rules adjusting this dollar limit to in-
29 corporate cost-of-living adjustments authorized by the Internal Revenue Ser-
30 vice.

1 “(18) ‘System’ means the Public Employees Retirement System.

2 “**SECTION 36.** The amendments to ORS 238A.005 and 238A.335 by
3 sections 34 and 35 of this 2013 Act do not apply to a collective bar-
4 gaining agreement entered into before the effective date of this 2013
5 Act. Any collective bargaining agreement entered into on or after the
6 effective date of this 2013 Act must be in conformance with ORS
7 238A.005 and 238A.335 as amended by sections 34 and 35 of this 2013 Act.

8
9 **“ELIMINATION OF MONEY MATCH PENSION CALCULATION**
10 **FOR INACTIVE MEMBERS**

11
12 “**SECTION 37.** Section 38 of this 2013 Act is added to and made a
13 part of ORS chapter 238.

14 “**SECTION 38.** A member of the Public Employees Retirement Sys-
15 tem may not receive a service retirement allowance calculated under
16 ORS 238.300 (2)(b)(A) if the member was an inactive member for more
17 than the 12 calendar months immediately preceding the member’s ef-
18 fective date of retirement.

19 “**SECTION 39.** Section 38 of this 2013 Act applies only to members
20 of the Public Employees Retirement System whose effective date of
21 retirement is on or after the effective date of this 2013 Act.

22
23 **“REMOVAL OF LEGISLATORS FROM PUBLIC EMPLOYEES RE-**
24 **TIREMENT SYSTEM**

25
26 “**SECTION 40.** A person who is appointed or elected as a member
27 of the Legislative Assembly may not become a member of the Public
28 Employees Retirement System for service as a member of the Legis-
29 lative Assembly that is performed by reason of that appointment or
30 election.

1 **“SECTION 41.** ORS 238.092 is amended to read:

2 “238.092. (1) Notwithstanding any other provision of this chapter:

3 “(a) A retired member of the Public Employees Retirement System who
4 has retired as other than a member of the Legislative Assembly and who is
5 thereafter appointed or elected as a member of the Legislative Assembly may
6 elect, by giving the Public Employees Retirement Board written notice, to
7 receive the pension and annuity provided by this chapter for service as other
8 than a member of the Legislative Assembly, and be an active member of the
9 system as a member of the Legislative Assembly for the purpose of service
10 in the Legislative Assembly. A person may make an election under this par-
11 agraph only if the person becomes an active member of the system **as a**
12 **member of the Legislative Assembly as a result of an appointment or**
13 **election to the Legislative Assembly that occurred before the effective**
14 **date of this 2013 Act.** *[under this chapter for the purpose of service in the*
15 *Legislative Assembly as provided in ORS 237.650 (3). Notice of an election*
16 *under this paragraph must be given by the person not more than 30 days after*
17 *the person takes office.]*

18 “(b) A member of the Legislative Assembly who is a member of the system
19 as a member of the Legislative Assembly and who becomes eligible to retire
20 by reason of service as other than a member of the Legislative Assembly,
21 without regard to when that service was performed, may elect, by giving the
22 board written notice, to retire and receive the pension and annuity provided
23 by this chapter for service as other than a member of the Legislative As-
24 sembly, and to continue, for the purpose of service in the Legislative As-
25 sembly, as an active member of the system as a member of the Legislative
26 Assembly. **A person may make an election under this paragraph only**
27 **if the person becomes an active member of the system as a member**
28 **of the Legislative Assembly as a result of an appointment or election**
29 **to the Legislative Assembly that occurred before the effective date of**
30 **this 2013 Act.**

1 “(c) Upon receipt of the notice provided for in paragraphs (a) and (b) of
2 this subsection, the board shall determine that portion of the accumulated
3 contributions, if any, of the member and interest thereon attributable to
4 service as other than a member of the Legislative Assembly, which shall be
5 used in determining the amount of the annuity the member shall receive for
6 that service. The portion of the accumulated contributions, if any, of the
7 member and interest thereon attributable to service as a member of the
8 Legislative Assembly shall remain in the member account of the member and,
9 together with any subsequent contributions and interest thereon, be used in
10 determining the amount of the additional annuity the member shall receive
11 for that service upon subsequent retirement. If the member does not have a
12 member account, the board shall determine the member’s retirement allow-
13 ance for nonlegislative service based on the number of years of nonlegisla-
14 tive service, and shall determine any additional benefit to be received after
15 the member subsequently retires based on the number of years of service in
16 the Legislative Assembly.

17 “(2) If a retired member of the system is employed by the Legislative As-
18 sembly, or by the Oregon State Police, for the purpose of service during a
19 regular or special session of the Legislative Assembly, the hours worked
20 during the session shall not be counted for the purpose of the limitations on
21 employment imposed by ORS 238.082 (2) and (3).

22 “**SECTION 42.** ORS 238A.245 is amended to read:

23 “238A.245. (1) Except as provided in subsection (3) of this section, the
24 Public Employees Retirement Board shall cease making pension payments to
25 a retired member of the pension program who is reemployed by a partic-
26 ipating public employer in a qualifying position. A retired member of the
27 pension program who is employed in a qualifying position becomes an active
28 member of the pension program without serving the probationary period
29 provided for in ORS 238A.100.

30 “(2) If a retired member of the pension program is reemployed under the

1 provisions of this section, any option chosen by the member under ORS
2 238A.190 is canceled, and upon retiring thereafter the member may elect any
3 option provided for in ORS 238A.180 and 238A.190. The board shall recalcu-
4 late the pension of the member upon subsequent retirement.

5 “(3) A retired member of the pension program who becomes a member of
6 the Legislative Assembly shall continue to receive the pension elected by the
7 member. A retired member of the pension program who becomes a member
8 of the Legislative Assembly may not [*make an election under ORS 237.650*]
9 **become an active member of the Oregon Public Service Retirement**
10 **Plan for service as a member of the Legislative Assembly.**

11 **“SECTION 43. ORS 237.650, 237.655 and 238A.475 are repealed.**

12 **“SECTION 44. (1) Except as provided in subsection (2) of this sec-**
13 **tion, section 40 of this 2013 Act, the amendments to ORS 238.092 and**
14 **238A.245 by sections 41 and 42 of this 2013 Act and the repeal of ORS**
15 **237.650, 237.655 and 238A.475 by section 43 of this 2013 Act apply only**
16 **to service as a member of the Legislative Assembly that is a result of**
17 **an appointment or election to the Legislative Assembly that occurs**
18 **on or after the effective date of this 2013 Act.**

19 **“(2) A member of the Legislative Assembly who is serving on the**
20 **effective date of this 2013 Act shall continue to accrue benefits under**
21 **ORS 237.650, 237.655 and 238A.475, as in effect immediately before the**
22 **effective date of this 2013 Act, for so long as the member continues**
23 **uninterrupted service as a member of the Legislative Assembly. A**
24 **member of the Legislative Assembly continues uninterrupted service**
25 **as a member of the Legislative Assembly for the purposes of this**
26 **subsection until the person resigns or otherwise leaves office.**

27

28 **“REMOVAL OF JUDGES FROM**
29 **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

30

1 **“SECTION 45.** ORS 238.505 is amended to read:

2 “238.505. (1) Except as provided in [*subsection (2)*] **subsections (2) and**
3 **(3)** of this section, a person who is not a judge on December 31, 1983, and
4 who is elected or appointed to the office of judge on or after January 1, 1984,
5 shall become a judge member on the date the person takes the office.

6 “(2) A person who, by reason of the age at which becoming a judge, could
7 not make contributions to the Public Employees Retirement Fund during
8 each of five calendar years as a judge member at or before attaining the age
9 of 75 years shall not become a judge member.

10 **“(3) A person who is elected or appointed to the office of judge who**
11 **takes office on or after the effective date of this 2013 Act may not be-**
12 **come a member of the Public Employees Retirement System or acquire**
13 **retirement credit under the system.**

14 **“(4) This section does not apply to a person who is serving as a**
15 **judge on the effective date of this 2013 Act so long as that person**
16 **continues uninterrupted service in the office held by the person on the**
17 **effective date of this 2013 Act, including any period of service attrib-**
18 **utable to reelection to the same office on or after the effective date**
19 **of this 2013 Act.**

20
21 **“REMOVAL OF STATEWIDE ELECTED OFFICERS**
22 **FROM PUBLIC EMPLOYEES RETIREMENT SYSTEM**

23
24 **“SECTION 46.** ORS 238.015 is amended to read:

25 “238.015. (1) No person may become a member of the system unless that
26 person is in the service of a public employer and has completed six months’
27 service uninterrupted by more than 30 consecutive working days during the
28 six months’ period. Every employee of a participating employer shall become
29 a member of the system at the beginning of the first full pay period of the
30 employee following the six months’ period. Contributions for new members

1 shall first be made for those wages that are attributable to services per-
2 formed by the employee during the first full pay period following the six
3 months' period, without regard to when those wages are considered earned
4 for other purposes under this chapter. All public employers participating in
5 the Public Employees Retirement System established by chapter 401, Oregon
6 Laws 1945, as amended, at the time of repeal of that chapter, and all school
7 districts of the state, shall participate in, and their employees shall be
8 members of, the system, except as otherwise specifically provided by law.

9 “(2) Any active member of the Public Employees Retirement System who,
10 through the annexation of a political subdivision employing the member or
11 by change of employment, becomes the employee of another political subdi-
12 vision which is participating in the Public Employees Retirement System and
13 has also a separate retirement system for its employees, shall remain an ac-
14 tive member of the Public Employees Retirement System unless, within 60
15 days after the effective date of the annexation or change of employment or
16 April 8, 1953, the member shall by written notice to the Public Employees
17 Retirement Board and to the administrative body of the new public employer
18 elect to relinquish membership in the Public Employees Retirement System
19 and become a member of the separate retirement system of the employer, if
20 eligible for membership in that retirement system, and the member shall be
21 so carried by the new employer. Immediately upon such annexation of any
22 political subdivision or such change of employment, the new public employer
23 shall inform such employee in writing of the right of the employee to exer-
24 cise an election as in this section provided.

25 “(3) A political subdivision (other than a school district) not participating
26 in the retirement system established by chapter 401, Oregon Laws 1945, as
27 amended, which employs one or more employees, each of whose position re-
28 quires 600 hours of service per year, or an agency created by two or more
29 political subdivisions to provide themselves governmental services, which
30 employs one or more employees, each of whose position requires 600 hours

1 of service per year, may, through its governing body, notify the board in
2 writing, that it elects to include its employees in the system hereby estab-
3 lished. Such public employer may request the board to make a study and
4 estimate of the cost of including it and its eligible employees, other than
5 volunteer firefighters, in the system, which the board thereupon shall cause
6 to be made and the cost of which the employer shall bear. Upon completion
7 of the study and estimate the employer may apply for admission to the sys-
8 tem, whereupon it shall begin to participate therein and its eligible employ-
9 ees other than volunteer firefighters shall become members of the system. If
10 the employer is an agency created by two or more political subdivisions to
11 provide themselves governmental services and ceases thereafter to transmit
12 to the board contributions for any of its eligible employees, the benefits
13 based upon employer contributions to which such employees would otherwise
14 be entitled shall be reduced accordingly.

15 “(4) No inmate of a state institution or an alien on a training or educa-
16 tional visa working for any participating employer, even though the inmate
17 or alien received compensation from a participating employer, shall be eli-
18 gible to become a member of the system. No person employed by a partic-
19 ipating employer and defined by such employer as a student employee is
20 eligible to become a member of the system for such student employment.

21 “(5) **Except as provided in subsection (6) of this section,** a person
22 holding an elective office or an appointive office with a fixed term or [*an*]
23 **a person holding** office as head of a department to which the person is ap-
24 pointed by the Governor may become a member of the system by giving the
25 board written notice of desire to do so within 30 days after taking [*the*] office
26 or, in the event that the officer is not eligible to become a member of the
27 system at the time of taking [*the*] office, within 30 days after becoming so
28 eligible. Membership so established [*shall*] **may** not be discontinued during
29 the appointive or elective term of the [*officer*] **person** except upon separation
30 of the [*officer*] **person** from service.

1 **“(6)(a) A person who is elected as a statewide elected official on or**
2 **after the effective date of this 2013 Act may not become a member of**
3 **the Public Employees Retirement System or acquire retirement credit**
4 **under the system.**

5 **“(b) Paragraph (a) of this subsection does not apply to a person who**
6 **is serving in a statewide elective office on the effective date of this 2013**
7 **Act so long as that person continues uninterrupted service in the of-**
8 **fice held by the person on the effective date of this 2013 Act, including**
9 **any period of service attributable to reelection to the same office on**
10 **or after the effective date of this 2013 Act.**

11 **“[(6)] (7) A public employer employing volunteer firefighters may apply**
12 **to the board at any time for them to become members of the system. Upon**
13 **receiving the application the board shall fix a wage at which, for purposes**
14 **of this chapter only, they shall be considered to be employed and which shall**
15 **be the basis for computing the amounts of the contributions, if any, which**
16 **they pay into, and of the benefits which they and their beneficiaries receive**
17 **from, the fund; and if the wage so fixed is satisfactory to the employer, shall**
18 **include the firefighters in the system.**

19 **“[(7)(a)] (8)(a) In the event that an employee enters the service of a public**
20 **employer which is participating in or later begins to participate in the sys-**
21 **tem and in the event that at the time of entering that service or at the time**
22 **that the employer begins to participate in the system the employee has**
23 **commenced to purchase and is continuing to purchase a retirement annuity,**
24 **if the employer deems the annuity adequate for the purposes of this chapter,**
25 **it may enter into an agreement with the employee and the board pursuant**
26 **to which the employee may be exempted from contributing to the Public**
27 **Employees Retirement Fund, and, if no public funds are being used to pur-**
28 **chase the annuity or a corresponding pension, the employer, in lieu of the**
29 **contributions which it otherwise would make to the fund on account of the**
30 **employee, may make contributions toward the cost of purchasing the annu-**

1 ity. Such employee otherwise shall be subject to the provisions of this
2 chapter, except that neither the employee nor any person claiming under the
3 employee shall receive any payments from the retirement fund as service or
4 disability allowance.

5 “(b) An employee who enters into an agreement under paragraph (a) of
6 this subsection may elect at any time thereafter to start to participate in the
7 system by giving written notice of desire to participate to the board and to
8 the employer. The employee shall receive no retirement credit for the period
9 during which the employee was exempted from contributing to the fund un-
10 der the agreement, but the employee shall be considered to have completed
11 the six months’ service required for membership in the system. When the
12 employee starts to participate in the system the employer shall start to
13 contribute to the fund on account of the employee in the same manner as the
14 employer contributes on account of other employees who are active members
15 of the system and the employer shall stop making contributions toward the
16 cost of purchasing the retirement annuity.

17 “[~~(8)(a)~~] **(9)(a)** All new appointees in the Federal Cooperative Extension
18 Service or in any other service in which participation in the Federal Civil
19 Service retirement program is mandatory, who receive a federal appointment
20 on or after July 1, 1955, may participate in the Public Employees Retirement
21 System only by giving written notice of their election to so participate to the
22 Public Employees Retirement Board within six months after the effective
23 date of their appointment.

24 “(b) All persons employed by the Federal Cooperative Extension Service
25 or by any other service in which participation in the Federal Civil Service
26 retirement program is mandatory, who are under federal appointment as of
27 July 1, 1955, and who are members of the state retirement system, shall
28 continue such membership unless, prior to February 1, 1956, they give writ-
29 ten notice to the Public Employees Retirement Board of their desire to can-
30 cel their membership.

1 “(c) Any person who is an active member of the Public Employees Re-
2 tirement System, who, on or after July 1, 1955, is employed by the Federal
3 Cooperative Extension Service or by any other service in which participation
4 in the Federal Civil Service retirement program is mandatory, and who is
5 given a federal appointment, shall continue such membership in the Public
6 Employees Retirement System unless, within six months after the effective
7 date of the appointment, the person gives written notice to the Public Em-
8 ployees Retirement Board of the desire to cancel membership.

9 “(d) A cancellation of membership under paragraph (b) or (c) of this sub-
10 section terminates membership in the Public Employees Retirement System
11 and cancels the right to any benefits from, or claims against, that system.
12 Such cancellation prevents the withdrawing member from claiming thereafter
13 any retirement credit for any period of employment before the cancellation.
14 Upon receipt of a notice of cancellation, the Public Employees Retirement
15 Board shall refund the member account of the withdrawing member, regard-
16 less of the age of the withdrawing member.

17 “[(9)] (10) Employees, including managers, of foreign trade offices of the
18 Oregon Business Development Department who live and perform services in
19 foreign countries under the provisions of ORS 285A.075 (1)(g) shall not be
20 members of the system. However, any person who is an active member of the
21 system immediately before becoming an employee of a foreign trade office
22 shall continue to be a member of the system during the period of time the
23 person serves as an employee of the foreign trade office.

24 “[(10)] (11) An employee who is participating in an alternative retirement
25 program established pursuant to ORS 353.250 or an optional retirement plan
26 established pursuant to ORS 341.551 may not be an active member of the
27 Public Employees Retirement System.

28

29

“EMPLOYER CONTRIBUTION RATES

30

1 **“SECTION 47. (1) As soon as practicable after the effective date of**
2 **this 2013 Act, the Public Employees Retirement Board shall recalculate**
3 **the contribution rates of all employers, pursuant to ORS 238.225, to**
4 **reflect the provisions of this 2013 Act.**

5 **“(2) The board shall issue corrected contribution rate orders to**
6 **employers affected by recalculated rates under this section within 90**
7 **days after the effective date of this 2013 Act. The corrected rates are**
8 **effective July 1, 2013.**

9
10 **“EXPEDITED REVIEW BY SUPREME COURT**

11
12 **“SECTION 48. (1) Jurisdiction is conferred on the Supreme Court**
13 **to determine in the manner provided by this section whether this 2013**
14 **Act breaches any contract between members of the Public Employees**
15 **Retirement System and their employers or violates any constitutional**
16 **provision, including but not limited to impairment of contract rights**
17 **of members of the Public Employees Retirement System under Article**
18 **I, section 21, of the Oregon Constitution, or Article I, section 10,**
19 **clause 1, of the United States Constitution, or is invalid for any other**
20 **reason.**

21 **“(2) A person who is adversely affected by this 2013 Act or who will**
22 **be adversely affected by this 2013 Act may institute a proceeding for**
23 **review by filing with the Supreme Court a petition that meets the**
24 **following requirements:**

25 **“(a) The petition must be filed within 60 days after the effective**
26 **date of this 2013 Act.**

27 **“(b) The petition must include the following:**

28 **“(A) A statement of the basis of the challenge; and**

29 **“(B) A statement and supporting affidavit showing how the**
30 **petitioner is adversely affected.**

1 **“(3) The petitioner shall serve a copy of the petition by registered
2 or certified mail upon the Public Employees Retirement Board, the
3 Attorney General and the Governor.**

4 **“(4) Proceedings for review under this section shall be given priority
5 over all other matters before the Supreme Court.**

6 **“(5) The Supreme Court shall allow public employers participating
7 in the Public Employees Retirement System to intervene in any pro-
8 ceeding under this section.**

9 **“(6)(a) The Supreme Court shall allow members of the Legislative
10 Assembly to intervene in any proceeding relating to this 2013 Act. Af-
11 ter a member intervenes in a proceeding relating to this 2013 Act, the
12 member has standing to participate in the proceeding even if the
13 member ceases to be a member of the Legislative Assembly.**

14 **“(b) A member of the Senate or House of Representatives who in-
15 tervenes in a proceeding under this subsection may not use public
16 funds to pay legal expenses incurred in intervening or participating in
17 the proceeding.**

18 **“(7) In the event the Supreme Court determines that there are
19 factual issues in the petition, the Supreme Court may appoint a special
20 master to hear evidence and to prepare recommended findings of fact.**

21 **“(8) The court may not award attorney fees to a petitioner in a
22 proceeding under this section.**

23

24

“SEVERABILITY

25

26 **“SECTION 49. It is the intent of the Legislative Assembly that all
27 parts of this 2013 Act are independent and that if any part of this 2013
28 Act be held unconstitutional, all remaining parts shall remain in force.**

29

30

“CAPTIONS

1 **“SECTION 50. The unit captions used in this 2013 Act are provided**
2 **only for the convenience of the reader and do not become part of the**
3 **statutory law of this state or express any legislative intent in the**
4 **enactment of this 2013 Act.**

5

6

“EMERGENCY CLAUSE

7

8 **“SECTION 51. This 2013 Act being necessary for the immediate**
9 **preservation of the public peace, health and safety, an emergency is**
10 **declared to exist, and this 2013 Act takes effect on its passage.”.**

11
