

House Bill 3314

Sponsored by Representative SPRENGER (at the request of Oregon School Boards Association)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Eliminates payments toward cost of health insurance premiums for retired members of Public Employees Retirement System who are not eligible for Medicare.

Directs Public Employees Retirement Board to enter into contract to provide health care insurance coverage supplemental to federal Medicare coverage for eligible persons.

A BILL FOR AN ACT

1
2 Relating to health insurance for retired members of Public Employees Retirement System; creating
3 new provisions; amending ORS 238.305, 238.410, 238.465, 238.580, 238.585 and 238.660; and re-
4 pealing ORS 238.415.

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

6 **SECTION 1.** ORS 238.410 is amended to read:

7 238.410. (1) As used in this section:

8 (a) "Carrier" means an insurance company or health care service contractor holding a valid
9 certificate of authority from the Director of the Department of Consumer and Business Services, an
10 insurance company or health care service contractor licensed or certified in another state that is
11 operating under the laws of that state, or two or more of those companies or contractors acting
12 together pursuant to a joint venture, partnership or other joint means of operation.

13 (b) "Eligible person" means **a person who is eligible for federal Medicare coverage and who**
14 **is:**

15 (A) A member of the Public Employees Retirement System who is retired for service or disability
16 and is receiving a retirement allowance or benefit under the system, and a spouse or dependent of
17 that member;

18 (B) A person who is a surviving spouse or dependent of a deceased retired member of the system
19 or the surviving spouse or dependent of a member of the system who had not retired but who had
20 reached earliest retirement age at the time of death;

21 (C) A person who is receiving retirement pay or a pension calculated under ORS 1.314 to 1.380
22 (1989 Edition), and a spouse or dependent of that person; or

23 (D) A surviving spouse or dependent of a deceased retired member of the system or of a person
24 who was receiving retirement pay or a pension calculated under ORS 1.314 to 1.380 (1989 Edition)
25 if the surviving spouse or dependent was covered at the time of the decedent's death by a health
26 care insurance plan contracted for under this section.

27 (c) "Health care" means medical, surgical, hospital or any other remedial care recognized by
28 state law and related services and supplies and includes comparable benefits for persons who rely
29 on spiritual means of healing.

30 (2) The Public Employees Retirement Board shall conduct a continuing study and investigation

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 of all matters connected with the providing of health care insurance [*protection*] **coverage supple-**
 2 **mental to federal Medicare coverage** to eligible persons. The board shall design benefits, devise
 3 specifications, invite proposals, analyze carrier responses to advertisements for proposals and do
 4 acts necessary to award contracts to provide health care insurance[, *including insurance that pro-*
 5 *vides*] coverage supplemental to federal Medicare coverage, with emphasis on features based on
 6 health care cost containment principles, for eligible persons. The board is not subject to the pro-
 7 visions of ORS chapters 279A and 279B, except ORS 279B.235, in awarding contracts under the
 8 provisions of this section. The board shall establish procedures for inviting proposals and awarding
 9 contracts under this section.

10 (3) The board shall enter into a contract with a carrier to provide health care insurance **cov-**
 11 **erage supplemental to federal Medicare coverage** for eligible persons for a one or two-year pe-
 12 riod. The board may enter into more than one contract with one or more carriers, contracting
 13 jointly or severally, if in the opinion of the board it is necessary to do so to obtain maximum cov-
 14 erage at minimum cost and consistent with the health care insurance needs of eligible persons. The
 15 board periodically shall review a current contract or contracts and make suitable study and inves-
 16 tigation for the purpose of determining whether a different contract or contracts can and should, in
 17 the best interest of eligible persons, be entered into. If it would be advantageous to eligible persons
 18 to do so, the board shall enter into a different contract or contracts. Contracts shall be signed by
 19 the chairperson on behalf of the board.

20 (4) Except as provided in ORS [*238.415 and*] 238.420, the board may deduct monthly from the
 21 retirement allowance or benefit, retirement pay or pension payable to an eligible person who elects
 22 to participate in a health care insurance plan the monthly cost of the coverage for the person under
 23 a health care insurance contract entered into under this section and the administrative costs in-
 24 curred by the board under this section, and shall pay those amounts into the Standard Retiree
 25 Health Insurance Account established under subsection (7) of this section. The board by rule may
 26 establish other procedures for collecting the monthly cost of the coverage and the administrative
 27 costs incurred by the board under this section if the board does not deduct those costs from the
 28 retirement allowance or benefit, retirement pay or pension payable to an eligible person.

29 (5) Subject to applicable provisions of ORS chapter 183, the board may make rules not incon-
 30 sistent with this section to determine the terms and conditions of eligible person participation and
 31 coverage and otherwise to implement and carry out the purposes and provisions of this section and
 32 ORS 238.420.

33 (6) The board may retain consultants, brokers or other advisory personnel, organizations spe-
 34 cializing in health care cost containment or other administrative services when it determines the
 35 necessity and, subject to the State Personnel Relations Law, shall employ such personnel as are
 36 required to assist in performing the functions of the board under this section.

37 (7) Pursuant to section 401(h) of the Internal Revenue Code, the Standard Retiree Health In-
 38 surance Account is established within the Public Employees Retirement Fund, separate and distinct
 39 from the General Fund. All payments made by eligible persons for health insurance coverage pro-
 40 vided under this section shall be held in the account. Interest earned by the account shall be cred-
 41 ited to the account. All moneys in the account are continuously appropriated to the Public
 42 Employees Retirement Board and may be used by the board only to pay the cost of health insurance
 43 coverage under this section and to pay the administrative costs incurred by the board under this
 44 section.

45 (8) The sum of all amounts paid by eligible persons into the Standard Retiree Health Insurance

1 Account[, *by participating public employers into the Retiree Health Insurance Premium Account under*
 2 *ORS 238.415,*] and by participating public employers into the Retirement Health Insurance Account
 3 under ORS 238.420[,] may not exceed 25 percent of the aggregate contributions made by participat-
 4 ing public employers to the Public Employees Retirement Fund on or after July 11, 1987, not in-
 5 cluding contributions made by participating public employers to fund prior service credits.

6 (9) Until all liabilities for health benefits under the system are satisfied, contributions and
 7 earnings in the Standard Retiree Health Insurance Account[, *the Retiree Health Insurance Premium*
 8 *Account under ORS 238.415*] and the Retirement Health Insurance Account under ORS 238.420 may
 9 not be diverted or otherwise put to any use other than providing health benefits and payment of
 10 reasonable costs incurred in administering this section [*and ORS 238.415*] and **ORS 238.420**. Upon
 11 satisfaction of all liabilities for providing health benefits under this section, any amount remaining
 12 in the Standard Retiree Health Insurance Account shall be returned to the participating public em-
 13 ployers who have made contributions to the account. The distribution shall be made in such equi-
 14 table manner as the board determines appropriate.

15 **SECTION 2.** ORS 238.305 is amended to read:

16 238.305. (1) Not later than 60 days after the first benefit payment is made to a retired member
 17 of the Public Employees Retirement System, the member may elect to convert the allowance de-
 18 scribed by ORS 238.300 as payable after retirement into a service retirement annuity of equivalent
 19 actuarial value of one of the optional forms named below. The election of Option 2, 2A, 3 or 3A shall
 20 be effective immediately upon the member's retirement.

21 Option 1. (a) A life annuity (nonrefund) payable during the member's life only, which shall be
 22 the actuarial equivalent of accumulated contributions by the member and interest thereon credited
 23 at the time of retirement (if death occurs before the first payment is due, the member account shall
 24 be treated as though death had occurred before retirement); (b) a life pension (nonrefund) provided
 25 by the contributions of employers as provided in ORS 238.300 (2); (c) an additional nonrefund pension
 26 for prior service credit, including military service, credited to the member at the time of first be-
 27 coming a member of the system, as elsewhere provided in this chapter, which pension shall be pro-
 28 vided by the contributions of the employer; or

29 Option 2. A reduced service retirement allowance payable during the member's life, with the
 30 provision that it continue after death for the life of the beneficiary the member nominates by written
 31 designation duly acknowledged and filed with the Public Employees Retirement Board at the time
 32 of election, should the beneficiary survive the member; or

33 Option 2A. A reduced service retirement allowance payable during the member's life which,
 34 unless modified under subsection (6) of this section, continues after death for the life of the benefi-
 35 ciary the member nominates by written designation duly acknowledged and filed with the board at
 36 the time of election, should the beneficiary survive the member; or

37 Option 3. A reduced service retirement allowance payable during the member's life, with the
 38 provision that it continue after death at one-half the rate paid to the member and be paid for the
 39 life of the beneficiary the member nominates by written designation duly acknowledged and filed
 40 with the board at the time of election, should the beneficiary survive the member; or

41 Option 3A. A reduced service retirement allowance payable during the member's life which,
 42 unless modified under subsection (6) of this section, continues after death at one-half the rate paid
 43 to the member and is paid for the life of the beneficiary the member nominates by written desig-
 44 nation duly acknowledged and filed with the board at the time of election, should the beneficiary
 45 survive the member; or

1 Option 4. A reduced service retirement allowance payable during the member's life, with the
 2 provisions that if the member dies before a total of 180 monthly payments is made, the remainder
 3 of the 180 monthly payments shall be paid monthly to the beneficiary the member nominates by
 4 written designation duly acknowledged and filed with the board at any time before the member's
 5 death; and that if the member designates no beneficiary to receive the monthly payments or no such
 6 beneficiary is able to receive the monthly payments, an amount equal to the actuarial value, on the
 7 date of the member's death, of the total of the monthly payments not made to the member shall be
 8 paid according to ORS 238.390 for disposal of an amount credited to the member account of a
 9 member at the time of death; and that if the beneficiary receiving monthly payments dies before the
 10 total number of monthly payments to which the beneficiary is entitled is made, an amount equal to
 11 the actuarial value, on the date of the beneficiary's death, of the total of the monthly payments not
 12 made to the member and beneficiary shall be paid according to ORS 238.390 for disposal of an
 13 amount credited to the member account of a member at the time of death and as if the beneficiary
 14 had been a member.

15 (2) Not later than 60 days after the first benefit payment is made to a retired member of the
 16 system, the member may elect, in lieu of the allowance described by ORS 238.300 as payable after
 17 retirement, a service retirement benefit consisting of:

18 (a) A refund of accumulated contributions by the member and interest thereon credited at the
 19 time of refund; and

20 (b) A life pension (nonrefund) provided by the contributions of employers as provided in ORS
 21 237.147 (2) (1979 Replacement Part), and an additional life pension (nonrefund) for prior service
 22 credit as provided in ORS 238.300 (3). At the same time as making the election under this subsection,
 23 the member may elect to convert the pensions described by this paragraph into a service retirement
 24 annuity of equivalent actuarial value of one of the optional forms named as Option 2, 2A, 3 or 3A
 25 under subsection (1) of this section.

26 (3) Not later than 60 days after the first benefit payment is made to a retired member of the
 27 system, the member may elect in lieu of the allowance described by ORS 238.300 a refund service
 28 retirement benefit consisting of:

29 (a) A refund of accumulated contributions by the member and interest thereon credited at the
 30 time of retirement;

31 (b) An amount that matches the amount of accumulated contributions by the member and in-
 32 terest thereon, provided by the contributions of employers; and

33 (c) Interest on the amounts described in paragraphs (a) and (b) of this subsection from the ef-
 34 fective date of retirement until the amounts are paid.

35 (4)(a) If the member elects to receive the service retirement benefit described in subsection (2)
 36 or (3) of this section, the member shall elect at the same time to receive the refund described in
 37 subsection (2)(a) or (3) of this section in one lump sum payment or in more than one but not more
 38 than five installment payments. If the member elects installment payments:

39 (A) The amount to be paid by employer contributions under subsection (3)(b) of this section shall
 40 be transferred to the individual account of the member in the Public Employees Retirement Fund
 41 as of the effective date of retirement.

42 (B) The installment payments shall be paid once each year for the number of consecutive years
 43 equal to the number of installment payments elected.

44 (C) The amount of each installment payment shall be designated by the member at the time of
 45 making the election, but the last installment payment shall be the unrefunded balance remaining in

1 the member account of the member in the fund.

2 (D) The member account of the member in the fund shall be maintained until the last installment
3 payment is paid. The board shall establish procedures for computing and crediting interest annually
4 on the unrefunded balance of the member account.

5 (E) A yearly installment payment shall be paid on the anniversary of the date of the first in-
6 stallment payment.

7 (F) The member is considered to have elected to transfer any balance in the variable account
8 of the member to the regular account of the member.

9 (G) If the member dies before payment of all installment payments, the unrefunded balance in
10 the member account of the member plus interest to date of disbursement is payable as provided in
11 ORS 238.390 (4).

12 (b) If a member elects to receive the refund service retirement benefit described in subsection
13 (3) of this section, and does not elect to receive those amounts in installments under the provisions
14 of this subsection, all rights of the member in the system shall terminate upon the payment of the
15 amounts provided for in subsection (3) of this section, except as provided in paragraph (c) of this
16 subsection. If a member elects to receive the refund service retirement benefit described in sub-
17 section (3) of this section, and also elects to receive those amounts in installments under the pro-
18 visions of this subsection, all rights of the member in the system shall terminate upon the making
19 of the first payment, except as provided in paragraph (c) of this subsection.

20 (c) A member who elects to receive the refund service retirement benefit described in subsection
21 (3) of this section, and any eligible spouse or dependent of the member, shall continue to be eligible
22 for insurance under ORS 238.410, and for any premium payments the member may be entitled to
23 under ORS [238.415 and] 238.420.

24 (5) The designation of a beneficiary, the election of an option or any other election or desig-
25 nation under subsection (1), (2), (3) or (4) of this section may be changed by the member within 60
26 days after the date of the first benefit payment, except that the designation of a beneficiary under
27 Option 4 may be changed by the member at any time before the member's death.

28 (6) If a retired member has elected to receive a service retirement allowance under Option 2A
29 or Option 3A as provided in subsection (1) of this section, and if the beneficiary under that option
30 dies after the expiration of the time within which the member could change the election of an option
31 or if the beneficiary is the spouse of the member and the marriage relationship is terminated as
32 provided by law after the expiration of the time within which the member could change the election
33 of an option, the member may elect to receive, in lieu of the optional form of allowance previously
34 elected, the allowance that the member would have received on the effective date of retirement
35 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of
36 any cost-of-living or other post-retirement adjustments made to the original allowance since the ef-
37 fective date of retirement. Notice of election under this subsection must be in a form approved by
38 the board. If an election is made under this subsection, the Option 1 payment amount is applicable
39 to the first full month after the death of the beneficiary, or the first full month after entry of the
40 judgment of divorce, and payable the first day of the month thereafter. If the increased amount is
41 not paid in any month in which the increased amount is due, the board shall make a lump sum
42 payment to the retired member that is equal to the difference between the amount paid to the
43 member for that month and the amount that should have been paid under the provisions of this
44 subsection.

45 (7) Notwithstanding any other provision of this section, any member of the system who retired

1 before October 3, 1989, and elected to receive a service retirement allowance under either Option
 2 2 or 3 as provided in subsection (1) of this section shall be entitled to receive a service retirement
 3 allowance equal to that which the member would have received on the effective date of retirement
 4 under Option 1 as provided in subsection (1) of this section and adjusted by the actual amount of
 5 any cost-of-living or other post-retirement adjustments made to the original allowance since the ef-
 6 fective date of retirement if:

7 (a) The member has attained 80 years of age;

8 (b) The person designated by the member as the member's beneficiary has predeceased the
 9 member; and

10 (c) The member gives written notice to the board of the death of the member's beneficiary.

11 (8) Notwithstanding any other provision of this section, any member of the system who retired
 12 before October 3, 1989, who elected to receive a refund of accumulated employee contributions and
 13 a life pension or pensions under subsection (2) of this section, and who elected to convert the life
 14 pension or pensions provided for in subsection (2) of this section into a service retirement annuity
 15 under Option 2 or 3 under subsection (1) of this section, shall be entitled to receive a life pension
 16 or pensions equal to that which the member would have received on the effective date of retirement
 17 under subsection (2) of this section and adjusted by the actual amount of any cost-of-living or other
 18 post-retirement adjustments made to the original life pension or pensions since the effective date of
 19 retirement if:

20 (a) The member has attained 80 years of age;

21 (b) The person designated by the member as the member's beneficiary has predeceased the
 22 member; and

23 (c) The member gives written notice to the board of the death of the member's beneficiary.

24 (9) The service retirement allowance provided in subsection (7) or (8) of this section shall be
 25 applicable to the first full month after the death of the member's beneficiary, or the first full month
 26 after the member attains 80 years of age, whichever is later.

27 (10) The board may deny an election to convert a service retirement allowance under this sec-
 28 tion, a change of beneficiary under this section or a change in benefit options under this section if
 29 that denial is required to maintain the status of the system and the Public Employees Retirement
 30 Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code and
 31 under regulations adopted pursuant to the Internal Revenue Code.

32 **SECTION 3.** ORS 238.465 is amended to read:

33 238.465. (1) Notwithstanding ORS 238.445 or any other provision of law, payments under this
 34 chapter or ORS chapter 238A of any pension, annuity, retirement allowance, disability benefit, death
 35 benefit, refund benefit or other benefit that would otherwise be made to a person entitled thereto
 36 under this chapter or ORS chapter 238A shall be paid, in whole or in part, by the Public Employees
 37 Retirement Board to an alternate payee if and to the extent expressly provided for in the terms of
 38 any judgment of annulment or dissolution of marriage or of separation, or the terms of any court
 39 order or court-approved property settlement agreement incident to any judgment of annulment or
 40 dissolution of marriage or of separation. Notwithstanding any other provisions of this section, the
 41 total value of benefits payable to a member and to an alternate payee under this section may not
 42 be greater than the value of the benefits the member would otherwise be eligible to receive. Any
 43 payment under this subsection to an alternate payee bars recovery by any other person.

44 (2) A judgment, order or settlement providing for payment to an alternate payee under sub-
 45 section (1) of this section may also provide:

1 (a) That payments to the alternate payee may commence, at the election of the alternate payee,
 2 at any time after the earlier of:

3 (A) The earliest date the member would be eligible to receive retirement benefits if the member
 4 separates from service; or

5 (B) The date the member actually separates from service due to death, disability, retirement or
 6 termination of employment.

7 (b) That the alternate payee may elect to receive payment in any form of pension, annuity, re-
 8 tirement allowance, disability benefit, death benefit, refund benefit or other benefit, except a benefit
 9 in the form of a joint and survivor annuity, that would be available to the member under this
 10 chapter or ORS chapter 238A, or that would be available to the member if the member retired or
 11 separated from service at the time of election by the alternate payee, without regard to the form
 12 of benefit elected by the member.

13 (c) That the alternate payee's life is the measuring life for the purpose of measuring payments
 14 to the alternate payee under the form of benefit selected by the alternate payee and for the purpose
 15 of determining necessary employer reserves.

16 (d) Except as provided in ORS 238.305 (10) and 238.325 (7), that any person designated by the
 17 member as a beneficiary under ORS 238.300, 238.305, 238.325, 238A.190 or 238A.400 be changed, even
 18 though the member has retired and has begun receiving a retirement allowance or pension. If a
 19 change of beneficiary is ordered under this paragraph, the board shall adjust the anticipated benefits
 20 that would be payable to the member and the beneficiary to ensure that the cost to the system of
 21 providing benefits to the member and the new beneficiary does not exceed the cost that the system
 22 would have incurred to provide benefits to the member and the original beneficiary. The judgment,
 23 order or settlement may not provide for any change to the option selected by the retired member
 24 under ORS 238.300, 238.305, 238.320, 238.325, 238A.190 or 238A.400 as to the form of the retirement
 25 benefit.

26 (3) The board shall adopt rules that provide for:

27 (a) The creation of a separate account in the name of the alternate payee reflecting the
 28 judgment's, order's or agreement's distribution of the member's benefits under this chapter or ORS
 29 chapter 238A;

30 (b) The establishing of criteria to determine whether domestic relations judgments, orders and
 31 agreements comply with this section; and

32 (c) The definitions and procedures for the administration of this section.

33 (4) An alternate payee may designate a beneficiary for the purposes of death benefits payable
 34 under ORS 238.390 and 238.395. Subject to ORS 238A.410 (2), an alternate payee may designate a
 35 beneficiary for the purposes of death benefits payable under ORS 238A.410. If the alternate payee
 36 fails to designate a beneficiary for the purposes of death benefits payable under ORS 238.390 and
 37 238.395, the benefits shall be paid as provided by ORS 238.390 (2). If the alternate payee fails to
 38 designate a beneficiary for the purposes of death benefits payable under ORS 238A.410, the benefits
 39 shall be paid as provided by ORS 238A.410 (3). If a judgment, order or agreement awards an interest
 40 to an alternate payee, and if the alternate payee predeceases the member before the alternate payee
 41 has commenced receiving benefits, the alternate payee shall be considered a member of the system
 42 who died before retiring for the purposes of the death benefits provided in ORS 238.390, 238.395,
 43 238A.230 and 238A.410, but for purposes of the death benefits provided in ORS 238.395, the alternate
 44 payee shall be considered a member of the system who died before retiring only if the member would
 45 have been eligible for death benefits under ORS 238.395 had the member died at the same time as

1 the alternate payee. Payment of the death benefits to the beneficiaries, estate or other persons en-
 2 titled to receive the benefits under ORS 238.390, 238.395, 238A.230 and 238A.410, shall constitute
 3 payment in full of the alternate payee's interest under the judgment, order or agreement.

4 (5) Any increase in the retirement allowance provided to the member shall increase the amounts
 5 paid to the spouse or former spouse of the member in the same proportion, except that an alternate
 6 payee is not entitled to receive cost-of-living adjustments under ORS 238.360 or any other retirement
 7 allowance increase until benefits are first paid from the system on behalf of the member.

8 (6) An alternate payee under this section is not eligible to receive the benefits provided under
 9 ORS 238.410, [238.415,] 238.420 and 238.440 by reason of the provisions of this section.

10 (7) An alternate payee who elects to begin receiving payments under subsection (1) of this sec-
 11 tion before the member's effective date of retirement is not eligible to receive any additional pay-
 12 ment by reason of credit in the system acquired by the member after the alternate payee begins to
 13 receive payments.

14 (8) Subsection (1) of this section applies only to payments made by the board after the date of
 15 receipt by the board of written notice of the judgment, order or agreement and such additional in-
 16 formation and documentation as the board may prescribe.

17 (9) Whenever the board is required to make payment to an alternate payee under the provisions
 18 of this section, the board shall charge and collect out of the benefits payable to the member and the
 19 alternate payee actual and reasonable administrative expenses and related costs incurred by the
 20 board in obtaining data and making calculations that are necessary by reason of the provisions of
 21 this section. The board may not charge more than \$300 for total administrative expenses and related
 22 costs incurred in obtaining data or making calculations that are necessary by reason of the pro-
 23 visions of this section. The board shall allocate expenses and costs charged under the provisions of
 24 this subsection between the member and the alternate payee based on the fraction of the benefit
 25 received by the member or alternate payee.

26 (10) Unless otherwise provided by the judgment, order or agreement, a member has no interest
 27 in the benefit payable to an alternate payee under this section. Upon the death of an alternate
 28 payee, the board shall make such payment to the beneficiary designated by the alternate payee as
 29 may be required under the form of benefit elected by the alternate payee. If a death benefit is pay-
 30 able under ORS 238.390 or 238.395 by reason of the death of an alternate payee, payment of the
 31 death benefit shall be made to the beneficiary designated by the alternate payee under ORS 238.390
 32 (1), or as otherwise provided by ORS 238.390 and 238.395.

33 (11) As used in this section, "court" means any court of appropriate jurisdiction of this or any
 34 other state or of the District of Columbia.

35 **SECTION 4.** ORS 238.580 is amended to read:

36 238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
 37 238.255, 238.260, 238.350, 238.364, 238.410, [238.415,] 238.420, 238.445, 238.458, 238.460, 238.465,
 38 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665,
 39 238.670 and 238.705 and the increases provided by ORS 238.366 for members of the system who are
 40 serving as other than police officers or firefighters apply in respect to service as a judge member.

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

43 **SECTION 5.** ORS 238.585 is amended to read:

44 238.585. (1) A judge member who has creditable service as other than a judge member is entitled
 45 to the use of all creditable service as a judge member for the purpose of establishing eligibility un-

1 der ORS 238.115, 238.125, 238.135 or any other provision of this chapter that requires a specified
 2 number of years of creditable service.

3 (2) A judge member who has creditable service as other than a judge member is entitled to use
 4 of all creditable service as other than a judge member for the purpose of establishing eligibility
 5 under the provisions of ORS 238.366, [238.415,] 238.420 or any other provision of this chapter that
 6 is applicable to a judge member and that requires a specified number of years of creditable service.

7 (3) A member of the system other than a judge member who separates from all service entitling
 8 the person to membership in the system and who withdraws the amount credited to the member
 9 account of the member in the fund may restore all rights forfeited by the withdrawal in the manner
 10 specified by ORS 238.105 if the person becomes a judge member within five years after the date that
 11 the person is separated from all service entitling the person to membership in the system.

12 **SECTION 6.** ORS 238.660 is amended to read:

13 238.660. (1) The Public Employees Retirement Fund is declared to be a trust fund, separate and
 14 distinct from the General Fund, for the uses and purposes set forth in this chapter and ORS chapter
 15 238A and ORS 237.950 to 237.980, and for no other use or purpose, except that this provision shall
 16 not be deemed to amend or impair the force or effect of any law of this state specifically authorizing
 17 the investment of moneys from the fund. Interest earned by the fund shall be credited to the fund.
 18 Except as otherwise specifically provided by law, the Public Employees Retirement Board estab-
 19 lished by ORS 238.630 is declared to be the trustee of the fund. Consistent with the legislative intent
 20 expressed in ORS 238.601, and to the extent it is consistent with the board's fiduciary duties, the
 21 board shall give equal consideration to the interests of participating public employers and the in-
 22 terests of members. Nothing in this subsection shall be construed to impose a fiduciary duty on the
 23 board to consider the interests of public employers, and the board shall consider the interests of
 24 public employers only with respect to matters unrelated to the board's fiduciary duties as trustee
 25 of the fund.

26 (2) Until all liabilities to members and their beneficiaries are satisfied, assets of the fund may
 27 not be diverted or otherwise put to any use that is not for the exclusive benefit of members and
 28 their beneficiaries. This subsection does not limit return of employer contributions for health bene-
 29 fits in the manner provided by ORS 238.410[238.415] and 238.420 upon satisfaction of all liabilities
 30 for health benefits under those sections.

31 (3) The State of Oregon and other public employers that make contributions to the fund have
 32 no proprietary interest in the fund or in the contributions made to the fund by them. The state and
 33 other public employers disclaim any right to reclaim those contributions and waive any right of
 34 reclamation they may have in the fund. This subsection does not prohibit alteration or refund of
 35 employer contributions if the alteration or refund is authorized under this chapter or ORS chapter
 36 238A and is due to erroneous payment or decreased liability for employer contributions under the
 37 system. This subsection does not prohibit the offset of contributions to the individual account pro-
 38 gram under ORS 238.229 (5).

39 (4) The board may accept gifts of money or other property from any source, given for the uses
 40 and purposes of the system. Money so received shall be paid into the fund. Money or other property
 41 so received shall be used for the purposes for which received. Unless otherwise prescribed by the
 42 source from which the money or other property is received, the money shall be considered as income
 43 of the fund and the other property shall be retained, managed and disposed of as are investments
 44 of the fund.

45 (5) All moneys paid into the fund shall be deposited with the State Treasurer, who shall be

1 custodian of the fund and pay all warrants drawn on it in compliance with law. No such warrant
 2 shall be paid until the claim for which it is drawn is first approved by the director or designee and
 3 otherwise audited and verified as required by law. Monthly, each beneficiary's gross benefit shall
 4 be calculated; applicable deductions made for taxes, insurance and other withholdings; and the net
 5 amount paid to the beneficiary, by check or by electronic funds transfer (EFT) to the beneficiary's
 6 bank. A deduction summary shall be made, by type, and a check issued for the aggregate of each
 7 type for transmittal to the appropriate taxing jurisdiction, vendor or institution. A voucher shall be
 8 prepared and transmitted to the Oregon Department of Administrative Services for reimbursement
 9 of the checking account, and the department shall draw a warrant on the State Treasurer, payable
 10 to the Public Employees Retirement System, for the amount thereof.

11 (6) Any warrant, check or order for the payment of benefits or refunds under the system out of
 12 the fund issued by the board which is canceled, declared void or otherwise made unpayable pursuant
 13 to law because it is outstanding and unpaid for a period of more than two years, may be reissued
 14 by the board without bond if the payee is located after such warrant, check or order is canceled,
 15 declared void or otherwise made unpayable pursuant to law.

16 (7) All references in this chapter to checks or warrants are subject to the provisions of ORS
 17 291.001.

18 (8) The board shall provide for an annual audit of the retirement fund and for an annual report
 19 to the Legislative Assembly and to all members of, retirees of, and all employers participating in,
 20 the system. The annual report must contain financial statements prepared in accordance with gen-
 21 erally accepted accounting principles. The financial statements must include the report of any in-
 22 dependent auditor.

23 (9) The board may review legislative proposals for changes in the benefits provided under this
 24 chapter and ORS chapter 238A and may make recommendations to committees of the Legislative
 25 Assembly on those proposed changes. In making recommendations under this subsection, the board
 26 acts as a policy advisor to the Legislative Assembly and not as a fiduciary. In making recommen-
 27 dations under this subsection on the Oregon Public Service Retirement Plan established by ORS
 28 chapter 238A, the board shall seek to maintain the balance between benefits and costs, and the
 29 relative risk borne by employers and employees with respect to investment performance, reflected
 30 in ORS chapter 238A as in effect on January 1, 2004.

31 (10) The board shall appoint a committee to advise the board on legislative proposals for
 32 changes in the benefits provided under this chapter and ORS chapter 238A. The committee must
 33 have an equal number of members representing labor and management. No costs of reviewing leg-
 34 islative proposals and making recommendations under this subsection may be charged to the fund.
 35 Any member of the committee who is an active member of the system shall be released by the par-
 36 ticipating public employer who employs the member for the purpose of conducting the official busi-
 37 ness of the committee, and the wages or salary of the member may not be reduced by the employer
 38 during periods that the member is released from duty for the purpose of conducting the official
 39 business of the committee.

40 **SECTION 7. ORS 238.415 is repealed.**

41 **SECTION 8. After payment of costs of health care insurance contract coverage and ad-**
 42 **ministrative costs incurred by the Public Employees Retirement Board under ORS 238.415,**
 43 **as in effect immediately before the effective date of this 2013 Act, amounts remaining in the**
 44 **Retiree Health Insurance Premium Account shall be transferred to the Public Employees**
 45 **Retirement Fund and credited against other liabilities of the employers that made contribu-**

1 tions to the Retiree Health Insurance Premium Account.

2 **SECTION 9.** The repeal of ORS 238.415 by section 3 of this 2013 Act and the amendments
3 to ORS 238.305, 238.410, 238.465, 238.580, 238.585 and 238.660 by sections 1 to 6 of this 2013 Act
4 apply only to payments toward the monthly cost of coverage under a health care insurance
5 contract entered into or renewed under ORS 238.410 on or after the effective date of this 2013
6 Act.

7 **SECTION 10.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
8 manner provided by this section whether this 2013 Act breaches any contract between
9 members of the Public Employees Retirement System and their employers or violates any
10 constitutional provision, including but not limited to impairment of contract rights of mem-
11 bers of the Public Employees Retirement System under Article I, section 21, of the Oregon
12 Constitution, or Article I, section 10, clause 1, of the United States Constitution.

13 (2) A person who is or who will be adversely affected by this 2013 Act may institute a
14 proceeding for review by filing with the Supreme Court a petition that meets the following
15 requirements:

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

17 (b) The petition must include the following:

18 (A) A statement of the basis of the challenge; and

19 (B) A statement and supporting affidavit showing how the petitioner is or will be ad-
20 versely affected.

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

23 (4) Proceedings for review under this section shall be given priority over all other mat-
24 ters before the Supreme Court.

25 (5) The Supreme Court shall allow public employers participating in the Public Employees
26 Retirement System to intervene in any proceeding under this section.

27 (6) In the event the Supreme Court determines that there are factual issues in the peti-
28 tion, the Supreme Court may appoint a special master to hear evidence and to prepare re-
29 commended findings of fact.

30