

# House Bill 3504

Sponsored by Representative RICHARDSON

## 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**.

- Modifies provisions relating to public employee retirement.
- Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect provisions of Act.
- Provides for expedited review by Supreme Court upon petition by adversely affected party.
- Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to public employee retirement; creating new provisions; amending ORS 237.635, 237.637,  
3 238.005, 238.015, 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, 238A.335, 292.180  
5 and 314.840 and section 4, chapter 1, Oregon Laws 2010; repealing ORS 237.650, 237.655, 238.350,  
6 238.355 and 238A.475; and declaring an emergency.

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

10 Whereas the cost of Oregon's Public Employees Retirement System (PERS) is increasing at an  
11 unsustainable rate and diverting billions of dollars away from schools and other critical services;  
12 and

13 Whereas Oregon's schools have been forced to reduce instructional days, close schools and cut  
14 approximately 7,000 teachers over the last three years despite increased state spending on educa-  
15 tion; and

16 Whereas PERS is the largest single source of cost escalation driving these cuts; and

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

20 Whereas it is the responsibility of the Legislative Assembly to ensure that PERS is adequately  
21 funded, rationally designed as one element of a reasonably competitive compensation arrangement  
22 for public employees and sustainable for the sake of public employees, who may rely on PERS for  
23 a material part of their retirement, and for Oregonians generally, who rightly expect the state to  
24 use taxpayer dollars responsibly; and

25 Whereas in 2011 the Governor proposed and the Legislative Assembly passed comprehensive  
26 education reform based on the aspirational goal of enabling 40 percent of adult Oregonians to have  
27 at least a bachelor's degree, 40 percent of adult Oregonians to have at least an associate's degree  
28 and the remaining 20 percent of adult Oregonians to have at least a high school diploma; and

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

**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       Whereas the PERS cost increase this year will drain hundreds of millions of dollars more out  
 2 of schools and cripple Oregon's efforts to achieve its educational goals; and

3       Whereas it is necessary for the Legislative Assembly to reform PERS, so that the state may  
 4 provide critical services efficiently and effectively and provide a long-term, financially sound re-  
 5 tirement system for public employees; and

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

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

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

14       Whereas the Oregon Business Plan enjoys broad bipartisan support as a strategy for creating  
 15 jobs and growing wages; and

16       Whereas reform of the Public Employees Retirement System is a top priority in the Oregon  
 17 Business Plan because it is critical to funding vital public services and especially education; now,  
 18 therefore,

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

20  
 21 **COST-OF-LIVING ADJUSTMENT**

22  
 23 **SECTION 1.** ORS 238.360 is amended to read:

24       238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement  
 25 Board shall determine the percentage increase or decrease in the cost-of-living for the previous  
 26 calendar year, based on the Consumer Price Index (Portland area-all items) as published by the  
 27 Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to  
 28 July 1 each year the allowance which the member or the member's beneficiary is receiving or is  
 29 entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure  
 30 determined, and the allowance for the next 12 months beginning July 1 adjusted to the resultant  
 31 amount.

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

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

38       (4) Any increase in the allowance shall be paid from contributions of the public employer under  
 39 ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form of a  
 40 credit against contributions of the employer under ORS 238.225.

41       **SECTION 2.** The amendments to ORS 238.360 by section 1 of this 2013 Act apply to all  
 42 adjustments to allowances made under ORS 238.360 on and after July 1, 2013, and before July  
 43 1, 2014.

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

45       238.360. (1) *[As soon as practicable after January 1 each year, the Public Employees Retirement*

1 Board shall determine the percentage increase or decrease in the cost-of-living for the previous calendar  
 2 year, based on the Consumer Price Index (Portland area-all items) as published by the Bureau of Labor  
 3 Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to July 1 each year  
 4 the allowance which the member or the member's beneficiary is receiving or is entitled to receive on  
 5 August 1 for the month of July shall be multiplied by the percentage figure determined, and the al-  
 6 lowance for the next 12 months beginning July 1 adjusted to the resultant amount.] **On July 1 of each**  
 7 **year, the Public Employees Retirement Board shall increase the yearly allowance that a**  
 8 **member or member's beneficiary receives or is entitled to receive, as provided in subsections**  
 9 **(2) and (3) of this section. The increase is first payable with the allowance that the member**  
 10 **or the member's beneficiary receives or is entitled to receive on August 1.**

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

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

17 **(2)(a) If the member's or member's beneficiary's yearly allowance for the previous year**  
 18 **totaled \$24,000 or less, the allowance shall be increased by 1.5 percent.**

19 **(b) If the member's or member's beneficiary's yearly allowance for the previous year**  
 20 **totaled more than \$24,000 but not more than \$36,000, the allowance shall be increased by \$360**  
 21 **plus 0.4 percent of the amount of the yearly allowance exceeding \$24,000.**

22 **(c) If the member's or member's beneficiary's yearly allowance for the previous year**  
 23 **totaled more than \$36,000, the allowance shall be increased by \$408 plus 0.1 percent of the**  
 24 **amount of the yearly allowance exceeding \$36,000.**

25 **(3) If a member or member's beneficiary has been receiving an allowance for less than**  
 26 **12 months on July 1 of any year, the board shall calculate the increase under subsection (2)**  
 27 **of this section on the basis of the yearly allowance the member or member's beneficiary**  
 28 **would have received if the member or member's beneficiary had received the monthly al-**  
 29 **lowance for 12 months.**

30 (4) Any increase in the allowance shall be paid from contributions of the public employer under  
 31 ORS 238.225. [Any decrease in the allowance shall be returned to the employer in the form of a credit  
 32 against contributions of the employer under ORS 238.225.]

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

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

36 238A.210. (1) As soon as practicable after January 1 each year, the Public Employees Retirement  
 37 Board shall determine the percentage increase or decrease in the cost of living for the previous  
 38 calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers  
 39 for All Items, as published by the Bureau of Labor Statistics of the United States Department of  
 40 Labor. Before July 1 each year, the board shall adjust every pension payable under ORS 238A.180,  
 41 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit payable  
 42 under ORS 238A.230 by multiplying the monthly payment by the percentage figure determined by the  
 43 board. If a person has been receiving a pension or benefit for less than 12 months on July 1 of a  
 44 calendar year, the board shall make a pro rata reduction of the adjustment based on the number  
 45 of months that the pension or benefit was received before July 1 of the year. The adjustment shall

1 be made for the payments payable on August 1 and thereafter.

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

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

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

10 238A.210. *[(1) As soon as practicable after January 1 each year, the Public Employees Retirement*  
11 *Board shall determine the percentage increase or decrease in the cost of living for the previous calendar*  
12 *year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All*  
13 *Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. Before*  
14 *July 1 each year, the board shall adjust every pension payable under ORS 238A.180, 238A.185 and*  
15 *238A.190, every disability benefit under ORS 238A.235 and every death benefit payable under ORS*  
16 *238A.230 by multiplying the monthly payment by the percentage figure determined by the board. If a*  
17 *person has been receiving a pension or benefit for less than 12 months on July 1 of a calendar year,*  
18 *the board shall make a pro rata reduction of the adjustment based on the number of months that the*  
19 *pension or benefit was received before July 1 of the year. The adjustment shall be made for the pay-*  
20 *ments payable on August 1 and thereafter.]*

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

25 **(1) On July 1 of each year, the Public Employees Retirement Board shall increase every**  
26 **pension payable under ORS 238A.180, 238A.185 and 238A.190, every disability benefit under**  
27 **ORS 238A.235 and every death benefit payable under ORS 238A.230 as provided in subsections**  
28 **(2) and (3) of this section. The increase shall be made for the payments payable on August**  
29 **1 and thereafter.**

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

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

35 **(c) If a person's yearly pension or benefit for the previous year totaled more than \$36,000,**  
36 **the allowance shall be increased by \$420 plus 0.1 percent of the amount of the yearly allow-**  
37 **ance exceeding \$36,000.**

38 **(3) If a person has been receiving a pension or benefit for less than 12 months on July 1**  
39 **of any year, the board shall calculate the increase under subsection (2) of this section on the**  
40 **basis of the yearly allowance the person would have received if the person had received the**  
41 **pension or benefit for 12 months.**

42 **SECTION 8. The amendments to ORS 238A.210 by section 7 of this 2013 Act apply to all**  
43 **increases to pensions or benefits made under ORS 238A.210 on and after July 1, 2014.**

44 **SECTION 9. (1) The amendments to ORS 238.360 and 238A.210 by sections 3 and 7 of this**  
45 **2013 Act become operative on July 1, 2014.**

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

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

7       238.575. (1) Every monthly retirement allowance or pension payable to a judge member or sur-  
8       viving spouse of a judge member under ORS 238.500 to 238.585 shall be adjusted annually *[to reflect*  
9 *the percentage increase or decrease in the cost of living]* as provided in ORS 238.360.

10       (2) ORS 238.368 applies to judge members, and for that purpose the monthly retirement allow-  
11       ance referred to in ORS 238.368 shall be the monthly retirement allowance payable to a judge  
12       member or the monthly pension payable to the surviving spouse of a judge member under ORS  
13       238.565 (3)(a).

#### CALCULATION OF FINAL AVERAGE SALARY

14  
15  
16  
17       **SECTION 11. ORS 238.350 and 238.355 are repealed.**

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

20       238.005. For purposes of this chapter:

21       (1) “Active member” means a member who is presently employed by a participating public em-  
22       ployer in a qualifying position and who has completed the six-month period of service required by  
23       ORS 238.015.

24       (2) “Annuity” means payments for life derived from contributions made by a member as provided  
25       in this chapter.

26       (3) “Board” means the Public Employees Retirement Board.

27       (4) “Calendar year” means 12 calendar months commencing on January 1 and ending on De-  
28       cember 31 following.

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

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

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

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

44       (7) “Earliest service retirement age” means the age attained by a member when the member  
45       could first make application for retirement under the provisions of ORS 238.280.

- 1 (8) "Employee" includes, in addition to employees, public officers, but does not include:  
 2 (a) Persons engaged as independent contractors.  
 3 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-  
 4 ployer or public employers do not total 600 hours in any calendar year.  
 5 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-  
 6 vided sheltered employment or made-work by a public employer in an employment or industries  
 7 program maintained for the benefit of such persons.  
 8 (d) Persons employed and paid from federal funds received under a federal program intended  
 9 primarily to alleviate unemployment. However, any such person shall be considered an "employee"  
 10 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects  
 11 to have the person so considered by an irrevocable written notice to the board.  
 12 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-  
 13 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph  
 14 shall be deemed to have been 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 participating public employers to  
 17 an employee who is an active member of the system in three of the calendar years of membership  
 18 before the effective date of retirement of the employee, in which three years the employee was paid  
 19 the highest salary. The three calendar years in which the employee was paid the largest total salary  
 20 may include calendar years in which the employee was employed for less than a full calendar year.  
 21 If the number of calendar years of active membership before the effective date of retirement of the  
 22 employee is three or fewer, the final average salary for the employee is the average salary per cal-  
 23 endar year paid by one or more participating public employers to the employee in all of those years,  
 24 without regard to whether the employee was employed for the full calendar year.  
 25 (b) One-third of the total salary paid by a participating public employer to an employee who is  
 26 an active member of the system in the last 36 calendar months of active membership before the ef-  
 27 fective date of retirement of the employee.  
 28 (10) "Firefighter" does not include a volunteer firefighter, but does include:  
 29 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and  
 30 (b) An employee of the State Forestry Department who is certified by the State Forester as a  
 31 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
 32 fires as described in ORS 477.064.  
 33 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-  
 34 lowing.  
 35 (12) "Fund" means the Public Employees Retirement Fund.  
 36 (13) "Inactive member" means a member who is not employed in a qualifying position, whose  
 37 membership has not been terminated in the manner described by ORS 238.095 and who is not retired  
 38 for service or disability.  
 39 (14) "Institution of higher education" means a public university listed in ORS 352.002, the  
 40 Oregon Health and Science University and a community college, as defined in ORS 341.005.  
 41 (15) "Member" means a person who has established membership in the system and whose mem-  
 42 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive  
 43 and retired members.  
 44 (16) "Member account" means the regular account and the variable account.  
 45 (17) "Normal retirement age" means:

1 (a) For a person who establishes membership in the system before January 1, 1996, as described  
 2 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter  
 3 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

4 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-  
 5 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or  
 6 firefighter or 60 years of age if the employee retires at that age as other than a police officer or  
 7 firefighter.

8 (18) "Pension" means annual payments for life derived from contributions by one or more public  
 9 employers.

10 (19) "Police officer" includes:

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

16 (b) Employees of the Department of State Police who are classified as police officers by the  
 17 Superintendent of State Police.

18 (c) Employees of the Oregon Liquor Control Commission who are classified as liquor enforce-  
 19 ment inspectors by the administrator of the commission.

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

22 (e) Police chiefs and police personnel of a city who are classified as police officers by the  
 23 council or other governing body of the city.

24 (f) Police officers who are commissioned by a university under ORS 352.383 and who are clas-  
 25 sified as police officers by the university.

26 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-  
 27 bation officers who are transferred to county employment under ORS 423.549 and adult parole and  
 28 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes  
 29 of this chapter by the county governing body. If a county classifies adult parole and probation offi-  
 30 cers as police officers for the purposes of this chapter, and the employees so classified are repres-  
 31 ented by a labor organization, any proposal by the county to change that classification or to cease  
 32 to classify adult parole and probation officers as police officers for the purposes of this chapter is  
 33 a mandatory subject of bargaining.

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

35 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-  
 36 missioners of the Port of Portland.

37 (j) Employees of the State Department of Agriculture who are classified as livestock police of-  
 38 ficers by the Director of Agriculture.

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

41 (L) Investigators of the Criminal Justice Division of the Department of Justice.

42 (m) Corrections officers as defined in ORS 181.610.

43 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the  
 44 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

45 (o) The Director of the Department of Corrections.

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

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

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

12 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,  
13 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who  
14 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the  
15 Department of Corrections or the Oregon Youth Authority.

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

19 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-  
20 bation officers.

21 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)  
22 to (6) (1999 Edition).

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

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

33 (23) "Regular account" means the account established for each active and inactive member un-  
34 der ORS 238.250.

35 (24) "Retired member" means a member who is retired for service or disability.

36 (25) "Retirement credit" means a period of time that is treated as creditable service for the  
37 purposes of this chapter.

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

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

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

45 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary



1 paid in each month of participation;

2 (C) Retroactive payments described in ORS 238.008; and

3 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
4 652.190.

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

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

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

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

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

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

14 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
15 gratuitous payment;

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

19 (H) Payments for instructional services rendered to public universities of the Oregon University  
20 System or the Oregon Health and Science University when such services are in excess of full-time  
21 employment subject to this chapter. A person employed under a contract for less than 12 months is  
22 subject to this subparagraph only for the months to which the contract pertains; [*or*]

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

25 **(J) Any lump sum payment for accumulated unused vacation leave or other unused paid**  
26 **leave; or**

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

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

29 (28) "System" means the Public Employees Retirement System.

30 (29) "Variable account" means the account established for a member who participates in the  
31 Variable Annuity Account under ORS 238.260.

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

33 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600  
34 hours of service per year.

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

36 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-  
37 tion of pension program benefits under ORS 238A.125, "final average salary" means whichever of the  
38 following is greater:

39 (a) The average salary per calendar year paid to an active member in the three consecutive  
40 calendar years of membership that produce the highest average salary, including calendar years in  
41 which the member was employed for less than a full calendar year. If the number of consecutive  
42 calendar years of active membership before the effective date of retirement of the member is three  
43 or less, the final average salary for the member is the average salary per calendar year paid to the  
44 member in all of those years, without regard to whether the member was employed for full calendar  
45 years.

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

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

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

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

8 (c) Exclude any salary for any pay period before the first full pay period that is included in the  
 9 last 36 calendar months of membership under subsection (1)(b) of this section[.]; **and**

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

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

14 (a) The average salary per calendar year earned by an active member in the three consecutive  
 15 calendar years of membership that produce the highest average salary, including calendar years in  
 16 which the member was employed for less than a full calendar year. If the number of consecutive  
 17 calendar years of active membership before the effective date of retirement of the member is three  
 18 or less, the final average salary for the member is the average salary per calendar year earned by  
 19 the member in all of those years, without regard to whether the member was employed for full cal-  
 20 endar years.

21 (b) One-third of the total salary earned by an active member in the last 36 calendar months of  
 22 membership before the effective date of retirement of the member.

23 *[(4) For the purposes of calculating the final average salary of a member under this section, the*  
 24 *salary of the member does not include any amounts attributable to hours of overtime that exceed the*  
 25 *average number of hours of overtime for the same class of employees as established by rule of the*  
 26 *Public Employees Retirement Board. The Oregon Department of Administrative Services shall establish*  
 27 *by rule more than one overtime average for a class of state employees based on the geographic place-*  
 28 *ment of the employees.]*

29 **SECTION 14.** ORS 238.285 is amended to read:

30 238.285. (1) Not earlier than two years before a member’s earliest service retirement age, a  
 31 member may request a verification of retirement data from the Public Employees Retirement Board.  
 32 Upon receiving a request under this section, the board shall notify all of the member’s participating  
 33 public employers of the request. In a manner specified by rules of the board, the board shall allow  
 34 those employers a reasonable time to confirm the records relating to the member that were provided  
 35 to the board before the request was made. The board shall thereafter provide a verification to the  
 36 member that includes the following data, as reflected in the records of the Public Employees Re-  
 37 tirement System:

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

41 (b) The salary data reported by the member’s employers for each calendar year, and the final  
 42 average salary for the member derived from that data.

43 (c) If applicable, the member’s regular account balance, and any variable account balance, as  
 44 of the end of a calendar year specified in the verification.

45 *[(d) If applicable, the total amount of unused sick leave accumulated by the member as of a date*

1 *specified in the verification.]*

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

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

14 (a) Creditable service or retirement credit accrued by the member after the date specified in the  
 15 verification.

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

17 (c) Earnings and losses credited to the member's accounts from the end of the calendar year  
 18 specified in the verification to the member's effective retirement date, in accordance with rules  
 19 adopted by the board.

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

21 (4) The board may use creditable service, retirement credit, final average salary[,] **or** member  
 22 account balances [*or accumulated unused sick leave*] in calculating a member's service retirement  
 23 allowance that is less than the amounts provided in a verification received under this section if the  
 24 member knew that the amounts were not accurate at the time the verification was provided and the  
 25 member did not dispute the accuracy of the amounts as provided in subsection (2) of this section.

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

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

35 (b) The board shall recover erroneous payments or overpayments paid to or on account of a  
 36 member based on a verification provided under this section if the board determines that the recov-  
 37 ery is required to maintain the status of the system and the Public Employees Retirement Fund as  
 38 a qualified governmental retirement plan and trust under the Internal Revenue Code and under  
 39 regulations adopted pursuant to the Internal Revenue Code.

40 (7) A member may dispute the accuracy of data in a verification only as provided under this  
 41 section. A member may not dispute the accuracy of data in a verification in the manner provided  
 42 by ORS 238.450.

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

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

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

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

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

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

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

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

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

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

(3) Any excess moneys remaining after the implementation of ORS [238.350,] 240.546, 292.026, 292.033, 292.070 to 292.110, 292.170 and this section shall be returned pro rata on the basis of total moneys to agency contributions to the agencies from which received. However, if the amount remaining is less than \$10,000, that amount may be transferred to the General Fund as a miscellaneous receipt.

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

**TAXATION OF OUT-OF-STATE RETIREES**

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

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

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

[(a) A retired member of the system who is receiving payments under this chapter and whose ef-

1 *fective date of retirement is before January 1, 2012;]*

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

4 [(c) Any other person who receives payments under this chapter that began before January 1,  
5 2012.]

6 [(3)] (2) The board shall give written notification of the provisions of ORS 238.372 to 238.384 to  
7 all persons applying for or receiving payments under this chapter.

8 [(4)] (3) A person receiving payments under this chapter that are not increased under **chapter**  
9 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384  
10 has no right or claim to the increased benefit provided by **chapter 796, Oregon Laws 1991, or**  
11 chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

12 **SECTION 20.** ORS 238.374 is amended to read:

13 238.374. (1) A person applying for payments under this chapter shall give a written statement  
14 to the Public Employees Retirement Board that indicates whether the payments will be subject to  
15 Oregon personal income tax under ORS 316.127 (9). If the person fails to provide the statement re-  
16 quired by this subsection, or the statement indicates that the payments will not be subject to Oregon  
17 personal income tax under ORS 316.127 (9), the board may not pay the person the increased  
18 [benefit] **benefits** provided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995.

19 (2) If a person is receiving payments under this chapter that have not been increased under  
20 **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of the provisions  
21 of subsection (1) of this section, and thereafter the payments become subject to Oregon personal  
22 income tax **under ORS 316.127 (9)**, the person shall promptly notify the Public Employees Retire-  
23 ment Board by written statement that the payments are subject to Oregon personal income tax  
24 **under ORS 316.127 (9)**.

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

34 **SECTION 21.** ORS 238.376 is amended to read:

35 238.376. (1) If a person is receiving payments under this chapter, and after the payments com-  
36 mence the payments cease to be subject to Oregon personal income tax under ORS 316.127 (9), the  
37 person shall promptly notify the Public Employees Retirement Board by written statement that the  
38 payments are no longer subject to Oregon personal income tax **under ORS 316.127 (9)**. The board  
39 shall reduce any benefits payable to the person by the amount by which the benefits were increased  
40 under **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995. The reduction in bene-  
41 fits becomes effective on the first day of the calendar year following receipt of notice by the board.

42 (2) If a person is receiving payments under this chapter that have been reduced [*under the pro-*  
43 *visions of subsection (1) of this section*] **because the payments are not subject to Oregon personal**  
44 **income tax under ORS 316.127 (9)**, and thereafter the payments become subject to Oregon personal  
45 income tax **under ORS 316.127 (9)**, the person shall promptly notify the board by written statement

1 that the payments are once again subject to Oregon personal income tax **under ORS 316.129 (9)**.

2 (3) If a person is receiving payments under this chapter that have been reduced [*under the pro-*  
 3 *visions of subsection (1) of this section*] **because the payments are not subject to Oregon personal**  
 4 **income tax under ORS 316.127 (9)**, and the board receives notice under subsection (2) of this sec-  
 5 tion that payments to the person under this chapter are once again subject to Oregon personal in-  
 6 come tax **under ORS 316.127 (9)**, or determines under ORS 238.378 that payments to the person  
 7 under this chapter are once again subject to Oregon personal income tax **under ORS 316.127 (9)**,  
 8 the board shall resume payment of the increased [*benefit*] **benefits** provided by **chapter 796, Oregon**  
 9 **Laws 1991, or** chapter 569, Oregon Laws 1995. The increase in benefits becomes effective on the  
 10 first day of the calendar year following receipt of notice by the board.

11 **SECTION 22.** ORS 238.378 is amended to read:

12 238.378. (1) Not less than once each calendar year, the Public Employees Retirement Board shall  
 13 provide to the Department of Revenue information identifying persons to whom payments have been  
 14 made under this chapter. The Department of Revenue shall provide to the board such information  
 15 on Oregon personal income tax returns as the board deems necessary to determine whether the  
 16 payments made to the person under this chapter are subject to Oregon personal income tax under  
 17 ORS 316.127 (9).

18 (2) If the board determines that the payments made to a person under this chapter are not  
 19 subject to Oregon personal income tax under ORS 316.127 (9) based on information provided by the  
 20 Department of Revenue under this section, and the person is receiving the increased benefit pro-  
 21 vided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the board shall re-  
 22 duce the benefits payable to the person as provided in ORS 238.376 (1).

23 (3) If the board determines that the payments made to a person under this chapter are subject  
 24 to Oregon personal income tax **under ORS 316.127 (9)** based on information provided by the De-  
 25 partment of Revenue under this section, and the person is not receiving the increased benefit pro-  
 26 vided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the board shall  
 27 increase the benefits payable to the person as provided in ORS 238.374 (3) or 238.376 (3).

28 **SECTION 23.** ORS 237.635 is amended to read:

29 237.635. (1) Any public employer that provides retirement benefits to its police officers and  
 30 firefighters other than by participation in the Public Employees Retirement System pursuant to the  
 31 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public  
 32 employer, both active and retired, that are equal to the increases in retirement benefits that are  
 33 provided for in this 1991 Act for active and retired police officers or firefighters who are members  
 34 of the Public Employees Retirement System, or shall provide to those police officers and firefighters  
 35 increases in retirement benefits that are the actuarial equivalent of the increases in retirement  
 36 benefits that are provided for in this 1991 Act for police officers or firefighters who are members  
 37 of the Public Employees Retirement System. No other retirement benefit or other benefit provided  
 38 by those public employers shall be decreased by the employer by reason of the increases mandated  
 39 by this section.

40 (2) The increased benefits provided for in this section apply only to police officers or firefighters  
 41 who establish membership before July 14, 1995, in a retirement plan or system offered by a public  
 42 employer in lieu of membership in the Public Employees Retirement System pursuant to the pro-  
 43 visions of ORS 237.620.

44 (3) **A public employer that is subject to the requirements of this section shall cease**  
 45 **paying increased retirement benefits under this section if the payments made to the person**

1 **are not subject to Oregon personal income tax under ORS 316.127 (9). A public employer that**  
 2 **is subject to the requirements of this section shall adopt procedures similar to those de-**  
 3 **scribed in ORS 238.372 to 238.384 for the purpose of implementing this subsection. The De-**  
 4 **partment of Revenue shall provide to a public employer that is subject to the requirements**  
 5 **of this section the information regarding Oregon personal income tax returns that the public**  
 6 **employer deems necessary to determine whether the retirement benefits paid to the person**  
 7 **by the public employer are subject to Oregon personal income tax under ORS 316.127 (9).**

8 **SECTION 24.** ORS 237.637 is amended to read:

9 237.637. (1) Any public employer that provides retirement benefits to its police officers and  
 10 firefighters other than by participation in the Public Employees Retirement System pursuant to the  
 11 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public  
 12 employer, both active and retired, that are equal to the increases in retirement benefits that are  
 13 provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters  
 14 who are members of the Public Employees Retirement System, or the public employer shall provide  
 15 to those police officers and firefighters increases in retirement benefits that are the actuarial  
 16 equivalent of the increases in retirement benefits that are provided for in chapter 569, Oregon Laws  
 17 1995, for police officers or firefighters who are members of the Public Employees Retirement System.  
 18 Increases provided under this section shall be reduced by the amount of any benefit increase pro-  
 19 vided by ORS 237.635 in the same manner that increases in retirement benefits that are provided for  
 20 in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are  
 21 members of the Public Employees Retirement System are reduced to reflect amounts paid to those  
 22 members under the provisions of chapter 796, Oregon Laws 1991. No other retirement benefit or  
 23 other benefit provided by those public employers shall be decreased by the employer by reason of  
 24 the increases mandated by this section.

25 (2) A public employer that is subject to the requirements of this section shall cease paying in-  
 26 creased **retirement** benefits under this section if the payments made to the person are not subject  
 27 to Oregon personal income tax under ORS 316.127 (9). A public employer that is subject to the re-  
 28 quirements of this section shall adopt procedures similar to those described in ORS 238.372 to  
 29 238.384 for the purpose of implementing this subsection. The Department of Revenue shall provide  
 30 to a public employer that is subject to the requirements of this section [*such*] **the** information re-  
 31 garding Oregon personal income tax returns [*as*] **that** the public employer deems necessary to de-  
 32 termine whether the retirement benefits paid to the person by the public employer are subject to  
 33 Oregon personal income tax under ORS 316.127 (9).

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

35 [*(a) A retired police officer or firefighter who is receiving payments under the public employer's*  
 36 *plan and whose effective date of retirement is before January 1, 2012;*]

37 [*(b) A person who is receiving payments under the public employer's plan by reason of the retire-*  
 38 *ment of a police officer or firefighter whose effective date of retirement is before January 1, 2012;*  
 39 *and]*

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

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

44 314.840. (1) The Department of Revenue may:

45 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230

1 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-  
2 tative or designee, with a copy of the taxpayer's income tax return filed with the department for  
3 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with  
4 any other information the department considers necessary.

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

6 (c) Publish statistics so classified as to prevent the identification of income or any particulars  
7 contained in any report or return.

8 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social  
9 Security number, employer identification number or other taxpayer identification number to the ex-  
10 tent necessary in connection with collection activities or the processing and mailing of correspond-  
11 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to  
12 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-  
13 come.

14 (2) The department also may disclose and give access to information described in ORS 314.835  
15 to:

16 (a) The Governor of the State of Oregon or the authorized representative of the Governor:

17 (A) With respect to an individual who is designated as being under consideration for appoint-  
18 ment or reappointment to an office or for employment in the office of the Governor. The information  
19 disclosed shall be confined to whether the individual:

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

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

25 (iii) Has been assessed any penalty under the Oregon personal income tax laws and the nature  
26 of the penalty.

27 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal  
28 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose  
29 of making the appointment, reappointment or decision to employ or not to employ the individual in  
30 the office of the Governor.

31 (B) For use by an officer or employee of the Oregon Department of Administrative Services duly  
32 authorized or employed to prepare revenue estimates, or a person contracting with the Oregon De-  
33 partment of Administrative Services to prepare revenue estimates, in the preparation of revenue  
34 estimates required for the Governor's budget under ORS 291.201 to 291.226, or required for sub-  
35 mission to the Emergency Board or the Joint Interim Committee on Ways and Means, or if the  
36 Legislative Assembly is in session, to the Joint Committee on Ways and Means, and to the Legisla-  
37 tive Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The De-  
38 partment of Revenue shall disclose and give access to the information described in ORS 314.835 for  
39 the purposes of this subparagraph only if:

40 (i) The request for information is made in writing, specifies the purposes for which the request  
41 is made and is signed by an authorized representative of the Oregon Department of Administrative  
42 Services. The form for request for information shall be prescribed by the Oregon Department of  
43 Administrative Services and approved by the Director of the Department of Revenue.

44 (ii) The officer, employee or person receiving the information does not remove from the premises  
45 of the Department of Revenue any materials that would reveal the identity of a personal or corpo-



1 rate taxpayer.

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

4 (c) For tax administration and compliance purposes, the proper officer or authorized represen-  
5 tative of any of the following entities that has or is governed by a provision of law that meets the  
6 requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

7 (A) A state;

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

9 (C) The District of Columbia; or

10 (D) An association established exclusively to provide services to federal, state or local taxing  
11 authorities.

12 (d) The Multistate Tax Commission or its authorized representatives, for tax administration and  
13 compliance purposes only. The Multistate Tax Commission may make the information available to  
14 the Commissioner of Internal Revenue or the proper officer or authorized representative of any  
15 governmental entity described in and meeting the qualifications of paragraph (c) of this subsection.

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

20 (f) Employees of the State of Oregon, other than of the Department of Revenue or Department  
21 of Justice, to the extent the department deems disclosure or access necessary for such employees  
22 to perform their duties under contracts or agreements between the department and any other de-  
23 partment, agency or subdivision of the State of Oregon, in the department's administration of the  
24 tax laws.

25 (g) Other persons, partnerships, corporations and other legal entities, and their employees, to  
26 the extent the department deems disclosure or access necessary for the performance of such others'  
27 duties under contracts or agreements between the department and such legal entities, in the  
28 department's administration of the tax laws.

29 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS  
30 173.850. Such officer or representative shall not remove from the premises of the department any  
31 materials that would reveal the identity of any taxpayer or any other person.

32 (i) The Department of Consumer and Business Services, to the extent the department requires  
33 such information to determine whether it is appropriate to adjust those workers' compensation  
34 benefits the amount of which is based pursuant to ORS chapter 656 on the amount of wages or  
35 earned income received by an individual.

36 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency  
37 or person to whom disclosure or access is given by state law and not otherwise referred to in this  
38 section, including but not limited to the Secretary of State as Auditor of Public Accounts under  
39 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to  
40 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district  
41 attorney regarding cases for which they are providing support enforcement services under ORS  
42 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of  
43 Accountancy, pursuant to ORS 673.415.

44 (k) The Director of the Department of Consumer and Business Services to determine that a  
45 person complies with ORS chapter 656 and the Director of the Employment Department to determine

1 that a person complies with ORS chapter 657, the following employer information:

2 (A) Identification numbers.

3 (B) Names and addresses.

4 (C) Inception date as employer.

5 (D) Nature of business.

6 (E) Entity changes.

7 (F) Date of last payroll.

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

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

15 (n) Employees of the Employment Department to the extent the Department of Revenue deems  
16 disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary  
17 to performance of their duties in administering the tax imposed by ORS chapter 657.

18 (o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and  
19 powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and  
20 standard industrial classification, if available.

21 (p) Employees of the Department of State Lands for the purposes of identifying, locating and  
22 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter  
23 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the  
24 refund amount.

25 (q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement  
26 agencies to assist in the investigation or prosecution of the following criminal activities:

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

30 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department  
31 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information  
32 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-  
33 dress and taxpayer identification number of the payee, the amount of the check, the date printed  
34 on the check and the altered name and address.

35 (r) The United States Postal Inspection Service or a federal law enforcement agency, including  
36 but not limited to the United States Department of Justice, to assist in the investigation of the fol-  
37 lowing criminal activities:

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

41 (B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department  
42 of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information  
43 that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, ad-  
44 dress and taxpayer identification number of the payee, the amount of the check, the date printed  
45 on the check and the altered name and address.

1 (s) The United States Financial Management Service, for purposes of facilitating the offsets de-  
 2 scribed in ORS 305.612.

3 (t) A municipal corporation of this state for purposes of assisting the municipal corporation in  
 4 the administration of a tax of the municipal corporation that is imposed on or measured by income,  
 5 wages or net earnings 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 municipal corporation  
 7 that ensures the confidentiality of the information disclosed.

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

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

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

22 (b) The disclosure authorized in subsection (2)(r) of this section shall be made only after a  
 23 written agreement has been entered into between the Department of Revenue and the person de-  
 24 scribed in subsection (2)(r) of this section to whom disclosure or access to the tax information is  
 25 given, providing that:

26 (A) Any information described in ORS 314.835 that is received by the person pursuant to sub-  
 27 section (2)(r) of this section is confidential information that may not be disclosed, except to the ex-  
 28 tent necessary to investigate or prosecute the criminal activities described in subsection (2)(r) of  
 29 this section;

30 (B) The information shall be protected as confidential under applicable federal and state laws;  
 31 and

32 (C) The United States Postal Inspection Service or the federal law enforcement agency shall  
 33 give notice to the Department of Revenue of any request received under the federal Freedom of In-  
 34 formation Act, 5 U.S.C. 552, or other federal law relating to the disclosure of information.

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

37  
 38 **TRANSFER OF EMPLOYEE CONTRIBUTIONS**  
 39

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

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

44 **(2) A member of the Public Employees Retirement System who is a member of the indi-**  
 45 **vidual account program on January 1, 2014, continues to be a member for the purpose of**

1 amounts in the employee account established for the member under ORS 238A.350 (2), and  
2 the Public Employees Retirement Board shall continue to make adjustments to the account  
3 in the manner prescribed by ORS 238A.350 (1) on and after January 1, 2014, but no further  
4 employee contributions may be deposited in the account on or after January 1, 2014, by rea-  
5 son of service by the member.

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

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

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

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

26 (2) A member who is vested in the pension program established under this chapter and  
27 who is eligible to withdraw from the pension program under ORS 238A.120 may make an  
28 election under this section only if the member also withdraws from the pension program.

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

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

37 (2) An inactive member of the pension program who terminated membership in the individual  
38 account program pursuant to ORS 238A.310 (2) becomes a member of the individual account program  
39 immediately upon reemployment in a qualifying position.

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

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

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

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

3 (3) Except as provided in subsection (4) of this section, if an employer makes employer contri-  
 4 butions for a member under ORS 238A.340 the member becomes vested in the employer account es-  
 5 tablished under ORS 238A.350 (3) on the earliest of the following dates:

6 (a) The date on which the member completes at least 600 hours of service in each of five cal-  
 7 endar years. The five calendar years need not be consecutive, but are subject to the provisions of  
 8 subsection (5) of this section.

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

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

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

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

15 (4) If on the date that a person becomes an active member the person has already reached the  
 16 normal retirement age for the person under ORS 238A.160, and the employer makes employer con-  
 17 tributions for the member under ORS 238A.340, the person is vested in the employer account es-  
 18 tablished under ORS 238A.350 (3) on that date.

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

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

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

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

32 238A.330. (1) [*A member of the individual account program must make employee contributions to*  
 33 *the individual account program*] **An active member of the Public Employees Retirement System**  
 34 **shall make an employee contribution to the account established for the member under sec-**  
 35 **tion 28 of this 2013 Act** of six percent of the member's salary.

36 [*(2) Employee contributions made by a member of the individual account program under this sec-*  
 37 *tion shall be credited by the board to the employee account established for the member under ORS*  
 38 *238A.350 (2).*]

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

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

44 **(2) The Public Employees Retirement Board may take any action before the operative**  
 45 **date specified in subsection (1) of this section to enable the board to exercise, on and after**

1 **the operative date specified in subsection (1) of this section, all of the duties, functions and**  
 2 **powers conferred on the board by the amendments to ORS 238A.330 by section 32 of this 2013**  
 3 **Act.**

4  
 5 **“PICK-UP” OF EMPLOYEE CONTRIBUTIONS**

6  
 7 **SECTION 34.** ORS 238A.335 is amended to read:

8 238A.335. (1) A participating public employer may agree, by a written employment policy or by  
 9 a collective bargaining agreement, to pay **all or part of** the employee contribution required under  
 10 ORS 238A.330. [*The policy or agreement need not include all members of the individual account pro-*  
 11 *gram employed by the employer.*] **The amount of the employee contribution that is paid by the**  
 12 **employer must be equal to a percentage of the member’s salary that is not less than one**  
 13 **percent and not greater than six percent, and the percentage must be a whole number. The**  
 14 **employer may enter into an agreement under this section with all or some of the employees**  
 15 **employed by the employer.**

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

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

19 (b) Additional amounts be paid by the employer for the purpose of making [*the*] employee  
 20 contributions[, *and employee compensation not be reduced for the purpose of generating the funds*  
 21 *needed to make the employee contributions*]; **or**

22 (c) **Amounts be deducted from employee compensation under paragraph (a) of this sub-**  
 23 **section to generate the funds needed to make a portion of the employee contributions, and**  
 24 **additional amounts be paid by the employer under paragraph (b) of this subsection to gen-**  
 25 **erate the funds needed to make a portion of the employee contributions.**

26 (3) A participating public employer must give written notice to the Public Employees Retirement  
 27 Board at the time that [*a written employment policy or collective bargaining agreement described in*  
 28 *subsection (1) of*] **an agreement under** this section is adopted or changed. The notice must specif-  
 29 ically [*indicate whether the agreement is as described in subsection (2)(a) or (b) of this section.*] **de-**  
 30 **scribe the apportionment of the employee contribution between the members and the**  
 31 **employer.** [*Any change in the manner in which employee contributions are to be paid applies only to*  
 32 *employee contributions made on and after the date the notice is received by the board.*] **An agreement**  
 33 **under this section, and any change to an agreement under this section, applies only to em-**  
 34 **ployee contributions for pay periods beginning on or after the date that the notice is received**  
 35 **by the board.**

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

38 238A.005. For the purposes of this chapter:

39 (1) “Active member” means a member of the pension program or the individual account program  
 40 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

41 (2) “Actuarial equivalent” means a payment or series of payments having the same value as the  
 42 payment or series of payments replaced, computed on the basis of interest rate and mortality as-  
 43 sumptions adopted by the board.

44 (3) “Board” means the Public Employees Retirement Board.

45 (4) “Eligible employee” means a person who performs services for a participating public em-

1 ployer, including elected officials other than judges. “Eligible employee” does not include:

2 (a) Persons engaged as independent contractors;

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

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

6 (d) Persons categorized by a participating public employer as student employees;

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

8 (f) Employees of foreign trade offices of the Oregon Business Development Department who live  
9 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);

10 (g) An employee actively participating in an alternative retirement program established under  
11 ORS 353.250 or an optional retirement plan established under ORS 341.551;

12 (h) Employees of the Oregon University System who are actively participating in an optional  
13 retirement plan offered under ORS 243.800;

14 (i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,  
15 for membership in the system under the provisions of ORS chapter 238 or other law;

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

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

20 (L) Judges.

21 (5) “Firefighter” means:

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

24 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;  
25 and

26 (c) An employee of the State Forestry Department who is certified by the State Forester as a  
27 professional wildland firefighter and whose primary duties include the abatement of uncontrolled  
28 fires as described in ORS 477.064.

29 (6) “Fund” means the Public Employees Retirement Fund.

30 (7)(a) “Hour of service” means:

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

33 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave  
34 during which an employee does not perform duties but for which the employee is directly or indi-  
35 rectly paid or entitled to payment by a participating public employer for services in a qualifying  
36 position, as long as the hour is within the number of hours regularly scheduled for the performance  
37 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-  
38 thorized leave.

39 (b) “Hour of service” does not include any hour for which payment is made or due under a plan  
40 maintained solely for the purpose of complying with applicable workers’ compensation laws or un-  
41 employment compensation laws.

42 (8) “Inactive member” means a member of the pension program or the individual account pro-  
43 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who  
44 is not a retired member and who is not employed in a qualifying position.

45 (9) “Individual account program” means the defined contribution individual account program of

1 the Oregon Public Service Retirement Plan established under ORS 238A.025.

2 (10) "Institution of higher education" means a public university listed in ORS 352.002, the  
3 Oregon Health and Science University or a community college, as defined in ORS 341.005.

4 (11) "Member" means an eligible employee who has established membership in the pension pro-  
5 gram or the individual account program of the Oregon Public Service Retirement Plan and whose  
6 membership has not been terminated under ORS 238A.110 or 238A.310.

7 (12) "Participating public employer" means a public employer as defined in ORS 238.005 that  
8 provides retirement benefits for employees of the public employer under the system.

9 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service  
10 Retirement Plan established under ORS 238A.025.

11 (14) "Police officer" means a police officer as described in ORS 238.005.

12 (15) "Qualifying position" means one or more jobs with one or more participating public em-  
13 ployers in which an eligible employee performs 600 or more hours of service in a calendar year,  
14 excluding any service in a job for which benefits are not provided under the Oregon Public Service  
15 Retirement Plan pursuant to ORS 238A.070 (2).

16 (16) "Retired member" means a pension program member who is receiving a pension as provided  
17 in ORS 238A.180 to 238A.195.

18 (17)(a) "Salary" means the remuneration paid to an active member in return for services to the  
19 participating public employer, including remuneration in the form of living quarters, board or other  
20 items of value, to the extent the remuneration is includable in the employee's taxable income under  
21 Oregon law. Salary includes the additional amounts specified in paragraph (b) of this subsection,  
22 but does not include the amounts specified in paragraph (c) of this subsection, regardless of whether  
23 those amounts are includable in taxable income.

24 (b) "Salary" includes the following amounts:

25 (A) Payments of employee and employer money into a deferred compensation plan that are made  
26 at the election of the employee.

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

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

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

35 (E) Retroactive payments described in ORS 238.008.

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

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

41 [*(H)*] (G) Wages of a deceased member paid to a surviving spouse or dependent children under  
42 ORS 652.190.

43 (c) "Salary" does not include the following amounts:

44 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the  
45 employer.



1 (B) Payments made on account of an employee's death.

2 (C) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid  
3 leave.

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

6 (E) Any retirement incentive, retirement bonus or retirement gratuitous payment.

7 (F) Payment for a leave of absence after the date the employer and employee have agreed that  
8 no future services in a qualifying position will be performed.

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

13 (H) The amount of an employee contribution to the individual account program that is paid by  
14 the employer and is not deducted from the compensation of the employee[, *as provided*] under ORS  
15 238A.335 [(1) and (2)(b)].

16 (I) Any amount in excess of \$200,000 for a calendar year. If any period over which salary is  
17 determined is less than 12 months, the \$200,000 limitation for that period shall be multiplied by a  
18 fraction, the numerator of which is the number of months in the determination period and the de-  
19 nominator of which is 12. The board shall adopt rules adjusting this dollar limit to incorporate  
20 cost-of-living adjustments authorized by the Internal Revenue Service.

21 (18) "System" means the Public Employees Retirement System.

22 **SECTION 36. The amendments to ORS 238A.005 and 238A.335 by sections 34 and 35 of this**  
23 **2013 Act do not apply to a collective bargaining agreement entered into before the effective**  
24 **date of this 2013 Act. Any collective bargaining agreement entered into on or after the ef-**  
25 **fective date of this 2013 Act must be in conformance with ORS 238A.005 and 238A.335 as**  
26 **amended by sections 34 and 35 of this 2013 Act.**

27  
28 **ELIMINATION OF MONEY MATCH PENSION CALCULATION**  
29 **FOR INACTIVE MEMBERS**

30  
31 **SECTION 37. Section 38 of this 2013 Act is added to and made a part of ORS chapter 238.**

32 **SECTION 38. A member of the Public Employees Retirement System may not receive a**  
33 **service retirement allowance calculated under ORS 238.300 (2)(b)(A) if the member was an**  
34 **inactive member for more than the 12 calendar months immediately preceding the member's**  
35 **effective date of retirement.**

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

39  
40 **REMOVAL OF LEGISLATORS FROM PUBLIC EMPLOYEES RETIREMENT SYSTEM**

41  
42 **SECTION 40. A person who is appointed or elected as a member of the Legislative As-**  
43 **sembly may not become a member of the Public Employees Retirement System for service**  
44 **as a member of the Legislative Assembly that is performed by reason of that appointment**  
45 **or election.**

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

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

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

(b) A member of the Legislative Assembly who is a member of the system as a member of the Legislative Assembly and who becomes eligible to retire by reason of service as other than a member of the Legislative Assembly, without regard to when that service was performed, may elect, by giving the board written notice, to retire and receive the pension and annuity provided by this chapter for service as other than a member of the Legislative Assembly, and to continue, for the purpose of service in the Legislative Assembly, as an active member of the system as a member of the Legislative Assembly. **A person may make an election under this paragraph only if the person becomes an active member of the system as a member of the Legislative Assembly as a result of an appointment or election to the Legislative Assembly that occurred before the effective date of this 2013 Act.**

(c) Upon receipt of the notice provided for in paragraphs (a) and (b) of this subsection, the board shall determine that portion of the accumulated contributions, if any, of the member and interest thereon attributable to service as other than a member of the Legislative Assembly, which shall be used in determining the amount of the annuity the member shall receive for that service. The portion of the accumulated contributions, if any, of the member and interest thereon attributable to service as a member of the Legislative Assembly shall remain in the member account of the member and, together with any subsequent contributions and interest thereon, be used in determining the amount of the additional annuity the member shall receive for that service upon subsequent retirement. If the member does not have a member account, the board shall determine the member's retirement allowance for nonlegislative service based on the number of years of nonlegislative service, and shall determine any additional benefit to be received after the member subsequently retires based on the number of years of service in the Legislative Assembly.

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

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

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

1 (2) If a retired member of the pension program is reemployed under the provisions of this sec-  
 2 tion, any option chosen by the member under ORS 238A.190 is canceled, and upon retiring thereafter  
 3 the member may elect any option provided for in ORS 238A.180 and 238A.190. The board shall re-  
 4 calculate the pension of the member upon subsequent retirement.

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

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

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

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

23  
 24 **REMOVAL OF JUDGES FROM**  
 25 **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

26  
 27 **SECTION 45. ORS 238.505 is amended to read:**

28 238.505. (1) Except as provided in [*subsection (2)*] **subsections (2) and (3)** of this section, a  
 29 person who is not a judge on December 31, 1983, and who is elected or appointed to the office of  
 30 judge on or after January 1, 1984, shall become a judge member on the date the person takes the  
 31 office.

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

35 (3) **A person who is elected or appointed to the office of judge who takes office on or after**  
 36 **the effective date of this 2013 Act may not become a member of the Public Employees Re-**  
 37 **irement System or acquire retirement credit under the system.**

38 (4) **This section does not apply to a person who is serving as a judge on the effective date**  
 39 **of this 2013 Act so long as that person continues uninterrupted service in the office held by**  
 40 **the person on the effective date of this 2013 Act, including any period of service attributable**  
 41 **to reelection to the same office on or after the effective date of this 2013 Act.**

42  
 43 **REMOVAL OF STATEWIDE ELECTED OFFICERS**  
 44 **FROM PUBLIC EMPLOYEES RETIREMENT SYSTEM**

1       **SECTION 46.** ORS 238.015 is amended to read:

2       238.015. (1) No person may become a member of the system unless that person is in the service  
3 of a public employer and has completed six months' service uninterrupted by more than 30 consec-  
4 utive working days during the six months' period. Every employee of a participating employer shall  
5 become a member of the system at the beginning of the first full pay period of the employee fol-  
6 lowing the six months' period. Contributions for new members shall first be made for those wages  
7 that are attributable to services performed by the employee during the first full pay period following  
8 the six months' period, without regard to when those wages are considered earned for other pur-  
9 poses under this chapter. All public employers participating in the Public Employees Retirement  
10 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that  
11 chapter, and all school districts of the state, shall participate in, and their employees shall be  
12 members of, the system, except as otherwise specifically provided by law.

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

25       (3) A political subdivision (other than a school district) not participating in the retirement sys-  
26 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-  
27 ployees, each of whose position requires 600 hours of service per year, or an agency created by two  
28 or more political subdivisions to provide themselves governmental services, which employs one or  
29 more employees, each of whose position requires 600 hours of service per year, may, through its  
30 governing body, notify the board in writing, that it elects to include its employees in the system  
31 hereby established. Such public employer may request the board to make a study and estimate of the  
32 cost of including it and its eligible employees, other than volunteer firefighters, in the system, which  
33 the board thereupon shall cause to be made and the cost of which the employer shall bear. Upon  
34 completion of the study and estimate the employer may apply for admission to the system, where-  
35 upon it shall begin to participate therein and its eligible employees other than volunteer firefighters  
36 shall become members of the system. If the employer is an agency created by two or more political  
37 subdivisions to provide themselves governmental services and ceases thereafter to transmit to the  
38 board contributions for any of its eligible employees, the benefits based upon employer contributions  
39 to which such employees would otherwise be entitled shall be reduced accordingly.

40       (4) No inmate of a state institution or an alien on a training or educational visa working for  
41 any participating employer, even though the inmate or alien received compensation from a partic-  
42 ipating employer, shall be eligible to become a member of the system. No person employed by a  
43 participating employer and defined by such employer as a student employee is eligible to become a  
44 member of the system for such student employment.

45       (5) **Except as provided in subsection (6) of this section,** a person holding an elective office

1 or an appointive office with a fixed term or *[an]* **a person holding** office as head of a department  
 2 to which the person is appointed by the Governor may become a member of the system by giving  
 3 the board written notice of desire to do so within 30 days after taking *[the]* office or, in the event  
 4 that the officer is not eligible to become a member of the system at the time of taking *[the]* office,  
 5 within 30 days after becoming so eligible. Membership so established *[shall]* **may** not be discontinued  
 6 during the appointive or elective term of the *[officer]* **person** except upon separation of the *[officer]*  
 7 **person** from service.

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

11 **(b) Paragraph (a) of this subsection does not apply to a person who is serving in a**  
 12 **statewide elective office on the effective date of this 2013 Act so long as that person contin-**  
 13 **ues uninterrupted service in the office held by the person on the effective date of this 2013**  
 14 **Act, including any period of service attributable to reelection to the same office on or after**  
 15 **the effective date of this 2013 Act.**

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

22 *[(7)(a)]* **(8)(a)** In the event that an employee enters the service of a public employer which is  
 23 participating in or later begins to participate in the system and in the event that at the time of  
 24 entering that service or at the time that the employer begins to participate in the system the em-  
 25 ployee has commenced to purchase and is continuing to purchase a retirement annuity, if the em-  
 26 ployer deems the annuity adequate for the purposes of this chapter, it may enter into an agreement  
 27 with the employee and the board pursuant to which the employee may be exempted from contribut-  
 28 ing to the Public Employees Retirement Fund, and, if no public funds are being used to purchase the  
 29 annuity or a corresponding pension, the employer, in lieu of the contributions which it otherwise  
 30 would make to the fund on account of the employee, may make contributions toward the cost of  
 31 purchasing the annuity. Such employee otherwise shall be subject to the provisions of this chapter,  
 32 except that neither the employee nor any person claiming under the employee shall receive any  
 33 payments from the retirement fund as service or disability allowance.

34 **(b)** An employee who enters into an agreement under paragraph (a) of this subsection may elect  
 35 at any time thereafter to start to participate in the system by giving written notice of desire to  
 36 participate to the board and to the employer. The employee shall receive no retirement credit for  
 37 the period during which the employee was exempted from contributing to the fund under the  
 38 agreement, but the employee shall be considered to have completed the six months' service required  
 39 for membership in the system. When the employee starts to participate in the system the employer  
 40 shall start to contribute to the fund on account of the employee in the same manner as the employer  
 41 contributes on account of other employees who are active members of the system and the employer  
 42 shall stop making contributions toward the cost of purchasing the retirement annuity.

43 *[(8)(a)]* **(9)(a)** All new appointees in the Federal Cooperative Extension Service or in any other  
 44 service in which participation in the Federal Civil Service retirement program is mandatory, who  
 45 receive a federal appointment on or after July 1, 1955, may participate in the Public Employees

1 Retirement System only by giving written notice of their election to so participate to the Public  
 2 Employees Retirement Board within six months after the effective date of their appointment.

3 (b) All persons employed by the Federal Cooperative Extension Service or by any other service  
 4 in which participation in the Federal Civil Service retirement program is mandatory, who are under  
 5 federal appointment as of July 1, 1955, and who are members of the state retirement system, shall  
 6 continue such membership unless, prior to February 1, 1956, they give written notice to the Public  
 7 Employees Retirement Board of their desire to cancel their membership.

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

14 (d) A cancellation of membership under paragraph (b) or (c) of this subsection terminates mem-  
 15 bership in the Public Employees Retirement System and cancels the right to any benefits from, or  
 16 claims against, that system. Such cancellation prevents the withdrawing member from claiming  
 17 thereafter any retirement credit for any period of employment before the cancellation. Upon receipt  
 18 of a notice of cancellation, the Public Employees Retirement Board shall refund the member account  
 19 of the withdrawing member, regardless of the age of the withdrawing member.

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

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

29  
 30 **EMPLOYER CONTRIBUTION RATES**

31  
 32 **SECTION 47. (1) As soon as practicable after the effective date of this 2013 Act, the**  
 33 **Public Employees Retirement Board shall recalculate the contribution rates of all employers,**  
 34 **pursuant to ORS 238.225, to reflect the provisions of this 2013 Act.**

35 **(2) The board shall issue corrected contribution rate orders to employers affected by re-**  
 36 **calculated rates under this section within 90 days after the effective date of this 2013 Act.**  
 37 **The corrected rates are effective July 1, 2013.**

38  
 39 **EXPEDITED REVIEW BY SUPREME COURT**

40  
 41 **SECTION 48. (1) Jurisdiction is conferred on the Supreme Court to determine in the**  
 42 **manner provided by this section whether this 2013 Act breaches any contract between**  
 43 **members of the Public Employees Retirement System and their employers or violates any**  
 44 **constitutional provision, including but not limited to impairment of contract rights of mem-**  
 45 **bers of the Public Employees Retirement System under Article I, section 21, of the Oregon**

1 Constitution, or Article I, section 10, clause 1, of the United States Constitution, or is invalid  
2 for any other reason.

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

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

7 (b) The petition must include the following:

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

9 (B) A statement and supporting affidavit showing how the petitioner is adversely af-  
10 fected.

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

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

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

17 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene  
18 in any proceeding relating to this 2013 Act. After a member intervenes in a proceeding re-  
19 lating to this 2013 Act, the member has standing to participate in the proceeding even if the  
20 member ceases to be a member of the Legislative Assembly.

21 (b) A member of the Senate or House of Representatives who intervenes in a proceeding  
22 under this subsection may not use public funds to pay legal expenses incurred in intervening  
23 or participating in the proceeding.

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

27 (8) The court may not award attorney fees to a petitioner in a proceeding under this  
28 section.

29  
30 SEVERABILITY

31  
32 SECTION 49. It is the intent of the Legislative Assembly that all parts of this 2013 Act  
33 are independent and that if any part of this 2013 Act be held unconstitutional, all remaining  
34 parts shall remain in force.

35  
36 CAPTIONS

37  
38 SECTION 50. The unit captions used in this 2013 Act are provided only for the conven-  
39 ience of the reader and do not become part of the statutory law of this state or express any  
40 legislative intent in the enactment of this 2013 Act.

41  
42 EMERGENCY CLAUSE

43  
44 SECTION 51. This 2013 Act being necessary for the immediate preservation of the public  
45 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect

1 **on its passage.**

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