

Senate Bill 738

Sponsored by Senator FERRIOLI; Senators BAERTSCHIGER JR, BOQUIST, CLOSE, GEORGE, GIROD, HANSELL, KNOPP, KRUSE, OLSEN, STARR, THOMSEN, WHITSETT, WINTERS

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 savings attributable to 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, 238.285, 238.300, 238.360, 238.372, 238.374, 238.376, 238.378, 238.580, 238A.210, 238A.320,
4 292.180 and 314.840 and section 4, chapter 1, Oregon Laws 2010; repealing ORS 238.350 and
5 238.355; and declaring an emergency.

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

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

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

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

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

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

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

28 Whereas later that year an increase in PERS costs resulted in massive layoffs of teachers, fewer
29 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 **LIMITATION ON 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 board shall adjust** the allowance which the member or the member's benefi-
 29 ciary is receiving or is entitled to receive on August 1 for the month of July *[shall be multiplied]*
 30 **by multiplying the allowance or the maximum monthly amount determined under subsection**
 31 **(6) of this section, whichever is less**, by the percentage figure determined[, *and the allowance for*
 32 *the next 12 months beginning July 1 adjusted to the resultant amount*] **by the board and adding the**
 33 **resultant amount to the allowance.**

34 **(2) The allowance shall be adjusted under subsection (1) of this section for the next 12**
 35 **months beginning July 1.**

36 [(2)] (3) *[Such]* **An** increase or decrease *[shall]* **under subsection (1) of this section may** not
 37 exceed two percent of any monthly retirement allowance in any year and *[no]* **an** allowance *[shall]*
 38 **may not** be adjusted to an amount less than the amount to which the recipient would be entitled
 39 if no cost-of-living adjustment were authorized.

40 [(3)] (4) The amount of any cost-of-living increase or decrease in any year in excess of the
 41 maximum annual retirement allowance adjustment *[of two percent]* shall be accumulated from year
 42 to year and included in the computation of increases or decreases in succeeding years.

43 [(4)] (5) Any increase in the allowance shall be paid from contributions of the public employer
 44 under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form
 45 of a credit against contributions of the employer under ORS 238.225.

1 **SECTION 7.** ORS 238.005, as amended by section 30, chapter 54, Oregon Laws 2012, is amended
2 to read:

3 238.005. For purposes of this chapter:

4 (1) "Active member" means a member who is presently employed by a participating public em-
5 ployer in a qualifying position and who has completed the six-month period of service required by
6 ORS 238.015.

7 (2) "Annuity" means payments for life derived from contributions made by a member as provided
8 in this chapter.

9 (3) "Board" means the Public Employees Retirement Board.

10 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-
11 cember 31 following.

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

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

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

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

27 (7) "Earliest service retirement age" means the age attained by a member when the member
28 could first make application for retirement under the provisions of ORS 238.280.

29 (8) "Employee" includes, in addition to employees, public officers, but does not include:

30 (a) Persons engaged as independent contractors.

31 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
32 ployer or public employers do not total 600 hours in any calendar year.

33 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
34 vided sheltered employment or made-work by a public employer in an employment or industries
35 program maintained for the benefit of such persons.

36 (d) Persons employed and paid from federal funds received under a federal program intended
37 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
38 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
39 to have the person so considered by an irrevocable written notice to the board.

40 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
41 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
42 shall be deemed to have been in effect since the inception of the system.

43 (9) "Final average salary" means whichever of the following is greater:

44 (a) The average salary per calendar year paid by one or more participating public employers to
45 an employee who is an active member of the system in three of the calendar years of membership

1 before the effective date of retirement of the employee, in which three years the employee was paid
2 the highest salary. The three calendar years in which the employee was paid the largest total salary
3 may include calendar years in which the employee was employed for less than a full calendar year.
4 If the number of calendar years of active membership before the effective date of retirement of the
5 employee is three or fewer, the final average salary for the employee is the average salary per cal-
6 endar year paid by one or more participating public employers to the employee in all of those years,
7 without regard to whether the employee was employed for the full calendar year.

8 (b) One-third of the total salary paid by a participating public employer to an employee who is
9 an active member of the system in the last 36 calendar months of active membership before the ef-
10 fective date of retirement of the employee.

11 (10) "Firefighter" does not include a volunteer firefighter, but does include:

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

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

16 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
17 lowing.

18 (12) "Fund" means the Public Employees Retirement Fund.

19 (13) "Inactive member" means a member who is not employed in a qualifying position, whose
20 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
21 for service or disability.

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

24 (15) "Member" means a person who has established membership in the system and whose mem-
25 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive
26 and retired members.

27 (16) "Member account" means the regular account and the variable account.

28 (17) "Normal retirement age" means:

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

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

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

38 (19) "Police officer" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
41 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
42 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
43 Department of Corrections or the Oregon Youth Authority.

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

1 in such facilities.

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

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

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

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

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

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

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

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

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

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

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

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

31 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
32 652.190.

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

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

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

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

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

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

42 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
43 gratuitous payment;

44 (G) Payments for periods of leave of absence after the date the employer and employee have
45 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed[, *except for*

1 *sick leave and vacation*];

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

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

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

10 **(K) Payments for overtime.**

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

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

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

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

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

18 **SECTION 8.** ORS 238.285 is amended to read:

19 238.285. (1) Not earlier than two years before a member's earliest service retirement age, a
20 member may request a verification of retirement data from the Public Employees Retirement Board.
21 Upon receiving a request under this section, the board shall notify all of the member's participating
22 public employers of the request. In a manner specified by rules of the board, the board shall allow
23 those employers a reasonable time to confirm the records relating to the member that were provided
24 to the board before the request was made. The board shall thereafter provide a verification to the
25 member that includes the following data, as reflected in the records of the Public Employees Re-
26 tirement System:

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

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

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

34 *[(d) If applicable, the total amount of unused sick leave accumulated by the member as of a date*
35 *specified in the verification.]*

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

43 (3) Except as provided in this section, when a member who receives a verification under this
44 section retires for service, the creditable service, retirement credit, final average salary[,] **and**
45 member account balances *[and accumulated unused sick leave]* used in calculating the member's re-

1 retirement allowance or pension may not be less than the amounts provided in the verification, subject
2 to adjustments for:

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

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

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

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

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

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

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

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

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

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

35 **SECTION 9.** Section 4, chapter 1, Oregon Laws 2010, is amended to read:

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

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

41 **SECTION 10.** ORS 238.580 is amended to read:

42 238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
43 238.255, 238.260, *[238.350,]* 238.364, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465,
44 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665,
45 238.670 and 238.705 and the increases provided by ORS 238.366 for members of the system who are

1 serving as other than police officers or firefighters apply in respect to service as a judge member.

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

4 **SECTION 11.** ORS 292.180 is amended to read:

5 292.180. (1) The Oregon Department of Administrative Services may render a monthly or quar-
6 terly invoice to all state agencies utilizing or intending to utilize the joint payroll system in the
7 future. This monthly or quarterly invoice shall be equal to demonstrated savings of Workers' Com-
8 pensation workday tax costs which are a direct result of the savings from payment of the workday
9 tax based on actual days worked by the employee.

10 (2) It is the intention of this section to allow the department to use demonstrated savings of
11 Workers' Compensation workday tax costs to pay for the implementation costs of ORS [238.350,]
12 240.546, 292.026, 292.033, 292.070 to 292.110, 292.170 and this section and the moneys received are
13 continuously appropriated for the purposes of ORS [238.350,] 240.546, 292.026, 292.033, 292.070 to
14 292.110, 292.170 and this section.

15 (3) Any excess moneys remaining after the implementation of ORS [238.350,] 240.546, 292.026,
16 292.033, 292.070 to 292.110, 292.170 and this section shall be returned pro rata on the basis of total
17 moneys to agency contributions to the agencies from which received. However, if the amount re-
18 maining is less than \$10,000, that amount may be transferred to the General Fund as a miscellaneous
19 receipt.

20 **SECTION 12. The amendments to ORS 238.005, 238.580 and 292.180 by sections 7, 10 and**
21 **11 of this 2013 Act and the repeal of ORS 238.350 and 238.355 by section 6 of this 2013 Act**
22 **apply only to members of the Public Employees Retirement System who retire on or after**
23 **the effective date of this 2013 Act.**

24 25 TAXATION OF OUT-OF-STATE RETIREES

26
27 **SECTION 13.** ORS 238.372 is amended to read:

28 238.372. (1) Except as provided in ORS 238.372 to 238.384, the Public Employees Retirement
29 Board may not pay the increased [*benefit*] **benefits** provided by **chapter 796, Oregon Laws 1991,**
30 **or** chapter 569, Oregon Laws 1995, if the board receives notice under ORS 238.372 to 238.384 that
31 the payments made to the person under this chapter are not subject to Oregon personal income tax
32 under ORS 316.127 (9).

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

34 [(a) *A retired member of the system who is receiving payments under this chapter and whose ef-*
35 *fective date of retirement is before January 1, 2012;*]

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

38 [(c) *Any other person who receives payments under this chapter that began before January 1,*
39 *2012.*]

40 [(3)] (2) The board shall give written notification of the provisions of ORS 238.372 to 238.384 to
41 all persons applying for or receiving payments under this chapter.

42 [(4)] (3) A person receiving payments under this chapter that are not increased under **chapter**
43 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384
44 has no right or claim to the increased benefit provided by **chapter 796, Oregon Laws 1991, or**
45 chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

1 **SECTION 14.** Section 15 of this 2013 Act is added to and made a part of ORS 238.372 to
2 **238.384.**

3 **SECTION 15.** (1) On or before October 31, 2013, each person receiving payments under
4 this chapter shall provide the Public Employees Retirement Board with a written statement
5 that indicates whether the payments received by the person are subject to Oregon personal
6 income tax.

7 (2) If a person receiving payments under this chapter does not notify the board on or
8 before October 31, 2013, that the payments are subject to Oregon personal income tax, the
9 board shall reduce any benefits payable to the person by the amount by which the benefits
10 were increased under chapter 796, Oregon Laws 1991, and chapter 569, Oregon Laws 1995.
11 The reduction in benefits becomes effective on January 1, 2014.

12 **SECTION 16.** Section 15 of this 2013 Act is repealed on December 31, 2014.

13 **SECTION 17.** ORS 238.374 is amended to read:

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

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

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, or de-
29 termines under ORS 238.378 that payments to the person under this chapter are subject to Oregon
30 personal income tax, the board shall initiate payment of the increased [*benefit*] **benefits** provided
31 by **chapter 796, Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The increase in benefits
32 becomes effective on the first day of the calendar year following receipt of notice by the board.

33 **SECTION 18.** ORS 238.376 is amended to read:

34 238.376. (1) If a person is receiving payments under this chapter, and after the payments com-
35 mence the payments cease to be subject to Oregon personal income tax under ORS 316.127 (9), the
36 person shall promptly notify the Public Employees Retirement Board by written statement that the
37 payments are no longer subject to Oregon personal income tax. The board shall reduce any benefits
38 payable to the person by the amount by which the benefits were increased under **chapter 796,**
39 **Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The reduction in benefits becomes effective
40 on the first day of the calendar year following receipt of notice by the board.

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

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

9 **SECTION 19.** ORS 238.378 is amended to read:

10 238.378. (1) Not less than once each calendar year, the Public Employees Retirement Board shall
 11 provide to the Department of Revenue information identifying persons to whom payments have been
 12 made under this chapter. The Department of Revenue shall provide to the board such information
 13 on Oregon personal income tax returns as the board deems necessary to determine whether the
 14 payments made to the person under this chapter are subject to Oregon personal income tax under
 15 ORS 316.127 (9).

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

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

26 **SECTION 20.** ORS 237.635 is amended to read:

27 237.635. (1) Any public employer that provides retirement benefits to its police officers and
 28 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 29 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
 30 employer, both active and retired, that are equal to the increases in retirement benefits that are
 31 provided for in this 1991 Act for active and retired police officers or firefighters who are members
 32 of the Public Employees Retirement System, or shall provide to those police officers and firefighters
 33 increases in retirement benefits that are the actuarial equivalent of the increases in retirement
 34 benefits that are provided for in this 1991 Act for police officers or firefighters who are members
 35 of the Public Employees Retirement System. No other retirement benefit or other benefit provided
 36 by those public employers shall be decreased by the employer by reason of the increases mandated
 37 by this section.

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

42 (3) **A public employer that is subject to the requirements of this section shall cease**
 43 **paying increased retirement benefits under this section if the payments made to the person**
 44 **are not subject to Oregon personal income tax under ORS 316.127 (9). A public employer that**
 45 **is subject to the requirements of this section shall adopt procedures similar to those de-**

1 scribed in ORS 238.372 to 238.384 for the purpose of implementing this subsection. The De-
 2 partment of Revenue shall provide to a public employer that is subject to the requirements
 3 of this section the information regarding Oregon personal income tax returns that the public
 4 employer deems necessary to determine whether the retirement benefits paid to the person
 5 by the public employer are subject to Oregon personal income tax under ORS 316.127 (9).

6 **SECTION 21.** ORS 237.637 is amended to read:

7 237.637. (1) Any public employer that provides retirement benefits to its police officers and
 8 firefighters other than by participation in the Public Employees Retirement System pursuant to the
 9 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
 10 employer, both active and retired, that are equal to the increases in retirement benefits that are
 11 provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters
 12 who are members of the Public Employees Retirement System, or the public employer shall provide
 13 to those police officers and firefighters increases in retirement benefits that are the actuarial
 14 equivalent of the increases in retirement benefits that are provided for in chapter 569, Oregon Laws
 15 1995, for police officers or firefighters who are members of the Public Employees Retirement System.
 16 Increases provided under this section shall be reduced by the amount of any benefit increase pro-
 17 vided by ORS 237.635 in the same manner that increases in retirement benefits that are provided for
 18 in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are
 19 members of the Public Employees Retirement System are reduced to reflect amounts paid to those
 20 members under the provisions of chapter 796, Oregon Laws 1991. No other retirement benefit or
 21 other benefit provided by those public employers shall be decreased by the employer by reason of
 22 the increases mandated by this section.

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

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

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

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

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

40 **SECTION 22.** ORS 314.840, as amended by section 11, chapter 107, Oregon Laws 2012, is
 41 amended to read:

42 314.840. (1) The Department of Revenue may:

43 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
 44 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
 45 tative or designee, with a copy of the taxpayer's income tax return filed with the department for

1 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
2 any other information the department considers necessary.

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (b) The Commissioner of Internal Revenue or authorized representative, for tax administration

1 and compliance purposes only.

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

5 (A) A state;

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

7 (C) The District of Columbia; or

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

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

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

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

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

27 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
28 173.850. Such officer or representative shall not remove from the premises of the department any
29 materials that would reveal the identity of any taxpayer or any other person.

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

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

42 (k) The Director of the Department of Consumer and Business Services to determine that a
43 person complies with ORS chapter 656 and the Director of the Employment Department to determine
44 that a person complies with ORS chapter 657, the following employer information:

45 (A) Identification numbers.

1 (B) Names and addresses.

2 (C) Inception date as employer.

3 (D) Nature of business.

4 (E) Entity changes.

5 (F) Date of last payroll.

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
 7 314.843.

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

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

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

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

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

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

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

35 36 TRANSFER OF EMPLOYEE CONTRIBUTIONS

37
38 **SECTION 23.** Sections 24, 25 and 26 of this 2013 Act are added to and made a part of ORS
 39 chapter 238A.

40 **SECTION 24.** (1) A member who established membership in the Public Employees Re-
 41 tirement System before August 29, 2003, as described in ORS 238A.025 (4), ceases to be a
 42 member of the individual account program on the effective date of this 2013 Act.

43 (2) A member who established membership in the Public Employees Retirement System
 44 before August 29, 2003, as described in ORS 238A.025 (4), and who is a member of the indi-
 45 vidual account program on the effective date of this 2013 Act, continues to be a member for

1 the purpose of amounts in the employee account established for the member under ORS
2 238A.350 (2), and the Public Employees Retirement Board shall continue to make adjustments
3 to the account in the manner prescribed by ORS 238A.350 (1) on and after the effective date
4 of this 2013 Act, but no further employee contributions may be deposited in the account on
5 or after the effective date of this 2013 Act by reason of service by the member.

6 (3) Employee contributions under ORS 238A.330 made on or after the effective date of
7 this 2013 Act by or on behalf of a member who established membership in the Public Em-
8 ployees Retirement System before August 29, 2003, as described in ORS 238A.025 (4), may not
9 be deposited by the Public Employees Retirement Board in the employee account established
10 for the member under ORS 238A.350 (2), but shall instead be deposited in the account es-
11 tablished for the member under section 25 of this 2013 Act.

12 **SECTION 25.** (1) The Public Employees Retirement Board shall establish an account for
13 each active member of the Public Employees Retirement System who established member-
14 ship in the system before August 29, 2003, as described in ORS 238A.025 (4). Each account
15 shall be adjusted at least annually in accordance with rules adopted by the board to reflect
16 any net earnings or losses on those contributions. The adjustments described in this sub-
17 section shall continue until the account is withdrawn or applied against the costs of the
18 pension or other retirement benefits payable to the member.

19 (2) Unless the amounts in an account created under this section are withdrawn under
20 section 26 of this 2013 Act, the amounts in the account shall be applied by the board to pay
21 the costs of the pension or other retirement benefits payable to or on behalf of the member.

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

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

31 **SECTION 27.** ORS 238A.320 is amended to read:

32 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
33 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
34 tablished.

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

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

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

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

45 (c) If the individual account program is terminated, the date on which termination becomes ef-

fective, but only to the extent the account is then funded.

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

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

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

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

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

(7) A member becomes vested in the account established for the member under section 25 of this 2013 Act on the date the account is established under section 25 of this 2013 Act.

**ASSUMED INTEREST RATE FOR
CALCULATION OF MONEY MATCH**

SECTION 28. ORS 238.300 is amended to read:

238.300. Upon retiring from service at normal retirement age or thereafter, a member of the system shall receive a service retirement allowance which shall consist of the following annuity and pensions:

(1) A refund annuity which shall be the actuarial equivalent of accumulated contributions, if any, by the member and interest thereon credited at the time of retirement, which annuity shall provide an allowance payable during the life of the member and at death a lump sum equal in amount to the difference between accumulated contributions at the time of retirement and the sum of the annuity payments actually made to the member during life shall be paid to such person, if any, as the member nominates by written designation duly acknowledged and filed with the **Public Employees Retirement Board** or shall otherwise be paid according to the provisions of this chapter for disposal of an amount credited to the member account of a member at the time of death in the event the member designates no beneficiary to receive the amount or no such beneficiary is able to receive the amount. If death of the member occurs before the first payment is due, the member account of the member shall be treated as though death had occurred before retirement.

(2)(a) A life pension (nonrefund) for current service provided by the contributions of employers, which pension, subject to paragraph (b) of this subsection, shall be an amount which, when added to the sum of the annuity, if any, under subsection (1) of this section and the annuity, if any, provided on the same basis and payable from the Variable Annuity Account, both annuities considered on a refund basis, results in a total of:

(A) For service as a police officer or firefighter, two percent of final average salary multiplied by the number of years of membership in the system as a police officer or firefighter before the ef-

1 fective date of retirement.

2 (B) For service as other than a police officer or firefighter, including service as a member of the
3 Legislative Assembly, 1.67 percent of final average salary multiplied by the number of years of
4 membership in the system as other than a police officer or firefighter before the effective date of
5 retirement.

6 (b) A pension under this subsection shall be at least:

7 (A) For a member who first establishes membership in the system before July 1, 2003, the
8 actuarial equivalent of the annuity provided by the accumulated contributions of the member. **For**
9 **purposes of calculating an annuity under this subparagraph, the board shall use an assumed**
10 **interest rate of four percent.** A person establishes membership in the system before July 1, 2003,
11 for the purposes of this subparagraph if:

12 (i) The person is a member of the system, or a judge member of the system, on the day imme-
13 diately before July 1, 2003; or

14 (ii) The person performed any period of service for a participating public employer before July
15 1, 2003, that is credited to the six-month period of employment required of an employee under ORS
16 238.015 before an employee may become a member of the system.

17 (B) For a member who made contributions before August 21, 1981, the equivalent of a pension
18 computed pursuant to this subsection as it existed immediately before that date.

19 (c) As used in this subsection, "number of years of membership" means the number of full years
20 of creditable service plus any remaining fraction of a year of creditable service. Except as other-
21 wise provided in this paragraph, in determining a remaining fraction a full month shall be consid-
22 ered as one-twelfth of a year and a major fraction of a month shall be considered as a full month.
23 Membership of a school district employee, an employee of an institution of higher education engaged
24 in teaching or other school activity or an employee of the Department of Human Services, the
25 Oregon Youth Authority, the Department of Corrections or the State Board of Education engaged
26 in teaching or other school activity at an institution supervised by the authority, board or depart-
27 ment, for all portions of a school year in a calendar year in which the district school, institution
28 of higher education or school activity at an institution so supervised in which the member is em-
29 ployed is normally in session shall be considered as a full one-half year of membership. The number
30 of years of membership of a member who received a refund of contributions as provided in ORS
31 237.976 (2) is limited to the number of years after the day before the date on which the refund was
32 received. The number of years of membership of a member who is separated, for any reason other
33 than death or disability, from all service entitling the member to membership in the system, who
34 withdraws the amount credited to the member account of the member in the fund during absence
35 from such service and who thereafter reenters the service of an employer participating in the system
36 but does not repay the amount so withdrawn as provided in this chapter, is limited to the number
37 of years after the day before the date of so reentering.

38 (3) An additional life pension (nonrefund) for prior service credit, including military service,
39 credited to the member at the time of first becoming a member of the system, as elsewhere provided
40 in this chapter, which pension shall be provided by the contributions of the employer.

41 **EMPLOYER CONTRIBUTION RATES**

42
43
44 **SECTION 29. (1) As soon as practicable after the effective date of this 2013 Act, the**
45 **Public Employees Retirement Board shall:**

1 (a) Determine the savings in employer contributions that are attributable to the pro-
 2 visions of this 2013 Act; and

3 (b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-
 4 flect the provisions of this 2013 Act.

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

8
 9 **EXPEDITED REVIEW BY SUPREME COURT**

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 11 **SECTION 30.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
 12 manner provided by this section whether this 2013 Act breaches any contract between
 13 members of the Public Employees Retirement System and their employers or violates any
 14 constitutional provision, including but not limited to impairment of contract rights of mem-
 15 bers of the Public Employees Retirement System under Article I, section 21, of the Oregon
 16 Constitution, or Article I, section 10, clause 1, of the United States Constitution.

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

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

21 (b) The petition must include the following:

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

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

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

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

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

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

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

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

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

43
 44 **SEVERABILITY**

