

Senate Bill 748

Sponsored by Senator KNOPP; Senator WHITSETT, Representatives CONGER, FREEMAN

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 Employees Retirement System and collective bargaining by public employees.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employees; creating new provisions; amending ORS 237.635, 237.637, 238.005,
3 238.015, 238.200, 238.360, 238.372, 238.374, 238.376, 238.378, 238A.005, 238A.115, 238A.145,
4 238A.210, 238A.320, 243.746 and 314.840; repealing ORS 238.074, 238A.142 and 238A.305; and de-
5 claring an emergency.

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

LIMITATION ON COST OF LIVING ADJUSTMENT

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

11 238.360. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
12 Board shall determine the percentage increase or decrease in the cost-of-living for the previous
13 calendar year, based on the Consumer Price Index (Portland area-all items) as published by the
14 Bureau of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon, area. Prior to
15 July 1 each year, **the board shall adjust** the allowance which the member or the member's benefi-
16 ciary is receiving or is entitled to receive on August 1 for the month of July [*shall be multiplied*]
17 **by multiplying the allowance or the maximum monthly amount determined under subsection**
18 **(6) of this section, whichever is less**, by the percentage figure determined [, *and the allowance for*
19 *the next 12 months beginning July 1 adjusted to the resultant amount*] **by the board and adding the**
20 **resultant amount to the allowance.**

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

23 [(2)] **(3) [Such] An** increase or decrease [*shall*] **under subsection (1) of this section may** not
24 exceed two percent of any monthly retirement allowance in any year and [*no*] **an** allowance [*shall*]
25 **may not** be adjusted to an amount less than the amount to which the recipient would be entitled
26 if no cost-of-living adjustment were authorized.

27 [(3)] **(4)** The amount of any cost-of-living increase or decrease in any year in excess of the
28 maximum annual retirement allowance adjustment [*of two percent*] shall be accumulated from year
29 to year and included in the computation of increases or decreases in succeeding years.

30 [(4)] **(5)** Any increase in the allowance shall be paid from contributions of the public employer
31 under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the form

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

1 of a credit against contributions of the employer under ORS 238.225.

2 **(6) Except as provided in section 5 of this 2013 Act, to determine the maximum monthly**
 3 **amount to which the cost-of-living adjustment provided for in subsection (1) of this section**
 4 **may be applied, the board shall multiply the maximum monthly amount for the previous year**
 5 **by the percentage increase or decrease determined by the board under subsection (1) of this**
 6 **section.**

7 **SECTION 2. The amendments to ORS 238.360 by section 1 of this 2013 Act apply to all**
 8 **members of the Public Employees Retirement System, regardless of the date the member**
 9 **retires.**

10 **SECTION 3. ORS 238A.210 is amended to read:**

11 238A.210. (1) As soon as practicable after January 1 each year, the Public Employees Retirement
 12 Board shall determine the percentage increase or decrease in the cost of living for the previous
 13 calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers
 14 for All Items, as published by the Bureau of Labor Statistics of the United States Department of
 15 Labor. Before July 1 each year, the board shall adjust every pension payable under ORS 238A.180,
 16 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit payable
 17 under ORS 238A.230 by multiplying the monthly payment **or the maximum monthly amount de-**
 18 **termined under subsection (5) of this section, whichever is less,** by the percentage figure de-
 19 termined by the board **and adding the resultant amount to the monthly payment.**

20 **(2) The adjustment under subsection (1) of this section shall be made for the payments**
 21 **payable on August 1 and thereafter.**

22 **(3) If a person has been receiving a pension or benefit for less than 12 months on July 1 of a**
 23 **calendar year, the board shall make a pro rata reduction of the adjustment under subsection (1)**
 24 **of this section based on the number of months that the pension or benefit was received before July**
 25 **1 of the year. [*The adjustment shall be made for the payments payable on August 1 and thereafter.*]**

26 **[(2)] (4) An increase or decrease in the benefit payments under this section may not exceed two**
 27 **percent in any year. A pension or death benefit may not be adjusted to an amount that is less than**
 28 **the amount that would have been payable if no cost-of-living adjustment had been made since the**
 29 **pension or death benefit first became payable.**

30 **(5) Except as provided in section 5 of this 2013 Act, to determine the maximum monthly**
 31 **amount to which the cost-of-living adjustment provided for in subsection (1) of this section**
 32 **may be applied, the board shall multiply the maximum monthly amount for the previous year**
 33 **by the percentage increase or decrease determined by the board under subsection (1) of this**
 34 **section.**

35 **SECTION 4. The amendments to ORS 238A.210 by section 3 of this 2013 Act apply to all**
 36 **members of the Public Employees Retirement System, regardless of the date the member**
 37 **retires, becomes disabled or dies.**

38 **SECTION 5. (1) The maximum monthly amount to which the cost-of-living adjustment**
 39 **under ORS 238.360 may be applied for the 12 months beginning July 1, 2014, is \$2,000.**

40 **(2) The maximum monthly amount to which the cost-of-living adjustment under ORS**
 41 **238A.210 may be applied for payments payable between August 1, 2014, and July 31, 2015, is**
 42 **\$2,000.**

43
 44 **TAXATION OF OUT-OF-STATE RETIREES**
 45

1 **SECTION 6.** ORS 238.372 is amended to read:

2 238.372. (1) Except as provided in ORS 238.372 to 238.384, the Public Employees Retirement
3 Board may not pay the increased [*benefit*] **benefits** provided by **chapter 796, Oregon Laws 1991,**
4 **or** chapter 569, Oregon Laws 1995, if the board receives notice under ORS 238.372 to 238.384 that
5 the payments made to the person under this chapter are not subject to Oregon personal income tax
6 under ORS 316.127 (9).

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

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

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

12 [(c) *Any other person who receives payments under this chapter that began before January 1,*
13 *2012.*]

14 [(3)] (2) The board shall give written notification of the provisions of ORS 238.372 to 238.384 to
15 all persons applying for or receiving payments under this chapter.

16 [(4)] (3) A person receiving payments under this chapter that are not increased under **chapter**
17 **796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of ORS 238.372 to 238.384
18 has no right or claim to the increased benefit provided by **chapter 796, Oregon Laws 1991, or**
19 chapter 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

20 **SECTION 7. Section 8 of this 2013 Act is added to and made a part of ORS 238.372 to**
21 **238.384.**

22 **SECTION 8. (1) On or before October 31, 2013, each person receiving payments under this**
23 **chapter shall provide the Public Employees Retirement Board with a written statement that**
24 **indicates whether the payments received by the person are subject to Oregon personal in-**
25 **come tax.**

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

31 **SECTION 9. Section 8 of this 2013 Act is repealed on December 31, 2014.**

32 **SECTION 10.** ORS 238.374 is amended to read:

33 238.374. (1) A person applying for payments under this chapter shall give a written statement
34 to the Public Employees Retirement Board that indicates whether the payments will be subject to
35 Oregon personal income tax under ORS 316.127 (9). If the person fails to provide the statement re-
36 quired by this subsection, or the statement indicates that the payments will not be subject to Oregon
37 personal income tax under ORS 316.127 (9), the board may not pay the person the increased
38 [*benefit*] **benefits** provided by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995.

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

44 (3) If a person is receiving payments under this chapter that have not been increased under
45 **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, by reason of the provisions

1 of subsection (1) of this section, and the board receives notice under subsection (2) of this section
 2 that payments to the person under this chapter are subject to Oregon personal income tax, or de-
 3 termines under ORS 238.378 that payments to the person under this chapter are subject to Oregon
 4 personal income tax, the board shall initiate payment of the increased [*benefit*] **benefits** provided
 5 by **chapter 796, Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The increase in benefits
 6 becomes effective on the first day of the calendar year following receipt of notice by the board.

7 **SECTION 11.** ORS 238.376 is amended to read:

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

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

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

28 **SECTION 12.** ORS 238.378 is amended to read:

29 238.378. (1) Not less than once each calendar year, the Public Employees Retirement Board shall
 30 provide to the Department of Revenue information identifying persons to whom payments have been
 31 made under this chapter. The Department of Revenue shall provide to the board such information
 32 on Oregon personal income tax returns as the board deems necessary to determine whether the
 33 payments made to the person under this chapter are subject to Oregon personal income tax under
 34 ORS 316.127 (9).

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

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

45 **SECTION 13.** ORS 237.635 is amended to read:

1 237.635. (1) Any public employer that provides retirement benefits to its police officers and
2 firefighters other than by participation in the Public Employees Retirement System pursuant to the
3 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
4 employer, both active and retired, that are equal to the increases in retirement benefits that are
5 provided for in this 1991 Act for active and retired police officers or firefighters who are members
6 of the Public Employees Retirement System, or shall provide to those police officers and firefighters
7 increases in retirement benefits that are the actuarial equivalent of the increases in retirement
8 benefits that are provided for in this 1991 Act for police officers or firefighters who are members
9 of the Public Employees Retirement System. No other retirement benefit or other benefit provided
10 by those public employers shall be decreased by the employer by reason of the increases mandated
11 by this section.

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

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

25 **SECTION 14.** ORS 237.637 is amended to read:

26 237.637. (1) Any public employer that provides retirement benefits to its police officers and
27 firefighters other than by participation in the Public Employees Retirement System pursuant to the
28 provisions of ORS 237.620 shall provide increases to the police officers and firefighters of the public
29 employer, both active and retired, that are equal to the increases in retirement benefits that are
30 provided for in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters
31 who are members of the Public Employees Retirement System, or the public employer shall provide
32 to those police officers and firefighters increases in retirement benefits that are the actuarial
33 equivalent of the increases in retirement benefits that are provided for in chapter 569, Oregon Laws
34 1995, for police officers or firefighters who are members of the Public Employees Retirement System.
35 Increases provided under this section shall be reduced by the amount of any benefit increase pro-
36 vided by ORS 237.635 in the same manner that increases in retirement benefits that are provided for
37 in chapter 569, Oregon Laws 1995, for active and retired police officers or firefighters who are
38 members of the Public Employees Retirement System are reduced to reflect amounts paid to those
39 members under the provisions of chapter 796, Oregon Laws 1991. No other retirement benefit or
40 other benefit provided by those public employers shall be decreased by the employer by reason of
41 the increases mandated by this section.

42 (2) A public employer that is subject to the requirements of this section shall cease paying in-
43 creased **retirement** benefits under this section if the payments made to the person are not subject
44 to Oregon personal income tax under ORS 316.127 (9). A public employer that is subject to the re-
45 quirements of this section shall adopt procedures similar to those described in ORS 238.372 to

1 238.384 for the purpose of implementing this subsection. The Department of Revenue shall provide
 2 to a public employer that is subject to the requirements of this section [*such*] **the** information re-
 3 garding Oregon personal income tax returns [*as*] **that** the public employer deems necessary to de-
 4 termine whether the retirement benefits paid to the person by the public employer are subject to
 5 Oregon personal income tax under ORS 316.127 (9).

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

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

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

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

14 **SECTION 15.** ORS 314.840, as amended by section 11, chapter 107, Oregon Laws 2012, is
 15 amended to read:

16 314.840. (1) The Department of Revenue may:

17 (a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230
 18 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, represen-
 19 tative or designee, with a copy of the taxpayer's income tax return filed with the department for
 20 any year, or with a copy of any report filed by the taxpayer in connection with the return, or with
 21 any other information the department considers necessary.

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

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

25 (d) Disclose a taxpayer's name, address, telephone number, refund amount, amount due, Social
 26 Security number, employer identification number or other taxpayer identification number to the ex-
 27 tent necessary in connection with collection activities or the processing and mailing of correspond-
 28 ence or of forms for any report, return or claim required in the administration of ORS 310.630 to
 29 310.706, any local tax under ORS 305.620, or any law imposing a tax upon or measured by net in-
 30 come.

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

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

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

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

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

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

44 (iv) Has been or is under investigation for possible criminal offenses under the Oregon personal
 45 income tax laws. Information disclosed pursuant to this paragraph shall be used only for the purpose

1 of making the appointment, reappointment or decision to employ or not to employ the individual in
2 the office of the Governor.

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

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

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

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

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

24 (A) A state;

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

26 (C) The District of Columbia; or

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

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

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

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

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

1 (h) The Legislative Revenue Officer or authorized representatives upon compliance with ORS
2 173.850. Such officer or representative shall not remove from the premises of the department any
3 materials that would reveal the identity of any taxpayer or any other person.

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

8 (j) Any agency of the State of Oregon, or any person, or any officer or employee of such agency
9 or person to whom disclosure or access is given by state law and not otherwise referred to in this
10 section, including but not limited to the Secretary of State as Auditor of Public Accounts under
11 section 2, Article VI of the Oregon Constitution; the Department of Human Services pursuant to
12 ORS 314.860 and 412.094; the Division of Child Support of the Department of Justice and district
13 attorney regarding cases for which they are providing support enforcement services under ORS
14 25.080; the State Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board of
15 Accountancy, pursuant to ORS 673.415.

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

19 (A) Identification numbers.

20 (B) Names and addresses.

21 (C) Inception date as employer.

22 (D) Nature of business.

23 (E) Entity changes.

24 (F) Date of last payroll.

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

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

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

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

38 (p) Employees of the Department of State Lands for the purposes of identifying, locating and
39 publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter
40 694, Oregon Laws 1993. The information shall be limited to the taxpayer's name, address and the
41 refund amount.

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

44 (A) Mail theft of a check, in which case the information that may be disclosed shall be limited
45 to the stolen document, the name, address and taxpayer identification number of the payee, the

1 amount of the check and the date printed on the check.

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

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

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

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

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

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

25 (u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS
26 314.843.

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

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

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

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

1 this section;

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

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

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

9
10 **QUALIFYING POSITIONS**

11
12 **SECTION 16.** ORS 238.005, as amended by section 30, chapter 54, Oregon Laws 2012, is
13 amended to read:

14 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

41 (a) Persons engaged as independent contractors.

42 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
43 ployer or public employers do not total [600] 1040 hours in any calendar year.

44 (c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, pro-
45 vided sheltered employment or made-work by a public employer in an employment or industries

1 program maintained for the benefit of such persons.

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

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

9 (9) “Final average salary” means whichever of the following is greater:

10 (a) The average salary per calendar year paid by one or more participating public employers to
11 an employee who is an active member of the system in three of the calendar years of membership
12 before the effective date of retirement of the employee, in which three years the employee was paid
13 the highest salary. The three calendar years in which the employee was paid the largest total salary
14 may include calendar years in which the employee was employed for less than a full calendar year.
15 If the number of calendar years of active membership before the effective date of retirement of the
16 employee is three or fewer, the final average salary for the employee is the average salary per cal-
17 endar year paid by one or more participating public employers to the employee in all of those years,
18 without regard to whether the employee was employed for the full calendar year.

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

22 (10) “Firefighter” does not include a volunteer firefighter, but does include:

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

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

27 (11) “Fiscal year” means 12 calendar months commencing on July 1 and ending on June 30 fol-
28 lowing.

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

30 (13) “Inactive member” means a member who is not employed in a qualifying position, whose
31 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
32 for service or disability.

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

35 (15) “Member” means a person who has established membership in the system and whose mem-
36 bership has not been terminated as described in ORS 238.095. “Member” includes active, inactive
37 and retired members.

38 (16) “Member account” means the regular account and the variable account.

39 (17) “Normal retirement age” means:

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

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

1 firefighter.

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

4 (19) "Police officer" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (q) An employee of the Department of Corrections classified as a police officer on or prior to
45 July 27, 1989, whether or not that classification was authorized by law, as long as the employee

1 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
2 tem implemented pursuant to ORS 240.190 does not affect police officer status.

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

6 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
7 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
8 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
9 Department of Corrections or the Oregon Youth Authority.

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

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

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

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

23 (22) "Qualifying position" means one or more jobs with one or more participating public em-
24 ployers in which an employee performs [600] 1040 or more hours of service in a calendar year, ex-
25 cluding any service in a job for which a participating public employer does not provide benefits
26 under this chapter pursuant to an application made under ORS 238.035.

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

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

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

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

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

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

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

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

42 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
43 652.190.

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

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

1 employer;

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

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

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

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

8 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
9 gratuitous payment;

10 (G) Payments for periods of leave of absence after the date the employer and employee have
11 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
12 sick leave and vacation;

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

17 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
18 employee.

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

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

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

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

24 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than
25 [600] **1040** hours of service per year.

26 **SECTION 17.** ORS 238A.005, as amended by section 1, chapter 31, Oregon Laws 2012, is
27 amended to read:

28 238A.005. For the purposes of this chapter:

29 (1) "Active member" means a member of the pension program or the individual account program
30 of the Oregon Public Service Retirement Plan who is actively employed in a qualifying position.

31 (2) "Actuarial equivalent" means a payment or series of payments having the same value as the
32 payment or series of payments replaced, computed on the basis of interest rate and mortality as-
33 sumptions adopted by the board.

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

35 (4) "Eligible employee" means a person who performs services for a participating public em-
36 ployer, including elected officials other than judges. "Eligible employee" does not include:

37 (a) Persons engaged as independent contractors;

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

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

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

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

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

45 (g) An employee actively participating in an alternative retirement program established under

1 ORS 353.250 or an optional retirement plan established under ORS 341.551;

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

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

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

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

10 (L) Judges.

11 (5) "Firefighter" means:

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

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

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

19 (6) "Fund" means the Public Employees Retirement Fund.

20 (7)(a) "Hour of service" means:

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

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

29 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
30 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
31 employment compensation laws.

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

35 (9) "Individual account program" means the defined contribution individual account program of
36 the Oregon Public Service Retirement Plan established under ORS 238A.025.

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

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

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

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

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

2 (15) "Qualifying position" means one or more jobs with one or more participating public em-
3 ployers in which an eligible employee performs [600] **1040** or more hours of service in a calendar
4 year, excluding any service in a job for which benefits are not provided under the Oregon Public
5 Service Retirement Plan pursuant to ORS 238A.070 (2).

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

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

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

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

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

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

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

25 (E) Retroactive payments described in ORS 238.008.

26 (F) The amount of an employee contribution to the individual account program that is paid by
27 the employer and deducted from the compensation of the employee, as provided under ORS 238A.335
28 (1) and (2)(a).

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

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

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

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

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

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

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

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

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

44 (G) Payments for instructional services rendered to public universities of the Oregon University
45 System or the Oregon Health and Science University when those services are in excess of full-time

1 employment subject to this chapter. A person employed under a contract for less than 12 months is
 2 subject to this subparagraph only for the months covered by the contract.

3 (H) The amount of an employee contribution to the individual account program that is paid by
 4 the employer and is not deducted from the compensation of the employee, as provided under ORS
 5 238A.335 (1) and (2)(b).

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

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

12 **SECTION 18.** ORS 238A.115 is amended to read:

13 238A.115. (1) Except as provided in subsection (2) of this section, a member of the pension pro-
 14 gram becomes vested in the pension program on the earliest of the following dates:

15 (a) The date on which the member completes at least [600] **1040** hours of service in each of five
 16 calendar years. The five calendar years need not be consecutive, but are subject to the provisions
 17 of subsection (3) of this section.

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

20 (c) If the pension program is terminated, the date on which termination becomes effective, but
 21 only to the extent the pension program is then funded.

22 (2) If on the date that a person becomes an active member the person has already reached the
 23 normal retirement age for the person under ORS 238A.160, the person is vested in the pension pro-
 24 gram on that date.

25 (3) If a member of the pension program who is not vested in the pension program performs fewer
 26 than [600] **1040** hours of service in each of five consecutive calendar years, hours of service per-
 27 formed before the first calendar year of the period of five consecutive calendar years shall be dis-
 28 regarded for purposes of determining whether the member is vested under subsection (1)(a) of this
 29 section.

30 (4) Solely for purposes of determining whether a member is vested under this section, hours of
 31 service include creditable service, as defined in ORS 238.005, performed by the person before the
 32 person became an eligible employee, as long as the membership of the person under ORS chapter
 33 238 has not been terminated under the provisions of ORS 238.095 on the date the person becomes
 34 an eligible employee.

35 **SECTION 19.** ORS 238A.145 is amended to read:

36 238A.145. (1) A pension program member who is not vested forfeits all retirement credit if the
 37 member performs fewer than [600] **1040** hours of service in each of five consecutive calendar years.
 38 A forfeiture under this section takes effect at the end of the fifth calendar year.

39 (2) If a pension program member forfeits retirement credit under this section and is subsequently
 40 reemployed by a participating public employer:

41 (a) The person may acquire retirement credit under the pension program only for the purpose
 42 of service performed after the person is reemployed; and

43 (b) Any service performed before the forfeiture may not be credited toward the period of service
 44 required by ORS 238A.100 or 238A.115, or toward the accrual of retirement credit under ORS
 45 238A.140, 238A.150 or 238A.155.

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

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

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

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

10 (a) The date on which the member completes at least [600] **1040** hours of service in each of five
11 calendar years. The five calendar years need not be consecutive, but are subject to the provisions
12 of subsection (5) of this section.

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

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

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

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

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

23 (5) If a member of the individual account program who is not vested in the employer account
24 performs fewer than [600] **1040** hours of service in each of five consecutive calendar years, hours
25 of service performed before the first calendar year of the period of five consecutive calendar years
26 shall be disregarded for purposes of determining whether the member is vested under subsection
27 (3)(a) of this section.

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

33 **SECTION 21.** ORS 238.015 is amended to read:

34 238.015. (1) No person may become a member of the system unless that person is in the service
35 of a public employer and has completed six months' service uninterrupted by more than 30 consec-
36 utive working days during the six months' period. Every employee of a participating employer shall
37 become a member of the system at the beginning of the first full pay period of the employee fol-
38 lowing the six months' period. Contributions for new members shall first be made for those wages
39 that are attributable to services performed by the employee during the first full pay period following
40 the six months' period, without regard to when those wages are considered earned for other pur-
41 poses under this chapter. All public employers participating in the Public Employees Retirement
42 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that
43 chapter, and all school districts of the state, shall participate in, and their employees shall be
44 members of, the system, except as otherwise specifically provided by law.

45 (2) Any active member of the Public Employees Retirement System who, through the annexation

1 of a political subdivision employing the member or by change of employment, becomes the employee
2 of another political subdivision which is participating in the Public Employees Retirement System
3 and has also a separate retirement system for its employees, shall remain an active member of the
4 Public Employees Retirement System unless, within 60 days after the effective date of the
5 annexation or change of employment or April 8, 1953, the member shall by written notice to the
6 Public Employees Retirement Board and to the administrative body of the new public employer elect
7 to relinquish membership in the Public Employees Retirement System and become a member of the
8 separate retirement system of the employer, if eligible for membership in that retirement system, and
9 the member shall be so carried by the new employer. Immediately upon such annexation of any
10 political subdivision or such change of employment, the new public employer shall inform such em-
11 ployee in writing of the right of the employee to exercise an election as in this section provided.

12 (3) A political subdivision (other than a school district) not participating in the retirement sys-
13 tem established by chapter 401, Oregon Laws 1945, as amended, which employs one or more em-
14 ployees, each of whose position requires [600] 1040 hours of service per year, or an agency created
15 by two or more political subdivisions to provide themselves governmental services, which employs
16 one or more employees, each of whose position requires [600] 1040 hours of service per year, may,
17 through its governing body, notify the board in writing, that it elects to include its employees in the
18 system hereby established. Such public employer may request the board to make a study and esti-
19 mate of the cost of including it and its eligible employees, other than volunteer firefighters, in the
20 system, which the board thereupon shall cause to be made and the cost of which the employer shall
21 bear. Upon completion of the study and estimate the employer may apply for admission to the sys-
22 tem, whereupon it shall begin to participate therein and its eligible employees other than volunteer
23 firefighters shall become members of the system. If the employer is an agency created by two or
24 more political subdivisions to provide themselves governmental services and ceases thereafter to
25 transmit to the board contributions for any of its eligible employees, the benefits based upon em-
26 ployer contributions to which such employees would otherwise be entitled shall be reduced accord-
27 ingly.

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

33 (5) A person holding an elective office or an appointive office with a fixed term or an office as
34 head of a department to which the person is appointed by the Governor may become a member of
35 the system by giving the board written notice of desire to do so within 30 days after taking the of-
36 fice or, in the event that the officer is not eligible to become a member of the system at the time
37 of taking the office, within 30 days after becoming so eligible. Membership so established shall not
38 be discontinued during the appointive or elective term of the officer except upon separation of the
39 officer from service.

40 (6) A public employer employing volunteer firefighters may apply to the board at any time for
41 them to become members of the system. Upon receiving the application the board shall fix a wage
42 at which, for purposes of this chapter only, they shall be considered to be employed and which shall
43 be the basis for computing the amounts of the contributions, if any, which they pay into, and of the
44 benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed is satis-
45 factory to the employer, shall include the firefighters in the system.

1 (7)(a) In the event that an employee enters the service of a public employer which is partic-
2 ipating in or later begins to participate in the system and in the event that at the time of entering
3 that service or at the time that the employer begins to participate in the system the employee has
4 commenced to purchase and is continuing to purchase a retirement annuity, if the employer deems
5 the annuity adequate for the purposes of this chapter, it may enter into an agreement with the em-
6 ployee and the board pursuant to which the employee may be exempted from contributing to the
7 Public Employees Retirement Fund, and, if no public funds are being used to purchase the annuity
8 or a corresponding pension, the employer, in lieu of the contributions which it otherwise would
9 make to the fund on account of the employee, may make contributions toward the cost of purchasing
10 the annuity. Such employee otherwise shall be subject to the provisions of this chapter, except that
11 neither the employee nor any person claiming under the employee shall receive any payments from
12 the retirement fund as service or disability allowance.

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

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

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

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

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

44 (9) Employees, including managers, of foreign trade offices of the Oregon Business Development
45 Department who live and perform services in foreign countries under the provisions of ORS 285A.075

1 (1)(g) shall not be members of the system. However, any person who is an active member of the
 2 system immediately before becoming an employee of a foreign trade office shall continue to be a
 3 member of the system during the period of time the person serves as an employee of the foreign
 4 trade office.

5 (10) An employee who is participating in an alternative retirement program established pursuant
 6 to ORS 353.250 or an optional retirement plan established pursuant to ORS 341.551 may not be an
 7 active member of the Public Employees Retirement System.

8 **SECTION 22. ORS 238.074 and 238A.142 are repealed.**

9 **SECTION 23. The amendments to ORS 238.005, 238.015, 238A.005, 238A.115, 238A.145 and
 10 238A.320 by sections 16 to 21 of this 2013 Act and the repeal of ORS 238.074 and 238A.142 by
 11 section 22 of this 2013 Act apply only to calendar years beginning on and after the effective
 12 date of this 2013 Act.**

13 TRANSFER OF EMPLOYEE CONTRIBUTION

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 16 **SECTION 24. Section 25 of this 2013 Act is added to and made a part of ORS chapter
 17 238A.**

18 **SECTION 25. (1) Contributions to the individual account program under ORS 238A.330,
 19 238A.335 and 238A.340 by or on behalf of a member of the Public Employees Retirement
 20 System who established membership in the system before August 29, 2003, are not required
 21 or allowed for salary paid on or after January 1, 2014.**

22 **(2) Rollover contributions to the individual account program pursuant to ORS 238A.360
 23 by or on behalf of a member of the system who established membership in the system before
 24 August 29, 2003, are not allowed on or after January 1, 2014.**

25 **SECTION 26. Section 27 of this 2013 Act is added to and made a part of ORS chapter 238.**

26 **SECTION 27. Beginning on January 1, 2014, an active member of the Public Employees
 27 Retirement System who established membership in the system before August 29, 2003, shall
 28 contribute to the regular account of the member as provided in ORS 238.200.**

29 **SECTION 28. ORS 238.200 is amended to read:**

30 238.200. (1)(a) An active member of the Public Employees Retirement System shall contribute to
 31 the Public Employees Retirement Fund and there shall be withheld from salary of the member six
 32 percent of that salary as an employee contribution.

33 (b) Notwithstanding paragraph (a) of this subsection, an employee who is an active member of
 34 the system on August 21, 1981, shall contribute to the fund and there shall be withheld from salary
 35 of the member, as long as the employee continues to be an active member of the system, four percent
 36 of that salary if the salary for a month is less than \$500, or five percent of that salary if the salary
 37 for a month is \$500 or more and less than \$1,000. Notwithstanding subsection (2) of this section, for
 38 the purpose of computing the percentage of salary to be withheld under this paragraph from a
 39 member who is an employee of a school district or of the State Board of Higher Education whose
 40 salary is based on an annual agreement, the agreed annual salary of the member shall be divided
 41 into 12 equal installments, and each installment shall be considered as earned and paid in separate,
 42 consecutive months, commencing with the first month that payment is actually made under the
 43 terms of the salary agreement.

44 (2) The contributions of each member as provided in subsection (1) of this section shall be de-
 45 ducted by the employer from each payroll and transmitted by the employer to the Public Employees

1 Retirement Board, which shall cause them to be credited to the member account of the member.
 2 Salary shall be considered earned in the month in which it is paid. The date inscribed on the pay-
 3 check or warrant shall be considered as the pay date, regardless of when the salary is actually de-
 4 livered to the member.

5 (3) An active member who is concurrently employed by more than one participating public em-
 6 ployer, and who is a member of or entitled to membership in the system, shall make contributions
 7 to the fund on the basis of salary paid by each employer.

8 *[(4) Notwithstanding subsections (1) to (3) of this section, a member of the system, or a participating*
 9 *employer acting on behalf of the member pursuant to ORS 238.205, is not permitted or required to make*
 10 *employee contributions to the fund for service performed on or after January 1, 2004. This subsection*
 11 *does not affect any contribution for the purpose of unit purchases under ORS 238.440 or amounts paid*
 12 *for acquisition of creditable service under ORS 238.105 to 238.175.]*

13 **SECTION 29. ORS 238A.305 is repealed.**

14 **SECTION 30. Section 25 of this 2013 Act and the repeal of ORS 238A.305 by section 29 of**
 15 **this 2013 Act do not affect amounts in an individual account under ORS 238A.350 on Decem-**
 16 **ber 31, 2013. The Public Employees Retirement Board shall continue to adjust accounts cre-**
 17 **ated on or before December 31, 2013, as provided in ORS 238A.350.**

18 **SECTION 31. (1) The amendments to ORS 238.200 by section 28 of this 2013 Act and the**
 19 **repeal of ORS 238A.305 by section 29 of this 2013 Act become operative on January 1, 2014.**

20 **(2) The Public Employees Retirement Board may take any action before the operative**
 21 **date specified in subsection (1) of this section to enable the board, on and after the operative**
 22 **date specified in subsection (1) of this section, to exercise all the duties, powers and func-**
 23 **tions conferred on the board by the amendments to ORS 238.200 by section 28 of this 2013**
 24 **Act and the repeal of ORS 238A.305 by section 29 of this 2013 Act.**

25 COLLECTIVE BARGAINING

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 27
 28 **SECTION 32. ORS 243.746, as amended by section 1, chapter 878, Oregon Laws 2009, is**
 29 **amended to read:**

30 243.746. (1) In carrying out the arbitration procedures authorized in ORS 243.712 (2)(e), 243.726
 31 (3)(c) and 243.742, the public employer and the exclusive representative may select their own
 32 arbitrator.

33 (2) Where the parties have not selected their own arbitrator within five days after notification
 34 by the Employment Relations Board that arbitration is to be initiated, the board shall submit to the
 35 parties a list of seven qualified, disinterested, unbiased persons. A list of Oregon interest arbi-
 36 trations and fact-findings for which each person has issued an award shall be included. Each party
 37 shall alternately strike three names from the list. The order of striking shall be determined by lot.
 38 The remaining individual shall be designated the "arbitrator":

39 (a) When the parties have not designated the arbitrator and notified the board of their choice
 40 within five days after receipt of the list, the board shall appoint the arbitrator from the list. How-
 41 ever, if one of the parties strikes the names as prescribed in this subsection and the other party fails
 42 to do so, the board shall appoint the arbitrator only from the names remaining on the list.

43 (b) The concerns regarding the bias and qualifications of the person designated by lot or by
 44 appointment may be challenged by a petition filed directly with the board. A hearing shall be held
 45 by the board within 10 days of filing of the petition and the board shall issue a final and binding

1 decision regarding the person's neutrality within 10 days of the hearing.

2 (3) The arbitrator shall establish dates and places of hearings. Upon the request of either party
3 or the arbitrator, the board shall issue subpoenas. Not less than 14 calendar days prior to the date
4 of the hearing, each party shall submit to the other party a written last best offer package on all
5 unresolved mandatory subjects, and neither party may change the last best offer package unless
6 pursuant to stipulation of the parties or as otherwise provided in this subsection. The date set for
7 the hearing may thereafter be changed only for compelling reasons or by mutual consent of the
8 parties. If either party provides notice of a change in its position within 24 hours of the 14-day
9 deadline, the other party will be allowed an additional 24 hours to modify its position. The arbitrator
10 may administer oaths and shall afford all parties full opportunity to examine and cross-examine all
11 witnesses and to present any evidence pertinent to the dispute.

12 (4) Where there is no agreement between the parties, or where there is an agreement but the
13 parties have begun negotiations or discussions looking to a new agreement or amendment of the
14 existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties' last
15 best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and
16 opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary
17 priority to paragraphs (b) to (h) of this subsection as follows:

18 (a) The interest and welfare of the public.

19 (b) The reasonable financial ability of the unit of government to meet the costs of the proposed
20 contract giving due consideration and weight to the other services, provided by, and other priorities
21 of, the unit of government as determined by the governing body. A reasonable operating reserve
22 against future contingencies, which does not include funds in contemplation of settlement of the la-
23 bor dispute, shall not be considered as available toward a settlement. **However, if the last best
24 offer package submitted by the exclusive representative of the employees of the public em-
25 ployer would result in the inability of the unit of government to meet the costs of the pro-
26 posed contract without raising taxes or fees or reducing services or workforce, an award
27 based on the last best offer shall be given first priority under paragraph (a) of this subsection
28 and shall be deemed not to be in the best interest and welfare of the public.**

29 (c) The ability of the unit of government to attract and retain qualified personnel at the wage
30 and benefit levels provided.

31 (d) The overall compensation presently received by the employees, including direct wage com-
32 pensation, vacations, holidays and other paid excused time, pensions, insurance, benefits, and all
33 other direct or indirect monetary benefits received.

34 (e) Comparison of the overall compensation of other employees performing similar services with
35 the same or other employees in comparable communities. As used in this paragraph, "comparable"
36 is limited to communities of the same or nearest population range within Oregon. Notwithstanding
37 the provisions of this paragraph, the following additional definitions of "comparable" apply in the
38 situations described as follows:

39 (A) For any city with a population of more than 325,000, "comparable" includes comparison to
40 out-of-state cities of the same or similar size;

41 (B) For counties with a population of more than 400,000, "comparable" includes comparison to
42 out-of-state counties of the same or similar size;

43 (C) Except as otherwise provided in subparagraph (D) of this paragraph, for the State of Oregon,
44 "comparable" includes comparison to other states; and

45 (D) For the Department of State Police troopers, "comparable" includes the base pay for city

1 police officers employed by the five most populous cities in this state.

2 (f) The CPI-All Cities Index, commonly known as the cost of living.

3 (g) The stipulations of the parties.

4 (h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are tradi-
 5 tionally taken into consideration in the determination of wages, hours, and other terms and condi-
 6 tions of employment. However, the arbitrator shall not use such other factors, if in the judgment
 7 of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence
 8 for an award.

9 (5) Not more than 30 days after the conclusion of the hearings or such further additional periods
 10 to which the parties may agree, the arbitrator shall select only one of the last best offer packages
 11 submitted by the parties and shall promulgate written findings along with an opinion and order. The
 12 opinion and order shall be served on the parties and the board. Service may be personal or by reg-
 13 istered or certified mail. The findings, opinions and order shall be based on the criteria prescribed
 14 in subsection (4) of this section.

15 (6) The cost of arbitration shall be borne equally by the parties involved in the dispute.

16
 17 **JUDICIAL REVIEW**

18
 19 **SECTION 33. (1) Jurisdiction is conferred on the Supreme Court to determine in the**
 20 **manner provided by this section whether this 2013 Act breaches any contract between**
 21 **members of the Public Employees Retirement System and their employers or violates any**
 22 **constitutional provision, including but not limited to impairment of contract rights of mem-**
 23 **bers of the Public Employees Retirement System under Article I, section 21, of the Oregon**
 24 **Constitution, or Article I, section 10, clause 1, of the United States Constitution.**

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

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

29 (b) The petition must include the following:

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

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

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

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

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

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

42
 43 **CAPTIONS**

44
 45 **SECTION 34. The unit captions used in this 2013 Act are provided only for the conven-**

1 ience of the reader and do not become part of the statutory law of this state or express any
2 legislative intent in the enactment of this 2013 Act.

3

4

EMERGENCY CLAUSE

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6 **SECTION 35.** This 2013 Act being necessary for the immediate preservation of the public
7 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
8 on its passage.

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