

Senate Bill 854

Sponsored by Senators BOQUIST, GEORGE

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.

Directs Public Employees Retirement Board to recalculate employer contribution rates to reflect provisions of Act.

Establishes PERS Reform Savings Fund and appropriates moneys to Oregon Department of Administrative Services for distribution to public employers other than state for paying employer contributions to board.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.015,
3 238.092, 238.350, 238.360, 238.445, 238.575, 238A.005, 238A.125, 238A.130, 238A.160, 238A.165,
4 238A.210, 238A.245, 238A.320, 238A.330 and 238A.335; repealing ORS 237.650, 237.655 and
5 238A.475 and sections 2, 4, 6, 8 and 9, chapter 53, Oregon Laws 2013 (Enrolled Senate Bill 822);
6 appropriating money; and declaring an emergency.

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

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

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

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

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

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

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

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

3 Whereas the PERS cost increase this year will drain over \$100 million more out of schools and
 4 cripple Oregon's efforts to achieve its educational goals; and

5 Whereas PERS cost increases during the next several biennia are projected to drain billions of
 6 dollars more out of schools, local governments and the state; and

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

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

12 Whereas it is the intent of the Legislative Assembly that the savings realized by state agencies
 13 as a result of this 2013 Act be used, to the maximum extent possible, to reduce PERS costs for
 14 schools and local governments; and

15 Whereas it is the intent of the Legislative Assembly that the savings realized by schools and
 16 local governments as a result of this 2013 Act be used, to the maximum extent possible, to provide
 17 services that Oregonians need; and

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

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

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

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

27
 28 **COST-OF-LIVING ADJUSTMENT**

29
 30 **SECTION 1. Sections 2, 4 and 9, chapter 53, Oregon Laws 2013 (Enrolled Senate Bill 822),**
 31 **are repealed.**

32 **SECTION 2.** ORS 238.360, as amended by sections 1 and 3, chapter 53, Oregon Laws 2013 (En-
 33 rolled Senate Bill 822), is amended to read:

34 238.360. [(1) On July 1 of each year, the Public Employees Retirement Board shall increase the
 35 yearly allowance that a member or member's beneficiary receives or is entitled to receive, as provided
 36 in subsections (2) and (3) of this section. The increase is first payable with the allowance that the
 37 member or the member's beneficiary receives or is entitled to receive on August 1.]

38 [(2)(a) If the member's or member's beneficiary's yearly allowance for the previous year totaled
 39 \$20,000 or less, the allowance shall be increased by two percent.]

40 [(b) If the member's or member's beneficiary's yearly allowance for the previous year totaled more
 41 than \$20,000 but not more than \$40,000, the allowance shall be increased by \$400 plus 1.5 percent of
 42 the amount of the yearly allowance exceeding \$20,000.]

43 [(c) If the member's or member's beneficiary's yearly allowance for the previous year totaled more
 44 than \$40,000 but not more than \$60,000, the allowance shall be increased by \$700 plus one percent of
 45 the amount of the yearly allowance exceeding \$40,000.]

1 *[(d) If the member's or member's beneficiary's yearly allowance for the previous year totaled more*
 2 *than \$60,000, the allowance shall be increased by \$900 plus .25 percent of the amount of the yearly*
 3 *allowance exceeding \$60,000.]*

4 *[(3) If a member or member's beneficiary has been receiving an allowance for less than 12 months*
 5 *on July 1 of any year, the board shall calculate the increase under subsection (2) of this section on the*
 6 *basis of the yearly allowance the member or member's beneficiary would have received if the member*
 7 *or member's beneficiary had received the monthly allowance for 12 months.]*

8 *[(4) Any increase in the allowance shall be paid from contributions of the public employer under*
 9 *ORS 238.225.]*

10 **(1) As soon as practicable after January 1 each year, the Public Employees Retirement**
 11 **Board shall determine the percentage increase or decrease in the cost of living for the pre-**
 12 **vious calendar year, based on the Consumer Price Index (Portland area-all items) as pub-**
 13 **lished by the Bureau of Labor Statistics of the United States Department of Labor for the**
 14 **Portland, Oregon, area. Prior to July 1 each year, the allowance that the member or the**
 15 **member's beneficiary is receiving or is entitled to receive on August 1 for the month of July**
 16 **shall be multiplied by the percentage figure determined, and the allowance for the next 12**
 17 **months beginning July 1 shall be adjusted to the resultant amount.**

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

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

24 **(4) Any increase in the allowance shall be paid from contributions of the public employer**
 25 **under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the**
 26 **form of a credit against contributions of the employer under ORS 238.225.**

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

29 **SECTION 4. ORS 238.360, as amended by sections 1 and 3, chapter 53, Oregon Laws 2013 (En-**
 30 **rolled Senate Bill 822), and section 2 of this 2013 Act, is amended to read:**

31 238.360. **(1) As soon as practicable after January 1 each year, the Public Employees Retirement**
 32 **Board shall determine the percentage increase or decrease in the cost of living for the previous**
 33 **calendar year, based on the Consumer Price Index (Portland area-all items) as published by the**
 34 **Bureau of Labor Statistics of the United States Department of Labor for the Portland, Oregon, area.**
 35 *[Prior to July 1 each year, the allowance that the member or the member's beneficiary is receiving or*
 36 *is entitled to receive on August 1 for the month of July shall be multiplied by the percentage figure*
 37 *determined, and the allowance for the next 12 months beginning July 1 shall be adjusted to the re-*
 38 *sultant amount.]* **On July 1 of each year, the Public Employees Retirement Board shall increase**
 39 **or decrease the yearly allowance that a member or member's beneficiary receives or is en-**
 40 **titled to receive by the percentage figure determined, subject to the limitations provided in**
 41 **subsection (2) of this section. The increase or decrease shall be first applied to the allowance**
 42 **that the member or the member's beneficiary receives or is entitled to receive on August**
 43 **1.**

44 *[(2) Such increase or decrease shall not exceed one percent of any monthly retirement allowance in*
 45 *any year and no allowance shall be adjusted to an amount less than the amount to which the recipient*

1 *would be entitled if no cost-of-living adjustment were authorized.]*

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

5 **(2)(a) If the member's or member's beneficiary's yearly allowance for the previous year**
6 **totaled \$20,000 or less, the allowance shall be increased or decreased by no more than two**
7 **percent.**

8 **(b) If the member's or member's beneficiary's yearly allowance for the previous year**
9 **totaled more than \$20,000 but less than \$36,000, the allowance shall be increased or decreased**
10 **by no more than \$400 plus 0.4 percent of the amount of the yearly allowance exceeding**
11 **\$20,000.**

12 **(c) If the member's or member's beneficiary's yearly allowance for the previous year**
13 **totaled at least \$36,000 but less than \$40,000, the allowance shall be increased or decreased**
14 **by no more than \$364 plus 0.4 percent of the amount of the yearly allowance exceeding**
15 **\$36,000.**

16 **(d) If the member's or member's beneficiary's yearly allowance for the previous year**
17 **totaled more than \$40,000 but not more than \$60,000, the allowance shall be increased or de-**
18 **creased by no more than \$380 plus 0.25 percent of the amount of the yearly allowance ex-**
19 **ceeding \$40,000.**

20 **(e) If the member's or member's beneficiary's yearly allowance for the previous year**
21 **totaled more than \$60,000, the allowance shall be increased or decreased by no more than**
22 **\$430 plus 0.1 percent of the amount of the yearly allowance exceeding \$60,000.**

23 **(3) If a member or member's beneficiary has been receiving an allowance for less than**
24 **12 months on July 1 of any year, the board shall calculate the increase or decrease under**
25 **subsection (2) of this section on the basis of the yearly allowance the member or member's**
26 **beneficiary would have received if the member or member's beneficiary had received the**
27 **monthly allowance for 12 months.**

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

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

33 **SECTION 6. Sections 6 and 8, chapter 53, Oregon Laws 2013, are repealed.**

34 **SECTION 7. ORS 238A.210, as amended by sections 5 and 7, chapter 53, Oregon Laws 2013**
35 **(Enrolled Senate Bill 822), is amended to read:**

36 238A.210. *[(1) On July 1 of each year, the board shall increase every pension payable under ORS*
37 *238A.180, 238A.185 and 238A.190, every disability benefit under ORS 238A.235 and every death benefit*
38 *payable under ORS 238A.230 as provided in subsections (2) and (3) of this section. The increase shall*
39 *be made for the payments payable on August 1 and thereafter.]*

40 *[(2)(a) If a person's yearly pension or benefit for the previous year totaled \$20,000 or less, the*
41 *pension or benefit shall be increased by two percent.]*

42 *[(b) If a person's yearly pension or benefit for the previous year totaled more than \$20,000 but not*
43 *more than \$40,000, the pension or benefit shall be increased by \$400 plus 1.5 percent of the amount of*
44 *the yearly pension or benefit exceeding \$20,000.]*

45 *[(c) If a person's yearly pension or benefit for the previous year totaled more than \$40,000 but not*

1 *more than \$60,000, the pension or benefit shall be increased by \$700 plus one percent of the amount*
 2 *of the yearly pension or benefit exceeding \$40,000.]*

3 *[(d) If a person's yearly pension or benefit for the previous year totaled more than \$60,000, the*
 4 *pension or benefit shall be increased by \$900 plus .25 percent of the amount of the yearly pension or*
 5 *benefit exceeding \$60,000.]*

6 *[(3) If a person has been receiving a pension or benefit for less than 12 months on July 1 of any*
 7 *year, the board shall calculate the increase under subsection (2) of this section on the basis of the*
 8 *yearly allowance the person would have received if the person had received the pension or benefit for*
 9 *12 months.]*

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

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

26 **SECTION 8. The amendments to ORS 238A.210 by section 7 of this 2013 Act apply to all**
 27 **adjustments to allowances made under ORS 238A.210 on and after July 1, 2013.**

28 **SECTION 9. ORS 238A.210, as amended by sections 5 and 7, chapter 53, Oregon Laws 2013**
 29 **(Enrolled Senate Bill 822), and section 7 of this 2013 Act, is amended to read:**

30 *238A.210. [(1) As soon as practicable after January 1 each year, the Public Employees Retirement*
 31 *Board shall determine the percentage increase or decrease in the cost of living for the previous calendar*
 32 *year, based on the Portland-Salem, OR-WA, Consumer Price Index for All Urban Consumers for All*
 33 *Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. Before*
 34 *July 1 each year, the board shall adjust every pension payable under ORS 238A.180, 238A.185 and*
 35 *238A.190, every disability benefit under ORS 238A.235 and every death benefit payable under ORS*
 36 *238A.230 by multiplying the monthly payment by the percentage figure determined by the board. If a*
 37 *person has been receiving a pension or benefit for less than 12 months on July 1 of a calendar year,*
 38 *the board shall make a pro rata reduction of the adjustment based on the number of months that the*
 39 *pension or benefit was received before July 1 of the year. The adjustment shall be made for the pay-*
 40 *ments payable on August 1 and thereafter.]*

41 *[(2) An increase or decrease in the benefit payments under this section may not exceed 1.5 percent*
 42 *in any year. A pension or death benefit may not be adjusted to an amount that is less than the amount*
 43 *that would have been payable if no cost-of-living adjustment had been made since the pension or death*
 44 *benefit first became payable.]*

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

1 Board shall determine the percentage increase or decrease in the cost of living for the pre-
 2 vious calendar year, based on the Portland-Salem, OR-WA, Consumer Price Index for All
 3 Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United
 4 States Department of Labor. On July 1 of each year, the board shall increase or decrease
 5 every pension payable under ORS 238A.180, 238A.185 and 238A.190, every disability benefit
 6 under ORS 238A.235 and every death benefit payable under ORS 238A.230 by the percentage
 7 figure determined, subject to the limitations provided in subsections (2) and (3) of this sec-
 8 tion. The adjustment shall be made for the payments payable on August 1 and thereafter.

9 (2)(a) If the person's yearly pension or benefit for the previous year totaled \$20,000 or
 10 less, the pension or benefit shall be increased or decreased by no more than two percent.

11 (b) If the person's yearly pension or benefit for the previous year totaled more than
 12 \$20,000 but less than \$36,000, the pension or benefit shall be increased or decreased by no
 13 more than \$400 plus 0.4 percent of the amount of the yearly pension or benefit exceeding
 14 \$20,000.

15 (c) If the person's yearly pension or benefit for the previous year totaled at least \$36,000
 16 but less than \$40,000, the pension or benefit shall be increased or decreased by no more than
 17 \$364 plus 0.4 percent of the amount of the yearly pension or benefit exceeding \$36,000.

18 (d) If the person's yearly pension or benefit for the previous year totaled more than
 19 \$40,000 but not more than \$60,000, the pension or benefit shall be increased or decreased by
 20 no more than \$380 plus 0.25 percent of the amount of the yearly allowance exceeding \$40,000.

21 (e) If the member's or member's beneficiary's yearly pension or benefit for the previous
 22 year totaled more than \$60,000, the pension or benefit shall be increased or decreased by no
 23 more than \$430 plus 0.1 percent of the amount of the yearly pension or benefit exceeding
 24 \$60,000.

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

29 **SECTION 10.** The amendments to ORS 238A.210 by section 9 of this 2013 Act apply to all
 30 adjustments to allowances made under ORS 238A.210 on and after July 1, 2014.

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

32 **SECTION 12.** Notwithstanding ORS 238.360, if a person had less than 10 years of credit-
 33 able service on the person's effective date of retirement or is receiving a pension equivalent
 34 to the member's accumulated contributions under ORS 238.300 (2)(b)(A), on July 1 of each
 35 year the Public Employees Retirement Board shall increase or decrease the yearly allowance
 36 that the member or member's beneficiary receives or is entitled to receive by the percentage
 37 figure determined under ORS 238.360, subject to the following limitations:

38 (1) If the member's or member's beneficiary's yearly allowance for the previous year to-
 39 taled \$60,000 or less, the allowance shall be increased or decreased by no more than 0.25
 40 percent.

41 (2) If the member's or member's beneficiary's yearly allowance for the previous year to-
 42 taled more than \$60,000, the allowance shall be increased or decreased by no more than \$150
 43 plus 0.1 percent of the amount of the yearly allowance exceeding \$60,000.

44 **SECTION 13.** Section 14 of this 2013 Act is added to and made a part of ORS chapter
 45 238A.

1 **SECTION 14.** Notwithstanding ORS 238A.210, if a person had less than 10 years of re-
 2 tirement credit on the person's effective date of retirement, on July 1 of each year the Public
 3 Employees Retirement Board shall increase or decrease the yearly allowance that the mem-
 4 ber or member's beneficiary receives or is entitled to receive by the percentage figure de-
 5 termined under ORS 238A.210, subject to the following limitations:

6 (1) If the member's or member's beneficiary's yearly allowance for the previous year to-
 7 taled \$60,000 or less, the allowance shall be increased or decreased by no more than 0.25
 8 percent.

9 (2) If the member's or member's beneficiary's yearly allowance for the previous year to-
 10 taled more than \$60,000, the allowance shall be increased or decreased by no more than \$150
 11 plus 0.1 percent of the amount of the yearly allowance exceeding \$60,000.

12 **SECTION 15.** Sections 12 and 14 of this 2013 Act apply to increases and decreases to al-
 13 lowances, pensions and benefits made under sections 12 and 14 of this 2013 Act on and after
 14 July 1, 2014.

15 **SECTION 16.** ORS 238.575, as amended by section 10, chapter 53, Oregon Laws 2013 (Enrolled
 16 Senate Bill 822), is amended to read:

17 238.575. (1) Every monthly retirement allowance or pension payable to a judge member or sur-
 18 viving spouse of a judge member under ORS 238.500 to 238.585 shall be adjusted annually as [*pro-*
 19 *vided in ORS 238.360.*] follows:

20 (a) As soon as practicable after January 1 each year, the Public Employees Retirement
 21 Board shall determine the percentage increase or decrease in the cost of living for the pre-
 22 vious calendar year, based on the Consumer Price Index (Portland area—all items) as pub-
 23 lished by the Bureau of Labor Statistics of the United States Department of Labor for the
 24 Portland, Oregon, area. Prior to July 1 each year, the allowance that the judge member or
 25 the judge member's beneficiary is receiving or is entitled to receive on August 1 for the
 26 month of July shall be multiplied by the percentage figure determined, and the allowance for
 27 the next 12 months beginning July 1 shall be adjusted to the resultant amount.

28 (b) Such increase or decrease shall not exceed two percent of any monthly retirement
 29 allowance in any year and no allowance shall be adjusted to an amount less than the amount
 30 to which the recipient would be entitled if no cost-of-living adjustment were authorized.

31 (c) The amount of any cost-of-living increase or decrease in any year in excess of the
 32 maximum annual retirement allowance adjustment of two percent shall be accumulated from
 33 year to year and included in the computation of increases or decreases in succeeding years.

34 (d) Any increase in the allowance shall be paid from contributions of the public employer
 35 under ORS 238.225. Any decrease in the allowance shall be returned to the employer in the
 36 form of a credit against contributions of the employer under ORS 238.225.

37 (2) ORS 238.368 applies to judge members, and for that purpose the monthly retirement allow-
 38 ance referred to in ORS 238.368 shall be the monthly retirement allowance payable to a judge
 39 member or the monthly pension payable to the surviving spouse of a judge member under ORS
 40 238.565 (3)(a).

41 **SECTION 17.** The amendments to ORS 238.575 by section 16 of this 2013 Act apply to ad-
 42 justments to allowances or pensions made under ORS 238.575 on and after July 1, 2013.

43 **SECTION 18.** (1) Sections 12 and 14 of this 2013 Act and the amendments to ORS 238.360,
 44 238.575 and 238A.210 by sections 4, 9 and 16 of this 2013 Act become operative on July 1, 2014.

45 (2) The Public Employees Retirement Board may take any action before the operative

1 **date specified in subsection (1) of this section to enable the board, on and after the operative**
 2 **date specified in subsection (1) of this section, to exercise all the duties, functions and pow-**
 3 **ers conferred on the board by sections 12 and 14 of this 2013 Act and the amendments to**
 4 **ORS 238.360, 238.575 and 238A.210 by sections 4, 9 and 16 of this 2013 Act.**

5
 6 **CALCULATION OF FINAL AVERAGE SALARY**
 7

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

10 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

37 (a) Persons engaged as independent contractors.

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

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

43 (d) Persons employed and paid from federal funds received under a federal program intended
 44 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
 45 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects

1 to have the person so considered by an irrevocable written notice to the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (17) "Normal retirement age" means:

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

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

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

45 (19) "Police officer" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (r) Employees of a school district who are appointed and duly sworn members of a law
45 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as

1 police officers commissioned by the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
39 652.190.

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

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

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

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

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

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

4 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
5 gratuitous payment;

6 (G) Payments for periods of leave of absence after the date the employer and employee have
7 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
8 **up to 40 hours of** sick leave [*and vacation*];

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

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

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

17 **(K) More than 40 hours of accumulated unused sick leave; or**

18 **(L) Payments for overtime paid on or after January 1, 2014.**

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 600
25 hours of service per year.

26 **SECTION 20.** ORS 238.350 is amended to read:

27 238.350. (1)(a) Upon the request by a public employer that its employees be compensated for **up**
28 **to 40 hours of** accumulated unused sick leave with pay in the form of increased retirement benefits
29 upon service or disability retirement, the board shall establish a procedure for adding to the gross
30 amount of salary used in determining final average salary the monetary value of [*one-half of the*]
31 **up to 40 hours of** accumulated unused sick leave with pay of each retiring employee of the re-
32 questing public employer and shall establish benefits of the retiring employee on the basis of a final
33 average salary reflecting that addition.

34 (b) For employees of a common school district, a union high school district, an education service
35 district or an institution of higher education engaged in teaching or other school activity, or em-
36 ployees of the school operated under ORS 346.010 engaged in teaching or other school activity, who
37 are employed under contract for a period of less than 12 consecutive months and who are entitled
38 to sick leave with pay of less than 96 hours for a year, each hour of accumulated unused sick leave
39 with pay shall be valued on the basis of the actual number of contract hours of employment during
40 the last year of contributing membership of an employee before retiring and the salary of the em-
41 ployee during the same period. This paragraph does not apply to any employee who is employed
42 under contract for 12 consecutive months in any of the three or less years used in determining the
43 final average salary of the employee.

44 (c) For the purpose of this subsection, accumulated unused sick leave with pay includes unused
45 sick leave with pay accumulated by an active member of the system while in the service of any

1 public employer participating in the system that has the request described in paragraph (a) of this
2 subsection in effect at the time of the member's separation from the service of the employer, whether
3 that employer is or is not the employer of the member at the time of the member's retirement.

4 (d) The board shall establish rules requiring all public employers participating in the system to
5 transmit to the board reports of unused sick leave with pay accumulated by their employees who
6 are members of the system and to provide timely notification to each of those employees of unused
7 sick leave with pay accumulated by the employee and reported to the board.

8 (2) Accumulated unused sick leave with pay may be considered for the purpose of subsection (1)
9 of this section only in accordance with the following requirements:

10 (a) Sick leave not credited at the rate actually provided by the public employer may not be
11 considered. The amount of sick leave exceeding an amount credited at the lowest rate in effect for
12 any employee of the public employer who is normally entitled to sick leave, and in any event ex-
13 ceeding an amount credited at a rate of eight hours for each full month worked, may not be con-
14 sidered.

15 (b) Sick leave credited for periods when an employee was absent from employment on sabbatical
16 leave, educational leave or any leave without pay may not be considered.

17 (c) Any period during which an employee was absent from employment for illness or injury that
18 was charged against sick leave not qualified for consideration shall be deducted from sick leave
19 qualified for consideration.

20 (d) Sick leave for any period for which the public employer provides no sick leave with pay for
21 its employees may not be considered.

22 (e) Sick leave accumulated on and after July 1, 1973, may be considered only to the extent it is
23 supported by records of accumulation and use pursuant to a plan adopted formally by the public
24 employer.

25 (f) Accumulated unused sick leave for periods before July 1, 1973, may be considered as follows:

26 (A) If any department, bureau or other organizational unit of a public employer maintained
27 formal records of accumulation and use even though the public employer did not require that those
28 records be maintained, the accumulated unused sick leave shall be considered according to those
29 records.

30 (B) Where the public employer provided sick leave before July 1, 1973, but formal records of
31 accumulation and use were not required or if required, are unavailable or incomplete, or the sick
32 leave was subject to administrative limitations on total accumulation or transfer between public
33 employers, accumulated unused sick leave for periods before July 1, 1973, may be considered as
34 equal to 2.675 hours for each full month worked or an amount per month equal to the average
35 monthly accumulation by an employee during the period beginning July 1, 1973, and ending at the
36 time of retirement, whichever amount is greater, but reduced by the amount of any accumulated
37 unused sick leave credited to the employee on July 1, 1973.

38 (g) The written certification of a member or former member of the Legislative Assembly shall
39 constitute a formal record of accumulation and use in determining the amount of accumulated un-
40 used sick leave of an employee of the Legislative Assembly, either of its houses or any of its com-
41 mittees or officers for periods of employment before July 1, 1981. Sick leave accumulated on and
42 after July 1, 1981, by employees of the Legislative Assembly, either of its houses or any of its com-
43 mittees or officers may be considered only to the extent it is supported by records of accumulation
44 and use maintained by the Legislative Administration Committee, or any statutory, standing, special
45 or interim committee of the Legislative Assembly or either house thereof, or any constitutional or

1 statutory office of the Legislative Assembly or either house thereof, pursuant to a plan adopted
2 formally by the committee or officer.

3 [(3)(a) *As used in this subsection, "legislative employee" means any person employed by the Legis-*
4 *lative Assembly, either of its houses or any of its committees or officers, but does not include a regular*
5 *employee of a statutory committee or statutory office of the Legislative Assembly described in ORS*
6 *173.005 (1).]*

7 [(b) *Upon the request of a retiring legislative employee who is a member of the system, and the*
8 *request of the public employer of the legislative employee, that the legislative employee be compensated*
9 *for accumulated unused vacation with pay for periods of legislative employment in the form of increased*
10 *retirement benefits upon service or disability retirement, the board shall add to the gross amount of*
11 *salary used in determining final average salary of the legislative employee the monetary value of one-*
12 *half of the accumulated unused vacation with pay of the legislative employee and shall establish the*
13 *benefits of the legislative employee on the basis of a final average salary reflecting that addition.]*

14 [(c) *Accumulated unused vacation with pay may be considered for the purposes of paragraph (b)*
15 *of this subsection only in accordance with the following requirements:]*

16 [(A) *Vacation not credited at the rate actually provided by the public employer may not be con-*
17 *sidered.]*

18 [(B) *Amounts of vacation exceeding amounts creditable to employees in the classified service of the*
19 *state service pursuant to ORS 240.515 (1), and rules adopted pursuant thereto, in effect on June 30,*
20 *1981, shall not be considered.]*

21 [(C) *Vacation accumulated before, on and after July 1, 1981, may be considered only to the extent*
22 *it is supported by records of accumulation and use pursuant to a plan adopted formally by the public*
23 *employer. However, the written certification of a member or former member of the Legislative Assembly*
24 *shall constitute a formal record of accumulation and use in determining the amount of accumulated*
25 *unused vacation of a legislative employee for periods of legislative employment before July 1, 1981.]*

26 [(4)] (3) Employers with plans providing payments on account of sickness in lieu of sick leave
27 with pay may request the board to consider the monetary value of accumulated unused payments
28 on account of sickness as if such payments were an equivalent amount of accumulated unused sick
29 leave with pay under the same terms and conditions specified in subsections (1) and (2) of this sec-
30 tion.

31 **SECTION 21.** ORS 238A.005, as amended by section 1, chapter 31, Oregon Laws 2012, is
32 amended to read:

33 238A.005. For the purposes of this chapter:

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

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

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

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

42 (a) Persons engaged as independent contractors;

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

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

- 1 (d) Persons categorized by a participating public employer as student employees;
- 2 (e) Any person who is an inmate of a state institution;
- 3 (f) Employees of foreign trade offices of the Oregon Business Development Department who live
4 and perform services in foreign countries under the provisions of ORS 285A.075 (1)(g);
- 5 (g) An employee actively participating in an alternative retirement program established under
6 ORS 353.250 or an optional retirement plan established under ORS 341.551;
- 7 (h) Employees of the Oregon University System who are actively participating in an optional
8 retirement plan offered under ORS 243.800;
- 9 (i) Any employee who belongs to a class of employees that was not eligible on August 28, 2003,
10 for membership in the system under the provisions of ORS chapter 238 or other law;
- 11 (j) Any person who belongs to a class of employees who are not eligible to become members of
12 the Oregon Public Service Retirement Plan under the provisions of ORS 238A.070 (2);
- 13 (k) Any person who is retired under ORS 238A.100 to 238A.245 or ORS chapter 238 and who
14 continues to receive retirement benefits while employed; and
- 15 (L) Judges.
- 16 (5) "Firefighter" means:
- 17 (a) A person employed by a local government, as defined in ORS 174.116, whose primary job
18 duties include the fighting of fires;
- 19 (b) The State Fire Marshal, the chief deputy state fire marshal and deputy state fire marshals;
20 and
- 21 (c) An employee of the State Forestry Department who is certified by the State Forester as a
22 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
23 fires as described in ORS 477.064.
- 24 (6) "Fund" means the Public Employees Retirement Fund.
- 25 (7)(a) "Hour of service" means:
- 26 (A) An hour for which an eligible employee is directly or indirectly paid or entitled to payment
27 by a participating public employer for performance of duties in a qualifying position; and
- 28 (B) An hour of vacation, holiday, illness, incapacity, jury duty, military duty or authorized leave
29 during which an employee does not perform duties but for which the employee is directly or indi-
30 rectly paid or entitled to payment by a participating public employer for services in a qualifying
31 position, as long as the hour is within the number of hours regularly scheduled for the performance
32 of duties during the period of vacation, holiday, illness, incapacity, jury duty, military duty or au-
33 thorized leave.
- 34 (b) "Hour of service" does not include any hour for which payment is made or due under a plan
35 maintained solely for the purpose of complying with applicable workers' compensation laws or un-
36 employment compensation laws.
- 37 (8) "Inactive member" means a member of the pension program or the individual account pro-
38 gram of the Oregon Public Service Retirement Plan whose membership has not been terminated, who
39 is not a retired member and who is not employed in a qualifying position.
- 40 (9) "Individual account program" means the defined contribution individual account program of
41 the Oregon Public Service Retirement Plan established under ORS 238A.025.
- 42 (10) "Institution of higher education" means a public university listed in ORS 352.002, the
43 Oregon Health and Science University or a community college, as defined in ORS 341.005.
- 44 (11) "Member" means an eligible employee who has established membership in the pension pro-
45 gram or the individual account program of the Oregon Public Service Retirement Plan and whose

1 membership has not been terminated under ORS 238A.110 or 238A.310.

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

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

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

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

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

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

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

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

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

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

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

30 (E) Retroactive payments described in ORS 238.008.

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

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

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

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

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

41 **(B) Payments for insurance coverage made by an employer on or after January 1, 2014,**
42 **whether made to the employee directly or on behalf of the employee or employee and de-**
43 **pendents.**

44 [*(B)*] (C) Payments made on account of an employee's death.

45 [*(C)*] (D) Any lump sum payment for accumulated unused sick leave, vacation leave or other paid

1 leave.

2 [(D)] (E) Any severance payment, accelerated payment of an employment contract for a future
3 period or advance against future wages.

4 [(E)] (F) Any retirement incentive, retirement bonus or retirement gratuitous payment.

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

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

11 [(H)] (I) The amount of an employee contribution to the individual account program **or the**
12 **account established for the member under section 28 of this 2013 Act** that is paid by the em-
13 ployer and is not deducted from the compensation of the employee, as provided under ORS 238A.335
14 [(I) and (2)(b)].

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

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

21 **SECTION 22.** ORS 238A.130 is amended to read:

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

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

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

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

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

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

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

41 **(d) Exclude amounts attributable to overtime paid on or after January 1, 2014; and**

42 **(e) Exclude amounts exceeding \$100,000 of salary paid in any year.**

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

1 (a) The average salary per calendar year earned by an active member in the three consecutive
 2 calendar years of membership that produce the highest average salary, including calendar years in
 3 which the member was employed for less than a full calendar year. If the number of consecutive
 4 calendar years of active membership before the effective date of retirement of the member is three
 5 or less, the final average salary for the member is the average salary per calendar year earned by
 6 the member in all of those years, without regard to whether the member was employed for full cal-
 7 endar years.

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

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

16 **SECTION 23.** The amendments to ORS 238.005, 238.350, 238A.005 and 238A.130 by sections
 17 19, 20, 21 and 22 of this 2013 Act apply only to members of the Public Employees Retirement
 18 System whose effective date of retirement is on or after the effective date of this 2013 Act.

19
 20 **ASSUMED INTEREST RATE FOR MONEY MATCH**
 21 **CALCULATION FOR INACTIVE MEMBERS**
 22

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

24 **SECTION 25.** Notwithstanding ORS 238.300, a member who was an inactive member for
 25 a period of 12 or more consecutive months at any time before the member's effective date
 26 of retirement shall receive the greater of the following service retirement allowances:

27 (1)(a) A refund annuity calculated as provided in ORS 238.300 (1) using the assumed in-
 28 terest rate determined by the Public Employees Retirement Board; and

29 (b) A life pension calculated as provided in ORS 238.300 (2); or

30 (2)(a) A refund annuity, calculated as provided in ORS 238.300 (1) using an assumed in-
 31 terest rate of four percent; and

32 (b) A life pension that is the actuarial equivalent of the annuity provided by paragraph
 33 (a) of this subsection.

34 **SECTION 26.** Section 25 of this 2013 Act applies only to members for whom the period
 35 of 12 or more consecutive months during which the member was an inactive member ends
 36 on or after the effective date of this 2013 Act.

37
 38 **EMPLOYEE CONTRIBUTIONS AND TRANSFER OF**
 39 **ONE PERCENT EMPLOYEE CONTRIBUTION**
 40

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

43 **SECTION 28.** (1) The Public Employees Retirement Board shall establish an account for
 44 each active member of the Public Employees Retirement System. Each account shall be ad-
 45 justed at least annually in accordance with rules adopted by the board to reflect any net

1 earnings or losses on those contributions. The adjustments described in this subsection shall
 2 continue until the account is withdrawn or applied against the costs of the pension or other
 3 retirement benefits payable to the member.

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

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

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

16 **SECTION 30.** ORS 238A.320 is amended to read:

17 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 18 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 19 tablished.

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

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

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

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

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

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

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

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

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

43 (6) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this
 44 section, hours of service include creditable service, as defined in ORS 238.005, performed by the
 45 person before the person became an eligible employee, as long as the membership of the person

1 under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date
2 the person becomes an eligible employee.

3 **(7) A member becomes vested in the account established for the member under section**
4 **28 of this 2013 Act on the date the account is established under section 28 of this 2013 Act.**

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

6 238A.330. (1) A member of the individual account program must make **an** employee
7 [*contributions*] **contribution** to the individual account program of [*six*] **five** percent of the member's
8 salary.

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

12 **(2) An active member of the Public Employees Retirement System shall make an em-**
13 **ployee contribution to the account established for the member under section 28 of this 2013**
14 **Act of one percent of the member's salary.**

15 **SECTION 32.** (1) The amendments to ORS 238A.330 by section 31 of this 2013 Act become
16 operative on January 1, 2014.

17 **(2) The Public Employees Retirement Board may take any action before the operative**
18 **date specified in subsection (1) of this section to enable the board to exercise, on and after**
19 **the operative date specified in subsection (1) of this section, all of the duties, functions and**
20 **powers conferred on the board by the amendments to ORS 238A.330 by section 31 of this 2013**
21 **Act.**

22 23 NEGOTIATION OF "PICK-UP" OF EMPLOYEE CONTRIBUTIONS

24
25 **SECTION 33.** ORS 238A.335 is amended to read:

26 238A.335. (1) A participating public employer may agree, by a written employment policy or by
27 a collective bargaining agreement, to pay **all or part of** the employee [*contribution*] **contributions**
28 required under ORS 238A.330. [*The policy or agreement need not include all members of the individual*
29 *account program employed by the employer.*] **The amount of the employee contributions that is**
30 **paid by the employer must be equal to a percentage of the member's salary that is not**
31 **greater than six percent. The employer may enter into an agreement under this section with**
32 **all or some of the employees employed by the employer.**

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

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

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

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

43 (3) A participating public employer must give written notice to the Public Employees Retirement
44 Board at the time that [*a written employment policy or collective bargaining agreement described in*
45 *subsection (1) of*] **an agreement under** this section is adopted or changed. The notice must specif-

ically [indicate whether the agreement is as described in subsection (2)(a) or (b) of this section. Any change in the manner in which employee contributions are to be paid applies only to employee contributions made on and after the date the notice is received by the board.] **describe the apportionment of the employee contributions between the members and the employer. An agreement under this section, and any change to an agreement under this section, applies only to employee contributions for pay periods beginning on or after the date that the notice is received by the board.**

SECTION 34. The amendments to ORS 238A.005 and 238A.335 by sections 21 and 33 of this 2013 Act do not apply to a collective bargaining agreement entered into before the effective date of this 2013 Act. Any collective bargaining agreement entered into on or after the effective date of this 2013 Act must be in conformance with ORS 238A.005 and 238A.335 as amended by sections 21 and 33 of this 2013 Act.

RETIREMENT UNDER OPSRP

SECTION 35. ORS 238A.125, as amended by section 2, chapter 31, Oregon Laws 2012, is amended to read:

238A.125. (1) Upon retiring at normal retirement age, a vested pension program member shall be paid an annual pension for the life of the member as follows:

(a) For service as a police officer or firefighter, [1.8] **1.5** percent of final average salary multiplied by the number of years of retirement credit attributable to service as a police officer or firefighter.

(b) For service as other than a police officer or firefighter, [1.5] **1.25** percent of final average salary multiplied by the number of years of retirement credit attributable to service as other than a police officer or firefighter.

(2) Notwithstanding any provision of ORS 238A.100 to 238A.245, the annual benefit payable to a member under the pension program and under any other tax-qualified defined benefit plan maintained by the participating public employer may not exceed the applicable limitations set forth in 26 U.S.C. 415(b), as in effect on December 31, 2011. The Public Employees Retirement Board shall adopt rules for the administration of this limitation, including adjustments in the annual dollar limitation to reflect cost-of-living adjustments authorized by the Internal Revenue Service.

(3) The board shall make no actuarial adjustment in a member's pension calculated under this section by reason of the member's retirement after normal retirement age.

SECTION 36. ORS 238A.160 is amended to read:

238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age for a member of the pension program is the earlier of:

(a) [65] **67** years of age; or

(b) [58] **60** years of age if the member has 30 years or more of retirement credit.

(2) Normal retirement age for a member of the pension program who retires from service as a police officer or firefighter, and who has held a position as a police officer or firefighter continuously for a period of not less than five years immediately preceding the effective date of retirement, is the earlier of:

(a) [60] **62** years of age; or

(b) [53] **55** years of age if the member has 25 years or more of retirement credit.

(3) Normal retirement age for a member of the pension program who retires from service as a

1 school employee as defined by ORS 238A.140 is the earlier of:

2 (a) [65] **67** years of age; or

3 (b) [58] **60** years of age if the member has been an active member in 30 or more calendar years.

4 (4) The normal retirement date of a member is the first day of the month beginning on or after
5 the date the member reaches normal retirement age.

6 **SECTION 37.** ORS 238A.165 is amended to read:

7 238A.165. (1) Except as provided in this section, earliest retirement age for a member of the
8 pension program is [55] **57** years of age.

9 (2) Earliest retirement age for a member of the pension program who retires from service as a
10 police officer or firefighter is [50] **52** years of age if the member has held a position as a police of-
11 ficer or firefighter continuously for a period of not less than five years immediately before the ef-
12 fective date of retirement. Earliest retirement date for a member described in this subsection is not
13 later than the date the member reaches [55] **57** years of age.

14 (3) If a member of the pension program has 25 years or more of retirement credit as a tele-
15 communicator, as defined in ORS 181.610, earliest retirement age for the member is [55] **57** years
16 of age or the age of the member when the member acquires a total of 25 years or more of retirement
17 credit as a telecommunicator, whichever occurs first. A member who retires under this subsection
18 before attaining the age of [55] **57** shall not receive a cost-of-living adjustment under ORS 238A.210
19 until the member attains the age of 55.

20 (4) A member of the pension program who has reached earliest retirement age may retire on an
21 early retirement date that is the first day of any month on or after the member has reached earliest
22 retirement age.

23 **SECTION 38. The amendments to ORS 238A.125, 238A.160 and 238A.165 by sections 35 to**
24 **37 of this 2013 Act apply only to members of the Oregon Public Service Retirement Plan hired**
25 **on or after the effective date of this 2013 Act.**

26
27 **CRIMINAL CONDUCT RESULTING IN LOSS OF BENEFITS**

28
29 **SECTION 39.** ORS 238.445 is amended to read:

30 238.445. (1) Except as provided in this section, the right of a person to a pension, an annuity
31 or a retirement allowance, to the return of contribution, the pension, annuity or retirement allow-
32 ance itself, any optional benefit or death benefit, or any other right accrued or accruing to any
33 person under the provisions of this chapter or ORS chapter 238A, and the money in the various
34 funds created by ORS 238.660 and 238.670, shall be exempt from garnishment and all state, county
35 and municipal taxes heretofore or hereafter imposed, except as provided under ORS chapter 118,
36 shall not be subject to execution, garnishment, attachment or any other process or to the operation
37 of any bankruptcy or insolvency law heretofore or hereafter existing or enacted, and shall be un-
38 assignable.

39 (2) Subsection (1) of this section does not apply to state personal income taxation of amounts
40 paid under this chapter and ORS chapter 238A.

41 **(3) A pension payable under ORS chapter 238A is subject to execution, garnishment, at-**
42 **achment or other process to collect a money award included in a judgment entered in a**
43 **criminal action, as defined in ORS 131.005.**

44 [(3)] (4) Unless otherwise ordered by a court under ORS 25.387, the exemption from execution
45 or other process granted under this section applies to 50 percent of amounts paid under this chapter

1 and ORS chapter 238A if the execution or other process is issued for a support obligation or an
2 order or notice entered or issued under ORS chapter 25, 107, 108, 109, 110, 416, 419B or 419C.

3 **SECTION 40.** Section 41 of this 2013 Act is added to and made a part of ORS chapter
4 238A.

5 **SECTION 41.** (1) Notwithstanding any other provision of this chapter, the Public Em-
6 ployees Retirement Board shall calculate or recalculate a member's retirement benefits in
7 the manner provided by this section if the member is convicted of a felony and:

8 (a) The conduct on which the conviction is based occurred while the member was engaged
9 in the performance of the member's duties as an employee of a participating public employer;
10 or

11 (b) The member's position as an employee of a public employer allowed the member to
12 engage in the conduct that is the basis of the felony conviction.

13 (2) If the board determines that a member is subject to this section and the member has
14 not retired under the pension program, the board may not pay the member a pension under
15 this chapter. If the member has retired, the board shall cease paying the member a pension
16 under this chapter.

17 (3) A person who is the spouse or a dependent of a member whose pension has been
18 calculated or recalculated under this section, or a person who was the spouse of a person
19 whose pension has been calculated or recalculated under this section at the time the person
20 committed the felony, may petition the board to receive the member's pension. Upon a doc-
21 umented showing of financial need or other hardship, and accounting for other sources of
22 income available to the spouse or dependent, the board shall pay to the spouse or dependent
23 the portion of the pension necessary to meet the spouse's or dependent's documented needs.

24 **SECTION 42.** Section 41 of this 2013 Act and the amendments to ORS 238.445 by section
25 39 of this 2013 Act apply only to members of the Public Employees Retirement System whose
26 effective date of retirement is on or after January 1, 2014.

27 **SECTION 43.** (1) Section 41 of this 2013 Act and the amendments to ORS 238.445 by sec-
28 tion 39 of this 2013 Act become operative on January 1, 2014.

29 (2) The Public Employees Retirement Board may take any action before the operative
30 date specified in subsection (1) of this section to enable the board to exercise, on and after
31 the operative date specified in subsection (1) of this section, all the duties, functions and
32 powers conferred on the board by section 41 of this 2013 Act and the amendments to ORS
33 238.445 by section 39 of this 2013 Act.

34
35 **REMOVAL OF LEGISLATORS FROM PUBLIC EMPLOYEES**
36 **RETIREMENT SYSTEM**
37

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

42 **SECTION 45.** ORS 238.092 is amended to read:

43 238.092. (1) Notwithstanding any other provision of this chapter:

44 (a) A retired member of the Public Employees Retirement System who has retired as other than
45 a member of the Legislative Assembly and who is thereafter appointed or elected as a member of

1 the Legislative Assembly may elect, by giving the Public Employees Retirement Board written no-
 2 tice, to receive the pension and annuity provided by this chapter for service as other than a member
 3 of the Legislative Assembly, and be an active member of the system as a member of the Legislative
 4 Assembly for the purpose of service in the Legislative Assembly. A person may make an election
 5 under this paragraph only if the person becomes an active member of the system [*under this chapter*
 6 *for the purpose of service in the Legislative Assembly as provided in ORS 237.650 (3). Notice of an*
 7 *election under this paragraph must be given by the person not more than 30 days after the person takes*
 8 *office.*] **as a member of the Legislative Assembly as a result of an appointment or election to**
 9 **the Legislative Assembly that occurred before the effective date of this 2013 Act.**

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

20 (c) Upon receipt of the notice provided for in paragraphs (a) and (b) of this subsection, the board
 21 shall determine that portion of the accumulated contributions, if any, of the member and interest
 22 thereon attributable to service as other than a member of the Legislative Assembly, which shall be
 23 used in determining the amount of the annuity the member shall receive for that service. The por-
 24 tion of the accumulated contributions, if any, of the member and interest thereon attributable to
 25 service as a member of the Legislative Assembly shall remain in the member account of the member
 26 and, together with any subsequent contributions and interest thereon, be used in determining the
 27 amount of the additional annuity the member shall receive for that service upon subsequent retire-
 28 ment. If the member does not have a member account, the board shall determine the member's re-
 29 tirement allowance for nonlegislative service based on the number of years of nonlegislative service,
 30 and shall determine any additional benefit to be received after the member subsequently retires
 31 based on the number of years of service in the Legislative Assembly.

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

36 **SECTION 46.** ORS 238A.245 is amended to read:

37 238A.245. (1) Except as provided in subsection (3) of this section, the Public Employees Retirement
 38 Board shall cease making pension payments to a retired member of the pension program who
 39 is reemployed by a participating public employer in a qualifying position. A retired member of the
 40 pension program who is employed in a qualifying position becomes an active member of the pension
 41 program without serving the probationary period provided for in ORS 238A.100.

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

1 (3) A retired member of the pension program who becomes a member of the Legislative Assem-
 2 bly shall continue to receive the pension elected by the member. A retired member of the pension
 3 program who becomes a member of the Legislative Assembly may not [*make an election under ORS*
 4 *237.650*] **become an active member of the Oregon Public Service Retirement Plan for service**
 5 **as a member of the Legislative Assembly.**

6 **SECTION 47. ORS 237.650, 237.655 and 238A.475 are repealed.**

7 **SECTION 48. (1) Except as provided in subsection (2) of this section, section 44 of this**
 8 **2013 Act, the amendments to ORS 238.092 and 238A.245 by sections 45 and 46 of this 2013 Act**
 9 **and the repeal of ORS 237.650, 237.655 and 238A.475 by section 47 of this 2013 Act apply only**
 10 **to service as a member of the Legislative Assembly that is a result of an appointment or**
 11 **election to the Legislative Assembly that occurs on or after the effective date of this 2013**
 12 **Act.**

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

19
 20 **REMOVAL OF STATEWIDE ELECTED OFFICERS**
 21 **FROM PUBLIC EMPLOYEES RETIREMENT SYSTEM**
 22

23 **SECTION 49. ORS 238.015 is amended to read:**

24 238.015. (1) No person may become a member of the system unless that person is in the service
 25 of a public employer and has completed six months' service uninterrupted by more than 30 consec-
 26 utive working days during the six months' period. Every employee of a participating employer shall
 27 become a member of the system at the beginning of the first full pay period of the employee fol-
 28 lowing the six months' period. Contributions for new members shall first be made for those wages
 29 that are attributable to services performed by the employee during the first full pay period following
 30 the six months' period, without regard to when those wages are considered earned for other pur-
 31 poses under this chapter. All public employers participating in the Public Employees Retirement
 32 System established by chapter 401, Oregon Laws 1945, as amended, at the time of repeal of that
 33 chapter, and all school districts of the state, shall participate in, and their employees shall be
 34 members of, the system, except as otherwise specifically provided by law.

35 (2) Any active member of the Public Employees Retirement System who, through the annexation
 36 of a political subdivision employing the member or by change of employment, becomes the employee
 37 of another political subdivision which is participating in the Public Employees Retirement System
 38 and has also a separate retirement system for its employees, shall remain an active member of the
 39 Public Employees Retirement System unless, within 60 days after the effective date of the
 40 annexation or change of employment or April 8, 1953, the member shall by written notice to the
 41 Public Employees Retirement Board and to the administrative body of the new public employer elect
 42 to relinquish membership in the Public Employees Retirement System and become a member of the
 43 separate retirement system of the employer, if eligible for membership in that retirement system, and
 44 the member shall be so carried by the new employer. Immediately upon such annexation of any
 45 political subdivision or such change of employment, the new public employer shall inform such em-

1 ployee in writing of the right of the employee to exercise an election as in this section provided.

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

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

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

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

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

38 *[(6)]* (7) A public employer employing volunteer firefighters may apply to the board at any time
 39 for them to become members of the system. Upon receiving the application the board shall fix a
 40 wage at which, for purposes of this chapter only, they shall be considered to be employed and which
 41 shall be the basis for computing the amounts of the contributions, if any, which they pay into, and
 42 of the benefits which they and their beneficiaries receive from, the fund; and if the wage so fixed
 43 is satisfactory to the employer, shall include the firefighters in the system.

44 *[(7)(a)]* (8)(a) In the event that an employee enters the service of a public employer which is
 45 participating in or later begins to participate in the system and in the event that at the time of

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

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

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

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

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

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

42 [(9)] **(10)** Employees, including managers, of foreign trade offices of the Oregon Business Devel-
43 opment Department who live and perform services in foreign countries under the provisions of ORS
44 285A.075 (1)(g) shall not be members of the system. However, any person who is an active member
45 of the system immediately before becoming an employee of a foreign trade office shall continue to

1 be a member of the system during the period of time the person serves as an employee of the foreign
2 trade office.

3 [(10)] (11) An employee who is participating in an alternative retirement program established
4 pursuant to ORS 353.250 or an optional retirement plan established pursuant to ORS 341.551 may
5 not be an active member of the Public Employees Retirement System.

6 7 EMPLOYER CONTRIBUTION RATES

8
9 **SECTION 50.** (1) As soon as practicable after the effective date of this 2013 Act, the
10 Public Employees Retirement Board shall recalculate the contribution rates of all employers,
11 pursuant to ORS 238.225, to reflect the provisions of this 2013 Act.

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

15 16 TRANSFER OF SAVINGS FROM STATE TO OTHER PUBLIC 17 EMPLOYERS

18
19 **SECTION 51.** Section 52 of this 2013 Act is added to and made a part of ORS chapter 238.

20 **SECTION 52.** (1) The PERS Reform Savings Fund is established in the State Treasury,
21 separate and distinct from the General Fund. Interest earned by the PERS Reform Savings
22 Fund shall be credited to the fund.

23 (2) Moneys in the fund are continuously appropriated to the Oregon Department of Ad-
24 ministrative Services for the purpose of distributing the moneys to public employers other
25 than the state.

26 (3)(a) As soon as possible after the beginning of the 2013-2015 biennium, the department
27 shall distribute one-half of the moneys in the fund to public employers other than the state
28 based on the payroll of each public employer.

29 (b) At the beginning of the second fiscal year of the 2013-2015 biennium, the department
30 shall distribute the remaining moneys in the fund to public employers other than the state
31 based on the payroll of each public employer.

32 (c) The department shall label and refer to these distributions as "PERS Reform Savings
33 Checks."

34 (4) The department may not distribute to a public employer an amount greater than the
35 employer contribution that the public employer is required to transmit to the Public Em-
36 ployees Retirement Board under ORS 238.225.

37 (5) Public employers may use funds distributed under this section only for the purpose
38 of paying employer contributions to the Public Employees Retirement Board under ORS
39 238.225.

40 **SECTION 53.** (1) As soon as possible after the beginning of the 2013-2015 biennium, the
41 Oregon Department of Administrative Services shall send a PERS Reform Savings Survey
42 to all public employers other than the state.

43 (2) By July 1 of each subsequent year, the department shall send a PERS Reform Savings
44 Survey to each public employer that received a PERS Reform Savings Check under section
45 52 of this 2013 Act in the previous fiscal year.

1 (3) The PERS Reform Savings Survey shall request, where applicable, information in-
 2 cluding but not limited to the actual impact of this 2013 Act in the prior fiscal year and ex-
 3 pected impacts in the next fiscal year on:

- 4 (a) Class sizes;
- 5 (b) School days;
- 6 (c) Teachers, police officers, firefighters and other employees hired or retained;
- 7 (d) Programs or services added, retained or expanded; and
- 8 (e) Service or response times maintained or reduced.

9 (4) As a condition of receiving PERS Reform Savings Checks, a public employer must fill
 10 out and return a PERS Reform Savings Survey by August 15 of each year.

11 (5) On or before September 15 of each year, the department shall report to an appropriate
 12 committee or interim committee of the Legislative Assembly summarizing the amount of
 13 each public employer's PERS Reform Savings Check and detailing the findings on the impacts
 14 of this 2013 Act from the PERS Reform Savings Surveys.

15 **SECTION 54.** (1) In addition to and not in lieu of any other appropriation, there is ap-
 16 propriated to the Oregon Department of Administrative Services, for the biennium beginning
 17 July 1, 2013, out of the General Fund, the amount of \$150,000,000, which shall be credited to
 18 the PERS Reform Savings Fund established in section 52 of this 2013 Act and may be ex-
 19 pended for purposes of carrying out the provisions of section 52 of this 2013 Act.

20 (2) The amount appropriated by this section represents the amount that state employer
 21 contribution rates to the Public Employees Retirement System decreased as a result of this
 22 2013 Act.

23
 24 **ACT DOES NOT CREATE CONTRACT RIGHTS**

25
 26 **SECTION 55.** Except for sections 52 to 54 of this 2013 Act, no part of this 2013 Act shall
 27 be construed to be a statutory contractual promise of any kind or nature.

28
 29 **EXPEDITED REVIEW BY SUPREME COURT**

30
 31 **SECTION 56.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
 32 manner provided by this section whether this 2013 Act breaches any contract between
 33 members of the Public Employees Retirement System and their employers or violates any
 34 constitutional provision, including but not limited to impairment of contract rights of mem-
 35 bers of the Public Employees Retirement System under Article I, section 21, of the Oregon
 36 Constitution, or Article I, section 10, clause 1, of the United States Constitution, or is invalid
 37 for any other reason.

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

- 41 (a) The petition must be filed within 60 days after the effective date of this 2013 Act.
- 42 (b) The petition must include the following:
 - 43 (A) A statement of the basis of the challenge; and
 - 44 (B) A statement and supporting affidavit showing how the petitioner is adversely af-
 45 fected.

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

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

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

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

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

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

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

19
20 **SEVERABILITY**

21
22 **SECTION 57.** It is the intent of the Legislative Assembly that all parts of this 2013 Act
23 are independent and that if any part of this 2013 Act is held unconstitutional, all remaining
24 parts shall remain in force.

25
26 **CAPTIONS**

27
28 **SECTION 58.** The unit captions used in this 2013 Act are provided only for the conven-
29 ience of the reader and do not become part of the statutory law of this state or express any
30 legislative intent in the enactment of this 2013 Act.

31
32 **EMERGENCY CLAUSE**

33
34 **SECTION 59.** This 2013 Act being necessary for the immediate preservation of the public
35 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
36 on its passage.

37 _____