

**PROPOSED AMENDMENTS TO
SENATE BILL 822**

1 On page 1 of the printed bill, line 2, after “ORS” delete the rest of the
2 line and delete lines 3 and 4 and insert “237.635, 237.637, 238.005, 238.285,
3 238.300, 238.360, 238.372, 238.374, 238.376, 238.378, 238.580, 238A.210, 238A.320,
4 292.180 and 314.840 and section 4, chapter 1, Oregon Laws 2010; repealing
5 ORS 238.350 and 238.355; and declaring an emergency.

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

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

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

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

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

20 “Whereas it is the responsibility of the Legislative Assembly to ensure
21 that PERS is adequately funded, rationally designed as one element of a
22 reasonably competitive compensation arrangement for public employees and

1 sustainable for the sake of public employees, who may rely on PERS for a
2 material part of their retirement, and for Oregonians generally, who rightly
3 expect the state to use taxpayer dollars responsibly; and

4 “Whereas in 2011 the Governor proposed and the Legislative Assembly
5 passed comprehensive education reform based on the aspirational goal of
6 enabling 40 percent of adult Oregonians to have at least a bachelor’s degree,
7 40 percent of adult Oregonians to have at least an associate’s degree and the
8 remaining 20 percent of adult Oregonians to have at least a high school di-
9 ploma; and

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

13 “Whereas the PERS cost increase this year will drain hundreds of
14 millions of dollars more out of schools and cripple Oregon’s efforts to
15 achieve its educational goals; and

16 “Whereas it is necessary for the Legislative Assembly to reform PERS,
17 so that the state may provide critical services efficiently and effectively and
18 provide a long-term, financially sound retirement system for public employ-
19 ees; and

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

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

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

29 “Whereas the Oregon Business Plan enjoys broad bipartisan support as
30 a strategy for creating jobs and growing wages; and

1 “Whereas reform of the Public Employees Retirement System is a top
2 priority in the Oregon Business Plan because it is critical to funding vital
3 public services and especially education; now, therefore,”.

4 Delete lines 6 through 27 and delete pages 2 through 12 and insert:

5
6 **“LIMITATION ON COST OF LIVING ADJUSTMENT**

7
8 **“SECTION 1.** ORS 238.360 is amended to read:

9 “238.360. (1) As soon as practicable after January 1 each year, the Public
10 Employees Retirement Board shall determine the percentage increase or de-
11 crease in the cost-of-living for the previous calendar year, based on the
12 Consumer Price Index (Portland area—all items) as published by the Bureau
13 of Labor Statistics of the U.S. Department of Labor for the Portland, Oregon,
14 area. Prior to July 1 each year, **the board shall adjust** the allowance which
15 the member or the member’s beneficiary is receiving or is entitled to receive
16 on August 1 for the month of July [*shall be multiplied*] **by multiplying the**
17 **allowance or the maximum monthly amount determined under sub-**
18 **section (6) of this section, whichever is less,** by the percentage figure
19 determined[, *and the allowance for the next 12 months beginning July 1 ad-*
20 *justed to the resultant amount*] **by the board and adding the resultant**
21 **amount to the allowance.**

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

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

29 “[~~3~~] (4) The amount of any cost-of-living increase or decrease in any year
30 in excess of the maximum annual retirement allowance adjustment [*of two*]

1 *percent*] shall be accumulated from year to year and included in the compu-
2 tation of increases or decreases in succeeding years.

3 “[~~(4)~~] **(5)** Any increase in the allowance shall be paid from contributions
4 of the public employer under ORS 238.225. Any decrease in the allowance
5 shall be returned to the employer in the form of a credit against contribu-
6 tions of the employer under ORS 238.225.

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

13 **“SECTION 2. The amendments to ORS 238.360 by section 1 of this**
14 **2013 Act apply to all members of the Public Employees Retirement**
15 **System, regardless of the date the member retires.**

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

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

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

1 **“(3)** If a person has been receiving a pension or benefit for less than 12
2 months on July 1 of a calendar year, the board shall make a pro rata re-
3 duction of the adjustment **under subsection (1) of this section** based on
4 the number of months that the pension or benefit was received before July
5 1 of the year. [*The adjustment shall be made for the payments payable on*
6 *August 1 and thereafter.*]

7 **“[(2)] (4)** An increase or decrease in the benefit payments under this sec-
8 tion may not exceed two percent in any year. A pension or death benefit may
9 not be adjusted to an amount that is less than the amount that would have
10 been payable if no cost-of-living adjustment had been made since the pension
11 or death benefit first became payable.

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

18 **“SECTION 4. The amendments to ORS 238A.210 by section 3 of this**
19 **2013 Act apply to all members of the Public Employees Retirement**
20 **System, regardless of the date the member retires, becomes disabled**
21 **or dies.**

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

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

28

29 **“CALCULATION OF FINAL AVERAGE SALARY**

30

1 **“SECTION 6. ORS 238.350 and 238.355 are repealed.**

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

4 “238.005. For purposes of this chapter:

5 “(1) ‘Active member’ means a member who is presently employed by a
6 participating public employer in a qualifying position and who has completed
7 the six-month period of service required by ORS 238.015.

8 “(2) ‘Annuity’ means payments for life derived from contributions made
9 by a member as provided in this chapter.

10 “(3) ‘Board’ means the Public Employees Retirement Board.

11 “(4) ‘Calendar year’ means 12 calendar months commencing on January
12 1 and ending on December 31 following.

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

16 “(a) An employee who had returned to the service of the employer as of
17 January 1, 1945, and who remained in that employment until having estab-
18 lished membership in the Public Employees Retirement System.

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

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

1 “(7) ‘Earliest service retirement age’ means the age attained by a member
2 when the member could first make application for retirement under the pro-
3 visions of ORS 238.280.

4 “(8) ‘Employee’ includes, in addition to employees, public officers, but
5 does not include:

6 “(a) Persons engaged as independent contractors.

7 “(b) Seasonal, emergency or casual workers whose periods of employment
8 with any public employer or public employers do not total 600 hours in any
9 calendar year.

10 “(c) Persons, other than workers in the Oregon Industries for the Blind
11 under ORS 346.190, provided sheltered employment or made-work by a public
12 employer in an employment or industries program maintained for the benefit
13 of such persons.

14 “(d) Persons employed and paid from federal funds received under a fed-
15 eral program intended primarily to alleviate unemployment. However, any
16 such person shall be considered an ‘employee’ if not otherwise excluded by
17 paragraphs (a) to (c) of this subsection and the public employer elects to
18 have the person so considered by an irrevocable written notice to the board.

19 “(e) Persons who are employees of a railroad, as defined in ORS 824.020,
20 and who, as such employees, are included in a retirement plan under federal
21 railroad retirement statutes. This paragraph shall be deemed to have been
22 in effect since the inception of the system.

23 “(9) ‘Final average salary’ means whichever of the following is greater:

24 “(a) The average salary per calendar year paid by one or more partic-
25 ipating public employers to an employee who is an active member of the
26 system in three of the calendar years of membership before the effective date
27 of retirement of the employee, in which three years the employee was paid
28 the highest salary. The three calendar years in which the employee was paid
29 the largest total salary may include calendar years in which the employee
30 was employed for less than a full calendar year. If the number of calendar

1 years of active membership before the effective date of retirement of the
2 employee is three or fewer, the final average salary for the employee is the
3 average salary per calendar year paid by one or more participating public
4 employers to the employee in all of those years, without regard to whether
5 the employee was employed for the full calendar year.

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

10 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does in-
11 clude:

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

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

17 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and
18 ending on June 30 following.

19 “(12) ‘Fund’ means the Public Employees Retirement Fund.

20 “(13) ‘Inactive member’ means a member who is not employed in a quali-
21 fying position, whose membership has not been terminated in the manner
22 described by ORS 238.095 and who is not retired for service or disability.

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

26 “(15) ‘Member’ means a person who has established membership in the
27 system and whose membership has not been terminated as described in ORS
28 238.095. ‘Member’ includes active, inactive and retired members.

29 “(16) ‘Member account’ means the regular account and the variable ac-
30 count.

1 “(17) ‘Normal retirement age’ means:

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

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

10 “(18) ‘Pension’ means annual payments for life derived from contributions
11 by one or more public employers.

12 “(19) ‘Police officer’ includes:

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

20 “(b) Employees of the Department of State Police who are classified as
21 police officers by the Superintendent of State Police.

22 “(c) Employees of the Oregon Liquor Control Commission who are clas-
23 sified as liquor enforcement inspectors by the administrator of the commis-
24 sion.

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

28 “(e) Police chiefs and police personnel of a city who are classified as po-
29 lice officers by the council or other governing body of the city.

30 “(f) Police officers who are commissioned by a university under ORS

1 352.383 and who are classified as police officers by the university.

2 “(g) Parole and probation officers employed by the Department of Cor-
3 rections, parole and probation officers who are transferred to county em-
4 ployment under ORS 423.549 and adult parole and probation officers, as
5 defined in ORS 181.610, who are classified as police officers for the purposes
6 of this chapter by the county governing body. If a county classifies adult
7 parole and probation officers as police officers for the purposes of this
8 chapter, and the employees so classified are represented by a labor organ-
9 ization, any proposal by the county to change that classification or to cease
10 to classify adult parole and probation officers as police officers for the pur-
11 poses of this chapter is a mandatory subject of bargaining.

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

13 “(i) Employees of the Port of Portland who are classified as airport police
14 by the Board of Commissioners of the Port of Portland.

15 “(j) Employees of the State Department of Agriculture who are classified
16 as livestock police officers by the Director of Agriculture.

17 “(k) Employees of the Department of Public Safety Standards and Train-
18 ing who are classified by the department as other than secretarial or clerical
19 personnel.

20 “(L) Investigators of the Criminal Justice Division of the Department of
21 Justice.

22 “(m) Corrections officers as defined in ORS 181.610.

23 “(n) Employees of the Oregon State Lottery Commission who are classi-
24 fied by the Director of the Oregon State Lottery as enforcement agents pur-
25 suant to ORS 461.110.

26 “(o) The Director of the Department of Corrections.

27 “(p) An employee who for seven consecutive years has been classified as
28 a police officer as defined by this section, and who is employed or transferred
29 by the Department of Corrections to fill a position designated by the Direc-
30 tor of the Department of Corrections as being eligible for police officer sta-

1 tus.

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

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

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

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

19 “(u) Employees of the Oregon Youth Authority who are classified as ju-
20 venile parole and probation officers.

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

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

30 “(22) ‘Qualifying position’ means one or more jobs with one or more par-

1 participating public employers in which an employee performs 600 or more hours
2 of service in a calendar year, excluding any service in a job for which a
3 participating public employer does not provide benefits under this chapter
4 pursuant to an application made under ORS 238.035.

5 “(23) ‘Regular account’ means the account established for each active and
6 inactive member under ORS 238.250.

7 “(24) ‘Retired member’ means a member who is retired for service or dis-
8 ability.

9 “(25) ‘Retirement credit’ means a period of time that is treated as credit-
10 able service for the purposes of this chapter.

11 “(26)(a) ‘Salary’ means the remuneration paid an employee in cash out of
12 the funds of a public employer in return for services to the employer, plus
13 the monetary value, as determined by the Public Employees Retirement
14 Board, of whatever living quarters, board, lodging, fuel, laundry and other
15 advantages the employer furnishes the employee in return for services.

16 “(b) ‘Salary’ includes but is not limited to:

17 “(A) Payments of employee and employer money into a deferred compen-
18 sation plan, which are deemed salary paid in each month of deferral;

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

21 “(C) Retroactive payments described in ORS 238.008; and

22 “(D) Wages of a deceased member paid to a surviving spouse or dependent
23 children under ORS 652.190.

24 “(c) ‘Salary’ or ‘other advantages’ does not include:

25 “(A) Travel or any other expenses incidental to employer’s business which
26 is reimbursed by the employer;

27 “(B) Payments for insurance coverage by an employer on behalf of em-
28 ployee or employee and dependents, for which the employee has no cash op-
29 tion;

30 “(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
3 period or an advance against future wages;

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

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

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

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

17 **“(J) Any lump sum payment for accumulated unused vacation leave
18 or other unused paid leave; or**

19 **“(K) Payments for overtime.**

20 “(27) ‘School year’ means the period beginning July 1 and ending June 30
21 next following.

22 “(28) ‘System’ means the Public Employees Retirement System.

23 “(29) ‘Variable account’ means the account established for a member who
24 participates in the Variable Annuity Account under ORS 238.260.

25 “(30) ‘Vested’ means being an active member of the system in each of five
26 calendar years.

27 “(31) ‘Volunteer firefighter’ means a firefighter whose position normally
28 requires less than 600 hours of service per year.

29 **“SECTION 8. ORS 238.285 is amended to read:**

30 **“238.285. (1) Not earlier than two years before a member’s earliest service**

1 retirement age, a member may request a verification of retirement data from
2 the Public Employees Retirement Board. Upon receiving a request under this
3 section, the board shall notify all of the member's participating public em-
4 ployers of the request. In a manner specified by rules of the board, the board
5 shall allow those employers a reasonable time to confirm the records relating
6 to the member that were provided to the board before the request was made.
7 The board shall thereafter provide a verification to the member that includes
8 the following data, as reflected in the records of the Public Employees Re-
9 tirement System:

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

13 “(b) The salary data reported by the member's employers for each calen-
14 dar year, and the final average salary for the member derived from that data.

15 “(c) If applicable, the member's regular account balance, and any variable
16 account balance, as of the end of a calendar year specified in the verifica-
17 tion.

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

20 “(2) A member of the system may dispute the accuracy of the data pro-
21 vided in the verification by filing a written notice of dispute with the board
22 not more than 60 days after the date on which the verification is provided
23 to the member. Upon receiving a notice of dispute under this subsection, the
24 board shall determine the accuracy of the disputed data and make a written
25 decision based on its determination. The board shall provide to the member
26 a copy of the decision and a written explanation of any applicable statutes
27 and rules. A member may seek judicial review of the decision as provided in
28 ORS 183.484 and rules of the board.

29 “(3) Except as provided in this section, when a member who receives a
30 verification under this section retires for service, the creditable service, re-

1 tirement credit, final average salary[,] **and** member account balances [*and*
2 *accumulated unused sick leave*] used in calculating the member’s retirement
3 allowance or pension may not be less than the amounts provided in the
4 verification, subject to adjustments for:

5 “(a) Creditable service or retirement credit accrued by the member after
6 the date specified in the verification.

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

9 “(c) Earnings and losses credited to the member’s accounts from the end
10 of the calendar year specified in the verification to the member’s effective
11 retirement date, in accordance with rules adopted by the board.

12 “[*d*] *Sick leave used and accrued after the date specified in the*
13 *verification.*]

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

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

28 “(6)(a) Subject to paragraph (b) of this subsection, erroneous payments
29 or overpayments paid to or on account of a member based on a verification
30 provided under this section may not be recovered under ORS 238.715, but

1 may be charged to the reserve account established under ORS 238.670 (1), or
2 charged as an administrative expense under ORS 238.610.

3 “(b) The board shall recover erroneous payments or overpayments paid to
4 or on account of a member based on a verification provided under this sec-
5 tion if the board determines that the recovery is required to maintain the
6 status of the system and the Public Employees Retirement Fund as a quali-
7 fied governmental retirement plan and trust under the Internal Revenue
8 Code and under regulations adopted pursuant to the Internal Revenue Code.

9 “(7) A member may dispute the accuracy of data in a verification only as
10 provided under this section. A member may not dispute the accuracy of data
11 in a verification in the manner provided by ORS 238.450.

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

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

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

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

22 **“SECTION 10.** ORS 238.580 is amended to read:

23 “238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092,
24 238.115 (1), 238.250, 238.255, 238.260, [238.350,] 238.364, 238.410, 238.415, 238.420,
25 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618,
26 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705
27 and the increases provided by ORS 238.366 for members of the system who
28 are serving as other than police officers or firefighters apply in respect to
29 service as a judge member.

30 “(2) This chapter applies in respect to persons described in ORS 238.505

1 (1) and in respect to service as a judge member only as specifically provided
2 in ORS 238.500 to 238.585.

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

4 “292.180. (1) The Oregon Department of Administrative Services may ren-
5 der a monthly or quarterly invoice to all state agencies utilizing or intending
6 to utilize the joint payroll system in the future. This monthly or quarterly
7 invoice shall be equal to demonstrated savings of Workers’ Compensation
8 workday tax costs which are a direct result of the savings from payment of
9 the workday tax based on actual days worked by the employee.

10 “(2) It is the intention of this section to allow the department to use
11 demonstrated savings of Workers’ Compensation workday tax costs to pay for
12 the implementation costs of ORS [238.350,] 240.546, 292.026, 292.033, 292.070
13 to 292.110, 292.170 and this section and the moneys received are continuously
14 appropriated for the purposes of ORS [238.350,] 240.546, 292.026, 292.033,
15 292.070 to 292.110, 292.170 and this section.

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

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

27

28 **“TAXATION OF OUT-OF-STATE RETIREES**

29

30 **SECTION 13.** ORS 238.372 is amended to read:

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

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

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

10 “[*(b) A person who is receiving payments under this chapter by reason of*
11 *the retirement of a member whose effective date of retirement is before January*
12 *1, 2012; and*]

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

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

18 “[*(4)*] **(3)** A person receiving payments under this chapter that are not
19 increased under **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon
20 Laws 1995, by reason of ORS 238.372 to 238.384 has no right or claim to the
21 increased benefit provided by **chapter 796, Oregon Laws 1991, or** chapter
22 569, Oregon Laws 1995, except as provided in ORS 238.372 to 238.384.

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

25 **“SECTION 15. (1) On or before October 31, 2013, each person re-**
26 **ceiving payments under this chapter shall provide the Public Employ-**
27 **ees Retirement Board with a written statement that indicates whether**
28 **the payments received by the person are subject to Oregon personal**
29 **income tax.**

30 **“(2) If a person receiving payments under this chapter does not**

1 **notify the board on or before October 31, 2013, that the payments are**
2 **subject to Oregon personal income tax, the board shall reduce any**
3 **benefits payable to the person by the amount by which the benefits**
4 **were increased under chapter 796, Oregon Laws 1991, and chapter 569,**
5 **Oregon Laws 1995. The reduction in benefits becomes effective on**
6 **January 1, 2014.**

7 **“SECTION 16. Section 15 of this 2013 Act is repealed on December**
8 **31, 2014.**

9 **“SECTION 17. ORS 238.374 is amended to read:**

10 “238.374. (1) A person applying for payments under this chapter shall give
11 a written statement to the Public Employees Retirement Board that indicates
12 whether the payments will be subject to Oregon personal income tax under
13 ORS 316.127 (9). If the person fails to provide the statement required by this
14 subsection, or the statement indicates that the payments will not be subject
15 to Oregon personal income tax under ORS 316.127 (9), the board may not pay
16 the person the increased [*benefit*] **benefits** provided by **chapter 796, Oregon**
17 **Laws 1991, or** chapter 569, Oregon Laws 1995.

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

25 “(3) If a person is receiving payments under this chapter that have not
26 been increased under **chapter 796, Oregon Laws 1991, or** chapter 569,
27 Oregon Laws 1995, by reason of the provisions of subsection (1) of this sec-
28 tion, and the board receives notice under subsection (2) of this section that
29 payments to the person under this chapter are subject to Oregon personal
30 income tax, or determines under ORS 238.378 that payments to the person

1 under this chapter are subject to Oregon personal income tax, the board
2 shall initiate payment of the increased [*benefit*] **benefits** provided by **chap-**
3 **ter 796, Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The in-
4 crease in benefits becomes effective on the first day of the calendar year
5 following receipt of notice by the board.

6 **“SECTION 18.** ORS 238.376 is amended to read:

7 “238.376. (1) If a person is receiving payments under this chapter, and
8 after the payments commence the payments cease to be subject to Oregon
9 personal income tax under ORS 316.127 (9), the person shall promptly notify
10 the Public Employees Retirement Board by written statement that the pay-
11 ments are no longer subject to Oregon personal income tax. The board shall
12 reduce any benefits payable to the person by the amount by which the ben-
13 efits were increased under **chapter 796, Oregon Laws 1991, and** chapter 569,
14 Oregon Laws 1995. The reduction in benefits becomes effective on the first
15 day of the calendar year following receipt of notice by the board.

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

22 “(3) If a person is receiving payments under this chapter that have been
23 reduced [*under the provisions of subsection (1) of this section*] **because the**
24 **payments are not subject to Oregon personal income tax**, and the board
25 receives notice under subsection (2) of this section that payments to the
26 person under this chapter are once again subject to Oregon personal income
27 tax, or determines under ORS 238.378 that payments to the person under this
28 chapter are once again subject to Oregon personal income tax, the board
29 shall resume payment of the increased [*benefit*] **benefits** provided by **chapter**
30 **796, Oregon Laws 1991, and** chapter 569, Oregon Laws 1995. The increase

1 in benefits becomes effective on the first day of the calendar year following
2 receipt of notice by the board.

3 **“SECTION 19.** ORS 238.378 is amended to read:

4 “238.378. (1) Not less than once each calendar year, the Public Employees
5 Retirement Board shall provide to the Department of Revenue information
6 identifying persons to whom payments have been made under this chapter.
7 The Department of Revenue shall provide to the board such information on
8 Oregon personal income tax returns as the board deems necessary to deter-
9 mine whether the payments made to the person under this chapter are sub-
10 ject to Oregon personal income tax under ORS 316.127 (9).

11 “(2) If the board determines that the payments made to a person under
12 this chapter are not subject to Oregon personal income tax under ORS
13 316.127 (9) based on information provided by the Department of Revenue
14 under this section, and the person is receiving the increased benefit provided
15 by **chapter 796, Oregon Laws 1991, or** chapter 569, Oregon Laws 1995, the
16 board shall reduce the benefits payable to the person as provided in ORS
17 238.376 (1).

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

24 **“SECTION 20.** ORS 237.635 is amended to read:

25 “237.635. (1) Any public employer that provides retirement benefits to its
26 police officers and firefighters other than by participation in the Public
27 Employees Retirement System pursuant to the provisions of ORS 237.620
28 shall provide increases to the police officers and firefighters of the public
29 employer, both active and retired, that are equal to the increases in retire-
30 ment benefits that are provided for in this 1991 Act for active and retired

1 police officers or firefighters who are members of the Public Employees Re-
2 tirement System, or shall provide to those police officers and firefighters
3 increases in retirement benefits that are the actuarial equivalent of the in-
4 creases in retirement benefits that are provided for in this 1991 Act for police
5 officers or firefighters who are members of the Public Employees Retirement
6 System. No other retirement benefit or other benefit provided by those public
7 employers shall be decreased by the employer by reason of the increases
8 mandated by this section.

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

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

26 **“SECTION 21.** ORS 237.637 is amended to read:

27 “237.637. (1) Any public employer that provides retirement benefits to its
28 police officers and firefighters other than by participation in the Public
29 Employees Retirement System pursuant to the provisions of ORS 237.620
30 shall provide increases to the police officers and firefighters of the public

1 employer, both active and retired, that are equal to the increases in retire-
2 ment benefits that are provided for in chapter 569, Oregon Laws 1995, for
3 active and retired police officers or firefighters who are members of the
4 Public Employees Retirement System, or the public employer shall provide
5 to those police officers and firefighters increases in retirement benefits that
6 are the actuarial equivalent of the increases in retirement benefits that are
7 provided for in chapter 569, Oregon Laws 1995, for police officers or fire-
8 fighters who are members of the Public Employees Retirement System. In-
9 creases provided under this section shall be reduced by the amount of any
10 benefit increase provided by ORS 237.635 in the same manner that increases
11 in retirement benefits that are provided for in chapter 569, Oregon Laws
12 1995, for active and retired police officers or firefighters who are members
13 of the Public Employees Retirement System are reduced to reflect amounts
14 paid to those members under the provisions of chapter 796, Oregon Laws
15 1991. No other retirement benefit or other benefit provided by those public
16 employers shall be decreased by the employer by reason of the increases
17 mandated by this section.

18 “(2) A public employer that is subject to the requirements of this section
19 shall cease paying increased **retirement** benefits under this section if the
20 payments made to the person are not subject to Oregon personal income tax
21 under ORS 316.127 (9). A public employer that is subject to the requirements
22 of this section shall adopt procedures similar to those described in ORS
23 238.372 to 238.384 for the purpose of implementing this subsection. The De-
24 partment of Revenue shall provide to a public employer that is subject to the
25 requirements of this section [*such*] **the** information regarding Oregon per-
26 sonal income tax returns [*as*] **that** the public employer deems necessary to
27 determine whether the retirement benefits paid to the person by the public
28 employer are subject to Oregon personal income tax under ORS 316.127 (9).

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

30 “[*(a) A retired police officer or firefighter who is receiving payments under*]

1 *the public employer's plan and whose effective date of retirement is before*
2 *January 1, 2012;]*

3 *"[(b) A person who is receiving payments under the public employer's plan*
4 *by reason of the retirement of a police officer or firefighter whose effective date*
5 *of retirement is before January 1, 2012; and]*

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

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

10 "314.840. (1) The Department of Revenue may:

11 "(a) Furnish any taxpayer, representative authorized to represent the
12 taxpayer under ORS 305.230 or person designated by the taxpayer under ORS
13 305.193, upon request of the taxpayer, representative or designee, with a copy
14 of the taxpayer's income tax return filed with the department for any year,
15 or with a copy of any report filed by the taxpayer in connection with the
16 return, or with any other information the department considers necessary.

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

18 "(c) Publish statistics so classified as to prevent the identification of in-
19 come or any particulars contained in any report or return.

20 "(d) Disclose a taxpayer's name, address, telephone number, refund
21 amount, amount due, Social Security number, employer identification number
22 or other taxpayer identification number to the extent necessary in con-
23 nection with collection activities or the processing and mailing of corre-
24 spondence or of forms for any report, return or claim required in the
25 administration of ORS 310.630 to 310.706, any local tax under ORS 305.620,
26 or any law imposing a tax upon or measured by net income.

27 "(2) The department also may disclose and give access to information de-
28 scribed in ORS 314.835 to:

29 "(a) The Governor of the State of Oregon or the authorized representative
30 of the Governor:

1 “(A) With respect to an individual who is designated as being under
2 consideration for appointment or reappointment to an office or for employ-
3 ment in the office of the Governor. The information disclosed shall be con-
4 fined to whether the individual:

5 “(i) Has filed returns with respect to the taxes imposed by ORS chapter
6 316 for those of not more than the three immediately preceding years for
7 which the individual was required to file an Oregon individual income tax
8 return.

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

12 “(iii) Has been assessed any penalty under the Oregon personal income
13 tax laws and the nature of the penalty.

14 “(iv) Has been or is under investigation for possible criminal offenses
15 under the Oregon personal income tax laws. Information disclosed pursuant
16 to this paragraph shall be used only for the purpose of making the appoint-
17 ment, reappointment or decision to employ or not to employ the individual
18 in the office of the Governor.

19 “(B) For use by an officer or employee of the Oregon Department of Ad-
20 ministrative Services duly authorized or employed to prepare revenue esti-
21 mates, or a person contracting with the Oregon Department of
22 Administrative Services to prepare revenue estimates, in the preparation of
23 revenue estimates required for the Governor’s budget under ORS 291.201 to
24 291.226, or required for submission to the Emergency Board or the Joint In-
25 terim Committee on Ways and Means, or if the Legislative Assembly is in
26 session, to the Joint Committee on Ways and Means, and to the Legislative
27 Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and
28 291.445. The Department of Revenue shall disclose and give access to the
29 information described in ORS 314.835 for the purposes of this subparagraph
30 only if:

1 “(i) The request for information is made in writing, specifies the purposes
2 for which the request is made and is signed by an authorized representative
3 of the Oregon Department of Administrative Services. The form for request
4 for information shall be prescribed by the Oregon Department of Adminis-
5 trative Services and approved by the Director of the Department of Revenue.

6 “(ii) The officer, employee or person receiving the information does not
7 remove from the premises of the Department of Revenue any materials that
8 would reveal the identity of a personal or corporate taxpayer.

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

11 “(c) For tax administration and compliance purposes, the proper officer
12 or authorized representative of any of the following entities that has or is
13 governed by a provision of law that meets the requirements of any applicable
14 provision of the Internal Revenue Code as to confidentiality:

15 “(A) A state;

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

17 “(C) The District of Columbia; or

18 “(D) An association established exclusively to provide services to federal,
19 state or local taxing authorities.

20 “(d) The Multistate Tax Commission or its authorized representatives, for
21 tax administration and compliance purposes only. The Multistate Tax Com-
22 mission may make the information available to the Commissioner of Internal
23 Revenue or the proper officer or authorized representative of any govern-
24 mental entity described in and meeting the qualifications of paragraph (c)
25 of this subsection.

26 “(e) The Attorney General, assistants and employees in the Department
27 of Justice, or other legal representative of the State of Oregon, to the extent
28 the department deems disclosure or access necessary for the performance of
29 the duties of advising or representing the department pursuant to ORS
30 180.010 to 180.240 and the tax laws of this state.

1 “(f) Employees of the State of Oregon, other than of the Department of
2 Revenue or Department of Justice, to the extent the department deems dis-
3 closure or access necessary for such employees to perform their duties under
4 contracts or agreements between the department and any other department,
5 agency or subdivision of the State of Oregon, in the department’s adminis-
6 tration of the tax laws.

7 “(g) Other persons, partnerships, corporations and other legal entities,
8 and their employees, to the extent the department deems disclosure or access
9 necessary for the performance of such others’ duties under contracts or
10 agreements between the department and such legal entities, in the
11 department’s administration of the tax laws.

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

16 “(i) The Department of Consumer and Business Services, to the extent the
17 department requires such information to determine whether it is appropriate
18 to adjust those workers’ compensation benefits the amount of which is based
19 pursuant to ORS chapter 656 on the amount of wages or earned income re-
20 ceived by an individual.

21 “(j) Any agency of the State of Oregon, or any person, or any officer or
22 employee of such agency or person to whom disclosure or access is given by
23 state law and not otherwise referred to in this section, including but not
24 limited to the Secretary of State as Auditor of Public Accounts under section
25 2, Article VI of the Oregon Constitution; the Department of Human Services
26 pursuant to ORS 314.860 and 412.094; the Division of Child Support of the
27 Department of Justice and district attorney regarding cases for which they
28 are providing support enforcement services under ORS 25.080; the State
29 Board of Tax Practitioners, pursuant to ORS 673.710; and the Oregon Board
30 of Accountancy, pursuant to ORS 673.415.

1 “(k) The Director of the Department of Consumer and Business Services
2 to determine that a person complies with ORS chapter 656 and the Director
3 of the Employment Department to determine that a person complies with
4 ORS chapter 657, the following employer information:

5 “(A) Identification numbers.

6 “(B) Names and addresses.

7 “(C) Inception date as employer.

8 “(D) Nature of business.

9 “(E) Entity changes.

10 “(F) Date of last payroll.

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

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

20 “(n) Employees of the Employment Department to the extent the Depart-
21 ment of Revenue deems disclosure or access to information on a combined
22 tax report filed under ORS 316.168 is necessary to performance of their duties
23 in administering the tax imposed by ORS chapter 657.

24 “(o) The State Fire Marshal to assist the State Fire Marshal in carrying
25 out duties, functions and powers under ORS 453.307 to 453.414, the employer
26 or agent name, address, telephone number and standard industrial classi-
27 fication, if available.

28 “(p) Employees of the Department of State Lands for the purposes of
29 identifying, locating and publishing lists of taxpayers entitled to unclaimed
30 refunds as required by the provisions of chapter 694, Oregon Laws 1993. The

1 information shall be limited to the taxpayer's name, address and the refund
2 amount.

3 “(q) In addition to the disclosure allowed under ORS 305.225, state or lo-
4 cal law enforcement agencies to assist in the investigation or prosecution
5 of the following criminal activities:

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

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

16 “(r) The United States Postal Inspection Service or a federal law
17 enforcement agency, including but not limited to the United States Depart-
18 ment of Justice, to assist in the investigation of the following criminal ac-
19 tivities:

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

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

30 “(s) The United States Financial Management Service, for purposes of

1 facilitating the offsets described in ORS 305.612.

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

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

11 “(v) The Public Employees Retirement Board, to the extent necessary to
12 carry out the purposes of ORS 238.372 to 238.384, and to any public employer,
13 to the extent necessary to carry out the purposes of ORS **237.635 (3) and**
14 **237.637 (2)**.

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

27 “(b) The disclosure authorized in subsection (2)(r) of this section shall be
28 made only after a written agreement has been entered into between the De-
29 partment of Revenue and the person described in subsection (2)(r) of this
30 section to whom disclosure or access to the tax information is given, pro-

1 viding that:

2 “(A) Any information described in ORS 314.835 that is received by the
3 person pursuant to subsection (2)(r) of this section is confidential informa-
4 tion that may not be disclosed, except to the extent necessary to investigate
5 or prosecute the criminal activities described in subsection (2)(r) of this
6 section;

7 “(B) The information shall be protected as confidential under applicable
8 federal and state laws; and

9 “(C) The United States Postal Inspection Service or the federal law
10 enforcement agency shall give notice to the Department of Revenue of any
11 request received under the federal Freedom of Information Act, 5 U.S.C. 552,
12 or other federal law relating to the disclosure of information.

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

16

17 **“TRANSFER OF EMPLOYEE CONTRIBUTIONS**

18

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

21 **“SECTION 24. (1) A member who established membership in the**
22 **Public Employees Retirement System before August 29, 2003, as de-**
23 **scribed in ORS 238A.025 (4), ceases to be a member of the individual**
24 **account program on the effective date of this 2013 Act.**

25 **“(2) A member who established membership in the Public Employ-**
26 **ees Retirement System before August 29, 2003, as described in ORS**
27 **238A.025 (4), and who is a member of the individual account program**
28 **on the effective date of this 2013 Act, continues to be a member for**
29 **the purpose of amounts in the employee account established for the**
30 **member under ORS 238A.350 (2), and the Public Employees Retirement**

1 Board shall continue to make adjustments to the account in the
2 manner prescribed by ORS 238A.350 (1) on and after the effective date
3 of this 2013 Act, but no further employee contributions may be depos-
4 ited in the account on or after the effective date of this 2013 Act by
5 reason of service by the member.

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

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

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

27 “SECTION 26. (1) An inactive member may elect to receive a dis-
28 tribution of the amounts in the member’s account established under
29 section 25 of this 2013 Act if the inactive member has separated from
30 all service with participating public employers and with employers who

1 are treated as part of a participating public employer's controlled
2 group under the federal laws and rules governing the status of the
3 Public Employees Retirement System and the Public Employees Re-
4 tirement Fund as a qualified governmental retirement plan and trust.

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

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

10 “238A.320. (1) A member of the individual account program becomes
11 vested in the employee account established for the member under ORS
12 238A.350 (2) on the date the employee account is established.

13 “(2) A member who makes rollover contributions becomes vested in the
14 rollover account established for the member under ORS 238A.350 (4) on the
15 date the rollover account is established.

16 “(3) Except as provided in subsection (4) of this section, if an employer
17 makes employer contributions for a member under ORS 238A.340 the member
18 becomes vested in the employer account established under ORS 238A.350 (3)
19 on the earliest of the following dates:

20 “(a) The date on which the member completes at least 600 hours of service
21 in each of five calendar years. The five calendar years need not be consec-
22 utive, but are subject to the provisions of subsection (5) of this section.

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

25 “(c) If the individual account program is terminated, the date on which
26 termination becomes effective, but only to the extent the account is then
27 funded.

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

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

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

6 “(5) If a member of the individual account program who is not vested in
7 the employer account performs fewer than 600 hours of service in each of five
8 consecutive calendar years, hours of service performed before the first cal-
9 endar year of the period of five consecutive calendar years shall be disre-
10 garded for purposes of determining whether the member is vested under
11 subsection (3)(a) of this section.

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

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

21

22 **“ASSUMED INTEREST RATE FOR**
23 **CALCULATION OF MONEY MATCH**

24

25 **“SECTION 28.** ORS 238.300 is amended to read:

26 “238.300. Upon retiring from service at normal retirement age or there-
27 after, a member of the system shall receive a service retirement allowance
28 which shall consist of the following annuity and pensions:

29 “(1) A refund annuity which shall be the actuarial equivalent of accu-
30 mulated contributions, if any, by the member and interest thereon credited

1 at the time of retirement, which annuity shall provide an allowance payable
2 during the life of the member and at death a lump sum equal in amount to
3 the difference between accumulated contributions at the time of retirement
4 and the sum of the annuity payments actually made to the member during
5 life shall be paid to such person, if any, as the member nominates by written
6 designation duly acknowledged and filed with the **Public Employees Re-**
7 **tirement** Board or shall otherwise be paid according to the provisions of
8 this chapter for disposal of an amount credited to the member account of a
9 member at the time of death in the event the member designates no benefi-
10 ciary to receive the amount or no such beneficiary is able to receive the
11 amount. If death of the member occurs before the first payment is due, the
12 member account of the member shall be treated as though death had occurred
13 before retirement.

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

20 “(A) For service as a police officer or firefighter, two percent of final
21 average salary multiplied by the number of years of membership in the sys-
22 tem as a police officer or firefighter before the effective date of retirement.

23 “(B) For service as other than a police officer or firefighter, including
24 service as a member of the Legislative Assembly, 1.67 percent of final aver-
25 age salary multiplied by the number of years of membership in the system
26 as other than a police officer or firefighter before the effective date of re-
27 tirement.

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

29 “(A) For a member who first establishes membership in the system before
30 July 1, 2003, the actuarial equivalent of the annuity provided by the accu-

1 mulated [*contributions of the member.*] **amounts in the member account.**
2 **To calculate the annuity provided by the accumulated amounts in the**
3 **member account for purposes of this subparagraph, the board shall**
4 **use an assumed interest rate of four percent.** A person establishes
5 membership in the system before July 1, 2003, for the purposes of this sub-
6 paragraph if:

7 “(i) The person is a member of the system, or a judge member of the
8 system, on the day immediately before July 1, 2003; or

9 “(ii) The person performed any period of service for a participating public
10 employer before July 1, 2003, that is credited to the six-month period of em-
11 ployment required of an employee under ORS 238.015 before an employee may
12 become a member of the system.

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

16 “(c) As used in this subsection, ‘number of years of membership’ means
17 the number of full years of creditable service plus any remaining fraction
18 of a year of creditable service. Except as otherwise provided in this para-
19 graph, in determining a remaining fraction a full month shall be considered
20 as one-twelfth of a year and a major fraction of a month shall be considered
21 as a full month. Membership of a school district employee, an employee of
22 an institution of higher education engaged in teaching or other school ac-
23 tivity or an employee of the Department of Human Services, the Oregon
24 Youth Authority, the Department of Corrections or the State Board of Edu-
25 cation engaged in teaching or other school activity at an institution super-
26 vised by the authority, board or department, for all portions of a school year
27 in a calendar year in which the district school, institution of higher educa-
28 tion or school activity at an institution so supervised in which the member
29 is employed is normally in session shall be considered as a full one-half year
30 of membership. The number of years of membership of a member who re-

1 ceived a refund of contributions as provided in ORS 237.976 (2) is limited to
2 the number of years after the day before the date on which the refund was
3 received. The number of years of membership of a member who is separated,
4 for any reason other than death or disability, from all service entitling the
5 member to membership in the system, who withdraws the amount credited
6 to the member account of the member in the fund during absence from such
7 service and who thereafter reenters the service of an employer participating
8 in the system but does not repay the amount so withdrawn as provided in
9 this chapter, is limited to the number of years after the day before the date
10 of so reentering.

11 “(3) An additional life pension (nonrefund) for prior service credit, in-
12 cluding military service, credited to the member at the time of first becoming
13 a member of the system, as elsewhere provided in this chapter, which pension
14 shall be provided by the contributions of the employer.

15

16 **“EMPLOYER CONTRIBUTION RATES**

17

18 **“SECTION 29. (1) As soon as practicable after the effective date of**
19 **this 2013 Act, the Public Employees Retirement Board shall:**

20 **“(a) Determine the savings in employer contributions that are at-**
21 **tributable to the provisions of this 2013 Act; and**

22 **“(b) Recalculate the contribution rates of all employers, pursuant**
23 **to ORS 238.225, to reflect the provisions of this 2013 Act.**

24 **“(2) The board shall issue corrected contribution rate orders to**
25 **employers affected by recalculated rates under this section within 90**
26 **days after the effective date of this 2013 Act. The corrected rates are**
27 **effective July 1, 2013.**

28

29 **“EXPEDITED REVIEW BY SUPREME COURT**

30

1 **“SECTION 30. (1) Jurisdiction is conferred on the Supreme Court**
2 **to determine in the manner provided by this section whether this 2013**
3 **Act breaches any contract between members of the Public Employees**
4 **Retirement System and their employers or violates any constitutional**
5 **provision, including but not limited to impairment of contract rights**
6 **of members of the Public Employees Retirement System under Article**
7 **I, section 21, of the Oregon Constitution, or Article I, section 10,**
8 **clause 1, of the United States Constitution.**

9 **“(2) A person who is adversely affected by this 2013 Act or who will**
10 **be adversely affected by this 2013 Act may institute a proceeding for**
11 **review by filing with the Supreme Court a petition that meets the**
12 **following requirements:**

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

15 **“(b) The petition must include the following:**

16 **“(A) A statement of the basis of the challenge; and**

17 **“(B) A statement and supporting affidavit showing how the**
18 **petitioner is adversely affected.**

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

22 **“(4) Proceedings for review under this section shall be given priority**
23 **over all other matters before the Supreme Court.**

24 **“(5) The Supreme Court shall allow public employers participating**
25 **in the Public Employees Retirement System to intervene in any pro-**
26 **ceeding under this section.**

27 **“(6)(a) The Supreme Court shall allow members of the Legislative**
28 **Assembly to intervene in any proceeding relating to this 2013 Act. Af-**
29 **ter a member intervenes in a proceeding relating to this 2013 Act, the**
30 **member has standing to participate in the proceeding even if the**

1 member ceases to be a member of the Legislative Assembly.

2 “(b) A member of the Senate or House of Representatives who in-
3 tervenes in a proceeding under this subsection may not use public
4 funds to pay legal expenses incurred in intervening or participating in
5 the proceeding.

6 “(7) In the event the Supreme Court determines that there are
7 factual issues in the petition, the Supreme Court may appoint a special
8 master to hear evidence and to prepare recommended findings of fact.

9 “(8) The court may not award attorney fees to a petitioner in a
10 proceeding under this section.

11

12

“SEVERABILITY

13

14 **“SECTION 31.** It is the intent of the Legislative Assembly that all
15 parts of this 2013 Act are independent and that if any part of this 2013
16 Act be held unconstitutional, all remaining parts shall remain in force.

17

18

“CAPTIONS

19

20 **“SECTION 32.** The unit captions used in this 2013 Act are provided
21 only for the convenience of the reader and do not become part of the
22 statutory law of this state or express any legislative intent in the
23 enactment of this 2013 Act.

24

25

“EMERGENCY CLAUSE

26

27 **“SECTION 33.** This 2013 Act being necessary for the immediate
28 preservation of the public peace, health and safety, an emergency is
29 declared to exist, and this 2013 Act takes effect on its passage.”.

30