

Senate Bill 782

Sponsored by Senator KNOPP

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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

A BILL FOR AN ACT

Relating to public employee retirement; creating new provisions; amending ORS 238.005, 238.285, 238.580, 238.607, 238A.005, 238A.130, 238A.160, 238A.165, 238A.320, 238A.330, 238A.335 and 292.180 and section 4, chapter 1, Oregon Laws 2010; repealing ORS 238.350 and 238.355; and declaring an emergency.

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

ASSUMED INTEREST RATE

SECTION 1. ORS 238.607 is amended to read:

238.607. (1) **As often as is necessary to maintain actuarial equivalence, and no less than** once every two calendar years, the Public Employees Retirement Board shall adopt actuarial equivalency factor tables for the purpose of computing the payments to be made to members and their beneficiaries, alternate payees and judge members and their spouses and beneficiaries. The tables may be adopted in conjunction with the system evaluation required by ORS 238.605. Tables adopted under this section must use the best actuarial information on mortality available at the time the board adopts the tables, as provided by the actuary engaged by the board. **The assumed interest rate used for tables adopted under this section must be equal to the current rate, at the time of adoption, for valuing annuity benefits as published from time to time by the federal Pension Benefit Guaranty Corporation.** Actuarial equivalency factor tables adopted under this section become effective [*on January 1 of the calendar year following*] **upon** adoption of the tables by the board **or on another date specified by the board**. All computations of payments must use the actuarial equivalency factor tables that are in effect on:

- (a) The effective date of retirement for any member, judge member or alternate payee;
 - (b) The date that the first payment is due for any death beneficiary; or
 - (c) The date that the first payment is due for any recalculation of payments that is not attributable to error, including but not limited to recalculations under ORS 238.465 (2).
- (2) The board may not defer or delay implementation of the actuarial equivalency factor tables adopted under this section.

SECTION 2. **The Public Employees Retirement Board shall first adopt actuarial equiv-**

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 agency factor tables under ORS 238.607, as amended by section 1 of this 2015 Act, no later
 2 than January 1, 2016. The board shall use the tables adopted under this section to compute
 3 the retirement allowances of members, judge members and alternate payees for whom the
 4 effective date of retirement is on or after the effective date of this 2015 Act but before Jan-
 5 uary 1, 2016.

7 EMPLOYEE CONTRIBUTIONS

9 **SECTION 3.** ORS 238A.330 is amended to read:

10 238A.330. (1)(a) A member of the individual account program **who did not establish member-**
 11 **ship in the Public Employees Retirement System before August 29, 2003, as described in ORS**
 12 **238A.025 (4),** must make employee contributions to the individual account program of six percent
 13 of the member's salary.

14 [(2)] (b) Employee contributions made by a member of the individual account program under this
 15 [section] subsection shall be credited by the **Public Employees Retirement** Board to the employee
 16 account established for the member under ORS 238A.350 (2).

17 (2)(a) A member of the **Public Employees Retirement System who established member-**
 18 **ship in the system before August 29, 2003, as described in ORS 238A.025 (4), must make em-**
 19 **ployee contributions totaling six percent of the member's salary. The contributions may be**
 20 **apportioned between the individual account program and the account established under sec-**
 21 **tion 6 of this 2015 Act pursuant to an agreement entered into under section 5 of this 2015**
 22 **Act.**

23 (b) Employee contributions made under this subsection by a member of the individual
 24 account program shall be credited by the board to the employee account established for the
 25 member under ORS 238A.350 (2) and the account established for the member under section
 26 6 of this 2015 Act as agreed upon under section 5 of this 2015 Act.

27 (c) If the member has not entered into an agreement with an employer under section 5
 28 of this 2015 Act, the board shall credit all employee contributions of the member to the em-
 29 ployee account established for the member under ORS 238A.350 (2).

30 **SECTION 4.** Sections 5, 6 and 7 of this 2015 Act are added to and made a part of ORS
 31 chapter 238A.

32 **SECTION 5.** (1) A participating public employer that pays all or part of the employee
 33 contributions of a member under ORS 238A.335 may agree, by a written employment policy
 34 or by a collective bargaining agreement, to apportion employee contributions paid under ORS
 35 238A.330 by or on behalf of a member who established membership in the Public Employees
 36 Retirement System before August 29, 2003, as described in ORS 238A.025 (4), between the
 37 individual account program and the account established for the member under section 6 of
 38 this section.

39 (2) The total of the amount of the employee contributions that is apportioned to the in-
 40 dividual account program and the amount of the employee contributions that is apportioned
 41 to the member's account established under section 6 of this 2015 Act must equal six percent
 42 of the member's salary, and each percentage of the member's salary apportioned must be a
 43 whole number.

44 (3) A participating public employer may enter into an agreement under this section with
 45 all or some of the employees employed by the employer.

1 (4) A participating public employer must give written notice to the Public Employees
 2 Retirement Board at the time that an agreement under subsection (1) of this section is
 3 adopted or changed. The notice must specifically describe the apportionment of the employee
 4 contributions between the individual account program and the accounts established under
 5 section 6 of this 2015 Act. An agreement under this section, and any change to an agreement
 6 under this section, applies only to employee contributions for pay periods beginning on or
 7 after the date that the notice is received by the board.

8 (5) If a participating public employer does not provide notice to the board under sub-
 9 section (4) of this section, the board shall distribute all employee contributions for employees
 10 employed by the employer to the individual account program.

11 **SECTION 6.** (1) The Public Employees Retirement Board shall establish an account for
 12 each active member of the Public Employees Retirement System who:

13 (a) Established membership in the system before August 29, 2003, as described in ORS
 14 238A.025 (4); and

15 (b) Enters into an agreement with the member's employer under section 5 of this 2015
 16 Act to apportion some or all of the member's employee contributions to the member's ac-
 17 count established under this section.

18 (2) Each account established under this section shall be adjusted at least annually in ac-
 19 cordance with rules adopted by the board to reflect any net earnings or losses on those
 20 contributions. The adjustments described in this subsection shall continue until the account
 21 is withdrawn or applied against the costs of the pension or other retirement benefits payable
 22 to the member.

23 (3) Unless the amounts in an account established under this section are withdrawn under
 24 section 7 of this 2015 Act, the amounts in the account shall be applied by the board to pay
 25 the costs of the pension or other retirement benefits payable to or on behalf of the member.

26 **SECTION 7.** (1) An inactive member may elect to receive a distribution of the amounts
 27 in the member's account established under section 6 of this 2015 Act if the inactive member
 28 has separated from all service with participating public employers and with employers who
 29 are treated as part of a participating public employer's controlled group under the federal
 30 laws and rules governing the status of the Public Employees Retirement System and the
 31 Public Employees Retirement Fund as a qualified governmental retirement plan and trust.

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

35 **SECTION 8.** ORS 238A.320 is amended to read:

36 238A.320. (1) A member of the individual account program becomes vested in the employee ac-
 37 count established for the member under ORS 238A.350 (2) on the date the employee account is es-
 38 tablished.

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

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

44 (a) The date on which the member completes at least 600 hours of service in each of five cal-
 45 endar years. The five calendar years need not be consecutive, but are subject to the provisions of

1 subsection (5) of this section.

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

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

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

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

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

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

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

22 **(7) A member becomes vested in the account established for the member under section**
23 **6 of this 2015 Act on the date the account is established.**

24 **SECTION 9.** ORS 238A.335 is amended to read:

25 238A.335. (1) A participating public employer may agree, by a written employment policy or by
26 a collective bargaining agreement, to pay **all or part of** the employee [*contribution*] **contributions**
27 required under ORS 238A.330. [*The policy or agreement need not include all members of the individual*
28 *account program employed by the employer.*] **The amount of the employee contributions that is**
29 **paid by the employer must be equal to a percentage of the member's salary that is not less**
30 **than one percent and not greater than six percent, and the percentage must be a whole**
31 **number. The employer may enter into an agreement under this section with all or some of**
32 **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 **that additional amounts be paid by the employer under paragraph (b) of this subsection to**
42 **generate 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 **an agreement under** subsection (1) of this section is adopted or changed. The notice must specif-

1 ically [indicate whether the agreement is as described in subsection (2)(a) or (b) of this section] **de-**
 2 **scribe the apportionment of the employee contribution between the member and the**
 3 **employer.** [Any change in the manner in which employee contributions are to be paid applies only to
 4 employee contributions made on and after the date the notice is received by the board.] **An agreement**
 5 **under this section, and any change to an agreement under this section, applies only to em-**
 6 **ployee contributions for pay periods beginning on or after the date that the notice is received**
 7 **by the board.**

8
 9 **FINAL AVERAGE SALARY**

10
 11 **SECTION 10. ORS 238.350 and 238.355 are repealed.**

12 **SECTION 11.** ORS 238.005, as amended by section 2, chapter 107, Oregon Laws 2014, is
 13 amended to read:

14 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

41 (a) Persons engaged as independent contractors.

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

44 (c) Persons provided sheltered employment or made-work by a public employer in an employment
 45 or industries program maintained for the benefit of such persons.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (17) “Normal retirement age” means:

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

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

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

3 (19) "Police officer" includes:

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

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

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

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

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

17 (f) Police officers who are commissioned by a university under ORS 352.383 or 353.125 and who
18 are classified as police officers by the university.

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

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

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

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

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

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

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

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

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

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

43 (q) An employee of the Department of Corrections classified as a police officer on or prior to
44 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
45 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-

1 tem implemented pursuant to ORS 240.190 does not affect police officer status.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (D) Any lump sum payment for accumulated unused sick leave, **accumulated unused vacation**
5 **leave or other unused paid leave;**

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

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

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

13 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or
14 the Oregon Health and Science University when such services are in excess of full-time employment
15 subject to this chapter. A person employed under a contract for less than 12 months is subject to
16 this subparagraph only for the months to which the contract pertains; or

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

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

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

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

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

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

26 **SECTION 12.** ORS 238.285 is amended to read:

27 238.285. (1) Not earlier than two years before a member's earliest service retirement age, a
28 member may request a verification of retirement data from the Public Employees Retirement Board.
29 Upon receiving a request under this section, the board shall notify all of the member's participating
30 public employers of the request. In a manner specified by rules of the board, the board shall allow
31 those employers a reasonable time to confirm the records relating to the member that were provided
32 to the board before the request was made. The board shall thereafter provide a verification to the
33 member that includes the following data, as reflected in the records of the Public Employees Re-
34 tirement System:

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

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

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

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

44 (2) A member of the system may dispute the accuracy of the data provided in the verification
45 by filing a written notice of dispute with the board not more than 60 days after the date on which

1 the verification is provided to the member. Upon receiving a notice of dispute under this subsection,
2 the board shall determine the accuracy of the disputed data and make a written decision based on
3 its determination. The board shall provide to the member a copy of the decision and a written ex-
4 planation of any applicable statutes and rules. A member may seek judicial review of the decision
5 as provided in ORS 183.484 and rules of the board.

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

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

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

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

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

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

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

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

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

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

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

43 **SECTION 13.** Section 4, chapter 1, Oregon Laws 2010, is amended to read:

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

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

4 **SECTION 14.** ORS 238.580 is amended to read:

5 238.580. (1) ORS 238.005 (4) and (26), 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250,
 6 238.255, 238.260, [238.350,] 238.364, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465,
 7 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665,
 8 238.670 and 238.705 and the increases provided by ORS 238.366 for members of the system who are
 9 serving as other than police officers or firefighters apply in respect to service as a judge member.

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

12 **SECTION 15.** ORS 292.180 is amended to read:

13 292.180. (1) The Oregon Department of Administrative Services may render a monthly or quar-
 14 terly invoice to all state agencies utilizing or intending to utilize the joint payroll system in the
 15 future. This monthly or quarterly invoice shall be equal to demonstrated savings of Workers' Com-
 16 pensation workday tax costs which are a direct result of the savings from payment of the workday
 17 tax based on actual days worked by the employee.

18 (2) It is the intention of this section to allow the department to use demonstrated savings of
 19 Workers' Compensation workday tax costs to pay for the implementation costs of ORS [238.350,]
 20 240.546, 292.026, 292.033, 292.070 to 292.110, 292.170 and this section and the moneys received are
 21 continuously appropriated for the purposes of ORS [238.350,] 240.546, 292.026, 292.033, 292.070 to
 22 292.110, 292.170 and this section.

23 (3) Any excess moneys remaining after the implementation of ORS [238.350,] 240.546, 292.026,
 24 292.033, 292.070 to 292.110, 292.170 and this section shall be returned pro rata on the basis of total
 25 moneys to agency contributions to the agencies from which received. However, if the amount re-
 26 maining is less than \$10,000, that amount may be transferred to the General Fund as a miscellaneous
 27 receipt.

28 **SECTION 16.** ORS 238A.005, as amended by section 1, chapter 52, Oregon Laws 2014, and sec-
 29 tion 4, chapter 107, Oregon Laws 2014, is amended to read:

30 238A.005. For the purposes of this chapter:

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

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

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

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

39 (a) Persons engaged as independent contractors;

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

41 (c) Persons provided sheltered employment or make-work by a public employer;

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

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

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

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

3 (h) Employees of a public university listed in ORS 352.002 who are actively participating in an
4 optional retirement plan offered under ORS 243.800;

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

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

9 (k) Any person who is retired under ORS 238A.100 to 238A.250 or ORS chapter 238 and who
10 continues to receive retirement benefits while employed; and

11 (L) Judges.

12 (5) "Firefighter" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (13) "Pension program" means the defined benefit pension program of the Oregon Public Service

1 Retirement Plan established under ORS 238A.025.

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

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

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

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

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

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

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

20 (C) Any amount that is contributed to a cafeteria plan or qualified transportation fringe benefit
21 plan by the employer at the election of the employee and that is not includable in the taxable in-
22 come of the employee by reason of 26 U.S.C. 125 or 132(f)(4), as in effect on December 31, 2013.

23 (D) Any amount that is contributed to a cash or deferred arrangement by the employer at the
24 election of the employee and that is not included in the taxable income of the employee by reason
25 of 26 U.S.C. 402(e)(3), as in effect on December 31, 2013.

26 (E) Retroactive payments described in ORS 238.008.

27 (F) The amount of an employee contribution to the individual account program, **or to the ac-**
28 **count established under section 6 of this 2015 Act**, that is [*paid by the employer and*] deducted
29 from the compensation of the employee[, *as provided under ORS 238A.335 (1) and (2)(a)*].

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

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

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

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

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

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

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

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

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

45 (G) Payments for instructional services rendered to public universities listed in ORS 352.002 or

1 the Oregon Health and Science University when those services are in excess of full-time employment
 2 subject to this chapter. A person employed under a contract for less than 12 months is subject to
 3 this subparagraph only for the months covered by the contract.

4 (H) The amount of an employee contribution to the individual account program, **or to the ac-**
 5 **count established under section 6 of this 2015 Act**, that is paid by the employer and is not de-
 6 ducted from the compensation of the employee[, *as provided*] under ORS 238A.335 [(1) and (2)(b)].

7 (I) Any amount in excess of [\$200,000] **\$100,000** for a calendar year. If any period over which
 8 salary is determined is less than 12 months, the [\$200,000] **\$100,000** limitation for that period shall
 9 be multiplied by a fraction, the numerator of which is the number of months in the determination
 10 period and the denominator of which is 12. The board shall adopt rules adjusting this dollar limit
 11 to incorporate cost-of-living adjustments authorized by the Internal Revenue Service.

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

13 **SECTION 17.** ORS 238A.130 is amended to read:

14 238A.130. (1) Except as provided in subsection (3) of this section, for purposes of the computa-
 15 tion of pension program benefits under ORS 238A.125, "final average salary" means whichever of the
 16 following is greater:

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

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

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

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

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

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

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

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

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

45 (4) For the purposes of calculating the final average salary of a member under this section, the

1 salary of the member does not include:

2 (a) Any amounts attributable to hours of overtime [*that exceed the average number of hours of*
 3 *overtime for the same class of employees as established by rule of the Public Employees Retirement*
 4 *Board. The Oregon Department of Administrative Services shall establish by rule more than one*
 5 *overtime average for a class of state employees based on the geographic placement of the employees]*
 6 **paid or earned on or after December 31, 2016.**

7 (b) Any increases in salary during the last 36 calendar months of membership before the effec-
 8 tive date of retirement of the member that:

9 (A) Are made by an employer to pay for insurance coverage previously paid for by the employer;
 10 and

11 (B) Are not offered to all employees in the same class of employees as established by rule of the
 12 **Public Employees Retirement Board** [*under paragraph (a) of this subsection*].

13 **(c) Any amounts exceeding \$100,000 of salary paid or earned in any calendar year.**

14 **RETIREMENT UNDER OPSRP**

15
 16
 17 **SECTION 18.** ORS 238A.160 is amended to read:

18 238A.160. (1) Except as provided in subsections (2) and (3) of this section, normal retirement age
 19 for a member of the pension program is the earlier of:

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

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

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

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

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

28 (3) Normal retirement age for a member of the pension program who retires from service as a
 29 school employee as defined by ORS 238A.140 is the earlier of:

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

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

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

34 **SECTION 19.** ORS 238A.165 is amended to read:

35 238A.165. (1) Except as provided in this section, earliest retirement age for a member of the
 36 pension program is [55] **57** years of age.

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

42 (3) If a member of the pension program has 25 years or more of retirement credit as a tele-
 43 communicator, as defined in ORS 181.610, earliest retirement age for the member is [55] **57** years
 44 of age or the age of the member when the member acquires a total of 25 years or more of retirement
 45 credit as a telecommunicator, whichever occurs first. A member who retires under this subsection

1 before attaining the age of [55] 57 shall not receive a cost-of-living adjustment under ORS 238A.210
 2 until the member attains the age of [55] 57.

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

7 APPLICABILITY

9 **SECTION 20.** Section 5 of this 2015 Act and the amendments to ORS 238A.005 and
 10 238A.335 by sections 9 and 16 of this 2015 Act do not apply to a collective bargaining agree-
 11 ment entered into before the effective date of this 2015 Act. Any collective bargaining
 12 agreement entered into on or after the effective date of this 2015 Act must be in conform-
 13 ance with section 5 of this 2015 Act and ORS 238A.005 and 238A.335, as amended by sections
 14 9 and 16 of this 2015 Act.

15 **SECTION 21.** The amendments to ORS 238.580, 238A.005, 238A.130 and 292.180 by sections
 16 14 to 17 of this 2015 Act and the repeal of ORS 238.350 and 238.355 by section 10 of this 2015
 17 Act apply only to members of the Public Employees Retirement System whose effective date
 18 of retirement is on or after the effective date of this 2015 Act.

19 **SECTION 22.** The amendments to ORS 238A.160 and 238A.165 by sections 18 and 19 of this
 20 2015 Act apply only to members of the Oregon Public Service Retirement Plan hired on or
 21 after the effective date of this 2015 Act.

23 EMPLOYER CONTRIBUTION RATES

25 **SECTION 23.** (1) As soon as practicable after the effective date of this 2015 Act, the
 26 Public Employees Retirement Board shall:

27 (a) Determine the savings in employer contributions that are attributable to the pro-
 28 visions of this 2015 Act; and

29 (b) Recalculate the contribution rates of all employers, pursuant to ORS 238.225, to re-
 30 flect the provisions of this 2015 Act.

31 (2) The board shall issue corrected contribution rate orders to employers affected by re-
 32 calculated rates under this section within 90 days after the effective date of this 2015 Act.
 33 The corrected rates are effective July 1, 2015.

35 EXPEDITED REVIEW BY SUPREME COURT

37 **SECTION 24.** (1) Jurisdiction is conferred on the Supreme Court to determine in the
 38 manner provided by this section whether this 2015 Act breaches any contract between
 39 members of the Public Employees Retirement System and their employers or violates any
 40 constitutional provision, including but not limited to impairment of contract rights of mem-
 41 bers of the Public Employees Retirement System under Article I, section 21, of the Oregon
 42 Constitution, or Article I, section 10, clause 1, of the United States Constitution.

43 (2) A person who is adversely affected by this 2015 Act or who will be adversely affected
 44 by this 2015 Act may institute a proceeding for review by filing with the Supreme Court a
 45 petition that meets the following requirements:

1 (a) The petition must be filed within 60 days after the effective date of this 2015 Act.

2 (b) The petition must include the following:

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

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

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

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

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

12 (6)(a) The Supreme Court shall allow members of the Legislative Assembly to intervene
13 in any proceeding relating to this 2015 Act. After a member intervenes in a proceeding re-
14 lating to this 2015 Act, the member has standing to participate in the proceeding even if the
15 member ceases to be a member of the Legislative Assembly.

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

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

22 (8) The Supreme Court may not award attorney fees to a petitioner in a proceeding under
23 this section.

24
25 SEVERABILITY

26
27 SECTION 25. It is the intent of the Legislative Assembly that all parts of this 2015 Act
28 are independent and that if any part of this 2015 Act be held unconstitutional, all remaining
29 parts shall remain in force.

30
31 CAPTIONS

32
33 SECTION 26. The unit captions used in this 2015 Act are provided only for the conven-
34 ience of the reader and do not become part of the statutory law of this state or express any
35 legislative intent in the enactment of this 2015 Act.

36
37 EMERGENCY CLAUSE

38
39 SECTION 27. This 2015 Act being necessary for the immediate preservation of the public
40 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
41 on its passage.

