

A-Engrossed
House Bill 4011

Ordered by the House February 11
Including House Amendments dated February 11

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Rural Communities, Land Use and Water)

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.

Provides that employees of Oregon State Hospital qualify as police officers under Public Employees Retirement System.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to members of the Public Employees Retirement System employed by the Oregon State
3 Hospital; creating new provisions; amending ORS 238.005; and declaring an emergency.

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

5 **SECTION 1.** ORS 238.005 is amended to read:

6 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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 and shall be added to all full years. "Creditable service" includes all retirement credit received by
2 a member.

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

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

6 (a) Persons engaged as independent contractors.

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

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

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

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

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

19 (a) The average salary per calendar year paid by one or more participating public employers to
20 an employee who is an active member of the system in three of the calendar years of membership
21 before the effective date of retirement of the employee, in which three years the employee was paid
22 the highest salary. The three calendar years in which the employee was paid the largest total salary
23 may include calendar years in which the employee was employed for less than a full calendar year.
24 If the number of calendar years of active membership before the effective date of retirement of the
25 employee is three or fewer, the final average salary for the employee is the average salary per cal-
26 endar year paid by one or more participating public employers to the employee in all of those years,
27 without regard to whether the employee was employed for the full calendar year.

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

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

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

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

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

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

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

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

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

1 and retired members.

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

3 (17) "Normal retirement age" means:

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

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

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

13 (19) "Police officer" includes:

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

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

21 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
22 cialists by the administrator of the commission.

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

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

27 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
28 are classified as police officers by the university.

29 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
30 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
31 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
32 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
33 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
34 ented by a labor organization, any proposal by the county to change that classification or to cease
35 to classify adult parole and probation officers as police officers for the purposes of this chapter is
36 a mandatory subject of bargaining.

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

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

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

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

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

45 (m) Corrections officers as defined in ORS 181A.355.

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

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

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

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

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

15 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
16 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
17 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
18 Department of Corrections or the Oregon Youth Authority.

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

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

24 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
25 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
26 443.400, that house individuals with intellectual or developmental disabilities.

27 **(w) Employees of the Oregon State Hospital who are:**

28 **(A) Prohibited from striking under ORS 243.726; or**

29 **(B) Employed as registered nurses or licensed practical nurses.**

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

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

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

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

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

45 (25) "Retirement credit" means a period of time that is treated as creditable service for the

1 purposes of this chapter.

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

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

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

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

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

12 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
13 652.190.

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

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

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

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

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

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

23 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
24 gratuitous payment;

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

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

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

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

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

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

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

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

41 **SECTION 2. (1) The amendments to ORS 238.005 by section 1 of this 2016 Act become**
42 **operative on June 30, 2016.**

43 **(2) The amendments to ORS 238.005 by section 1 of this 2016 Act apply only to a person:**

44 **(a) Who is employed by the Oregon State Hospital on the operative date specified in**
45 **subsection (1) of this section as a person who is prohibited from striking under ORS 243.726**

1 or as a registered nurse or licensed practical nurse; or

2 (b) Who becomes employed by the Oregon State Hospital after the operative date speci-
3 fied in subsection (1) of this section as a person who is prohibited from striking under ORS
4 243.726 or as a registered nurse or licensed practical nurse.

5 (3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of this
6 section is entitled to service under the Public Employees Retirement System as a police of-
7 ficer only for service performed on or after the operative date specified in subsection (1) of
8 this section as an employee of the Oregon State Hospital who is prohibited from striking
9 under ORS 243.726 or who is employed as a registered nurse or licensed practical nurse.

10 **SECTION 3.** ORS 238.005, as amended by section 1 of this 2016 Act, is amended to read:

11 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

38 (a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (17) "Normal retirement age" means:

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

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

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

45 (19) "Police officer" includes:

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

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

8 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
9 cialists by the administrator of the commission.

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

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

14 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
15 are classified as police officers by the university.

16 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
17 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
18 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
19 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
20 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
21 ented by a labor organization, any proposal by the county to change that classification or to cease
22 to classify adult parole and probation officers as police officers for the purposes of this chapter is
23 a mandatory subject of bargaining.

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

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

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

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

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

32 (m) Corrections officers as defined in ORS 181A.355.

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

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

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

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

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

1 police officers commissioned by the district.

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

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

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

11 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
12 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
13 443.400, that house individuals with intellectual or developmental disabilities.

14 (w) Employees of the Oregon State Hospital who are:

15 (A) Prohibited from striking under ORS 243.726; [or]

16 (B) Employed as **physicians licensed under ORS chapter 677**, registered nurses or licensed
17 practical nurses[.]; **or**

18 **(C) Required to be in areas populated by patients to perform the primary function of the**
19 **employees' positions.**

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

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

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

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

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

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

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

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

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

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

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

2 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
3 652.190.

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

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

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

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

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

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

13 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
14 gratuitous payment;

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

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

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

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

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

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

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

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

31 **SECTION 4. (1) The amendments to ORS 238.005 by section 3 of this 2016 Act become**
32 **operative on June 30, 2018.**

33 **(2) The amendments to ORS 238.005 by section 3 of this 2016 Act apply only to a person:**

34 **(a) Who is employed by the Oregon State Hospital on the operative date specified in**
35 **subsection (1) of this section as a physician licensed under ORS chapter 677 or as a person**
36 **who is required to be in areas populated by patients to perform the primary function of the**
37 **person's position; or**

38 **(b) Who becomes employed by the Oregon State Hospital after the operative date speci-**
39 **fied in subsection (1) of this section as a physician licensed under ORS chapter 677 or as a**
40 **person who is required to be in areas populated by patients to perform the primary function**
41 **of the person's position.**

42 **(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of this**
43 **section and who was not entitled to service as a police officer under the amendments to ORS**
44 **238.005 by section 1 of this 2016 Act is entitled to service under the Public Employees Re-**
45 **tirement System as a police officer only for service performed on or after the operative date**

1 **specified in subsection (1) of this section as an employee of the Oregon State Hospital who**
2 **is employed as a physician licensed under ORS chapter 677 or who is required to be in areas**
3 **populated by patients to perform the primary function of the person's position.**

4 **SECTION 5.** ORS 238.005, as amended by sections 1 and 3 of this 2016 Act, is amended to read:
5 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

32 (a) Persons engaged as independent contractors.

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

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

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

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

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

45 (a) The average salary per calendar year paid by one or more participating public employers to

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

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

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

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

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

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

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

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

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

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

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

29 (17) "Normal retirement age" means:

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

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

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

39 (19) "Police officer" includes:

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

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

1 Superintendent of State Police.

2 (c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
3 cialists by the administrator of the commission.

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

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

8 (f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
9 are classified as police officers by the university.

10 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
11 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
12 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
13 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
14 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
15 ented by a labor organization, any proposal by the county to change that classification or to cease
16 to classify adult parole and probation officers as police officers for the purposes of this chapter is
17 a mandatory subject of bargaining.

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

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

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

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

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

26 (m) Corrections officers as defined in ORS 181A.355.

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

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

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

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

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

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

45 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-

1 description involves the custody, control, treatment, investigation or supervision of juveniles placed
2 in such facilities.

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

5 (v) Employees of the Department of Human Services who are prohibited from striking under ORS
6 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS
7 443.400, that house individuals with intellectual or developmental disabilities.

8 (w) Employees of the Oregon State Hospital. [*who are:*]

9 [(A) *Prohibited from striking under ORS 243.726;*]

10 [(B) *Employed as physicians licensed under ORS chapter 677, registered nurses or licensed prac-*
11 *tical nurses; or*]

12 [(C) *Required to be in areas populated by patients to perform the primary function of the employees'*
13 *positions.*]

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;

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

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

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

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

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

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

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

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

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

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

25 **SECTION 6. (1) The amendments to ORS 238.005 by section 5 of this 2016 Act become
26 operative on June 30, 2020.**

27 **(2) The amendments to ORS 238.005 by section 5 of this 2016 Act apply only to a person:**

28 **(a) Who is employed by the Oregon State Hospital on the operative date specified in
29 subsection (1) of this section; or**

30 **(b) Who becomes employed by the Oregon State Hospital after the operative date speci-
31 fied in subsection (1) of this section.**

32 **(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of this
33 section and who was not entitled to service as a police officer under the amendments to ORS
34 238.005 by section 1 or 3 of this 2016 Act is entitled to service under the Public Employees
35 Retirement System as a police officer only for service performed on or after the operative
36 date specified in subsection (1) of this section.**

37 **SECTION 7. This 2016 Act being necessary for the immediate preservation of the public
38 peace, health and safety, an emergency is declared to exist, and this 2016 Act takes effect
39 on its passage.**

40