

HOUSE AMENDMENTS TO HOUSE BILL 4011

By COMMITTEE ON BUSINESS AND LABOR

February 11

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages 2 through 15 and insert:

2 “**SECTION 1.** ORS 238.005 is amended to read:

3 “238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

27 “(7) ‘Earliest service retirement age’ means the age attained by a member when the member
28 could first make application for retirement under the provisions of ORS 238.280.

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

30 “(a) Persons engaged as independent contractors.

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

33 “(c) Persons provided sheltered employment or made-work by a public employer in an employ-
34 ment or industries program maintained for the benefit of such persons.

35 “(d) Persons employed and paid from federal funds received under a federal program intended

1 primarily to alleviate unemployment. However, any such person shall be considered an ‘employee’
2 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
3 to have the person so considered by an irrevocable written notice to the board.

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

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

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

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

20 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does include:

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

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

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

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

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

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

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

36 “(16) ‘Member account’ means the regular account and the variable account.

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

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

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

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

1 employers.

2 “(19) ‘Police officer’ includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 “(23) ‘Regular account’ means the account established for each active and inactive member un-
32 der ORS 238.250.

33 “(24) ‘Retired member’ means a member who is retired for service or disability.

34 “(25) ‘Retirement credit’ means a period of time that is treated as creditable service for the
35 purposes of this chapter.

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

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

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

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

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

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

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

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

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

8 “(C) Payments made on account of an employee’s death;

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

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

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

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

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

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

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

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

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

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

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

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

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

33 **“(a) Who is employed by the Oregon State Hospital on the operative date specified in
34 subsection (1) of this section as a person who is prohibited from striking under ORS 243.726
35 or as a registered nurse or licensed practical nurse; or**

36 **“(b) Who becomes employed by the Oregon State Hospital after the operative date spec-
37 ified in subsection (1) of this section as a person who is prohibited from striking under ORS
38 243.726 or as a registered nurse or licensed practical nurse.**

39 **“(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of
40 this section is entitled to service under the Public Employees Retirement System as a police
41 officer only for service performed on or after the operative date specified in subsection (1)
42 of this section as an employee of the Oregon State Hospital who is prohibited from striking
43 under ORS 243.726 or who is employed as a registered nurse or licensed practical nurse.**

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

45 **“238.005. For purposes of this chapter:**

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

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

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

7 “(4) ‘Calendar year’ means 12 calendar months commencing on January 1 and ending on De-
8 cember 31 following.

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

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

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

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

24 “(7) ‘Earliest service retirement age’ means the age attained by a member when the member
25 could first make application for retirement under the provisions of ORS 238.280.

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

27 “(a) Persons engaged as independent contractors.

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

30 “(c) Persons provided sheltered employment or made-work by a public employer in an employ-
31 ment or industries program maintained for the benefit of such persons.

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

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

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

40 “(a) The average salary per calendar year paid by one or more participating public employers
41 to an employee who is an active member of the system in three of the calendar years of membership
42 before the effective date of retirement of the employee, in which three years the employee was paid
43 the highest salary. The three calendar years in which the employee was paid the largest total salary
44 may include calendar years in which the employee was employed for less than a full calendar year.
45 If the number of calendar years of active membership before the effective date of retirement of the

1 employee is three or fewer, the final average salary for the employee is the average salary per cal-
2 endar year paid by one or more participating public employers to the employee in all of those years,
3 without regard to whether the employee was employed for the full calendar year.

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

7 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does include:

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

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

12 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and ending on June 30 fol-
13 lowing.

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

15 “(13) ‘Inactive member’ means a member who is not employed in a qualifying position, whose
16 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
17 for service or disability.

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

20 “(15) ‘Member’ means a person who has established membership in the system and whose mem-
21 bership has not been terminated as described in ORS 238.095. ‘Member’ includes active, inactive and
22 retired members.

23 “(16) ‘Member account’ means the regular account and the variable account.

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

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

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

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

34 “(19) ‘Police officer’ includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 “(s) Employees at youth correction facilities and juvenile detention facilities under ORS
37 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses
38 and who have supervisory, control or teaching responsibilities over juveniles committed to the cus-
39 tody of the Department of Corrections or the Oregon Youth Authority.

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

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

45 “(v) Employees of the Department of Human Services who are prohibited from striking under

1 ORS 243.726 and whose duties include the care of residents of residential facilities, as defined in
2 ORS 443.400, that house individuals with intellectual or developmental disabilities.

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

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

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

7 “(C) **Required to be in areas populated by patients to perform the primary function of the**
8 **employees’ positions.**

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

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

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

21 “(23) ‘Regular account’ means the account established for each active and inactive member un-
22 der ORS 238.250.

23 “(24) ‘Retired member’ means a member who is retired for service or disability.

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

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

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

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

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

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

36 “(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
37 652.190.

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

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

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

43 “(C) Payments made on account of an employee’s death;

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

45 “(E) Any accelerated payment of an employment contract for a future period or an advance

1 against future wages;

2 “(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
3 gratuitous payment;

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

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

11 “(I) Payments made by an employer for insurance coverage provided to a domestic partner of
12 an employee.

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

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

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

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

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

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

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

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

27 “**(b) Who becomes employed by the Oregon State Hospital after the operative date spec-
28 ified in subsection (1) of this section as a physician licensed under ORS chapter 677 or as a
29 person who is required to be in areas populated by patients to perform the primary function
30 of the person’s position.**

31 “**(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of
32 this section and who was not entitled to service as a police officer under the amendments
33 to ORS 238.005 by section 1 of this 2016 Act is entitled to service under the Public Employees
34 Retirement System as a police officer only for service performed on or after the operative
35 date specified in subsection (1) of this section as an employee of the Oregon State Hospital
36 who is employed as a physician licensed under ORS chapter 677 or who is required to be in
37 areas populated by patients to perform the primary function of the person’s position.**

38 “**SECTION 5.** ORS 238.005, as amended by sections 1 and 3 of this 2016 Act, is amended to read:

39 “238.005. For purposes of this chapter:

40 “(1) ‘Active member’ means a member who is presently employed by a participating public em-
41 ployer in a qualifying position and who has completed the six-month period of service required by
42 ORS 238.015.

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

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

1 “(4) ‘Calendar year’ means 12 calendar months commencing on January 1 and ending on De-
2 cember 31 following.

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

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

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

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

18 “(7) ‘Earliest service retirement age’ means the age attained by a member when the member
19 could first make application for retirement under the provisions of ORS 238.280.

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

21 “(a) Persons engaged as independent contractors.

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

24 “(c) Persons provided sheltered employment or made-work by a public employer in an employ-
25 ment or industries program maintained for the benefit of such persons.

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

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

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

34 “(a) The average salary per calendar year paid by one or more participating public employers
35 to an employee who is an active member of the system in three of the calendar years of membership
36 before the effective date of retirement of the employee, in which three years the employee was paid
37 the highest salary. The three calendar years in which the employee was paid the largest total salary
38 may include calendar years in which the employee was employed for less than a full calendar year.
39 If the number of calendar years of active membership before the effective date of retirement of the
40 employee is three or fewer, the final average salary for the employee is the average salary per cal-
41 endar year paid by one or more participating public employers to the employee in all of those years,
42 without regard to whether the employee was employed for the full calendar year.

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

1 “(10) ‘Firefighter’ does not include a volunteer firefighter, but does include:
2 “(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and
3 “(b) An employee of the State Forestry Department who is certified by the State Forester as a
4 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
5 fires as described in ORS 477.064.
6 “(11) ‘Fiscal year’ means 12 calendar months commencing on July 1 and ending on June 30 fol-
7 lowing.
8 “(12) ‘Fund’ means the Public Employees Retirement Fund.
9 “(13) ‘Inactive member’ means a member who is not employed in a qualifying position, whose
10 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
11 for service or disability.
12 “(14) ‘Institution of higher education’ means a public university listed in ORS 352.002, the
13 Oregon Health and Science University and a community college, as defined in ORS 341.005.
14 “(15) ‘Member’ means a person who has established membership in the system and whose mem-
15 bership has not been terminated as described in ORS 238.095. ‘Member’ includes active, inactive and
16 retired members.
17 “(16) ‘Member account’ means the regular account and the variable account.
18 “(17) ‘Normal retirement age’ means:
19 “(a) For a person who establishes membership in the system before January 1, 1996, as described
20 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
21 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.
22 “(b) For a person who establishes membership in the system on or after January 1, 1996, as de-
23 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
24 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
25 firefighter.
26 “(18) ‘Pension’ means annual payments for life derived from contributions by one or more public
27 employers.
28 “(19) ‘Police officer’ includes:
29 “(a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
30 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
31 persons committed to the custody of or transferred to the Department of Corrections and employees
32 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
33 whether or not such classification was authorized by law.
34 “(b) Employees of the Department of State Police who are classified as police officers by the
35 Superintendent of State Police.
36 “(c) Employees of the Oregon Liquor Control Commission who are classified as regulatory spe-
37 cialists by the administrator of the commission.
38 “(d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
39 by the sheriff, are the regular duties of police officers or corrections officers.
40 “(e) Police chiefs and police personnel of a city who are classified as police officers by the
41 council or other governing body of the city.
42 “(f) Police officers who are commissioned by a university under ORS 352.121 or 353.125 and who
43 are classified as police officers by the university.
44 “(g) Parole and probation officers employed by the Department of Corrections, parole and pro-
45 bation officers who are transferred to county employment under ORS 423.549 and adult parole and

1 probation officers, as defined in ORS 181A.355, who are classified as police officers for the purposes
2 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
3 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
4 ented by a labor organization, any proposal by the county to change that classification or to cease
5 to classify adult parole and probation officers as police officers for the purposes of this chapter is
6 a mandatory subject of bargaining.

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

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

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

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

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

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

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

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

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

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

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

30 “(s) Employees at youth correction facilities and juvenile detention facilities under ORS
31 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses
32 and who have supervisory, control or teaching responsibilities over juveniles committed to the cus-
33 tody of the Department of Corrections or the Oregon Youth Authority.

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

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

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

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

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

44 “[*(B) Employed as physicians licensed under ORS chapter 677, registered nurses or licensed
45 practical nurses; or*]

1 “(C) Required to be in areas populated by patients to perform the primary function of the
2 employees’ positions.]

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

5 “(21) ‘Public employer’ means the state, one of its agencies, any city, county, or municipal or
6 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
7 created by one or more such governmental organizations to provide governmental services. For
8 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
9 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
10 sue and be sued.

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

15 “(23) ‘Regular account’ means the account established for each active and inactive member un-
16 der ORS 238.250.

17 “(24) ‘Retired member’ means a member who is retired for service or disability.

18 “(25) ‘Retirement credit’ means a period of time that is treated as creditable service for the
19 purposes of this chapter.

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

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

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

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

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

30 “(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
31 652.190.

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

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

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

37 “(C) Payments made on account of an employee’s death;

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

39 “(E) Any accelerated payment of an employment contract for a future period or an advance
40 against future wages;

41 “(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
42 gratuitous payment;

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

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

5 “(I) Payments made by an employer for insurance coverage provided to a domestic partner of
6 an employee.

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

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

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

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

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

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

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

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

19 “**(b) Who becomes employed by the Oregon State Hospital after the operative date spec-**
20 **ified in subsection (1) of this section.**

21 “**(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of**
22 **this section and who was not entitled to service as a police officer under the amendments**
23 **to ORS 238.005 by section 1 or 3 of this 2016 Act is entitled to service under the Public Em-**
24 **ployees Retirement System as a police officer only for service performed on or after the op-**
25 **erative date specified in subsection (1) of this section.**

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

29
