

# House Bill 4011

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 **as introduced**.

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

30 (7) "Earliest service retirement age" means the age attained by a member when the member

**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 could first make application for retirement under the provisions of ORS 238.280.

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

3 (a) Persons engaged as independent contractors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (17) "Normal retirement age" means:

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

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

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

10 (19) "Police officer" includes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 (v) Employees of the Department of Human Services who are prohibited from striking under ORS  
 22 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS  
 23 443.400, that house individuals with intellectual or developmental disabilities.

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

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

26 **(B) Employed as licensed practical nurses.**

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

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

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

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

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

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

44 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public  
 45 employer in return for services to the employer, plus the monetary value, as determined by the

1 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and  
2 other advantages the employer furnishes the employee in return for services.

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

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

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

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

9 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
10 652.190.

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

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

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

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

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

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

20 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement  
21 gratuitous payment;

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

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

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

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

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

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

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

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

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

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

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

44 **(b) Who becomes employed by the Oregon State Hospital after the operative date speci-**  
45 **fied in subsection (1) of this section as a person who is prohibited from striking under ORS**

1 **243.726 or as a licensed practical nurse.**

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

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

8 238.005. For purposes of this chapter:

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

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

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

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

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

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

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

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

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

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

35 (a) Persons engaged as independent contractors.

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

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

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

44 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-  
 45 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph

1 shall be deemed to have been in effect since the inception of the system.

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

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

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

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

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

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

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

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

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

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

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

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

32 (17) "Normal retirement age" means:

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

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

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

42 (19) "Police officer" includes:

43 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions  
44 whose duties, as assigned by the Director of the Department of Corrections, include the custody of  
45 persons committed to the custody of or transferred to the Department of Corrections and employees

1 of the Department of Corrections who were classified as police officers on or before July 27, 1989,  
 2 whether or not such classification was authorized by law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,  
 45 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who



1 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the  
 2 Department of Corrections or the Oregon Youth Authority.

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

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

8 (v) Employees of the Department of Human Services who are prohibited from striking under ORS  
 9 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS  
 10 443.400, that house individuals with intellectual or developmental disabilities.

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

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

13 (B) Employed as licensed practical nurses[.]; or

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

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

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

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

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

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

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

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

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

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

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

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

43 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
 44 652.190.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 **(a) Who is employed by the Oregon State Hospital on the operative date specified in**  
31 **subsection (1) of this section as a person who is required to be in areas populated by patients**  
32 **to perform the primary function of the person's position; or**

33 **(b) Who becomes employed by the Oregon State Hospital after the operative date speci-**  
34 **fied in subsection (1) of this section as a person who is required to be in areas populated by**  
35 **patients to perform the primary function of the person's position.**

36 **(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of this**  
37 **section and who was not entitled to service as a police officer under the amendments to ORS**  
38 **238.005 by section 1 of this 2016 Act is entitled to service under the Public Employees Re-**  
39 **irement System as a police officer only for service performed on or after the operative date**  
40 **specified in subsection (1) of this section as an employee of the Oregon State Hospital who**  
41 **is required to be in areas populated by patients to perform the primary function of the**  
42 **person's position.**

43 **SECTION 5.** ORS 238.005, as amended by sections 1 and 3 of this 2016 Act, is amended to read:  
44 238.005. For purposes of this chapter:

45 (1) "Active member" means a member who is presently employed by a participating public em-

1 ployer in a qualifying position and who has completed the six-month period of service required by  
 2 ORS 238.015.

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

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

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

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

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

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

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

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

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

26 (a) Persons engaged as independent contractors.

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

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

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

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

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

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

1 endar year paid by one or more participating public employers to the employee in all of those years,  
 2 without regard to whether the employee was employed for the full calendar year.

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

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

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

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

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

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

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

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

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

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

23 (17) "Normal retirement age" means:

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

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

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

33 (19) "Police officer" includes:

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

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

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

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

45 (e) Police chiefs and police personnel of a city who are classified as police officers by the

1 council or other governing body of the city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 (v) Employees of the Department of Human Services who are prohibited from striking under ORS  
45 243.726 and whose duties include the care of residents of residential facilities, as defined in ORS

1 443.400, that house individuals with intellectual or developmental disabilities.

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

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

4 [(B) *Employed as licensed practical nurses*; or]

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

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

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

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

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

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

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

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

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

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

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

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

34 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS  
35 652.190.

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

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

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

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

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

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

45 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement

1 gratuitous payment;

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

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

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

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

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

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

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

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

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

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

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

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

25 **(3) A person who is employed by the Oregon State Hospital under subsection (2)(a) of this**  
26 **section and who was not entitled to service as a police officer under the amendments to ORS**  
27 **238.005 by section 1 or 3 of this 2016 Act is entitled to service under the Public Employees**  
28 **Retirement System as a police officer only for service performed on or after the operative**  
29 **date specified in subsection (1) of this section.**

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

33